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SENATE

HOUSE OF COMMONS

Issue No. 64

Tuesday, February 11, 1992

Joint Chairmen:

The Honourable Gérald Beaudoin, Senator

Dorothy Dobbie, M.P.

SÉNAT

CHAMBRE DES COMMUNES

Fascicule nº 64

Le mardi 11 février 1992

Coprésidents:

L'honorable Gérald Beaudoin, sénateur

Dorothy Dobbie, députée

Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on a

Renewed Canada

Procès-verbaux et témoignages du Comité mixte spécial du Sénat et de la Chambre des communes sur le

Renouvellement du Canada

RESPECTING:

The Government of Canada's proposals for a renewed Canada

CONCERNANT:

Les propositions du gouvernement du Canada relatives au renouvellement du Canada

WITNESSES:

(See back cover)

TÉMOINS:

(Voir à l'endos)

Third Session of the Thirty-fourth Parliament, 1991-92

Troisième session de la trente-quatrième législature, 1991-1992

24551-1

SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON A RENEWED CANADA

Joint Chairmen: The Honourable Gérald Beaudoin, Senator
Dorothy Dobbie, M.P.

Representing the Senate:

The Honourable Senators

E.W. Barootes
Mario Beaulieu
Pierre De Bané
Daniel Hays
Janis Johnson
Michael Kirby
Donald Oliver
Peter Stollery
Nancy Teed—(10)

Representing the House of Commons:

Members

Warren Allmand
Jean-Pierre Blackburn
Ethel Blondin
John Cole
Gabriel Desjardins
Ronald Duhamel
Benno Friesen
Albina Guarnieri
Ken Hughes
Lynn Hunter
Wilton Littlechild
David MacDonald
Russell MacLellan
Lorne Nystrom
André Ouellet
Ross Reid
John Reimer
Monique B. Tardif
Ian Waddell—(20)

(Quorum 13)

Charles Robert

Richard Rumas

Joint Clerks of the Committee

COMITÉ MIXTE SPÉCIAL DU SÉNAT ET DE LA CHAMBRE DES COMMUNES SUR LE RENOUVELLEMENT DU CANADA

Coprésidents: L'honorable Gérald Beaudoin, sénateur
Dorothy Dobbie, députée

Représentant le Sénat:

Les honorables sénateurs

E.W. Barootes
Mario Beaulieu
Pierre De Bané
Daniel Hays
Janis Johnson
Michael Kirby
Donald Oliver
Peter Stollery
Nancy Teed—(10)

Représentant la Chambre des communes:

Membres

Warren Allmand
Jean-Pierre Blackburn
Ethel Blondin
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(Quorum 13)

Les cogreffiers du Comité

Charles Robert

Richard Rumas

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MINUTES OF PROCEEDINGS

TUESDAY, FEBRUARY 11, 1992
(69)

[*Text*]

The Special Joint Committee on a Renewed Canada met at 8:34 o'clock a.m. this day, in Room 200 of the West Block, the Joint Chairman, Dorothy Dobbie, presiding.

Members of the Committee present:

Representing the Senate: The Honourable Senators E.W. Barootes, Gérald Beaudoin, Mario Beaulieu, Daniel Hays, Janis Johnson, Michael Kirby, Peter Stollery and Nancy Teed.

Representing the House of Commons: Warren Allmand, Jean-Pierre Blackburn, Ethel Blondin, Gabriel Desjardins, Dorothy Dobbie, Ronald Duhamel, Benno Friesen, Albina Guarnieri, Ken Hughes, Lynn Hunter, Wilton Littlechild, David MacDonald, Russell MacLellan, Lorne Nystrom, André Ouellet, Ross Reid, Monique B. Tardif and Ian Waddell.

Other Members present: Lee Clark, David Bjornson, Phillip Edmonston, Howard McCurdy and Rob Nicholson.

In attendance: David Broadbent, Executive Director.

Witnesses: From the Government of Manitoba: The Honourable Gary Filmon, Premier; Clayton Manness, Minister of Finance and Jim McCrae, Minister of Justice. *From the Native Council of Canada:* Ron George, President; Phil Fraser, Vice-President; Martin Dunn, Co-Chair, Constitutional Review Commission; Yves Assiniwi, Special Adviser; Dwight Dorey, Chair, Constitutional Task Force and Brad Morse, Constitutional Adviser. *From the Inuit Tapirisat of Canada:* Rosemarie Kuptana, President; John Amagoalik, Inuit Committee on Constitutional Issues and Wendy Moss, Coordinator, Constitutional Issues.

Pursuant to its Orders of Reference dated Wednesday, June 19, 1991 and Friday, June 21, 1991, the Committee resumed its study of the Government's proposals for a Renewed Canada (*see Minutes of Proceedings, Wednesday, September 25, 1991, Issue No. 1*).

The witnesses made statements and answered questions.

At 10:00 o'clock a.m., the sitting was suspended.

At 10:08 o'clock a.m., the sitting resumed.

At 11:21 o'clock a.m., the sitting was suspended.

At 11:25 o'clock a.m., the sitting resumed.

At 12:25 o'clock p.m., the Committee adjourned to the call of the Chair.

Charles Robert

Joint Clerk of the Committee

Richard Rumas

Joint Clerk of the Committee

PROCÈS-VERBAL

LE MARDI 11 FÉVRIER 1992
(69)

[*Traduction*]

Le Comité mixte spécial sur le renouvellement du Canada se réunit à 8 h 34, dans la salle 200 de l'édifice de l'Ouest, sous la présidence de Dorothy Dobbie (*coprésidente*).

Membres du Comité présents:

Représentant le Sénat: Les honorables sénateurs E.W. Barootes, Gérald Beaudoin, Mario Beaulieu, Daniel Hays, Janis Johnson, Michael Kirby, Peter Stollery et Nancy Teed.

Représentant la Chambre des communes: Warren Allmand, Jean-Pierre Blackburn, Ethel Blondin, Gabriel Desjardins, Dorothy Dobbie, Ronald Duhamel, Benno Friesen, Albina Guarnieri, Ken Hughes, Lynn Hunter, Wilton Littlechild, David MacDonald, Russell MacLellan, Lorne Nystrom, André Ouellet, Ross Reid, Monique B. Tardif et Ian Waddell.

Autres députés présents: Lee Clark, David Bjornson, Phillip Edmonston, Howard McCurdy et Rob Nicholson.

Aussi présent: David Broadbent, directeur exécutif.

Témoins: Du gouvernement du Manitoba: L'honorable Gary Filmon, premier ministre; Clayton Manness, ministre des Finances; Jim McCrae, ministre de la Justice. *Du Conseil national des autochtones du Canada:* Ron George, président; Phil Fraser, vice-président; Martin Dunn, coprésident, Commission de l'examen constitutionnelle; Yves Assiniwi, conseiller spécial; Dwight Dorey, président, Groupe de travail constitutionnel; Brad Morse, conseiller constitutionnel. *De Inuit Tapirisat du Canada:* Rosemarie Kuptana, présidente; John Amagoalik, Comité inuit sur les affaires constitutionnelles; Wendy Moss, coordonnatrice, Affaires constitutionnelles.

Conformément à ses ordres de renvoi des mercredi 19 et vendredi 21 juin 1991, le Comité reprend l'étude des propositions du gouvernement relatives au renouvellement du Canada (*voir les Procès-verbaux et témoignages du mercredi 25 septembre 1991, fascicule nº 1*).

Les témoins font des exposés et répondent aux questions.

À 10 heures, la séance est suspendue.

À 10 h 08, la séance reprend.

À 11 h 21, la séance est suspendue.

À 11 h 25, la séance reprend.

À 12 h 25, le Comité s'ajourne jusqu'à nouvelle convocation des coprésidents.

Le cogreffier du Comité

Charles Robert

Le cogreffier du Comité

Richard Rumas

[*Text*]

EVIDENCE

[*Recorded by Electronic Apparatus*]

Tuesday, February 11, 1992

• 0836

The Joint Chairman (Mrs. Dobbie): Colleagues, ladies and gentlemen, it is a very snowny morning and I know people may be having a hard time getting here, but I don't want to delay the beginning of this last day of hearings. We have with us this morning a very special guest, the Premier of Manitoba, Gary Filmon, who also happens to be my constituent. Gary, I am delighted to have you here before the committee.

With the premier are Clayton Manness, his Minister of Finance; and Jim McCrae, his Minister of Justice. So we have an extremely august group with us here in Ottawa this morning and we are very honoured.

We have about an hour and a half and we will invite you to make a 15-to 20-minute presentation, after which we will have questions. I am sure there will be many questions for you. I might add that this is the last day of the hearings and Premier Filmon gets virtually the last word. We are looking forward to what you have to say. Premier Filmon.

Hon. Gary Albert Filmon (Premier of Manitoba): Thank you very much, Madam Chair and Mr. Chairman and members of the committee. I don't usually get the last word in most circumstances, so I am delighted to have that opportunity today.

I will begin by saying thank you for making us feel so much at home here in Ottawa, particularly putting on the familiar weather and the beautiful surroundings that we are used to. We are delighted to be able to be here, and today I get an opportunity to change gears a bit from the deliberations in which we were engaged yesterday. I might even get an opportunity to say the dreaded "c" word today, which we weren't allowed to talk about at our conference yesterday.

I appreciate this opportunity to present an overview of the hopes and dreams, the thoughts and concerns and the overwhelming pride that Manitobans hold for Canada.

Manitobans are among the most strongly committed Canadians anywhere in this country. We believe that whether a person is aboriginal, French or English, or one of the many immigrants who have made Canada their home, we are first and foremost Canadians.

Manitobans also firmly believe that all Canadians should enjoy the same rights and freedoms everywhere in Canada. Canadians from every region and from all parts of this country want their leaders to take a reasoned approach to constitutional reform. What our country really needs now is a mobilization of those forces of reason. We need to see Canadians come together to find common ground and to build a strong future on it. I believe that common ground is

[*Translation*]

TÉMOIGNAGES

[*Enregistrement électronique*]

Le mardi 11 février 1992

La coprésidente (Mme Dobbie): Chers collègues, mesdames et messieurs, l'abondante chute de neige que nous constatons ce mation risque d'entraîner des retards, mais je ne veux toutefois pas retarder l'ouverture de cette journée d'audience, la dernière pour notre comité. Nous aurons l'honneur d'entendre ce matin un personnage fort distingué, le premier ministre du Manitoba, M. Gary Filmon, qui se trouve aussi résider dans ma circonscription. Gary, je suis très heureuse de vous accueillir ici aujourd'hui.

Le premier ministre est accompagné de son ministre des Finances, M. Clayton Manness, et de son ministre de la Justice, M. Jim McCrae. La présence de cette délégation imposante honore notre comité.

Nous disposons d'environ une heure et demie; je vous prie donc de bien vouloir consacrer de 15 à 20 minutes à votre exposé, après quoi nous passerons aux questions. Je suis sûre que celles-ci seront très nombreuses. Nous allons terminer aujourd'hui l'audition des témoins et le premier ministre Filmon aura pratiquement le dernier mot. Ce sera un plaisir pour nous de l'entendre. Monsieur le premier ministre, vous avez la parole.

L'honorable Gary Albert Filmon (premier ministre du Manitoba): Merci beaucoup, madame la présidente, monsieur le président et membres du comité. Il est rare que j'aie le dernier mot quelles que soient les circonstances, vous me voyez donc ravi de constater que ce sera le cas aujourd'hui.

Je tiens tout d'abord à vous remercier de vous être assurés que je me sentirai chez moi ici, à Ottawa, et plus particulièrement de vous être assurés que je retrouverai le temps et le beau paysage auxquels je suis habitué. Je suis très heureux d'être ici, et, d'autre part, je peux aujourd'hui m'écarter un peu du sujet qui a fait l'objet des délibérations auxquelles j'ai participé hier. Je pourrais même utiliser ce mot qui commence par «c», qui fait si peur, et que nous ne pouvions pas mentionner lors de notre conférence d'hier.

Je vous suis reconnaissant de m'accorder la possibilité de vous brosser un tableau des espoirs et des rêves, ainsi que des réflexions et des préoccupations des Manitobains à l'égard du Canada, et de la profonde fierté qu'ils ressentent pour leur pays.

Les Manitobains se rangent parmi ceux dont l'engagement envers le Canada est le plus profondément enraciné. Pour nous, que l'on soit autochtone, d'origine française ou anglaise, ou l'un des nombreux immigrants venus s'implanter au Canada, nous sommes tous d'abord et avant tout des Canadiens.

Les Manitobains sont d'ailleurs convaincus que tous les Canadiens devraient bénéficier des mêmes droits et libertés partout au Canada. Dans toutes les régions de notre pays, les Canadiens veulent que leurs dirigeants abordent la question de la réforme constitutionnelle sur une base raisonnée. Dans la situation actuelle, notre pays doit mobiliser toutes les forces de la raison. Il faut que les Canadiens se réunissent pour trouver des terrains d'entente sur lesquels bâtir un

[*Texte*]

there to be found if we can overcome the limitations of our pride and put our country first.

I think Senator Duff Roblin put it best when he said, "If you start out with a position that you never will change, then there is no point in debate, is there?"

The people of Manitoba, at public hearings before our all-party task force, found some significant pieces of common ground in their feelings for Canada. For instance, Manitobans believe that to ensure our nation remains strong and united we must recognize our fundamental characteristics by including a Canada clause in the Constitution. Our task force concluded that Canadian unity would be strengthened by a statement affirming the national identity and character of Canada and recognizing the diverse elements of the Canadian mosaic.

Because Manitobans are Canadians first, we want and need a strong national government. For many decades the people of the west and Atlantic Canada have firmly believed that the structure of our national government has been a hindrance to our efforts to become full participants in Confederation. Manitobans believe the best way of ensuring the federal government will be responsive to regional concerns is through the reform of the Senate.

• 0840

Manitobans recognize the aboriginal peoples' inherent right to self-government within the Canadian constitutional framework. We support an entrenched process acceptable to aboriginal people that would work toward a definition and practical implementation of self-government.

The Canadian Constitution belongs to the people, not to governments. The views I relay to you today come from extensive public hearings and two unanimous reports of the Manitoba all-party task force on the Constitution. Manitobans want a more open constitutional reform process across the nation to ensure that Canadians' goodwill and common sense are put to work.

I believe Manitobans have spoken very eloquently. Their aspirations for Canada are based on a strong sense of national pride and an unswerving faith in our future.

Our support for a strong national government should surprise no one who knows the history of our province. The message from virtually every Manitoba premier has been the same. Manitobans want a strong and united Canada, where the contributions of every Canadian are valued equally and fully. Our Constitution must be a positive force rather than driving us apart.

[*Traduction*]

avenir solide. Je crois que ces terrains d'entente existent et que nous pouvons les trouver, si nous réussissons à sortir des limites imposées par notre orgueil et si nous pensons d'abord au pays.

Je crois que le sénateur Duff Roblin s'est fort bien exprimé quand il nous a dit que si l'on adopte au départ une position dont on ne veut pas démordre, alors à quoi bon en débattre?

Lors des audiences organisées par notre groupe de travail sur la Constitution, qui réunissait des membres de tous les partis politiques, les citoyens du Manitoba ont trouvé des points communs importants quant ils exprimaient leurs sentiments à l'égard du Canada. Par exemple, les Manitobains estiment que pour s'assurer que notre pays demeure fort et uni, nous devons reconnaître ses caractéristiques fondamentales en incorporant une clause Canada dans la Constitution. Le groupe de travail a conclu que l'unité canadienne serait renforcée par une déclaration proclamant notre identité nationale et la nature du Canada, et reconnaissant aussi les divers composants de la mosaïque canadienne.

Parce que les Manitobains sont d'abord Canadiens, nous désirons et nous avons besoin d'un gouvernement national fort. Depuis des décennies, les populations de l'Ouest et du Canada atlantique sont convaincues que la structure de notre gouvernement national a contrecarré nos efforts pour devenir des participants à part entière à la Confédération. Les Manitobains estiment que la meilleure façon de s'assurer que le gouvernement fédéral sera ouvert aux préoccupations régionales est de procéder à une réforme du Sénat.

Les Manitobains reconnaissent le droit inhérent des peuples autochtones à l'autonomie gouvernementale dans le cadre de la Constitution canadienne. Nous sommes en faveur d'un processus constitutionnalisé, jugé acceptable par les peuples autochtones, qui permettrait d'élaborer une définition de l'autonomie gouvernementale et de la réaliser concrètement.

La Constitution du Canada appartient au peuple, et non aux gouvernements. Les points de vue que je vous présente aujourd'hui découlent d'une série très complète d'audiences publiques et de rapports approuvés à l'unanimité par les membres du groupe de travail manitobain sur la Constitution, qui regroupait tous les partis politiques. Les Manitobains veulent un processus de réforme constitutionnelle plus ouvert, étendu à tout le pays, pour s'assurer de l'apport de la bonne volonté et du bon sens des Canadiens.

Le message des Manitobains me semble très éloquent. Leurs aspirations pour le Canada se fondent sur leur sens aigu de la fierté nationale et sur une foi sans défaillance dans notre avenir.

Toute personne connaissant l'histoire de notre province ne saurait être surprise de nos déclarations en faveur d'un gouvernement national fort. Pratiquement tous les premiers ministres du Manitoba ont partagé ce point de vue. Les Manitobains veulent un Canada fort et uni où les contributions de chaque Canadien sont jugées à leur propre valeur et sur un pied d'égalité. Notre Constitution se doit d'être un apport positif et ne doit pas nous diviser.

[*Text*]

We are encouraged that the Canada clause, which featured so prominently in our most recent task force report and in the Meech Lake task force report which preceded it, is a key part of the federal proposal and was supported by the conference in Toronto this last weekend.

The reason for a Canada clause should be restated here. As our task force explained, and I quote:

> Manitobans clearly expressed their support for a vision of Canada that was inclusive rather than exclusive. Such a vision of Canada could strengthen Canadian unity by transcending individual, provincial, and regional differences.
>
> Such a statement should affirm the national identity and character of Canada while recognizing the diverse elements of the Canadian mosaic. Such a statement would then provide a guide to the meaning of Canadian nationality.
>
> We recommend that the Canada clause begin with a clear statement expressing the commitment to a strong and united Canada.

The task force report went on to add another key point, and again I quote:

> There should be a recognition of the fundamental equality of provinces. Such a statement would not deny the continued existence of numerous practical differences in the relationships between provinces and the federal government, some of which date from and were conditions of a province's entry into Confederation. Nor do we assert that all provinces must share the exact same duties and responsibilities. After all, flexibility is a guiding principle of federalism.

Manitobans did not speak to all of the matters in the federal draft, but I know Manitobans support such values as the equality of men and women, fairness, openness, and full participation in Canadian citizenship, and the objectives of sustainable development.

During the Meech Lake debate, our government and many Canadians expressed concern that recognition of Quebec as a distinct society could have conferred special powers on a single province or could have serious consequences for individual rights under the Charter. We continue to believe that so long as no special powers are conferred and Charter rights are not impaired, Quebec should be recognized as a distinct society.

[*Translation*]

Le dernier rapport de notre groupe de travail sur la Constitution accordait une place importante à la Clause Canada, tout comme le rapport du groupe de travail sur l'accord du Lac Meech qui l'avait précédé. Nous sommes donc encouragés de constater que la Clause Canada est aussi un élément essentiel des propositions du gouvernement fédéral et qu'elle a obtenu l'appui de la conférence qui s'est tenue à Toronto lors de la dernière fin de semaine.

Je vais donc reprendre ici la raison pour laquelle la Clause Canada est nécessaire. Notre groupe de travail s'est exprimé ainsi:

> Les Manitobains ont clairement indiqué qu'ils favorisent une vision du Canada qui soit à caractère inclusif plutôt qu'exclusif. Une telle vision du Canada pourrait renforcer l'unité nationale en transcendant les différences individuelles, provinciales et régionales.
>
> Une telle déclaration mettrait l'accent sur l'unité nationale et la nature du Canada tout en reconnaissant les divers éléments qui composent la mosaïque canadienne. Cette déclaration donnerait alors un sens plus clair à la notion de nationalité canadienne.
>
> Nous recommandons que la Clause Canada commence par une déclaration sans équivoque insistant sur l'importance d'un pays fort et uni.

Le rapport du groupe de travail ajoute une autre remarque essentielle et, à nouveau, je le cite:

> La déclaration devrait aussi reconnaître l'égalité fondamentale des provinces. Elle ne nierait pas toutefois l'existence de nombreuses différences d'ordre pratique dans les rapports entre les provinces et le gouvernement fédéral, certaines de ces différences remontant à la date à laquelle chaque province a été admise dans la Confédération et constituant une condition d'admission. Nous n'affirmons pas que toutes les provinces doivent avoir des fonctions identiques. Après tout, la flexibilité est un principe directeur du fédéralisme.

Les Manitobains n'ont pas repris tous les points qui apparaissent dans le texte proposé par le gouvernement fédéral, mais je sais que leurs valeurs comprennent l'égalité des femmes et des hommes, les principes d'équité, d'ouverture et de pleine participation à la citoyenneté canadienne, ainsi que les objectifs d'un développement durable.

Lors du débat sur l'Accord du Lac Meech, notre gouvernement et de nombreux Canadiens ont indiqué qu'ils craignaient qu'en reconnaissant au Québec le caractère d'une société distincte, on aurait accordé des pouvoirs spéciaux à une seule des provinces et que cela pourrait, par ailleurs, avoir des conséquences graves à l'égard des droits individuels reconnus par la Charte. Nous continuons à croire que le Québec pourrait être reconnu comme étant une société distincte, donc cela ne confère pas de pouvoirs spéciaux et que les droits reconnus par la Charte ne sont pas menacés.

[*Texte*]

Two weeks ago in Calgary, this committee and a great many other Canadians heard spirited arguments about the need for Senate reform. For many of us in western Canada, this is the most vital issue on the constitutional agenda. Manitobans do not wish to continue to be hewers of wood and drawers of water for the industrial heartland of Canada.

Senate reform is not a magic solution for the economic challenges we face in the west and elsewhere in Canada. However, meaningful Senate reform would give our province and others a fair chance to argue our case on important regional issues such as national defence base closures, changes to transportation, energy and regional development policies, and so on.

Our government favours the triple-E Senate model—elected, equal, and as effective as possible. The federal proposals go part way toward our objective, but not far enough.

• 0845

We believe that the Senate, to be truly effective as a regional voice, must be separated from the electoral schedule of the House of Commons. The proposal that Senate elections coincide with elections to the House of Commons would mean that a Prime Minister could hold the threat of dissolution over the heads of senators. Elections to the two bodies should not be held at the same time.

It is true that Canada has large differences of populations, but those differences should not affect the equality of the provinces. It is this equality that we believe should be reflected in the upper house. Equality of individuals is the central principle of democracy. Equality of the partners is the central principle of a federation.

The basic point is clear: if our country is to survive, then we can't have two classes of citizenship—powerful and weak. No one can convince me that the Fathers of Confederation intended that. Despite its shortcomings, the Meech Lake accord recognized the principle of provincial equality. This same principle of equality should apply in the case of a renewed Senate.

It is also essential that a reformed Senate be genuinely effective. The most powerful instrument the Senate can have in representing regional interests is its ability to review government fiscal policies. A reformed Senate must have the authority to stop the National Energy Program, if that is its decision, and it must also have the authority to stop a new tax or an increase in existing tax rates.

A few weeks ago Eric Kierans created something of a stir, especially here in Ottawa, when he suggested that the entire apparatus of the federal government be relocated to Winnipeg. Obviously Manitobans think that's a fine idea, and

[*Traduction*]

Il y a deux semaines, à Calgary, votre Comité et bon nombre d'autres Canadiens ont entendu des discussions animées au sujet de la nécessité de réformer le Sénat. Pour bon nombre d'entre nous, dans l'Ouest du Canada, cette question est la plus importante dans le dossier constitutionnel. Les Manitobains ne veulent pas continuer à être les porteurs d'eau et les bûcherons au service du centre industrialisé du Canada.

La réforme du Sénat n'apporte pas de solution magique aux problèmes économiques qui confrontent l'Ouest et les autres régions du Canada. Toutefois, une réforme en profondeur du Sénat donnerait à notre province, comme aux autres, la possibilité d'être entendue quand nous voulons présenter notre cause dans des dossiers d'importance régionale tels que la fermeture des bases militaires, des modifications au système de transport, l'élaboration de politiques énergétiques et de développement régional, etc.

Notre gouvernement se déclare en faveur d'un Sénat triple E—élu, égal, et aussi efficace que possible. Les propositions fédérales s'orientent vers notre objectif, mais elles ne vont pas assez loin.

Nous estimons que le calendrier électoral du Sénat doit être différent de celui de la Chambre des communes, et ce pour lui permettre de jouer efficacement son rôle de porte-parole des régions. En effet, si les élections sénatoriales coïncidaient avec l'élection des députés de la Chambre des communes, le Premier ministre pourrait menacer les sénateurs de la dissolution de la Chambre haute. Les élections à ces deux assemblées ne devraient donc pas être simultanées.

S'il est vrai que la densité de la population varie considérablement, au Canada d'une région à l'autre, ces différences ne devraient pas affecter l'égalité des provinces. C'est cette égalité que l'on devrait retrouver à la Chambre haute. L'égalité des citoyens est le principe fondamental d'une démocratie. L'égalité des membres est le principe fondamental d'une fédération.

Le principe essentiel est clair: si notre pays doit survivre, nous ne pouvons pas avoir deux catégories de citoyens: les puissants et les faibles. Personne ne pourra me convaincre que les pères de la Confédération voulaient ces catégories. En dépit de ces lacunes, l'Accord du Lac Meech reconnaissait le principe de l'égalité des provinces. Ce même principe devrait trouver son application dans le renouvellement du Sénat.

Il est tout aussi important de s'assurer qu'un Sénat renouvelé sera réellement efficace. L'instrument le plus puissant dont le Sénat puisse disposer pour défendre les intérêts régionaux est la possibilité de procéder à un examen critique des politiques fiscales du gouvernement. Un Sénat renouvelé doit avoir le pouvoir de bloquer une mesure telle que le Programme énergétique national, s'il désire le faire, et il doit aussi avoir le pouvoir de rejeter une nouvelle taxe pour l'augmentation du taux d'une taxe existante.

Il y a quelques semaines, Eric Kierans a soulevé bien des émois, surtout ici à Ottawa, quand il a suggéré que tout l'appareil du gouvernement fédéral déménage à Winnipeg. Naturellement, les Manitobains estiment que c'est une

[*Text*]

we welcome his support. For a long time we've been proposing that a reformed Senate be given a new home in our province, in the geographic centre of Canada and the gateway to the west. Such a move would be more than symbolic: it would distance senators from the influence of the other house and help to strengthen their regional perspective. I commend this idea to you.

Another top priority of our government for Manitobans, and I believe for the majority of Canadians, is substantial progress in recognizing aboriginal rights in the Constitution. The Manitoba task force recommended that the inherent right to self-government be recognized within the framework of the Canadian Constitution. We believe that is a reasonable guideline for the tripartite negotiations that must occur to make self-government meaningful. Recently the Premier of Prince Edward Island proposed a national treaty of reconciliation as a framework for the implementation of self-government. We would be very interested in pursuing that proposal.

The critical issue, of course, will be the financial base that makes self-government viable. In this regard, our province and others have been concerned by recent federal decisions to off-load or to attempt to off-load some of their responsibilities for services to aboriginals onto provincial governments. A year ago, in Manitoba, the federal government announced its intention to cease funding critical social services to natives off reserves. That issue is still unresolved.

As well, we believe aboriginal Canadians are as entitled to the protections and rights embodied in the Charter as all other Canadians. Aboriginal women have expressed concern that self-government not erode their Charter protection. We support that view.

We know, of course, that one of the most difficult issues you face, and one that is likely to dominate federal-provincial negotiations in the next few months, is the division of powers. Our task force began its discussion of this issue with emphasis on the importance of maintaining a strong central government, but it also recommended flexibility. It suggested that:

> . . .the Manitoba government be open to a review of the current division of powers, including the federal spending power, and study the possibility of increased federal government involvement in policy fields which might benefit from national policy making and/or co-ordination.

It went on to say:

[*Translation*]

excellente idée et sont ravis de bénéficier de cet appui. Depuis longtemps déjà, nous proposons qu'un Sénat renouvelé vienne s'installer dans notre province, au centre géographique du Canada, à la porte s'ouvrant vers l'Ouest. Les avantages seraient plus que symboliques: les sénateurs s'éloigneraient ainsi de l'influence exercée par l'autre chambre et leur rôle de représentants régionaux serait renforcé. Je vous suggère de prendre bonne note de cette idée.

La plupart des Manitobains estiment, et je crois que la plupart des Canadiens partagent cette notion, que notre gouvernement devrait accorder une haute priorité à la réalisation de progrès marqués dans la constitutionnalisation des droits des Autochtones. Le groupe de travail manitobain sur la Constitution a recommandé que le droit inhérent à l'autonomie gouvernementale soit reconnu, dans le cadre de la Constitution canadienne. Nous estimons que cela donnerait une orientation raisonnable aux négociations tripartites qui doivent avoir lieu pour donner un sens à l'autonomie gouvernementale. Le Premier ministre de l'Île-du-Prince-Edouard a récemment proposé un traité de réconciliation national qui servirait de cadre pour la mise en oeuvre de l'autonomie gouvernementale. Nous aimerions beaucoup pouvoir approfondir cette proposition.

La base financière qui permet de donner corps à un gouvernement autonome et, évidemment, une question critique. A ce sujet, plusieurs provinces, dont la nôtre, s'inquiètent des décisions prises récemment par le gouvernement fédéral pour se dégager, ou tenter de se dégager, de certaines de ses responsabilités pour les transférer aux gouvernements provinciaux dans le domaine des services aux Autochtones. Il y a un an, au Manitoba, le gouvernement fédéral a annoncé qu'il avait l'intention de ne plus financer des services sociaux d'une importance critique, assurés aux Autochtones vivant hors réserve. Cette question n'a pas encore été résolue.

D'autre part, nous croyons que les Canadiens autochtones ont droit, tout comme les autres Canadiens, aux protections et aux droits garantis par la Charte. Les femmes autochtones ont exprimé leur désir de s'assurer que l'autonomie gouvernementale ne porterait pas atteinte à la protection donnée par la Charte. Nous leur donnons notre appui.

Nous réalisons, naturellement, que le partage des pouvoirs constitue l'un des problèmes les plus épineux qui vous confrontent et que cette question dominera probablement les négociations fédérales-provinciales qui vont se dérouler dans les quelques mois à venir. Notre groupe de travail a abordé cette question en soulignant l'importance de conserver un gouvernement central fort, mais il a également recommandé la souplesse. Le groupe de travail suggère donc que:

> . . .le gouvernement du Manitoba soit ouvert à un réexamen du partage actuel des pouvoirs, y compris le pouvoir de dépenser du gouvernement fédéral, et étudie la possibilité d'accroître le rôle du gouvernement fédéral dans des domaines qui pourraient profiter de l'élaboration et de la coordination de politiques au niveau national.

Le groupe de travail ajoute:

[*Texte*]

Depending on considerations of efficiency and effectiveness in the provision of public service, consideration might be given to reducing the overlap of powers or expanding federal/provincial concurrent powers.

Manitoba strongly supports delivery of the best possible service at the lowest possible cost to the taxpayer. At the same time, we're aware that in many policy fields the federal government's financial support role is vital to the provision of current services.

• 0850

Ottawa also has a key role in setting national standards and promoting co-ordination. For that reason Manitobans supported a strengthening of the federal government's role in supporting the costs of providing health, education and social services across the country.

Our task force recommended and we recommend a strengthening of section 36 of the Constitution with respect to equalization. I believe a majority of provinces would support such a change and several of the small provinces have emphasized its importance to Canadian unity in eloquent terms.

I feel certain there would also be strong support for clear ongoing assurances of federal financial support for key national social programs such as medicare. I know too that virtually all provinces would welcome a constitutional provision to provide at least some limited guarantees for federal-provincial agreements.

A recent Supreme Court decision in the Canada Assistance Plan case raised serious questions about whether a federal-provincial agreement is worth the paper on which it's printed. We're not saying agreements should be rigid and locked in forever. There has to be room, however, for the partners to change their priorities. But agreements and termination clauses should be respected.

Changes to the existing division of powers cannot be discussed in isolation. If responsibilities are to be shifted, the financial resources to meet those responsibilities have to be adjusted as well.

While our task force placed a great deal of emphasis on the need for flexibility, they emphasized, and I quote:

> Flexibility must not be interpreted to permit constitutional special deals or special status offered to some provinces and not to others, thereby creating a hierarchy of power or privilege among the provinces. Such an approach would threaten the principle of equality of the partners within Canada's federal system by creating classes of provinces.

For example, we've already faced one concrete problem relevant to the federal proposals. Quebec has signed its immigration agreement with the federal government and other provinces have been invited to do so as well. We're

[*Traduction*]

En fonction de considérations liées à l'efficacité et à la rentabilité de la fourniture des services publics, on pourrait envisager la possibilité de réduire le chevauchement de pouvoirs et d'étendre les pouvoirs concurrents du fédéral et des provinces.

Le Manitoba adopte le principe de la prestation des meilleurs services possibles au moindre coût pour les contribuables. Parallèlement, nous réalisons que l'appui financier du gouvernement fédéral est essentiel pour la prestation du niveau actuel de services dans bien des domaines.

Ottawa a également un rôle déterminant à jouer pour l'établissement de normes nationales et la promotion de la coordination. C'est pourquoi les Manitobains se sont dits en faveur du renforcement du rôle du gouvernement fédéral dans le financement des services de santé, d'éducation et sociaux partout au pays.

Le groupe de travail et nous-mêmes recommandons le renforcement de l'article 36 de la Constitution relatif à la péréquation. La plupart des provinces, je crois, sont en faveur d'une modification de cette nature et plusieurs petites provinces ont rappelé avec éloquence son importance pour l'unité canadienne.

J'estime également que l'on tient beaucoup à obtenir du gouvernement fédéral l'assurance qu'il maintiendra le soutien financier de programmes sociaux nationaux essentiels comme l'assurance-maladie. Je sais aussi que presque toutes les provinces sont en faveur d'une disposition constitutionnelle qui garantirait, au moins de façon limitée, les ententes fédérales-provinciales.

L'arrêt récent de la Cour suprême relatif au régime d'assurance publique du Canada nous a fait nous demander si les ententes fédérales-provinciales valent le papier sur lequel elles sont consignées. Nous ne disons pas que ces ententes devraient être immuables puisqu'il faut laisser aux signataires la latitude voulue s'ils décident de changer leurs priorités, mais il faut cependant respecter les ententes et les dispositions de résiliation.

Les changements à apporter à la répartition du pouvoir ne peuvent être discutés isolément. En cas de transfert de responsabilités, les ressources financières correspondantes doivent aussi être transférées.

Même si notre groupe de travail a beaucoup insisté sur l'importance de la souplesse, il a précisé, et je cite:

> Cette souplesse ne doit pas être interprétée de façon à contracter des ententes constitutionnelles particulières ou à offrir un statut spécial à certaines provinces et non à d'autres, créant ainsi une hiérarchie de pouvoirs ou de privilèges parmi les provinces. Cette façon de procéder serait une menace pour le principe de l'égalité des partenaires du système fédéral canadien puisqu'il établirait des classes entre les provinces.

Par exemple, les propositions fédérales nous ont déjà posé un problème concret. Le Québec a signé une entente relative à l'immigration avec le gouvernement fédéral et on a invité les autres provinces à en faire autant. Notre province

[*Text*]

very interested as a province in an agreement of that nature. But the clear message to the other provinces is that none of them should expect an agreement like Quebec's. That, to us, is not the kind of outcome we want to see.

Clearly some explanation of this approach is required from the Government of Canada. This round of constitutional negotiations began as a Canada round. It must stay that way.

Before I respond to your questions, I'd like to make a few comments about the process from this point forward. Your report is due, as I understand, February 28. The federal government has indicated its intention to make their detailed proposals public by April 10. I believe governments should meet to exchange views between those dates, after sufficient time has been allowed for public reaction to your report, but before the federal government has finalized their position. I would hope Quebec would be represented in those discussions.

Our government is committed to taking the time necessary for public consultation. We found time spent listening to Manitobans is time well spent. Although your efforts should be aimed at presenting us with a smaller, more manageable agenda, it must be one which responds to the priorities and concerns of Canadians in all provinces and regions.

As you consider the many and varied suggestions for constitutional change placed before you, I remind you that our Constitution is much more than a legal framework. Our Constitution must represent our past, our present and our future. It must embody all we are and all we want to be.

Our Constitution must recognize that, first and foremost, we are all Canadians. It must guarantee all Canadians enjoy the same rights and freedoms anywhere in Canada. We must ensure we have an inclusive Constitution that allows all groups to feel their contributions are recognized and valued.

The task is complex and difficult and time is growing short. But I feel increasingly confident that as Canadians working together we can find our way to a stronger and united Canada.

Thank you very much.

• 0855

The Joint Chairman (Mrs. Dobbie): Thank you, Mr. Filmon. That was a very positive message and I thank you for your very thoughful words.

Ms Hunter (Saanich—Gulf Islands): I'd like to welcome you to Ottawa and, as you say, we've put on quite a snowy morning for you.

Your presentation was very wide-ranging, as was to be expected from somewhere that is the centre of the country. I found it quite innovative that the new job creation project that you've advocated for Manitoba is to move the Senate to Manitoba. As someone from the periphery of Canada, on the west coast, I don't know how well that would sell in British Columbia. If there's going to be a movement of any body, as someone from where the temperature is now 15°, I'd

[*Translation*]

s'intéresse beaucoup à une entente de ce type. Mais ce que l'on a bien fait comprendre aux autres provinces, c'est qu'aucune d'elles ne peut s'entendre à une entente comme celle-là. Nous ne voulons pas de ce genre de choses.

Le gouvernement du Canada a de toute évidence des explications à donner. Cette ronde de négociations constitutionnelles était à l'origine la ronde Canada. Il faut qu'elle le reste.

Avant de répondre à vos questions, je vais faire quelques observations à propos de la suite du processus. Je crois savoir que votre rapport est censé paraître le 28 février. Le gouvernement fédéral a déclaré qu'il compte rendre publiques ses propositions détaillées d'ici au 10 avril. Je pense que les gouvernements devraient procéder à un échange de vues, aux termes d'un délai suffisant permettant à la population de faire part de ses réactions à votre rapport mais avant que le gouvernement n'ait arrêté sa position de façon définitive. Je nourris l'espoir que le Québec soit représenté à ces discussions.

Notre gouvernement s'est engagé à prendre le temps nécessaire pour effectuer des consultations publiques. Nous avons constaté que le temps passé à écouter les Manitobains était du temps bien employé. Même si vos efforts devraient être axés sur l'établissement d'une liste de sujets de discussion moins nombreux et plus faciles à traiter, ceux-ci doivent néamoins répondre aux priorités et aux préoccupations des Canadiens de toutes les provinces et de toutes les régions.

Quand vous étudierez les nombreuses et diverses suggestions de changements constitutionnels qui vous ont été faites, n'oubliez pas que la Constitution est bien plus qu'un cadre juridique. La Constitution doit représenter notre passé, notre présent et notre avenir. Elle doit incarner tout ce que nous sommes et tout ce que nous aspirons à être.

Notre Constitution doit reconnaître, d'abord et avant tout, que nous sommes tous Canadiens. Elle doit garantir que tous les Canadiens jouissent des mêmes droits et des mêmes libertés partout au pays. Elle doit embrasser tous les groupes de manière à veiller à ce que leurs contributions soient reconnues et estimées.

La tâche est complexe et difficile, et le temps presse. Toutefois, j'ai bon espoir que, de concert, nous réussirons à bâtir un Canada uni et plus fort.

Merci beaucoup.

La coprésidente (Mme Dobbie): Merci, monsieur Filmon. Votre message est très positif et je vous remercie de ces vastes propos, mûrement pesés.

Mme Hunter (Saanich—Les Îles-du-Golfe): Je vous souhaite la bienvenue à Ottawa et, comme vous l'avez dit, nous vous avons préparé un accueil tout poudré.

Votre exposé à couvert beaucoup de terrain, comme on peut s'y attendre de quelqu'un qui vit au centre d'un pays aussi grand que le nôtre. Vous avez montré beaucoup d'esprit d'innovation en proposant comme nouveau programme de création d'emplois le déménagement du Sénat au Manitoba. Moi qui vient de l'extrémité occidentale du pays, en Colombie-Britannique, je ne sais pas très bien quelle sera la réaction sur la Côte Ouest. S'il faut déménager qui que ce

[*Texte*]

advocate we move the whole works to British Columbia where there's human climate.

You go beyond the provincial task force recommendation by insisting on a triple-E Senate, because it's my understanding the Manitoba task force called for equal or equitable. I know there's a lot of debate on a number of E's, and I'm just wondering if you are also flexible on equal or equitable.

Mr. Filmon: I just remind you that equal is equitable.

Ms Hunter: Coming from British Columbia, it doesn't look that way. I guess we're getting down to interpretation here. I'm just wondering whether or not the flexibility you're recommending would extend to being flexible in—

Mr. Filmon: When we talk about equality of the provinces, we have to demonstrate that equality of the provinces somewhere in our national institutional framework, and I believe the Senate is the appropriate place for it.

Ms Hunter: My theory, though, is that if there is an equality of the provinces in the Senate, in the number of senators, that would push the House of Commons to be more rep by pop, and that would in fact decrease the number of Members of Parliament from Manitoba and from Saskatchewan. I don't think the people in Manitoba or Saskatchewan would think that was a fine idea.

Mr. Filmon: If we got the equality of representation in the Senate and the counterbalance to the rep by pop, which does exist already, given some small limits, some small variations, I don't think we'd be too upset about losing one and a half seats or something in Manitoba. I might ask some of our members about that.

Ms Hunter: I'm wondering who would be willing to give up their seats.

I'd like to go now to the spending power and the division of powers. I'm sure you have been following the conferences, which have had an unexpected vibrancy. The spending power is one of the crucial areas that we, as a committee, have to examine in finding a way out of this labyrinth of ideas on how we reform our Constitution. You mentioned the word "flexibility" and fundamental equality of the provinces. The direction question is, are you prepared to accept a different arrangement for Quebec than for the other provinces? You've framed your presentation here in the desire for a strong central government.

That was the message that came out of Halifax. Halifax also recognized that equality does not mean treating all provinces the same. I invite your response to that.

Mr. Filmon: In a sense I'm saying to you the same thoughts. Manitobans believe, and every government that has represented Manitoba believes, that we need a strong central government in Ottawa. That fundamental cannot be in any way changed by virtue of the constitutional amendments. Having said that, we recognize that there is flexibility built into our existing constitutional framework and that in a variety of ways—examples have been given at various conferences—there already is flexibility.

[*Traduction*]

soit, je pense pour ma part qu'il vaudrait mieux s'installer en Colombie-Britannique où, la température étant de 15 degrés, le climat est au moins humain.

Vous allez plus loin que le rapport du groupe de travail provincial puisque vous réclamez un Sénat triple-E. Il n'avait demandé qu'un Sénat égal ou équitable, je crois. Je sais que l'on discute beaucoup du nombre de caractéristiques du nouveau Sénat, et je me suis demandé si vous êtes aussi accommodant sur un Sénat égal ou équitable.

M. Filmon: Je me contenterai de vous rappeler qu'un Sénat égal est aussi un Sénat équitable.

Mme Hunter: Vu de la Colombie-Britannique, ce n'est pas ainsi que cela se présente. J'imagine que cela se réduit à une question d'interprétation. Je me demande si la souplesse que vous recommandez irait jusqu'à. . .

M. Filmon: L'égalité des provinces doit se manifester dans nos institutions nationales, et je pense que le Sénat est l'endroit tout désigné.

Mme Hunter: Pour moi, s'il y a égalité des provinces au Sénat, exprimée en nombre de sénateurs, la Chambre des communes devrait, elle, être fondée davantage sur le principe de la représentation en fonction de la population, ce qui réduirait le nombre de députés du Manitoba et de la Saskatchewan. Je ne pense pas que les citoyens de ces provinces trouveraient que c'est une bonne idée.

M. Filmon: Si l'on obtient une représentation égale au Sénat et si la contrepartie doit être la représentation en fonction de la population, qui existe déjà, à quelques variantes près, nous n'allons pas trop pleurer si le Manitoba doit perdre un siège et demi ou à peu près. Je pourrais peut-être poser la question à nos députés.

Mme Hunter: Je me demande qui serait disposé à renoncer à son siège.

Je vais passer maintenant au pouvoir de dépenser et à la répartition des pouvoirs. Vous avez sûrement suivi les conférences, qui ont été beaucoup plus aimées que prévu. Le pouvoir de dépenser est l'un des domaines déterminants que le comité doit examiner dans le labyrinthe d'idées qui conduit au renouvellement de la Constitution. Vous avez parlé de souplesse et de l'égalité fondamentale des provinces. Voici donc la question que je vous pose: Êtes-vous prêt à accepter pour le Québec un arrangement différent de celui des autres provinces? Tout votre exposé est axé sur l'idéal d'un gouvernement central fort.

C'est ce qui s'est dégagé de la conférence d'Halifax. On y a aussi reconnu le fait que l'égalité ne signifie pas qu'il faut traiter toutes les provinces de la même façon. Je voudrais bien savoir ce que vous en pensez.

M. Filmon: Essentiellement, je vous dis les mêmes choses. Les Manitobains et tous les gouvernements manitobains successifs sont d'avis qu'il faut un gouvernement central fort à Ottawa. Cette position fondamentale ne saurait être modifiée au moyen d'une modification constitutionnelle. Cela dit, nous reconnaissons que le cadre constitutionnel actuel comporte un élément de souplesse et que de diverses façons—des exemples ont été donnés lors des diverses conférences—cette souplesse existe déjà.

[*Text*]

I noted in flying here on the plane—it was my magazine, it wasn't Air Canada's—that David Peterson has written to *Maclean's*, talking about the flexibility that is inherent in our current constitutional framework, and he has very eloquently expressed that. However, the changes that are made should not, in our judgment, impair the ability of the national government to do the kinds of things it's committed to doing. I'm talking about equalization. I'm talking about the EPF transfers and the support for health care and our social service safety net and all those kinds of things.

• 0900

Yes, in the interests of flexibility and in the interests of perhaps the special needs of one area or another there can be some asymmetry, some flexibility. But it has to be limited. That is what we said in our task force report, and that's what I believe Manitobans want.

Ms Hunter: You mentioned the federal government's increasing dynamic of off-loading responsibilities onto the provinces, and particularly responsibities for native programs. I wonder if you could expand on that.

Mr. Filmon: I might suggest to you that off-loading is not unique to the current federal government. It's a characteristic of what happens when you get to Ottawa. That's why we need the reformed Senate, with the counterbalance. If you want some examples, I can tell you about the shifting of the federal portion of our provincial budget that took place under the previous Liberal administration. I believe it went from about 42% of our revenues in 1980–81 to 37% by 1984. Since 1984 it has gone down further, from 37% to 35%. So off-loading and withdrawing from funding of our programs has continued.

This example, the example you're talking about of responsibility for aboriginals off-reserve has been a particularly devastating one for us. We are talking about millions of dollars. I believe it is $18 million to $20 million a year. It sends a very negative signal. The interesting part about it is that it affects Manitoba and Saskatchewan particularly hard and literally is a minor irritant to the rest of the provinces. We feel very strongly about this sort of thing, and it has to be stopped.

Ms Hunter: Finally, I'm encouraged by your suggestion of a process after February 28. It is nice for us on this committee to know there will be something after February 28. At times it feels as if there won't be.

I know you weren't supposed to say the "c" word yesterday, but did you fellows decide when you're going to see one another again?

Mr. Filmon: First, I would suggest Nellie Cournoyea wouldn't agree with your term "fellows".

Secondly, we did agree we had to give some flexibility in choosing a time that might be appropriate, and the federal budget is probably the key deciding factor. We need a couple of weeks to be able to react and respond to measures that might be contained within that budget. I would say six to seven weeks is the target we're aiming for. That was the gist of our discussion.

[*Translation*]

À bord de l'avion qui m'a amené ici, j'ai lu dans une revue—la mienne, pas celle d'Air Canada—que David Peterson avait envoyé une lettre au magazine *Maclean* dans laquelle il parlait de la souplesse inhérente à notre cadre constitutionnel actuel. Il l'a fait en des termes très éloquents. Toutefois, ces changements ne devraient pas, selon nous, empêcher le gouvernement national de réaliser ce qu'il s'est engagé à accomplir. Je parle de la péréquation, du FPE, du financement des soins de santé, des services sociaux, et ainsi de suite.

Oui, par souci de souplesse et en raison, peut-être, des besoins particuliers d'une région ou d'une autre, il peut y avoir une certaine asymétrie, une certaine souplesse. Mais cela doit être limité. C'est ce qui est déclaré dans le rapport du groupe de travail, et c'est ce que veulent les Manitobains, je crois.

Mme Hunter: Vous avez dit que le gouvernement fédéral a de plus en plus tendance à se décharger de ses responsabilités sur le dos des provinces, notamment en ce qui concerne les Autochtones. Pourriez-vous développer votre pensée?

M. Filmon: Cette tendance n'est pas l'apanage du gouvernement actuel. C'est ce qui se produit dès qu'on arrive à Ottawa. C'est pourquoi il nous faut un nouveau Sénat: pour faire contrepoids. Si vous voulez des exemples, je peux vous parler de la réduction de la portion fédérale de notre budget sous le régime libéral précédent. Elle est passée de 42% de nos recettes en 1980–1981 à 37% en 1984. Depuis, elle a encore baissé: de 37 à 35%. Ce transfert de responsabilité et la réduction du financement de nos programmes se poursuivent.

Dans le cas des Autochtones hors réserve, les effets ont été dévastateurs, de l'ordre de plusieurs millions de dollars: 18 ou 20 millions par année, je crois. C'est un message très négatif. Le plus curieux, c'est que le Manitoba et la Saskatchewan sont les plus durement touchés, alors que ce n'est qu'un point de friction mineur pour les autres provinces. Nous avons des idées bien arrêtées là-dessus, et il faut que cela cesse.

Mme Hunter: Je vous dirai pour terminer que je me sens encouragée par votre proposition de poursuivre le processus après le 28 février. Il est réconfortant pour nous de savoir qu'il se passera quelque chose après le 28 février. Parfois, on a l'impression que ce ne sera pas le cas.

Je sais qu'il ne fallait pas prononcer le mot qui commence par «c», hier, mais vous et votre petite bande, avez-vous fixé la date de votre prochaine rencontre?

M. Filmon: Pour commencer, je pense que Nellie Cournoyea n'apprécierait pas l'expression «vous et votre petite bande».

Ensuite, nous avons reconnu qu'il fallait une certaine flexibilité à propos de la date et que le facteur déterminant sera probablement le budget fédéral. Il nous faudra une ou deux semaines pour réagir au budget. Je dirais dans six ou sept semaines. Grosso modo, c'est la date dont nous avons dicuté.

[*Texte*]

So I can use the "e" word here today, can I not?

Senator Barootes (Regina—Qu'Appelle): Welcome, Premier Filmon, to this meeting, the last one that will be this open. I appreciated your comprehensive and thoughtful suggestions. You have touched on many of the areas we're concerned about. I'm going to try to nail you down on one of them, as a friendly gesture.

We know the west wants a triple-E Senate. We know Ontario rejects a triple-E Senate. We know your province wants a triple-E Senate, as does Alberta and Saskatchewan. From a pragmatic viewpoint, and you being the kind of compromising, helpful, useful premier you are, could you live with an equitable Senate if that were the best we could do?

Mr. Filmon: I'll just say this to you, Senator Barootes, that I don't come here to negotiate with you. I recognize that the process upon which we are embarked will involve some negotiation. If you're suggesting that it is incumbent upon me to be flexible on issues that are very important to me, then I suggest that applies equally to others who put forth demands and very strong positions.

• 0905

I guess the test of whether or not I will be flexible will be what I meet when I see the positions of others at the table. If some want to suggest that it is not possible to even consider triple-E, I disagree very strongly with them. I think that's the best model. If indeed they are going to achieve some of the demands they have put on the table, then we will have to put that case forward very strongly.

Senator Barootes: That is a most acceptable answer, sir.

I think almost as important in the Senate are the responsibilities and powers that might be given to it, very important I think to those who may seek such office. As you know, at the present time we have in the Senate virtually the same powers as the House of Commons, although they have fallen to disuse atrophy, if you will. Do you favour the same, more or less, responsibilities and powers, particularly in relationship to money bills? When I say money bills I mean appropriation and supply bills. I would give you an opportunity to tell us what you feel about that area.

Mr. Filmon: I believe the current powers would be appropriate. I believe, obviously, that we would need a tie-breaking mechanism, and that the Senate should not be a confidence chamber. But having said that, I think the current powers are appropriate.

Senator Barootes: Thank you very much. Somehow or other we must be on the same wavelength on some of these things.

The Joint Chairman (Mrs. Dobbie): Isn't that surprising

Mr. Filmon: Dr. Barootes, that's a compliment. I'm delighted.

Senator Barootes: Thank you.

I have one other question that perhaps you could give some thought to and let us have your feelings. We have heard from a great many people about the notwithstanding clause. We know its origin, and I'm sure Mr. McCrae has a

[*Traduction*]

Donc, je peux employer le mot qui commence par «e», n'est-ce pas?

Le sénateur Barootes (Regina—Qu'Appelle): Je vous souhaite la bienvenue, monsieur le premier miistre, à cette réunion qui sera la dernière de nos rencontres publiques. J'ai apprécié vos suggestions sensées sur un grand nombre de sujets. Vous avez évoqué un grand nombre de questions qui nous préoccupent. Sans méchanceté aucune, je vais essayer de vous coincer sur une de celles-là.

Nous savons que l'Ouest veut un Sénat triple E. Nous savons que l'Ontario rejette l'idée d'un Sénat triple E. Nous savons que votre province veut un Sénat triple E, tout comme l'Alberta et la Saskatchewan. Du point de vue pratique, comme vous êtes un premier ministre conciliant, qui cherche à faire avancer les choses, est-ce que vous accepteriez un Sénat équitable si c'était tout ce qu'il y avait de réalisable?

M. Filmon: Je vous dirai simplement ceci, monsieur le sénateur: Je ne suis pas venu ici pour négocier avec vous. Certes, ce processus exigera des négociations. À ceux qui exigent que je fasse preuve de souplesse sur les questions qui m'importent, je répondrai qu'ils doivent exiger la même chose des autres qui ont eux aussi des exigences et des positions bien arrêtées.

De toute façon mon attitude dépendra des positions avancées par les autres. Ainsi, contrairement aux détracteurs du Sénat triple-E, j'estime au contraire que c'est le meilleur modèle. S'ils obtiennent ne serait-ce qu'une partie de leurs exigences, nous allons insister avec force pour obtenir le Sénat triple-E.

Le sénateur Barootes: Que voilà une excellente réponse, monsieur.

Les responsabilités et attributions éventuelles du Sénat revêtent également une énorme importance, et plus particulièrement pour ceux qui brigueront la charge de sénateur. En principe, le Sénat possède déjà les mêmes compétences que la Chambre des communes, même s'il les exerce rarement. À votre avis ces responsabilités et compétences devraient-elles augmenter, diminuer, ou bien rester telles qu'elles, surtout en ce qui concerne les lois des finances?

M. Filmon: J'opterais pour le maintien des compétences actuelles. Des dispositions doivent bien entendu être prévues en cas d'égalité des voix et par ailleurs, le Sénat ne devrait pas pouvoir voter ou refuser la confiance. Je suis donc pour le maintien de ses compétences actuelles.

Le sénateur Barootes: Merci bien. Nous semblons être sur la même longueur d'ondes.

Le coprésident (Mme Dobbie): Voilà qui est étonnant.

M. Filmon: Je considère cela un compliment. J'en suis ravi.

Le sénateur Barootes: Merci.

Je voudrais maintenant vous poser une question au sujet de la clause nonobstant. Cette mesure qui a été proposée par l'Ouest du pays a suscité bien des remous. Certains préconisent sa suppression pure et simple, d'autres

[*Text*]

good background in this. We know its background. We know that it was a western initiative, if you will. We know that it causes some trouble to some people in some parts of Canada. Some people want it wiped out, others think it should be moderated or made less stringent, and others believe it should remain as it is. What is Manitoba's position on the notwithstanding clause at the present time?

Mr. Filmon: The task force considered that among many Charter issues and said that those were all matters for a future round, that things should remain as they are with respect to the Charter; that when we want to engage in another round the Charter should be the major subject of that next round. Probably anticipating that we're all going to be exhausted from dealing with the consitutional issues over the past decade, that may well be a way into the future. But that is the appropriate time at which it should be dealt with.

Senator Barootes: The proposal suggests 60% for override now instead of the 50%. It could cause some trouble to some governments if they wish to exercise this. I recognize that Manitoba has never utilized the override.

Mr. Filmon: Manitoba has never utilized the notwithstanding clause. But I can also tell you that I think there was only one administration in the history of our province that had 60% on the government side. That was one of Duff Roblin's governments. That would be a major change from a Manitoba perspective. If we believe in the notwithstanding clause—and as I say, the task force said that things should remain as is—then obviously that 60% would make a major change in the ability of Manitoba to use it.

The Joint Chairman (Mrs. Dobbie): Senator Beaudoin has a question, then Senator Johnson, Madam Tardif, and then Mr. Friesen, if we get that far.

• 0910

Le coprésident (le sénateur Beaudoin): Merci, monsieur le premier ministre. Ma question porte sur la déclaration de société distincte dans la Charte canadienne des droits et libertés, à l'article 25. J'ai l'impression que vous êtes favorable au concept de société distincte, mais que vous avez une crainte au sujet de la Charte canadienne. Pourtant, à l'article 27 de la Charte canadienne, on dit bien que toute interprétation de la Charte doit tenir compte du caractère multiculturel du Canada. Cela n'a jamais fait l'objet d'aucune crainte.

Si tel est le cas, j'aimerais savoir pourquoi il y a des craintes quand on parle de la société distincte qui est dans la Charte. Ce sont les mêmes mots qui sont employés. L'interprétation de la Charte doit tenir compte du fait que le Québec est une société distincte, tout comme l'interprétation de la Charte doit tenir compte du fait qu'il y a un héritage multiculturel.

Pour le Québec, évidemment, c'est important. Ou bien on revient à l'Accord du lac Meech et on met la clause de la société distincte dans la Constitution même pour qu'elle en influence l'interprétation, ou bien on procède comme le gouvernement veut le faire, c'est-à-dire qu'on la met dans la clause Canada et à l'article 25 de la Charte. De toute façon, la Charte fait partie de la Constitution. Donc, je ne vois pas trop bien ce qui peut créer ici un problème.

[*Translation*]

voudraient l'édulcorer tandis que d'autres encore se prononcent pour son maintien. Quelle est la position du Manitoba relativement à la clause nonobstant?

M. Filmon: D'après le groupe de travail qui a examiné différents aspects de la Charte, ces questions devraient être reportées à une date ultérieure. Il vaudrait mieux laisser la Charte en suspens jusqu'à la prochaine ronde. Dix années de débat constitutionnel suffisent pour l'instant; cette question pourrait éventuellement être reprise à l'avenir. Cela conviendrait beaucoup mieux.

Le sénateur Barootes: Selon les propositions, il faudrait 60 p. 100 des voix pour renverser une décision et non plus 50 p. 100, ce qui risque de causer des difficultés à certains gouvernements provinciaux. Nous savons que le Manitoba ne s'est jamais prévalu de cette disposition jusqu'à présent.

M. Filmon: En effet le Manitoba n'a jamais invoqué la clause nonobstant. Je vous ferai en outre remarquer qu'il n'est arrivé qu'une seule fois dans l'histoire du Manitoba que le parti au pouvoir ait détenu 60 p. 100 des voix, du temps notamment de Duff Roblin. Si on décidait donc de remonter la barre à 60 p. 100, cela rendrait l'utilisation de cette clause par le Manitoba plutôt aléatoire.

Le coprésident (Mme Dobbie): Le sénateur Beaudoin voudrait poser une question et ensuite ce sera au tour du sénateur Johnson puis celui de Mme Tardif et de M. Friesen, s'il nous reste du temps.

The Joint Chairman (Senator Beaudoin): Thank you, Mr. Premier. My question deals with the distinct society clause in the Canadian Charter of Rights and Freedoms, Section 25. I have a feeling that although you are in favour of the distinct society concept, you have some concerns regarding the Charter, even though Section 27 states that any interpretation of the Charter must take into account the multicultural nature of Canada, and so far no concerns have been raised in that regard.

That being the case, I'd like to know why you have concerns regarding the distinct society concept, which is also in the Charter and which uses the same terms. In interpreting the Charter we must take into account the fact that Quebec is a distinct society just as we must take into account our multicultural heritage.

Obviously this is very important for Quebec. Either we go back to the Lake Meech Agreement and put the distinct society clause in the Constitution itself, which would have a bearing on the interpretation, or we go along with the government proposal and put the distinct society clause in the Canada clause and in Section 25 of the Charter which is part of the Constitution. So, I really don't see what is the problem.

[*Texte*]

What is good for multiculturalism may be good also for other rules of interpretation of the Charter. My question is partly clarification.

Mr. Filmon: Senator Beaudoin, I can tell you that, not being a constitutional legal expert, in fact not being a lawyer at all, I have the advantage of being able to listen objectively to the best legal advice available to me. I might tell you that my Attorney General has the same advantage; he doesn't have to try to be his own lawyer. So we, as did the entire Manitoba all-party task force, both in the Meech Lake case and in the current round of constitutional endeavors, take the same position.

Essentially, if we are assured by the legal advice that we have, that the entrenchment of the term "distinct society" within the Constitution does not impair Charter rights and does not confer special powers on one province not available to another, then it's acceptable for us. We remain in that position.

Senator Johnson (Western): Thank you for speaking to us today. I couldn't agree more that the capital of Canada should be moved to Winnipeg.

A couple of my colleagues have touched on Senate reform. I know how strong an advocate you are of the triple-E model. Could I have your reaction to the Calgary conference two weeks ago which did stop short of the triple-E model, recommending a double-E? At least that was the consensus out of that conference.

Mr. Filmon: I thought they didn't go far enough.

Senator Johnson: So you thought that the—

Mr. Filmon: That it was a good start.

Senator Johnson: That was a gathering of people from right across the country. The only thing they didn't agree on was the model in terms of equality of the provinces. Do you think that should be renegotiated or discussed further?

Mr. Filmon: I think there will have to be more discussion on that. There were obviously some who felt very strongly that the equality of the provinces was the appropriate answer, as I do, and others who didn't. We're going to have that same difficulty in arriving at the difficult compromises throughout all of these discussions on the Constitution. There will be people on each side of the issue.

• 0915

Senator Johnson: On another point, which I know is very important and which came up in the Manitoba task force in the aboriginal questions, how did you react to Ovide Mercredi's position last weekend in Toronto on wanting a distinct society status for his aboriginal peoples, and how do you think this will affect the demands for self-government?

Mr. Filmon: We've already stated our support for the inherent right to self-government for aboriginal peoples being recognized within the framework of the Canadian Constitution. I thought the Manitoba task force had a good response to the recognition of aboriginal people in Canada, and I'll quote just a paragraph and then the legal text in which they placed it. They said:

[*Traduction*]

Ce qui est bon pour le multiculturalisme doit être tout aussi bon pour les autres règles d'interprétation de la Charte. Pourriez-vous m'expliquer votre point de vue à ce sujet?

M. Filmon: Monsieur le sénateur, je ne suis ni avocat ni expert en droit constitutionnel, ce qui me permet d'écouter objectivement ce que les experts ont à me dire à ce sujet. D'ailleurs le procureur général du Manitoba est dans la même situation que moi. À cet égard lui et moi ainsi que le groupe de travail du Manitoba regroupant toutes les tendances politiques, nous nous sommes prononcés à l'unanimité sur cette question aussi bien au cours des négociations du Lac Meech que lors des négociations actuellement en cours.

Puisque de l'avis de nos conseillers juridiques le fait d'entériner la notion de société distincte dans la Constitution ne déroge pas aux droits prévus dans la Charte et n'attribue pas des droits spéciaux à une seule province, nous sommes d'accord. Notre position n'a donc pas changé.

La sénatrice Johnson (Western): Bien merci. Je trouve que Winnipeg devrait devenir la capitale du Canada.

Deux de mes collègues ont déjà évoqué la question de la réforme du Sénat. Je sais que vous êtes un partisan convaincu du Sénat triple E. Or, à la conférence de Calgary il y a 15 jours, c'est un Sénat double qui a été recommandé. Je voudrais savoir ce que vous en pensez.

M. Filmon: Je trouve qu'ils se sont arrêtés à mi-chemin.

La sénatrice Johnson: Donc, vous estimez que. . .

M. Filmon: Que c'était un bon départ.

La sénatrice Johnson: La conférence de Calgary a réuni des personnes venues de tous les coins du pays. Or, la conférence n'a pas réussi à se mettre d'accord sur le principe de l'égalité des provinces. Cette question devrait-elle, à votre avis, être renégociée ou examinée plus à fond?

M. Filmon: Sans aucun doute. Le principe de l'égalité des provinces avait ses partisans, dont je suis, mais aussi ses adversaires. C'est tout à fait normal et un compromis est toujours difficile à réaliser. Nous éprouverons les mêmes difficultés pour ce qui est de la Constitution, et il y aura du pour et du contre.

La sénatrice Johnson: Que pensez-vous de la déclaration faite par Ovide Mercredi à Toronto le week-end dernier lorsqu'il a dit qu'il exige le statut de société distincte pour les peuples autochtones et quel sera, à votre avis, l'incidence de cette déclaration sur le principe de l'autonomie politique?

M. Filmon: Nous sommes en principe d'accord pour que les droits inhérents à l'autonomie politique des Autochtones soient en entérinés dans la Constitution. Le groupe de travail du Manitoba s'est d'ailleurs fort bien exprimé au sujet de cette question et si vous le permettez, je vais lire un paragraphe de ce rapport:

[*Text*]

There was a clear consensus at our public hearings that any constitutional statement about the fundamental characteristics of Canada must proudly recognize the contribution of aboriginal people. In several presentations, it was suggested that this could best be done by recognizing the aboriginal peoples as the original people and a fundamental characteristic of Canada.

As part (b) of the Canada clause they submitted, they state:

(b) recognition of the aboriginal people as constituting the original people and a fundamental characteristic of Canada;

It seems to me that addresses his concerns.

Mme Tardif (Charlesbourg): Monsieur Filmon, je voudrais d'abord vous remercier d'être avec nous ce matin.

Vous avez dit dans votre présentation que, pour les Manitobains, il était important d'être Canadiens d'abord. Ayant rencontré des Canadiens de toutes les provinces et territoires du Canada depuis plusieurs fins de semaine, je suis portée à croire que les Manitobains, comme les autres Canadiens, sentent le besoin d'identifier l'endroit d'où ils viennent et donc de se rapporter à leur province d'origine. Je n'ai pas vu de différence entre les Manitobains, les Québécois et les gens de Colombie-Britannique. À l'intérieur du Canada, on a tous tendance à se voir comme venant d'une province particulière. Ceci n'est simplement qu'un commentaire en passant.

Vous avez également dit dans votre présentation que notre Constitution doit représenter notre passé, notre présent et notre avenir. Dans la Charte, il y a déjà une disposition particulière, à l'article 25, sur les droits et libertés concernant les peuples autochtones et, à l'article 27 sur la valorisation du patrimoine multiculturel canadien. Je me demande pourquoi il semble si difficile de reconnaître qu'il y a une province dont les citoyens, même s'ils sont aussi Canadiens que les autres, s'identifient d'abord à la communauté francophone. Est-ce qu'on a le droit de nier dans notre Constitution 200 ans d'histoire de notre pays?

Mr. Filmon: May I begin by saying that I certainly don't want to engage in anything that would be a negative exchange with you or any other member of the committee with respect to our commitment to Canada, but I think there is a considerable difference. It's one thing to identify yourself with your province or your region, talk about yourself as being a westerner or an easterner. Because we're in the eastern conference of the Canadian Football League, we don't know where we are, whether we're west or east. I think it's normal for people to say, "I'm from Winnipeg," and so on.

The question is that when people come right down to it and are asked if they are a Canadian first or a Manitoban first, or if they are a Canadian first or a Quebecker first, or a Newfoundlander or a British Columbian, there are differences in the way people look at themselves.

[*Translation*]

Un consensus très clair s'est dégagé au cours des audiences publiques sur la nécessité d'inclure parmi les caractéristiques fondamentales du Canada énoncées dans la Constitution les contributions des peuples autochtones. Cela pourrait se faire notamment en précisant que les peuples autochtones sont le premier peuple du Canada et constituent une des caractéristiques fondamentales du pays.

Ainsi on a proposé un alinéa b) à la clause Canada disant ce qui suit:

b) reconnaissance des peuples autochtones en tant que premiers habitants du Canada et à ce titre une des caractéristiques fondamentales du pays.

Cela devrait à mon sens répondre à ces préoccupations.

Mrs. Tardif (Charlesbourg): Mr. Filmon, I wish first of all to thank you for being here this morning.

You said in your presentation that for Manitobans éwhat matters is being Canadians first and foremost. After meeting with Canadians from all provinces and territories during these last week-ends, I have a feeling that Manitobans just as the rest of Canadians feel the need to identify with their province of origin and in that respect I don't think there is any difference between Manitobans, Quebeckers and people from British Columbia. As Canadians we all identify with a given province.

You further mentioned in your presentation that the Canadian Constitution must represent our past, our present and our future. Section 25 of the Charter deals with the rights and freedoms of the aboriginal peoples while Section 27 deals with the enhancement of Canada's multicultural heritage. I wonder why it is so hard for some people to recognize that the people of one province identify themselves first and foremost with the Francophone community, even though they are Canadians just like the rest of us. Why should the Constitution deny 200 years of our history?

M. Filmon: Sans vouloir vous contredire, j'estime néanmoins qu'il existe bel et bien d'importantes divergences sur cette question. Il est en effet tout à fait normal de s'identifier à sa province ou à sa région d'origine, que ce soit à l'est ou à l'ouest. Ainsi, les gens vous diront par exemple qu'ils sont de Winnipeg.

En revanche, c'est lorsqu'on demande aux gens s'ils se sentent d'abord Canadiens et ensuite seulement Manitobains, Québécois, Terre-Neuviens ou habitants de la Colombie-Britannique ou qu'au contraire, c'est leur appartenance provinciale qui prime le sentiment national que l'on constate des divergences importantes.

[*Texte*]

• 0920

I sound as though I'm doing a commercial for *Maclean's* magazine, and I did not want to do that. But about three years ago, prior to the final determination on Meech Lake, the *Maclean's*-Decima year-end poll that was published in their first January issue of 1990, I believe, asked that question of people across the country. The second strongest response they got of all 10 provinces was from Manitobans: 84% said they're Canadians first, Manitobans second. The only province that had a higher rating in that question was Ontario—I think that's understandable, because Ontario thinks it is Canada—88% or 89% of them said that they were Canadians first, Ontarians second. There were only two provinces in the country in which fewer than 50% said they were Canadians first. Now, this was before the outcome of Meech Lake. You may have already surmised which two provinces those were. One was Quebec and one was Newfoundland.

There is a difference in the commitment that people make. We talked yesterday, among first ministers on the economy, about the flexibility with which people are willing to move from their regions. It is different. My friend Mr. Nystrom just pointed out that Saskatchewan has that kind of similar commitment. People from Saskatchewan and people from Manitoba move to different career opportunities partly because the provinces are not necessarily as diversified. If people want to be aerospace engineers or whatever and the opportunities aren't there, they move to the opportunities, because they think they're Canadians. They're flexible. They'll move and continue to be strong, committed Canadians wherever they are. There is a difference, and I think it has something to do with all of these constitutional discussions.

So to get to the point of your question, I assume you were asking me for a response on distinct society and whether or not we are denying Quebec the right to have distinct society entrenched in the Constitution. I believe all I've said in my presentation and in my response to Senator Beaudoin was that Manitobans are prepared to recognize Quebec as a distinct society, provided that that recognition doesn't imply powers to Quebec that aren't available to other provinces and provided that it doesn't impair Charter rights.

Mr. Duhamel (St. Boniface): Good morning, Premier, and good morning to your ministers as well. Thank you very much for your presentation. I've said it before and I want to say it again: premiers such as yourself have provided useful information to the committee, particularly so at this period of time, as we come very close to the end of the race, at least the first lap.

I don't want to negotiate with you. It's obviously not for me to do that. But I do want to understand, as well as I can, your position with respect to the reformed Senate. You've indicated that equal, as I understood it, was your definite preference, great preference. But I get the impression that you were also saying, depending upon what else is on the table, that there may be some flexibility there. It's important for me and my colleagues to know just exactly where you stand, sir, as we sit down to write the report.

[*Traduction*]

Je donne l'impression de faire de la publicité pour le magazine *Maclean*, mais telle n'est pas mon intention. Toutefois, il y a environ trois ans, avant la décision finale sur l'Accord du Lac Meech, un sondage de fin d'année *Maclean*-Decima, publié dans le premier numéro de janvier 1990, je crois, posait la question dans tout le pays. Les Manitobains se sont placés au deuxième rang parmi les 10 provinces en répondant à 84 p. 100 qu'ils se considéraient Canadiens d'abord et Manitobains ensuite. La seule province qui se soit placée en tête, avec 88 ou 89 p. 100 des répondants se disant Canadiens d'abord, était l'Ontario et c'est bien compréhensible, puisque les Ontariens pensent que le Canada, c'est l'Ontario. Dans deux provinces seulement, moins de 50 p. 100 de la population s'estime Canadienne d'abord. C'était avant l'échec du Lac Meech. Vous avez sans doute deviné de quelles provinces il s'agit: le Québec et Terre-Neuve.

L'engagement n'est pas le même partout. Hier, entre premiers ministres réunis pour parler d'économie, nous avons parlé de la mesure dans laquelle les gens seraient disposés à quitter leur région. Cela varie. Mon ami, M. Nystrom, a fait remarquer qu'il y a pareil engagement en Saskatchewan. Les gens de la Saskatchewan et du Manitoba vont plus facilement là où l'exige leur carrière, parce que l'économie de leur province n'est pas très diversifiée. Ceux qui veulent devenir ingénieurs en aérospatiale, par exemple, vont là où ils trouveront du travail, parce qu'ils se considèrent Canadiens d'abord. Ils sont accommodants. Ils déménagent, mais où qu'ils soient, ils restent profondément Canadiens. On constate une différence, et j'ai le sentiment qu'elle est due à ce débat constitutionnel.

Pour en venir à votre question, j'imagine que vous attendiez une réponse sur la société distincte pour savoir si nous nions au Québec le droit de faire reconnaître la société distincte dans la Constitution. Dans ma déclaration, ainsi qu'en réponse au sénateur Beaudoin, je pense avoir bien dit que les Manitobains sont disposés à reconnaître le Québec comme étant une société distincte, à la condition que cela ne confère pas au Québec des pouvoirs que n'ont pas les autres provinces, et à la condition que cela n'empiète pas sur la Charte des droits.

M. Duhamel (Saint-Boniface): Bonjour, monsieur le premier ministre, et messsieurs les ministres. Je vous remercie de votre déclaration. Je l'ai dit et je le répète: les premiers ministres qui comme vous sont venus comparaître devant le Comité nous ont apporté des informations fort utiles, particulièrement en ce moment, alors que nous arrivons au bout de la course, ou du moins de la première étape.

Mon intention n'est pas de négocier avec vous. Ce n'est bien sûr pas mon rôle. Mais je voudrais comprendre le plus clairement possible votre position sur la réforme du Sénat. Si j'ai bien compris, vous avez dit que vous préfèreriez de beaucoup un Sénat égal. Mais j'ai l'impression de vous entendre dire aussi que, selon les offres qu'on pourrait vous présenter, vous pourriez faire preuve d'une certaine souplesse. Alors que nous nous apprêtons à commencer la rédaction de notre rapport, il est important pour mes collègues et pour moi-même de savoir exactement quelle est votre position là-dessus.

[*Text*]

Mr. Filmon: I can't tell you whether or not there's any flexibility when I say that's the ideal to which we are committed, to which I am committed. Having said that, I don't know what else is on the table. In the final analysis, I think almost everybody in this country wants to ensure that we have a constitutional agreeement that allows this country to be unified and to carry on, to achieve all the great things that it can and will achieve in the future in this world. We don't want constitutional differences to tear us apart and to leave us impaired in our ability to meet those challenges ahead. So I say to you, it's my ideal position and it's a position that I'm firmly committed to.

• 0925

Mr. Duhamel: I appreciated your comments just a few days ago in response to Premier Getty's comment on the use of English and French in this country, as well as your comments on multiculturalism. I want to thank you for those.

If I have understood your comments correctly this morning, you've said yes to distinct society provided it doesn't grant special powers or special status. What about linguistic duality for this nation? I take it you endorse that concept.

Mr. Filmon: Yes, I do.

Mr. Duhamel: On your views about property rights, the economic proposals contained within the government's package, as well as a social charter, do you believe some movement towards social rights would be appropriate?

Mr. Filmon: About property rights, those fall in with a number of Charter issues. Despite the fact that I may have strong views on that, the task force in Manitoba felt—and it was probably a wise decision, and one I certainly support—that there are so many issues to do with the Charter that it does warrant a complete round dedicated to the Charter and to all the complex interrelations that are affected as a result of considering things such as the notwithstanding clause, property rights, and so on. I subscribe fully to the position the Manitoba all-party task force arrived at, which was that we leave it to another round and not deal with it in this round.

The second part of your question was. . .?

Mr. Duhamel: Economic union proposals and whether or not there's a need for a social charter.

Mr. Filmon: On the subject of economic union, I think what we're seeing by virtue of the debate that's taking place is that the proposal as it is presented is unacceptable. I for one think there are elements of it that bear strong commitment, one of which is removal of interprovincial trade barriers, any of the artificial barriers we put up to the free exchange of goods and services across this country. As premiers, I think we are very dedicated and committed to working on that. I believe that's a matter of policy that should be agreed upon and not necessarily entrenched within the Constitution.

[*Translation*]

M. Filmon: Quand je vous dis que c'est là pour nous, pour moi, l'idéal pour lequel nous luttons, je ne peux pas vous dire s'il y a ou non une marge de manoeuvre. Mais cela dit, je n'ai pas vu toutes les cartes. Au bout du compte, je pense que presque tout le monde tient avant tout à un accord constitutionnel qui permettrait au pays de rester uni pour accomplir les grandes réalisations dont il est capable et qu'il accomplira à l'avenir. Nous ne voulons pas que des divergences sur la question constitutionnelle nous déchirent et nous empêchent de relever les défis qui nous attendent. Je vous répondrai donc que c'est là l'idéal que je vise et pour lequel je veux bien lutter.

M. Duhamel: J'ai beaucoup apprécié les commentaires que vous avez faits il y a quelques jours en réponse à ce qu'a dit le premier ministre Getty à propos du bilinguisme au Canada, ainsi que vos observations sur le multiculturalisme. Je tiens à vous en remercier.

Si j'ai bien compris ce que vous avez dit ce matin, vous êtes prêt à adopter la société distincte à condition qu'elle ne confère ni pouvoirs, ni statuts spéciaux. Qu'en est-il de la dualité linguistique du pays? J'imagine que vous en acceptez le principe.

M. Filmon: Oui, effectivement.

M. Duhamel: À propos du droit de propriété, des propositions en matière économique contenues dans le document fédéral, ainsi qu'à propos de la Charte sociale, pensez-vous qu'une ouverture vers les droits sociaux serait opportune?

M. Filmon: Le droit de propriété touche différents aspects de la Charte. Bien que j'aie des idées bien arrêtées là-dessus, le groupe de travail du Manitoba a estimé—c'était sans doute fort sage, et j'appuie cette décision—qu'il y avait tant de questions concernant la Charte, qu'il conviendrait de consacrer une série de négociations à l'examen exclusif de la Charte et des répercussions complexes qu'entraîne l'examen de la clause dérogatoire, du droit de propriété, etc. Je souscris entièrement à l'avis du groupe de travail multipartite du Manitoba, qui a jugé qu'il serait préférable d'examiner ces questions dans une prochaine révision de la Constitution.

La deuxième partie de votre question c'était. . .?

M. Duhamel: Elle portait sur les propositions concernant l'union économique, et sur la nécessité ou non d'adopter une Charte sociale.

M. Filmon: À propos de l'union économique, le débat qui a eu lieu a démontré que les propositions actuelles sont inacceptables. Pour ma part, j'estime qu'elles contiennent des éléments tout à fait valables, notamment l'élimination des barrières au commerce interprovincial, des barrières artificielles que nous avons dressées et qui empêchent le libre-échange des biens et services à l'intérieur du Canada. Les premiers ministres sont fermement déterminés sur ce point. Mais c'est là une question de politique pour laquelle nous devons arriver à un accord qui ne doit pas nécessairement être constitutionnalisé.

[*Texte*]

At the same time, I can say the co-ordination of economic policy is also important, because we see what happens. Outside investors, bankers, and others don't look upon us as a collection of differing parts in economic policy. They take their signal basically from what they see as a central economic direction for the future of this country. That is why the kind of meeting in which we were engaged yesterday is important to put on on a regular basis. I might support, for instance, the entrenching of at least annual first ministers conferences on the economy as a way of co-ordinating our economic policy thrust and direction in this country. But I don't think many other aspects of the proposal are acceptable.

About the social charter, I believe the fundamental assurances Canadians are looking for are the things we spoke about, not only in the task force but in my comments, about ensuring we have better constitutional protection on equalization, for instance, so there can't be unilateral capping or reduction of transfers by a federal government decision. The same thing is appropriate for CAP and EPF. Where you have those agreements, they should have the protection of the Constitution to ensure they can't be diminished as a result of a decision by any federal government.

Mr. Duhamel: You've spoken about process this morning. You've pointed out we need to have the report ready by the end of the month, February 28. The government has indicated it will bring forward some refined proposals, perhaps as a result of our report, by April 10, I think was the date. You have indicated it would be useful to have a meeting of first ministers between those two dates. Have you considered whether or not a referendum somewhere in the process would be useful, and if so, when, where?

• 0930

Mr. Filmon: I haven't ruled out the referendum as our all-party task force did not rule it out. On the other hand, they didn't see it as the best means of arriving finally at a decision. There will be difficult compromises. There will be difficult choices being made along the way.

I might say my reference was not to first ministers necessarily getting together but governments getting together, leaving a little flexibility even there for officials meeting, reviewing drafts of legal wordings—but meeting together, not the sort of shuttle diplomacy a draft gets when taken around individually to individuals.

I might say I ruefully remember, in the days leading up to that final week in Ottawa on Meech Lake after the Charest committee, a shuttle diplomacy conducted by Senator Murray in which there was a document known as the "state of play" document brought to premiers across the country—presumably all the premiers—saying, this is the wording we think might work.

There was a legitimate expectation on the part of those of us dealing with that "state of play" document that this was a real exercise and we, in fact, could achieve some compromise that would allow a final resolution that would be acceptable and would meet a number of the points the Charest committee made. That "state of play" document got shuttled back and forth.

[*Traduction*]

Parallèlement, je dois dire que la coordination des politiques économiques est aussi importante, car nous voyons bien ce que cela donne. Aux yeux des investisseurs, banquiers et autres financiers étrangers, nous ne sommes pas une collection d'éléments disparates. Ils analysent la situation en fonction de l'orientation centrale de l'économie. C'est la raison pour laquelle il est important de tenir régulièrement des réunions comme celle d'hier. Je serais prêt à appuyer, par exemple, la constitutionnalisation de conférences économiques des premiers ministres à intervalles au moins annuels, pour permettre la coordination de l'orientation des politiques économiques et du pays. Mais pour le reste, il n'y a pas grand-chose qui soit acceptable dans ces propositions-là.

Quant à la Charte sociale, il me semble que les Canadiens veulent des garanties essentiellement sur les questions dont nous avons parlé, non seulement dans le rapport du groupe de travail, mais également dans ma déclaration ici ce matin, c'est-à-dire qu'ils veulent une meilleure protection constitutionnelle de la péréquation, par exemple, afin que le gouvernement fédéral ne puisse décider unilatéralement de plafonner ou de réduire les transferts. Il en va de même pour le RAPC et le FPE. Lorsque les accords sont en place, ils doivent jouir d'une protection constitutionnelle contre toute altération à la suite d'une décision d'une administration fédérale quelconque.

M. Duhamel: Ce matin vous avez parlé du processus. Vous avez rappelé que le rapport doit être prêt d'ici le 28 février. Le gouvernement a annoncé qu'il présenterait des propositions modifiées, peut-être à la suite de notre rapport, d'ici le 10 avril, me semble-t-il. Vous avez dit qu'il serait utile que les premiers ministres se rencontrent dans l'intervalle. Avez-vous songé à l'utilité éventuelle d'un référendum, et le cas échéant, ou et quand?

M. Filmon: Tout comme notre groupe de travail multipartite, je n'ai pas exclu la possibilité d'un référendum. Par ailleurs, le groupe de travail jugeait que ce n'était pas la meilleure solution pour en arriver à une décision. Il faudra accepter des compromis difficiles. Il faudra faire des choix difficiles en cours de route.

Je précise que je ne songeais pas nécessairement à une rencontre des premiers ministres, mais plutôt des gouvernements, ce qui laisserait là aussi plus de latitude et permettrait que des fonctionnaires revoient les libellés exacts, mais de concert; je ne tiens pas à avoir de la diplomatie navette, où le texte serait présenté à chacun individuellement.

J'ai le triste souvenir, dans la semaine qui a précédé la rencontre d'Ottawa à propos du Lac Meech, après le Comité Charest, de la navette diplomatique du sénateur Murray, qui présentait à tous les premiers ministres—c'était du moins ce que nous pensions—un texte qui était censé représenter l'état des choses, et disant que ce texte avait des chances d'être accepté.

Ceux d'entre nous à qui il a été présenté étaient en droit de penser qu'il s'agissait d'un texte valable, sur lequel on pouvait espérer arriver à un compromis et qui permettrait d'arriver à une solution acceptable pour tous, en tenant compte de certaines recommandations du Comité Charest. On a fait la navette avec ce texte-là.

[*Text*]

I can recall it was so urgent that on the long weekend in May Senator Murray met with me in a motel room in Gimli and we spent several hours... Somebody suggested that wasn't the most exciting thing that happens in a motel room in Gimli, but in any case, we worked diligently towards trying to resolve that and then came to Ottawa about 10 days later to find out it was all just a charade. I mean, it was a farce. It wasn't on. The "state of play" document was meaningless. It was unacceptable to one of the partners at the table and therefore it was off.

Well, that kind of thing just won't work, and I don't want to see it happen again. What I want to see happen is all the provinces as much as possible getting together. If something is going to be shared, it should be shared with all, and if we are going to look at legal texts and wordings, lawyers and officials should be able to review those things so we don't have a bolt out of the blue as a result of your report and ultimate legal wording and proposals from a combination, presumably, of your report and other consultations that don't involve the legitimate elected representatives of the provinces of Canada.

The Joint Chairman (Mrs. Dobbie): Thank you. I think we all learned a lot of lessons from Meech Lake, Premier Filmon.

I have a brief question before we begin the second round, and it has to do with the Senate. It occurs to me we would require the agreement of Quebec in order to reduce the number of senators if we were to have an equal Senate, and assuming Quebec would not agree, we could end up with 240-plus senators, 24 times 10. What would your response be to that?

Mr. Filmon: I have a very standard response, which I give to the media back home and across this country, and that is that I don't respond to hypothetical questions. I don't assume Quebec wouldn't agree to that.

The Joint Chairman (Senator Beaudoin): If I may add just one point, Mr. Premier, some jurists in Quebec... I don't know if jurists outside Quebec agree with that, but some in Quebec say that because of section 22 the number of senators in Quebec cannot be diminished because we had 24 *circonscriptions électorales* in Quebec at the time of Confederation.

I studied that point and many others did, but this argument was put forward before the Bélanger-Campeau commission. I have not definitely settled that point, speaking just for myself, but the only thing I may say here as a clarification is that it's a point of law that has been put forward in Quebec. I'm sure the lawyers and constitutional experts in your province and elsewhere have studied that point, so I understand that my co-chair has only put that on the table for consideration.

• 0935

Mr. Filmon: If you're suggesting to me that Quebec would not, as a part of an agreement, accept a reformed Senate, then I say to you that we are in big difficulty in this exercise—

The Joint Chairman (Senator Beaudoin): Yes.

[*Translation*]

C'était tellement urgent, que pendant le weekend du congé du mois de mai, le sénateur Murray est même venu me rencontrer dans un motel à Gimli, et nous avons passé plusieurs heures... Quelqu'un a laissé entendre que ce n'était sans doute pas la chose la plus passionnante qui se soit passée dans un hôtel de Gimli, mais nous avons néanmoins travaillé d'arrache-pied pour arriver à une solution, et lorsque je suis arrivé à Ottawa dix jours plus tard, j'ai pu constater que ce n'était que du vent, une triste plaisanterie. Le document n'avait aucune valeur. L'un des joueurs à la table là jugé inacceptable, et tout a fini là.

Il ne faut pas que cela se reproduise. Il faut plutôt que toutes les provinces, dans la mesure du possible, travaillent ensemble. Si un texte est distribué, il doit l'être à tous, et si nous devons examiner des textes et des libellés juridiques, les avocats et nos représentants doivent pouvoir les examiner, afin que nous ne soyons pas pris par surprise, avec un texte et des propositions résultant de votre rapport et d'autres consultations dont sont exclus les représentants légitimes et élus des provinces.

La coprésidente (Mme Dobbie): Je vous remercie. Je crois que nous avons retenu quelques bonnes leçons du Lac Meech, monsieur le premier ministre.

Avant de passer au deuxième tour, je voudrais poser une question concernant le Sénat. Afin de réduire le nombre de sénateurs, pour avoir un Sénat égal, il nous faut l'accord du Québec; si celui-ci n'accepte pas, nous nous retrouverions avec plus de 240 sénateurs, 24 fois 10. Qu'en diriez-vous?

M. Filmon: J'ai une réponse toute faite, à l'intention des médias du Manitoba et du pays, et c'est que je ne réponds pas à des questions hypothétiques. Je ne présume pas que le Québec refuserait.

Le coprésident (le sénateur Beaudoin): Si vous me permettez d'ajouter un mot, monsieur le premier ministre, certains juristes au Québec... Je ne sais pas si c'est aussi l'avis des juristes en dehors du Québec, mais au Québec, certains disent qu'en raison de l'article 22, on ne peut diminuer le nombre des sénateurs représentant le Québec, car celui-ci comptait 24 circonscriptions électorales à l'époque de la Confédération.

J'ai examiné la question, comme beaucoup d'autres, mais cet argument a été présenté devant la Commission Bélanger-Campeau. Quant à moi, je n'ai pas encore tiré la question au clair, mais je tiens surtout à préciser que ce point de droit a été soulevé au Québec. Je suis certain que les avocats et autres constitutionnalistes du Manitoba et d'ailleurs se sont penchés sur la question, et la coprésidente l'a donc soulevée rien que pour discussion.

M. Filmon: Si vous voulez dire par là que le Québec n'accepterait pas, dans le cadre d'un accord, une réforme du Sénat, alors je peux vous dire que nous sommes véritablement en difficulté...

Le coprésident (le sénateur Beaudoin): Oui.

[*Texte*]

Mr. Filmon: —because there are some very strong views across this country that we finally have an agenda that reflects the needs and the concerns and the aspirations of people right across the country, and it's broad enough to be able to achieve a win, win, win situation right across the country. But if one group says, no, that's not on, then you'd have a great deal of difficulty, I think, selling a package that didn't include the kind of Senate reform we're talking about. That's what we're faced with, and that's what I talk about when I mention the difficult compromises.

The Joint Chairman (Senator Beaudoin): Well, Quebec is aware that it's part of the final compromise.

Mr. Filmon: Okay.

The Joint Chairman (Mrs. Dobbie): I must say that the question of the Senate is one that exercises to a great extent all our minds on the committee.

Mr. Nystrom (Yorkton—Melville): Welcome, Premier Filmon, to the committee this morning. It is good to see you here and hear a lot of the comments you have made. By way of comment in the beginning, you mentioned section 121, the common market clause, and said that the premiers think action is necessary here and that something must be done to remove the barriers, but you're also saying not necessarily to entrench it in the Constitution. I agree with you. I think it should be the politicians making the decisions there, and we should monitor it in a different way, without the judges having the final say.

I want to ask two questions. The first is to pursue your ideas about the process after we report. I think you may have some new ideas that are worth exploring here this morning. Can you elaborate a bit more on what that process should be? You're talking about a meeting of the governments, not necessarily the first ministers. Are you referring here to the ministers responsible for constitutional affairs, to the officials, or to both?

In Whistler last summer you were one of the premiers who agreed to having the Premier of British Columbia host a committee of our conference of the legislative committees. Would that still be an idea that is worth pursuing? Could you elaborate a bit more on that process? We all understand the difficulty Mr. Bourassa is under in terms of a first ministers meeting, in terms of the political reality in Quebec. You, as a premier, know of course that a premier can't ignore the political reality of his or her province. But I think you have an idea here that's worth pursuing. It's a bit new, a bit novel, a bit of a different twist, and I want to give you some time to elaborate a bit on that.

Mr. Filmon: First, I certainly continue to endorse a getting together of the various constitutional committees. I think all of you have had the utmost experience and opportunity to listen to Canadians and to consider carefully all of the various alternatives, and have become in your own right experts on this, perhaps more expert than first ministers because of the extensive experience. I know that the experience of my Minister for Constitutional Affairs, Mr. McCrae, on two of those all-party task force committees leaves him in a very good position to understand all the intricacies and all the difficult choices that will have to be made.

[*Traduction*]

M. Filmon: ...car dans tout le pays les gens ont véritablement le sentiment que nous avons enfin un ordre du jour qui reflète les besoins, les préoccupations et les aspirations de tous les Canadiens, un ordre du jour assez vaste pour donner satisfaction à tout le monde. Mais si un groupe rejette cet élément, il sera extrêmement difficile de faire accepter à la population un accord qui ne comprendrait pas cette réforme du Sénat dont nous parlons. Voilà la situation, et c'est de cela que je voulais parler quand j'ai mentionné les compromis difficiles.

Le coprésident (le sénateur Beaudoin): Le Québec sait effectivement que cela fait partie de l'offre finale.

M. Filmon: Bien.

La coprésidente (Mme Dobbie): Je dois dire que la question du Sénat cause énormément de difficulté aux membres de ce comité.

M. Nystrom (Yorkton—Melville): Monsieur le premier ministre, soyez le bienvenu devant notre comité ce matin. Je suis ravi de votre présence ici et des commentaires que vous avez faits. Au début, vous avez mentionné l'article 121, la clause du marché commun, disant que les premiers ministres estiment qu'il est nécessaire d'agir et d'éliminer les barrières, mais sans nécessairement constitutionnaliser le marché commun. Je suis de votre avis. Les décisions en la matière appartiennent aux politiques, et non pas aux juges.

J'ai deux questions à vous poser. Par la première, j'aimerais avoir votre idée de la marche à suivre après le dépôt du rapport. Je pense que vous avez peut-être des idées nouvelles qu'il vaudrait la peine d'examiner ici ce matin. Pouvez-vous nous dire en plus de détail quelle devrait être cette marche à suivre? Vous avez parlé d'une conférence des gouvernements, pas nécessairement au niveau des premiers ministres. Songez-vous aux ministres responsables des affaires constitutionnelles, à des fonctionnaires, ou aux deux à la fois?

À Whistler, l'été dernier, vous étiez de ceux qui ont accepté que le premier ministre de la Colombie-Britannique soit l'hôte d'une conférence des comités législatifs. L'idée vous paraît-elle toujours bonne? Pouvez-vous nous expliquer davantage ce que cela entraînerait? Nous connaissons tous les difficultés qu'a M. Bourassa avec les rencontres de premiers ministres, en raison de la réalité politique au Québec. Vous êtes bien placé pour savoir qu'un premier ministre ne peut faire fi des réalités politiques de sa province. Mais pensez-vous que l'idée a du mérite. C'est assez original, différent, et j'aimerais que vous l'expliquiez un peu plus en détail.

M. Filmon: Tout d'abord, sachez que je reste en faveur d'une réunion des comités constitutionnels. Vous avez eu l'occasion plus que quiconque d'entendre les Canadiens, d'examiner attentivement les possibilités, vous êtes devenu tous experts en la matière, peut-être même grâce à cette vaste expérience, plus experts que les premiers ministres. Mon ministre des Affaires constitutionnelles, M. McCrae, qui a participé à deux comités multipartites, est certainement parfaitement en mesure de comprendre la complexité et la difficulté des choix que nous aurons à exercer.

[*Text*]

So I agree there continues to be merit in getting those committees together from right across the country. Mr. Harcourt is now the chair of the premiers conference, and I believe he could easily set that up.

With respect to the consultations, yes, I was very much aware of the difficulties that face Premier Bourassa in coming back to a table with other first ministers with regard to this or any other issue, and I met privately with him three weeks ago in Montreal. We had, I thought, a very lengthy and good exchange on a whole host of issues, and I know the political reality is that he still can't come back to a table of...

I did envisage possibly the constitutional affairs ministers, the ministers responsible for the Constitution, sitting down with officials there, with the kind of back-up support they're going to need if they're going to crunch legal wordings and phrases and really get down to the tough choices that will have to be made. I think that takes away from the perception of elitism that some people have about just having first ministers make those final decisions. In the final analysis, these things are going to have to be put to legislatures with the confidence that governments can pass them, so they have to carry with them the weight of support of the governments. I think you can't take it so far from the governments and legislatures that the agreement of people means nothing in the process. This has to have at least the weight of the constitutional affairs ministers getting together, but with the back-up of officials to make it as effective as possible.

• 0940

Mr. Nystrom: I suppose my second question, Madam Chair, would be on section 36 of the Constitution, the section on equalization and regional development. I think you made a comment that you would like to see the equalization section strengthened. You referred to a social charter, or social values. I wonder if you can flesh out what you think would be supportable in Manitoba, from your point of view, in terms of changes to the content of section 36.

Would you want in there, for example, a general wording on the goals of Canadians in terms of our social programs—things like medical care and education, income security, commitment to the environment, things of that sort? I assume you would agree with me that it should not be justiciable. If it's not justiciable, what should the enforcement mechanism be? Some of us have floated the idea of a Senate committee or a Senate panel perhaps reviewing on an annual basis—if we do have a democratized Senate, give them something more to do.

What of the commitments of not only the federal government but the provincial governments to social values and social programs? Could you elaborate a bit more on both the content and how one would enforce it from a Manitoba point of view?

Mr. Filmon: The all-party task force said three things about that. One, the task force supports the maintenance of strong central government. We feel it is essential for the equitable functioning of the Canadian federal union that the

[*Translation*]

Donc l'idée de réunir les comités de toutes les provinces garde à mes yeux tout son mérite. M. Harcourt est actuellement président de la conférence des premiers ministres, et il me semble que cela devrait pouvoir s'organiser facilement.

Quant aux consultations, oui, je suis parfaitement conscient du fait que le premier ministre Bourassa peut difficilement se joindre aux autres premiers ministres à une table de négociation, et je l'ai donc rencontré en privé il y a trois semaines à Montréal. De mon point de vue, nous avons eu une bonne et longue discussion sur toutes sortes de questions, et je sais que la réalité politique l'empêche de prendre place à la table des...

J'ai songé à la possibilité d'organiser une réunion les ministres des Affaires constitutionnelles, les ministres responsables de la Constitution, avec des fonctionnaires, avec tout le personnel nécessaire pour les aider à examiner un libellé juridique et à examiner les choix vraiment difficiles qu'il faudra faire. Les gens n'auraient ainsi pas cette impression d'élitisme qu'ils ont lorsque les décisions finales sont prises par des premiers ministres. Et enfin de compte, ces textes devront être présentés aux assemblées législatives, sachant que les gouvernements pourront les faire adopter, et elles devront donc avoir l'appui des gouvernements en place. Les assemblées législatives et les gouvernements ne peuvent pas être tenus à l'écart au point que l'assentiment du peuple n'a plus aucune signification. Il faut qu'au moins les ministres des affaires constitutionnelles se réunissent avec l'aide des fonctionnaires pour que le travail soit le plus efficace possible.

M. Nystrom: Madame la présidente, j'aurais une deuxième question à propos de l'article 36 de la Constitution, article qui porte sur la péréquation et le développement régional. Vous avez dit il me semble que vous souhaitiez voir renforcé cet article sur la péréquation. Vous avez mentionné une charte sociale, ou des valeurs sociales. Pouvez-vous nous dire avec plus de précision quelles modifications à l'article 36 seraient acceptables, d'après vous, au Manitoba?

Souhaiteriez-vous, par exemple, qu'on y mentionne en termes généraux des objectifs en matière de programmes sociaux, telles que l'assurance-maladie et l'éducation, la sécurité du revenu, la protection de l'environnement, par exemple? Vous conviendrez avec moi je pense, que l'application de ces principes ne saurait être laissée aux tribunaux. Dans ce cas, comment pourraient-ils être appliqués? Certains d'entre nous ont suggéré un comité du Sénat ou une commission de sénateurs qui ferait un examen annuel; si le Sénat est démocratisé, donnons-lui quelque chose à faire.

Qu'en est-il de l'engagement non seulement du gouvernement fédéral, mais aussi des provinces à l'égard des valeurs et des programmes sociaux? Pouvez-vous nous donner des précisions sur le contenu et sur le mécanisme d'application, du point de vue du Manitoba?

M. Filmon: Le groupe de travail multipartite a fait trois recommandations à ce propos. Premièrement, il s'est prononcé en faveur d'un gouvernement central fort. Il nous paraît essentiel, si l'union fédérale canadienne doit

[*Texte*]

central government has a capacity to respond to the needs of the less advantaged citizens in regions of the nation. In effect, that's part of what many people are talking about in the social charter. But it narrows the scope. I think the thing that worries most people is there are so many ideas on the table about the social charter that really it doesn't have any meaning in most people's minds. This gets it down to the issues.

The second thing the task force recommends is strengthening of the constitutional provisions regarding equalization by including guidelines to establish a process for changing the formula, so it can't be done unilaterally by any federal government.

Third, the task force recommends the constitutional entrenchment of a federal government obligation to fund the Established Programs Financing program. In the same way the equalization is in there—EPF—which is really the guts of support for medicare and our post-secondary education, that too is important enough to be put in, in that respect, so it can't just be the fiat of a federal government to change at will, to change formulas, to put artificial caps on, or anything like that.

Mr. Nystrom: I guess my last question, Madam Chair, would be, very briefly, what is your position on the spending power provision? The provision now is that the federal government can use a spending power in areas of exclusive provincial jurisdiction if they have the consent of 7 provinces representing 50% of the population. Is that an improvement or is it a step backwards from what was in the Meech Lake accord, which was a more flexible approach, some would say, to the spending power? Which one is more likely to be accepted by Manitobans—the present approach of 7 and 50 or the approach during Meech Lake, which you were a part of?

Mr. Filmon: The task force didn't address it other than by saying the present amending formula should remain. I'm not sure if I'm answering your question.

Mr. Nystrom: Well, during the Meech Lake round there was a provision to change the spending power. That provision was different from what is now before us. Before us now there is a provision that says to change the spending power you need the consent of 7 provinces and 50% of the population. During the Meech Lake round there was no reference to a threshold. It just said the federal government could exercise a spending power within provincial jurisdiction and there could be opt-outs—of course, there can still be opt-outs if the province that opted out had a program that was compatible with national objectives—but there was no reference to 7 and 50 at that time. Would that be a more flexible way to go for this round?

• 0945

Mr. Filmon: Certainly the 7 and 50 is a more flexible route to go and perhaps has some merit.

We're concerned about the opt-out provision unless there are some very strong standards that are imposed upon that opt-out provision. Our concern is that, as much as we want flexibility, we don't want people to have programs that are clearly not equivalent and don't meet the standards tests that one would expect.

[*Traduction*]

fonctionner équitablement, que le gouvernement central soit en mesure de répondre aux besoins des citoyens moins bien nantis dans certaines régions. De fait, c'est à cela que songent les gens lorsqu'ils parlent de charte sociale. Mais le champ est limité. Beaucoup de gens sont inquiets parce que la charte sociale semble englober tant d'idées que personne ne sait très bien ce qu'elle signifie. Ainsi, on circonscrit la question.

Le groupe de travail recommande ensuite que soient renforcées les dispositions constitutionnelles en matière de péréquation, par l'ajout de lignes directrices sur un processus qui permettra de changer la formule, afin qu'aucun gouvernement fédéral ne puisse agir unilatéralement.

Troisièmement, le groupe de travail recommande que l'on constitutionnalise l'obligation du gouvernement fédéral à l'égard du Financement des programmes établis. Tout comme on a inscrit la péréquation dans la Constitution, le FPE sur lequel reposent en fait l'assurance-santé et l'éducation postsecondaire, mérite également de figurer dans la Constitution, afin qu'il ne soit plus sujet aux seules décisions du gouvernement fédéral, selon son bon plaisir, de changer la formule ou d'imposer un plafonnement.

M. Nystrom: Ma dernière question à M. Filmon est la suivante: madame la présidente, quelle est votre position à l'égard des dispositions sur le pouvoir de dépenser? Selon la proposition actuelle, le gouvernement fédéral peut user de son pouvoir de dépenser dans des secteurs de compétence provinciale exclusive s'il a le consentement de sept provinces représentant 50 p. 100 de la population. Est-ce un progrès ou un recul par rapport à l'Accord du Lac Meech, qui prévoyait un régime plus souple, selon certains, dans ce domaine? Entre les sept provinces et 50 p. 100 de la population ou la formule de l'accord du lac Meech, auquel vous étiez partie, quelle proposition aurait le plus de crédit auprès des Manitobains?

M. Filmon: Le groupe de travail s'est contenté de recommander le maintien de la formule actuelle. Je ne sais pas si cela répond à votre question.

M. Nystrom: Dans l'Accord du Lac Meech on prévoyait de modifier le pouvoir de dépenser. On avait prévu quelque chose de différent par rapport à ce que nous avons actuellement. Actuellement, pour modifier le pouvoir de dépenser, il faut avoir le consentement de sept provinces et de 50 p. 100 de la population. Dans l'Accord du Lac Meech, il n'était question d'aucun seuil. On prévoyait simplement que le gouvernement fédéral pourrait exercer son pouvoir de dépenser dans un domaine de compétence provinciale et que les provinces pourraient ne pas participer—cela reste bien sûr possible si la province a un programme compatible avec les objectifs nationaux—mais il n'était pas question de 7 et 50 alors. Cela serait-il une option plus souple cette fois-ci?

M. Filmon: Il est certain que la solution des 7 et 50 est plus souple et a sans doute du mérite.

La faculté de retrait nous inquiète, à moins qu'elle ne s'accompagne de critères très stricts. Bien que nous souhaitions la souplesse, nous craignons que les programmes ne soient pas équivalents et ne satisfassent pas aux normes.

[*Text*]

Mr. Friesen (Surrey—White Rock—South Langley): Mr. Premier, as we near the end of these hearings there are some themes that have developed. One of the themes is that Canadians want a strong central government—you've echoed that today—but it strikes me that different people mean different things, or they're focusing on different things, when they say "strong central government". Those who are interested in and whose major concern is elements of the social charter want to have a strong central government to protect those social programs. Those whose focus is on economic matters want a strong central government to focus on the economy.

I noticed in your remarks that you said you didn't want to see Manitoba continue to be hewers of wood and drawers of water, and yet in your remarks you didn't go much beyond the common market clause, section 121, in terms of the elements of the economic package that you support. You want to see the dissolution of barriers to interprovincial trade, but I didn't hear you give much kind of support to any of the other economic proposals which are really designed to get you out of the hewers of wood and drawers of water mode. Could you expand on your views on that section, so that we can move ahead on the economic matters and support the social programs?

Mr. Filmon: With respect, I suggest that if the policies are going to be generated from Ottawa we'll never get out of being the hewers of wood and drawers of water. That's why we are where we are, because national government policy over the years, all the way from Crow rate to the National Energy Policy, has said that if it's good for central Canada then it's good economic policy, and it has dictated against the best interests, in an economic sense, of the rest of the country, in my judgment. We have to get away from that. This is why I have said a number of things about it. One is, yes, strong central government to preserve the ability of the national government through equalization, EPF and CAP, to provide the kind of social safety net that we need right across the country and make for the equality of services.

Mr. Friesen: Excuse me. Just for clarification, do you see the proposals on the economic union as centralized government policies, or do you not see them as an opportunity to decentralize the business elements?

Mr. Filmon: I think there are areas of great conflict in there. What I am saying to you is that if we have legitimate input to economic policies of the country through a mechanism such as constitutionalizing annual first ministers conferences on the economy, that is one positive step in which all of us are equal at that table and all of us can contribute to the development of policy and protect the interests of our provinces and regions.

I think you see that happening at first ministers conferences on the economy, where there is the ability of all provinces to have a say in the development of that and to have an influence, presumably, on the national policy

[*Translation*]

M. Friesen (Surrey—White Rock—South Langley): Monsieur le premier ministre, nos audiences touchent à leur fin, et certains thèmes s'en dégagent. Parmi ceux-ci, il est apparent que les Canadiens souhaitent un gouvernement central fort—vous l'avez dit vous-même aujourd'hui—mais j'ai l'impression que les gens n'attribuent pas tous le même sens à cette expression. Ceux qui s'intéressent avant tout à la Charte sociale souhaitent un gouvernement central fort pour protéger les programmes sociaux. Ceux dont les principales préoccupations sont d'ordre économique, souhaitent un gouvernement central fort pour s'occuper de l'économie.

J'ai noté que dans votre déclaration vous disiez que le Manitoba ne doit pas rester un pays de bûcherons et de porteurs d'eau; pourtant, dans votre discours vous n'insistez pas beaucoup sur la clause du marché commun, l'article 21, lorsque vous mentionnez les éléments des propositons économiques auxquelles vous êtes favorable. Vous souhaitez le démantèlement des barrières au commerce interprovincial, mais vous n'avez pas vraiment appuyé les autres propositions économiques visant à faire des Manitobains autre chose que des bûcherons et des porteurs d'eau. Pouvez-vous nous préciser votre point de vue sur cette question, afin que nous puissions régler les problèmes économiques et appuyer les programmes sociaux?

M. Filmon: Sauf votre respect, si les politiques continuent d'être établies à Ottawa, nous ne cesserons jamais d'être des bûcherons et des porteurs d'eau. Si nous sommes dans cette situation aujourd'hui, c'est parce que les politiques du gouvernement national au cours des ans, en commençant par le tarif du Nid-de-Corbeau et jusqu'à la politique énergétique nationale, partaient du principe que ce qui était bon pour le Canada central était bon pour l'économie, et a pris ainsi des décisions qui allaient à l'encontre des intérêts économiques du reste du pays. Il faut que cela cesse. C'est pourquoi j'ai dit un certain nombre de choses là-dessus. Notamment, un gouvernement central fort doit effectivement pouvoir rester un gouvernement national grâce à la péréquation, au FPE et au RAPC, afin d'assurer le filet social dont a besoin le pays tout entier et pour assurer l'égalité des services.

M. Friesen: Pardonnez-moi, je voudrais une précision. Les propositions concernant l'union économique aboutiraient-elles selon vous à une centralisation des politiques, ou ne pensez-vous pas qu'elles donneraient plutôt la possibilité de décentraliser les affaires?

M. Filmon: Il y a là beaucoup de contradictions. Ce que je veux dire, c'est que si nous pouvons véritablement participer à l'élaboration des politiques économiques, grâce à la constitutionalisation, par exemple, de conférences annuelles des premiers ministres sur l'économie, ce serait positif en ce sens que nous serions tous égaux et en mesure de contribuer à l'élaboration de politiques et de protéger les intérêts de nos provinces et régions.

C'est ce qui se produit lors des conférences des premiers ministres sur l'économie, où toutes les provinces peuvent exprimer leur avis et, présumément, exercer une certaine influence sur l'orientation de la politique nationale. J'ai déjà

[*Texte*]

direction. I've said before that you need to have that kind of co-ordination of economic policy thrusts, priorities and directions that we've been talking about more recently as we're looking, searching desperately for solutions to get us out of the doldrums and the recession we are in. Those are legitimate things, but I'm not certain about other matters. I say to you that I don't think you can go too far in that area because I don't think there's a consensus across the country on it.

• 0950

Mr. Littlechild (Wetaskiwin): Welcome, Premier and colleagues, to the commmittee. I have a brief two-part question on Senate reform, first of all. With respect to your position on a triple-E and the proposal to guarantee seats for aboriginal peoples, do you think those two ideas are inconsistent or not? Second, the Métis Nations in Manitoba have been very strong with respect to a suggestion that section 91.24 be amended, and as you know, section 35.1 of the Constitution requires a first ministers conference to do that. Are you supportive of their position to amend section 91.24 to include Métis?

Mr. Filmon: I'll first go to the Senate reform proposals. I believe the way to address the issue of representation is through the single transferable ballot and multi-seat constituencies; that this will address the concerns about a proper distribution of people of all origins and backgrounds, characteristics being more accessible and more able to be elected to the Senate. I think it's probably through the manner in which you set up elections you can do a better job of assuring that kind of distributed representation than if you do it by trying to identify who should and who shouldn't be entitled to representation in the Senate.

The second part was with respect to. . .?

Mr. Littlechild: The Métis.

Mr. Filmon: Can you tell me what the basics of their proposal are? I don't have it at my fingertips.

Mr. Littlechild: They are saying they would prefer to have federal jurisdiction and be included under section 91.24, which means it would have to be amended, and to do that requires a first ministers conference under section 35.1. I was interested in whether you would be supportive of the argument put forward by the Métis Nations, especially for Manitoba but not only for Manitoba, also elsewhere.

Mr. Filmon: I might say that's not a matter we've discussed in Manitoba, either through the all-party task force or through our government. So that's a proposal I'd have to look at in detail before I made any comment.

Mr. Nicholson (Niagara Falls): Premier Filmon, you support the concept of the distinct society but you had certain reservations. You've now seen the exact federal wording as proposed here. Are you satisfied? Have your reservations been met?

[*Traduction*]

dit qu'il est nécessaire d'assurer la coordination des orientations et priorités économiques dont nous parlions récemment, maintenant que nous cherchons désespéremment des solutions pour nous tirer du marasme et de la récession. Ce sont là des questions légitimes, mais je ne suis pas certain quant aux autres. Je ne pense pas qu'on puisse aller très loin dans ce domaine, car il n'y a aucun consensus national.

M. Littlechild (Wetaskiwin): Je vous souhaite la bienvenue, monsieur le premier ministre et chers collègues, à notre comité. Je voudrais commencer par une question à deux volets sur la réforme du Sénat. À propos de votre position sur un Sénat Élu, Égal et Efficace, et la question des sièges réservés aux Autochtones, ces deux principes vous semblent-ils contradictoires ou non? Deuxièmement, les Métis du Manitoba demandent avec beaucoup d'insistance que l'article 91.24 soit modifié, et comme vous le savez, aux termes de l'article 35.1 de la Constitution, cela ne peut se faire que par une conférence des premiers ministres. Êtes-vous en faveur de la modification de l'article 91.24 visant à inclure les Métis?

M. Filmon: Parlons d'abord de la réforme du Sénat. J'estime que seul le vote unique transférable et les circonscriptions à plusieurs sièges permettront de résoudre la question de la représentation; cela réglerait le problème de la distribution et de l'éligibilité des citoyens d'origines diverses. C'est probablement par le régime électoral que l'on pourra le mieux assurer une bonne représentativité, plutôt qu'en essayant de réserver un certain nombre de sièges.

La deuxièmem partie de la question concernait. . .?

M. Littlechild: Les Métis.

M. Filmon: Pouvez-vous me dire en quelques mots ce qu'ils proposent? Je n'ai pas les détails en tête.

M. Littlechild: Ils préfèrent relever de la compétence fédérale et souhaitent être inclus à l'article 91.24, lequel devrait être modifié, et pour cela il faut avoir l'accord des premiers ministres, comme le prévoit l'article 35.1. Je me demande si vous appuyez l'argument présenté par les nations Métis, spécialement au Manitoba mais ailleurs aussi.

M. Filmon: Je dois dire que nous n'en n'avons pas discuté au Manitoba, que ce soit au sein du groupe de travail multipartite ou au gouvernement. Avant de pouvoir vous répondre, il faudrait que j'étudie cette proposition en détail.

M. Nicholson (Niagara Falls): Monsieur le premier ministre, vous appuyez le principe de la société distincte mais avec certaines réserves. Vous avez maintenant eu connaissance du texte exact que propose le gouvernement fédéral. Êtes-vous satisfait? Vos réserves ont-elles été balayées?

[*Text*]

Mr. Filmon: The legal advice we have is that the wording in the distinct society proposal would meet the tests we're suggesting—and I hate to put in a "but"—but it's the interrelationship with the Canada clause that could be a factor in that interpretation. We don't have legal wording on the Canada clause.

Mr. Nicholson: You haven't had legal advice as to the effect of the Canada clause or. . .?

Mr. Filmon: No. The federal government hasn't given us legal wording on the Canada clause.

Mr. Nicholson: Other than the Canada clause that's proposed in the federal proposals?

Mr. Filmon: And it could have an effect in interrelationship on what distinct society does in the Constitution. That's the advice I'm given by our legal advisors.

M. Blackburn (Jonquière): Monsieur le premier ministre, vous nous avez dit tout à l'heure que vous n'aviez pas de difficulté à reconnaître le droit inhérent à l'autonomie gouvernementale des peuples autochtones.

Hier, nous recevions le chef des Premières nations, M. Ovide Mercredi. Il ne nous a pas lu son mémoire, mais nous en avons pris connaissance après son départ. Je vais vous en lire quelques petites phrases.

> Le Canada n'a jamais justifié ses réclamations de possession de titres de cette terre. Nous savons tous que la découverte ou le fait que la Couronne possède des titres n'est pas une justification appropriée. La proposition que la Couronne détient toutes les terres est une fiction légale. Il n'y a pas de justification légale claire pour le Canada de réclamer ces terres. Ce n'est pas une justification morale pour le Canada de déposséder les Premières mations de leurs terres. Depuis que ce droit vient des peuples aborigènes sur cette terre et que cela nous a été donné par le Créateur, c'est en soi un droit inhérent.

• 0955

En clair, nous sommes chez eux. Êtes-vous toujours d'accord qu'on inscrive dans la Constitution le droit inhérent des peuples autochtones à l'autonomie gouvernementale? De plus, il demande à notre Comité de ne pas définir le mot «inhérent». Si on suit leur logique, tout ce qui est ici leur appartient puisqu'ils étaient là avant nous.

Mr. Filmon: Mr. Blackburn, you're probably aware that I have steadfastly maintained that there must be a definition of the self-government that we are entrenching. What we are saying is that they have an inherent right to self-government and that a process will also be entrenched to arrive at that definition so that in the final analysis, when self-government is defined and is accepted, we will all know what we're talking about. At this point we don't know what we are talking about. We hear various remarks from people with all sorts of interests but we don't have anything upon which we can make a final determination. They do have that inherent right but we should entrench not only that within the framework of the Canadian Constitution but also a process that will arrive at the definition before it is enacted.

[*Translation*]

M. Filmon: D'après les avis juridiques que nous avons reçus, le texte de cette clause correspond à nos critères mais—je suis désolé d'y mettre un «mais»—l'interprétation dépendra du lien avec la clause Canada dont nous n'avons pas encore le libellé juridique.

M. Nicholson: Vous n'avez pas reçu d'avis juridique sur les effets de la clause Canada. . .

M. Filmon: Non. Le gouvernement fédéral ne nous a pas présenté le texte juridique de la clause Canada.

M. Nicholson: En dehors de celle qui figure dans les propositions fédérales?

M. Filmon: Et cela pourrait avoir des répercussions, notamment sur l'incidence de la société distincte au niveau de la Constitution. C'est là ce que nous disent nos conseillers juridiques.

Mr. Blackburn (Jonquière): Prime Minister, you said earlier that you had no difficulty in recognizing the inherent right of self-government for Aboriginals.

Mr. Ovide Mercredi, Chief of the First Nations, appeared in front of this committee yesterday. He did not read his brief, but we read it after he left. Let me read a few sentences to you.

> Canada never justified its ownership claims on the land. We all know that discovery or Crown title is not justification enough. The notion that the Crown holds all land is a legal fiction. There is no clear legal justification for Canada's claims on those lands. There is no moral justification for Canada to take the land from the First Nations. Since this right belongs to the aboriginal people and that the land was given to us by the Creator, it is an inherent right.

In other words, we are in their home. Do you still support entrenchment of the inherent right to self-government for Aboriginals? He then goes on to ask the Committee not to define "inherent". According to their logic, everything in Canada belongs to them since they were here before us.

M. Filmon: Monsieur Blackburn, vous savez sans doute que j'ai toujours maintenu qu'il faut définir ce que l'on entend par autonomie gouvernementale avant d'en constitutionaliser le principe. Ce que nous disons c'est que les Autochtones ont un droit inhérent à l'autonomie gouvernementale et que l'on devra constitutionaliser également la définition de ce droit inhérent afin que nous sachions tous de quoi nous parlons lorsque nous parlons d'autonomie gouvernementale. Pour le moment, ce n'est pas le cas. Des gens aux intérêts très variés avancent des théories, mais nous n'avons rien de solide sur quoi baser notre décision. Ils ont ce droit inhérent, mais il ne suffit pas de constitutionaliser ce principe, il faudra inscrire également dans la Constitution canadienne le processus qui permettra de définir l'autonomie gouvernementale avant qu'elle ne soit reconnue.

[*Texte*]

Senator Kirby (South Shore): Mr. Premier, I have what amounts to a two-part question. It gets at your comment that any reformed Senate ought to have the power—I believe the example you used was that it should have the power to defeat the National Energy Program. From that it follows that your view on the effective part of the triple-E Senate—you believe the Senate should have more than a mere suspensive veto, that it should have the power to actually defeat legislation.

Do you think it ought to have the power to defeat all kinds of government bills or only a limited number or a limited type of government bills?

Mr. Filmon: To be effective I think it needs the power to defeat all kinds of bills. In order to defend a region or province against a particular piece of legislation—we talk about the National Energy Program and that's very important to it. At the same time, it should not be a chamber of confidence. We must have some form of tie-breaking mechanism built in so that if the Senate does defeat it. . .how we give an opportunity for that to proceed or not, that's what we're going to have to arrive at. Whether it's a 60% vote in Parliament or Parliament voting it through by a greater proportion than the Senate defeated it—it could be something of that nature. A number of models have been suggested.

Senator Kirby: Following up on that, if one assumes for a moment that the Senate has the ability to defeat a government bill and if the "equal" part of the triple-E is met, that amounts to saying that five provinces plus one senator from somewhere else could in fact defeat a government bill.

Has any consideration been given to the fact that one of the ways around the potential deadlock over the triple-E Senate, particularly from Quebec and Ontario, is to go to equality—which I support as strongly as you do—to raise the percentage of votes required to defeat a bill. For example, if 60% or 65% is required to defeat a bill you will still have equality in representation, but you have made it much tougher because you've gone from five provinces to six or more required to defeat a bill. In looking for a way out of what would appear to be a deadlock, have you and your officials given any consideration to looking in that area?

• 1000

Mr. Filmon: I think this is one of the things that can be considered. I don't think it's that dissimilar from saying if you sent it back to Parliament, you then needed 60% or 65% or you needed to pass it by a greater margin than it was defeated by in the Senate—that you would have these options available to you. I would think that any of them could be acceptable.

Senator Kirby: So one could have equality with different—what you call—tie-breaking mechanisms to deal with that situation.

Mr. Filmon: Yes.

Senator Kirby: Thank you.

The Joint Chairman (Mrs. Dobbie): Thank you, Premier Filmon. Our timing is impeccable. The House is about to begin, and I'd like to mention in closing that in fact it wasn't only Eric Kierans who suggested we should move the capital

[*Traduction*]

Le sénateur Kirby (South Shore): Monsieur le premier ministre, j'ai une question à deux volets à propos du Sénat réformé qui devrait avoir le pouvoir—je crois que c'est l'exemple que vous avez donné—de rejeter le Programme énergétique national. Cela veut donc dire qu'un Sénat efficace devrait selon vous avoir davantage qu'un simple veto suspensif, et pouvoir en fait rejeter des projets de loi.

Pensez-vous qu'il devrait avoir ce pouvoir sur tous les types de projets de loi, ou seulement sur un certain nombre, ou encore une catégorie limitée?

M. Filmon: Pour être véritablement efficace, il doit pouvoir rejeter toutes sortes de projets de loi, afin de défendre les intérêts d'une région ou d'une province des méfaits d'une loi donnée, et nous avons cité en exemple le Programme énergétique national. Parallèlement, ces votes ne doivent pas être des votes de confiance. Il faut trouver le moyen de résoudre les impasses, afin que, si le Sénat rejette un projet de loi. . .comment nous procéderons à partir de là, c'est à examiner. Cela pourrait être une majorité de 60 p. 100 à la Chambre, ou un nombre de voix en faveur plus élevé que le nombre de voix contraires au Sénat—par exemple. Diverses solutions ont été suggérées.

Le sénateur Kirby: Pour continuer dans la même veine, si donc le Sénat peut rejeter un projet de loi du gouvernement, et si le Sénat est effectivement à trois E, l'égalité voudrait donc dire que cinq provinces plus un sénateur pourraient empêcher l'adoption d'un projet de loi.

Afin d'éviter l'impasse à laquelle on risque d'arriver sur la question du Sénat élu, égal et efficace, en raison essentiellement de l'opposition du Québec et de l'Ontario, a-t-on envisagé la possibilité d'un Sénat égal—que j'appuie autant que vous—qui aurait besoin de plus de la majorité simple pour empêcher l'adoption d'une loi. Par exemple, si cela nécessitait 60 ou 65 p. 100 des voix, le Sénat resterait égal par la représentation, mais il lui serait beaucoup plus difficile d'empêcher l'adoption des lois puisqu'il faudrait six provinces ou plus pour le faire. Dans l'espoir de trouver une issue à l'impasse, avez-vous de concert avec vos hauts fonctionnaires, envisagé cette possibilité?

M. Filmon: C'est une possibilité à envisager. Ce n'est pas très différent de la solution selon laquelle le projet de loi renvoyé à la Chambre devrait obtenir 60 à 65 p. 100, ou devrait être adopté par un nombre de voix supérieur à celui des voix contraires au Sénat; ce sont des options possibles et qui seraient toutes acceptables.

Le sénateur Kirby: L'égalité pourrait donc s'accompagner de mécanismes qui permettraient de résoudre ce genre de difficultés.

M. Filmon: Oui.

Le sénateur Kirby: Je vous remercie.

La coprésidente (Mme Dobbie): Je vous remercie, monsieur le premier ministre. Nous sommes très exactement à l'heure: la Chambre va bientôt commencer. En conclusion, je tiens à dire qu'Eric Kierans n'était pas seul à suggérer que

[*Text*]

of Canada to Winnipeg. It was I who suggested this to the Reform Party in 1987 in that ill-fated speech to the founding convention when they elected Mr. Manning as the leader. It's still a good idea, in my opinion.

Thank you for being with us.

Mr. Filmon: Thank you very much, ladies and gentlemen.

The Joint Chairman (Mrs. Dobbie): It's been a pleasure. We'll now adjourn for five minutes until we come back with Mr. George and the NCC.

• 1003

• 1011

The Joint Chairman (Mrs. Dobbie): Colleagues, ladies and gentlemen, we are about to reconvene.

We have with us next as our guests the Native Council of Canada, represented by President Ron George. This is our wrap-up session in the aboriginal process that we have been engaged in since the beginning of January.

Mr. George, you have some companions with you. We will turn it over to you.

Mr. Ron George (President, Native Council of Canada): Thank you Madam Chairman.

First, I will introduce us. My name is Ron George, President of the Native Council of Canada. I also speak in public for my house whom I represent as its *Tsaskey*. I say that because that's the government we have practised for several thousand years, and it still lives and thrives today.

All of the reporters who have attended our government business in the feast halls have not been threatened by that. As a matter of fact, they found it a very good experience. We hope you will share that with us when deliberating over whether or not self-government is a good idea.

Phil Fraser is from New Brunswick and is Vice-President of the Native Council of Canada. Marty Dunn is Métis Co-Chair of the Constitutional Review Commission. Yves Assiniwi is the Consultant to the Native Council of Canada. Dwight Dorey is Co-Chair of the Native Council of Canada Task Force on the Constitution.

Since we only have an hour this morning I want to encourage a dialogue, so I will address only a few of the more critical issues.

First, I have to point out that we are at a disadvantage. The NCC's process of deliberation does not match your reporting deadlines. We do respect your process, however. We led the way for this meeting and earlier ones we have

[*Translation*]

Winnipeg devienne la capitale du Canada. C'est moi qui l'ai suggéré au Parti de la réforme, en 1987, dans un infortuné discours prononcé devant le congrès fondateur qui a élu M. Manning. Mais je crois toujours que c'est une bonne idée.

Je vous remercie d'être venu.

M. Filmon: C'est moi qui vous remercie, mesdames et messieurs.

La coprésidente (Mme Dobbie): Tout le plaisir a été pour nous. Nous allons prendre une pause de cinq minutes avant d'entendre M. George et le Conseil national des Autochtones du Canada.

La coprésidente (Mme Dobbie): Chers collègues, mesdames et messieurs, nous allons reprendre nos travaux.

Nous avons maintenant comme invité le représentant du Conseil national des autochtones du Canada, son président Ron George. Cette séance est la dernière de la série sur les Autochtones, qui a débuté au début du mois de janvier.

Monsieur George, je vois que vous êtes accompagné, mais c'est à vous que je donne la parole.

M. Ron George (président, Conseil national des autochtones du Canada): Merci, madame la présidente.

Permettez-moi tout d'abord de nous présenter. Mon nom est Ron George, je suis président du Conseil national des autochtones du Canada. Je parle également en public au nom de ma maison que je représente à titre de *Tsaskey*. C'est en effet cette forme de gouvernement que nous utilisons depuis plusieurs milliers d'années, elle existe toujours et se porte encore à merveille aujourd'hui.

Les journalistes qui ont assisté aux travaux de notre gouvernement dans les salles des fêtes ne se sont pas sentis menacés par cela. En fait, ils ont trouvé l'expérience très intéressante. Nous espérons que vous partagerez cet avis lorsque vous discuterez pour savoir si l'autonomie gouvernementale est une bonne idée.

Phil Fraser vient du Nouveau-Brunswick et il est vice-président du Conseil national des autochtones du Canada. Marty Dunn, qui est Métis, est coprésident de la Commission de revision de la Constitution. Yves Assiniwi est consultant auprès du Conseil national des autochtones du Canada. Dwight Dorey est coprésident du groupe de travail du Conseil national des autochtones du Canada sur la Constitution.

Comme nous n'avons qu'une heure ce matin et que je voudrais encourager le dialogue, je n'aborderai que les questions les plus critiques.

Tout d'abord, je dois signaler que nous sommes désavantagés. Le processus de délibération du CNAC ne peut s'adapter aux délais qui sont fixés pour présenter votre rapport. Cependant, nous respectons votre processus. Nous

[*Texte*]

held together. We have been at every single federal policy conference to talk to other Canadians. We have always supported an opportunity to focus on aboriginal concerns in an open dialogue with non-aboriginal peoples. We have walked the extra mile, and we are not going to stop now.

The issue of deadlines and dates came up yesterday at my meeting with Joe Clark. You must report in 17 days. Ottawa wants to respond in detail by April 10. Quebec says they need a binding offer and they are going to have a vote in late October. All this means the deal is supposed to be made before mid-August. The leaves us four very short months of discussion and negotiation. We must all show willingness to work together and avoid a stalemate.

You all understand that there are some very high emotions in this debate—amongst aboriginal peoples, who see 1992 as their year, the 500th year of contact and reconciliation; amongst Quebeckers, who have been led to feel betrayed by the 1982 patriation; amongst Canadians generally, who feel left out and isolated as their country drifts to the edge of renewal or break-up.

• 1015

There are high emotions and there are great risks. Some people are stressing that both get in their way. That is not the NCC's style. I am willing, and the NCC is willing, to do our full share of consensus-building. I think we demonstrated that in the conferences we attended in Halifax, Calgary, Montreal and Toronto.

Compromise is a word I understand and have no difficulty with. But compromise does not mean we are forced to abandon our goals or our principles. It means we agree that working together as partners for tomorrow is more important.

This committee knows what our track record is. The NCC has the best track record when it comes to results that meet the needs of all. The NCC invented the companion resolution concept in 1987, the same idea both New Brunswick and Ottawa finally took over too late and too little in 1990.

The NCC represents the interests of the bulk of aboriginal peoples across Canada who live off reserve. We are the tie that binds. We must live with Canada and Canadians. We pay taxes and know our responsibilities. We intend to live in harmony and respect with all of Canada.

The NCC in 1990 also proposed a way to end the exclusion of our people from Confederation. We proposed a treaty or agreement at the national level. We proposed and we now insist that a treaty approach of reconciliation be used in 1992.

[*Traduction*]

avons pris les devants pour cette réunion et les réunions précédentes où nous nous sommes rencontrés. Nous avons participé à toutes les conférences de politiques fédérales pour parler aux autres Canadiens. Nous avons toujours cherché à saisir toutes les occasions de discuter des problèmes autochtones dans un climat de dialogue ouvert avec les peuples non autochtones. Nous avons fait tout ce qui nous était possible, et nous n'allons certes pas nous arrêter maintenant.

La question des délais et des dates a surgi hier lors de mon entretien avec Joe Clark. Vous devez présenter votre rapport dans 17 jours. Ottawa veut pouvoir répondre en détail le 10 avril. Québec dit qu'il lui faut une offre ferme et qu'un vote sera organisé fin octobre. Tout cela signifie que l'entente doit être conclue en principe avant la mi-août. Cela nous laisse quatre petits mois de discussions et de négociations. Nous devons tous être disposés à travailler ensemble pour éviter l'impasse.

Vous savez tous que ce débat suscite des émotions très vives—chez les Autochtones, qui voient 1992 comme leur année, la 500e année de contact et de réconciliation; chez les Québécois, qui ont été amenés à se sentir trahis par le rapatriement de 1982; chez les Canadiens en général, qui se sentent oubliés et isolés alors que leur pays dérive vers le renouveau ou le démembrement.

Les émotions sont très fortes et les risques très grands. Certains considèrent cela comme une gêne. Ce n'est pas le style de notre conseil. Je suis prêt, et le conseil également, à tout faire pour parvenir à un consensus. Je crois que nous l'avons prouvé aux conférences auxquelles nous avons assisté à Halifax, Calgary, Montréal et Toronto.

Le mot compromis est un terme que je comprends très bien et qui ne me pose aucun problème. Mais faire des compromis ne veut pas dire être forcé d'abandonner ses objectifs ou ses principes. Cela signifie que nous admettons qu'il est plus important de travailler ensemble comme partenaires pour l'avenir.

Ce comité connaît nos antécédents. C'est le CNAC qui a le mieux réussi à satisfaire les besoins de tous. Le conseil a inventé la notion de résolution d'accompagnement en 1987, idée que le Nouveau-Brunswick et Ottawa ont finalement repris trop tard et trop peu en 1990.

Le CNAC représente les intérêts de la majeure partie des Autochtones vivant en dehors des réserves. Nous sommes le lien qui unit. Nous devons vivre avec le Canada et les Canadiens. Nous payons des taxes et nous connaissons nos responsabilités. Nous voulons vivre en harmonie et dans le respect avec tout le Canada.

Le CNAC a également proposé en 1990 une façon de mettre fin à l'exclusion de notre peuple de la Confération. Nous avons proposé un traité ou un accord au niveau national. Nous avons proposé, et nous insistons maintenant sur ce point, que l'on cherche à parvenir à une réconciliation en 1992 par le biais d'un traité.

[*Text*]

There are two major areas of agreement I want to focus on. Both are essential to any successful agreement in 1992. Both involve Canada telling aboriginal peoples we are finally equal. The first matter is how are we going to get an agreement to find our recognition in Canada as full partners.

The NCC is proposing the Constitution explicitly include a reference to us as founding peoples, as nations. Last weekend there was a big media issue when someone decided we were stealing Quebec's patent on the word "distinct". I want to be very clear. We didn't make an issue of distinct. Our demand is not for a word.

We know the word "distinct" will be defined uniquely in relation to Quebec. What we are calling for quite simply is the same level of recognition for the same basic reasons. As founding people, we deserve and must have protection and promotion for our societies, languages, cultures and institutions.

The other element of recognition is acceptance that we are partners. That brings me to the demand for our consent. In 1990 and again last year we suggested that most, if not all, of what aboriginal peoples were seeking could be developed and agreed to in the context of a national treaty.

As you all know, the amending formula allows our consent under only two conditions. First, as proposed by Senator Beaudoin and his other committee, we could amend the amending formula to explicitly include a formal veto for aboriginal peoples. As you know, this would require unanimous agreement. We do not recommend this route to you now.

The other way, the only other way, is to use section 35 of the existing Constitution. That clause allows a new agreement to be made at the national level that immediately has the force of constitutional law. We call this the national treaty approach. It is the approach our people have been following since the early 1600s in Canada.

• 1020

In 1992, this idea has gained momentum. After our call for a national treaty last year, also supported by the AFN, Premier Joe Ghiz concluded that we were making a point that would not go away. He saw it was nearly impossible to really agree with our inherent right of self-government without also obtaining our consent. The two go hand-in-glove together.

Premier Ghiz has called for a national treaty of reconciliation. His words are very important, and your report must advance the debate on this breakthrough. It is legal, it is valid, it is crucial to the healing process; it is the only way aboriginal peoples across the country will be able to say they've really joined Confederation voluntarily.

[*Translation*]

Je vais m'attarder particulièrement sur deux grands domaines d'entente. Tous deux sont essentiels au succès d'un accord en 1992. Dans les deux cas, le Canada dirait aux Autochtones et aux Canadiens qu'ils sont finalement égaux. La première question est de savoir comment nous allons nous entendre pour être reconnus comme des partenaires à part entière au Canada.

Le CNAC propose d'inclure explicitement dans la Constitution une mention de notre peuple comme peuple fondateur, comme nation. La fin de semaine dernière, il y a eu beaucoup de bruit dans les médias lorsque quelqu'un a décidé que nous voulions voler au Québec son brevet sur le mot «distinct». Je tiens à être bien compris. Nous n'avons pas insisté sur la question du mot distinct. Notre demande ne porte pas sur un mot.

Nous savons que le mot «distinct» sera défini de façon particulière pour ce qui est du Québec. Nous ne demandons qu'à être reconnus de la même façon et pour les mêmes raisons fondamentales. En tant que peuple fondateur, nous méritons et nous demandons la protection et la promotion de nos sociétés, de nos langues, nos cultures et nos institutions.

L'autre élément de reconnaissance c'est d'accepter que nous sommes des partenaires, ce qui m'amène à la demande concernant notre consentement. En 1990 et l'année dernière encore, nous avons dit que la plupart des demandes des Autochtones, sinon toutes, pouvaient être reprises et réglées dans le contexte d'un traité national.

Vous savez tous que selon la formule d'amendement, notre consentement ne peut être requis qu'à deux conditions. Tout d'abord, comme l'ont proposé le sénateur Beaudoin et son autre comité, on pourrait modifier la formule d'amendement de façon à inclure explicitement un veto officiel pour la population autochtone. Or, vous savez bien que cela exigerait l'assentiment unanime. Ce n'est pas cette formule que nous vous recommandons.

L'autre méthode, la seule autre, est d'invoquer l'article 35 de la Constitution existante. Celui-ci permet de conclure au niveau national une nouvelle entente ayant immédiatement force de loi constitutionnelle. C'est ce que nous appelons la formule du traité national. C'est celle que notre peuple a adopté depuis le début des années 1600 au Canada.

En 1992, cette idée a gagné du terrain. Après l'appel que nous avons lancé en faveur d'un traité national l'année dernière, avec l'appui de l'APN, le premier ministre Joe Ghiz s'est rendu compte que nous présentions une idée qui n'allait pas disparaître. Il a réalisé qu'il était presque impossible de reconnaître véritablement notre droit inhérent à l'autonomie gouvernementale sans obtenir également notre consentement. Les deux vont de pair.

Le premier ministre Ghiz a demandé la signature d'un traité national de réconciliation. Ses paroles sont très importantes et votre rapport doit faire avancer le débat sur ce sujet. C'est légal, c'est valable, c'est crucial pour le processus d'apaisement; c'est la seule façon de permettre à tous les Autochtones du pays de dire qu'ils se sont joints volontairement à la Confédération.

[*Texte*]

The NCC wishes to go further. We wish to see Canada's founding peoples join in a covenant. We want French Canada, aboriginal peoples, and all other Canadians united in a political and legal compact. Just as in any national treaty, the results would be entrenched; but more, a covenant could be opened up to Canadians to participate in, not just governments.

We would welcome a covenant that is worked out by English Canada, ourselves, and French Canada. Obviously the Quebec government would have the major role for French Canada. So would Canada on behalf of all Canadians. We are founding peoples. We are unique societies—Indian, Métis, Inuit. To have our societies protected and promoted, we must have a role of consent in Confederation. I will add that we stand ready to work with you and your drafters at any time to go into more detail about consent and recognition language.

I cannot, of course, prejudge the outcome of our own process, which wraps up in Hull at the end of March in the Museum of Civilization's Great Hall. But we already have a clear mandate for consent and recognition from repeated assemblies of the Native Council of Canada. That won't change.

The second major area I want to stress concerns a matter I thought was settled in 1987. The fact that it was not included in the federal package last September disturbs us a great deal. I'm talking about equity of access. Like inherent and like consent, this is a deal-breaker as far as we are concerned. I want to explain why I use this strong language.

In 1982, aboriginal and treaty rights were entrenched. They were made enforceable immediately as part of the Constitution. There was no delay. But in 1992, where are we? And when I say we, I'm talking about three of every four aboriginal people who are not living on reserve, because they are who I represent: Indian and Métis peoples outside of the Indian Act, outside of the reserve system. This is the majority whose interests I am charged with defending. This is the majority whose interests I am charged with representing because they have no other voice to speak on their behalf.

I claim to speak for nobody else. Ovide Mercredi and the Assembly of First Nations do not speak for us. We do not fit in their system. We cannot vote in their government systems and the government-imposed governments that sit on the reserves. We are not consulted on any of the positions. If you want to know the position of the Native Council of Canada, you speak to me.

[*Traduction*]

Le CNAC veut aller plus loin. Nous voulons que les peuples fondateurs du Canada s'unissent en un pacte. Nous voulons que les Canadiens français, les Autochtones et tous les autres Canadiens soient unis dans un document politique et légal. Comme pour tout traité national, les résultats seraient enchâssés; mais de plus, tous les Canadiens pourraient participer à un pacte, et ce ne seraient donc pas uniquement les gouvernements.

Nous souhaitons un pacte élaboré par le Canada anglais, nous-mêmes et le Canada français. C'est bien sûr le gouvernement du Québec qui aurait le rôle principal pour le Canada français. Même chose pour le Canada au nom de tous les Canadiens. Nous sommes les peuples fondateurs. Nous sommes des sociétés uniques—les Indiens, les Métis, les Inuit. Pour que nos sociétés soient protégées et renforcées, nous devons pouvoir donner notre consentement dans la Confédération. Je tiens à ajouter que nous sommes disposés à travailler de concert avec vous et vos rédacteurs quand vous le voudrez pour discuter d'une façon plus approfondie du libellé du consentement et de la reconnaissance.

Je ne sais bien sûr pas quelle sera l'issue de nos propres délibérations, qui doivent se conclure à Hull à la fin mars dans la grande salle du musée des civilisations. Mais nous avons déjà obtenu un mandat ferme concernant le consentement et la reconnaissance lors de plusieurs assemblées du Conseil national des Autochtones du Canada. Cela ne changera pas.

Le deuxième grand domaine que je veux aborder concerne une question qui me semblait avoir été réglée en 1987. Le fait qu'elle ne figurait pas dans les propositions fédérales en septembre dernier nous préoccupe beaucoup. Je veux parler de l'égalité d'accès. Comme le droit inhérent et comme le consentement, il ne peut y avoir d'accord sans cela en ce qui nous concerne. Je tiens à préciser pourquoi je suis aussi catégorique.

En 1982, les droits des Autochtones et les droits des traités ont été enchâssés. Ils sont devenus applicables immédiatement dans le cadre de la Constitution. Il n'y a eu aucun délai. Mais en 1992, où en sommes-nous? Et lorsque je dis nous, je veux parler des trois Autochtones sur quatre qui ne vivent pas dans les réserves, puisque ce sont ceux-là que je représente: les Indiens et les Métis qui ne sont pas touchés par la Loi sur les Indiens, qui ne font pas partie du système des réserves. Ce sont les intérêts de cette majorité que je suis chargé de défendre. Ce sont les intérêts de cette majorité que je suis chargé de représenter parce que ces gens-là n'ont pas d'autre voix pour parler en leur nom.

Je ne parle au nom de personne d'autre. Ovide Mercredi à l'Assemblée des Premières nations ne parle pas en notre nom. Nous ne faisons pas partie de leur système. Nous ne pouvons pas voter dans leurs systèmes gouvernementaux ni au sein des gouvernements imposés par le gouvernement dans les réserves. On ne nous consulte sur aucune des positions prises. Si vous voulez connaître la position du Conseil national des Autochtones du Canada, c'est à moi qu'il faut vous adresser.

[*Text*]

We know what Quebec feels like. We know what Quebec feels like when they feel left out. The off-reserve population is never consulted. Whenever anything is talked about in the media, you never hear anything about non-status, Métis, off-reserve people. You hear about who the government wants you to recognize. That's who the media recognizes.

• 1025

It's a cruel hoax to all the people who live off-reserve, who get no recognition from a federal or a provincial government—a cruel hoax perpetuated by the media and government. That's going to end. That's a promise. It's a promise from me.

I cannot abandon this membership because this vest I'm wearing represents the true government, the truest government of the land, the hereditary government. It's never been abandoned. It still exists in spite of the potlatch laws where it was outlawed, where we couldn't hold our parliaments.

It still exists. It went underground up until December 1, when I was instated as hereditary chief. It is inclusionary. It doesn't exclude anyone. We speak on behalf of the people who are members of our nations. Status blind, we make no distinctions. You simply are who you are by birthright. So yes, Quebec, we know what it feels like to be left out.

We are not going to get in a big debate about whether the word "distinct" is going to apply to you and to us or whatever. What makes a difference is what Canadians expect for all citizens and that's equality. Let me remind everyone that we pay taxes and we expect the same rights and considerations as other citizens in Canada.

In 1992 the majority is not very far ahead of where we were in 1982. Only in 1990 did the Supreme Court even begin to set out what our rights mean. It was set out in a fishing case known as the Sparrow case. Métis land issues still haven't even been heard at trial yet because Ottawa has refused to allow that. After 11 years in the courts, after a decade of justiciability, we are very far away from getting access to our rights.

Ottawa is still refusing to implement its treaty obligations. Ottawa is still forcing the Indian Act on treaty rights even though our own lawyers agree this is illegal. Non-status Indians, for example, still have next to no access to any of their rights.

This has recently changed in Nova Scotia for treaty hunting, but even then we have had to go back to the courts to force recognition of each comma and each syllable of their rights. I could go on and on but I think you get the point. The Constitutional Review Commission has developed working papers on this and related matters, some of which are in your kits.

[*Translation*]

Nous savons ce qu'éprouve le Québec. Nous savons ce qu'éprouve le Québec lorsqu'il se sent rejeté. La population vivant en dehors des réserves n'est jamais consultée. Lorsqu'il y a un débat dans les médias, on n'entend jamais parler des Indiens sans statut, des Métis et de tous ceux qui vivent en dehors des réserves. Vous entendez parler de ceux que le gouvernement veut que vous reconnaissiez. Ce sont ceux-là que les médias reconnaissent.

C'est une vaste plaisanterie pour tous ceux qui vivent en dehors des réserves et qui ne sont reconnus par aucun gouvernement, ni fédéral ni provincial—une plaisanterie cruelle perpétuée par les médias et le gouvernement. Cela va cesser. C'est une promesse. Une promesse que je vous fais.

Je ne peux abandonner ces membres parce que ce gilet que je porte représente le vrai gouvernement, le gouvernement le plus vrai du pays, le gouvernement héréditaire. Il n'a jamais été abandonné. Il existe toujours en dépit des lois potlaches qui l'ont interdit, qui nous empêchaient de réunir nos parlements.

Il existe toujours. Il est resté clandestin jusqu'au 1er décembre, quand j'ai été nommé chef héréditaire. Il est fondé sur l'inclusion. Il n'exclut personne. Nous parlons au nom de ceux qui sont membres de nos nations. Indifférents ou statut, nous ne faisons aucune distinction. On est ce que l'on est par sa naissance. Donc, oui, Québec, nous savons ce que c'est que de se sentir rejetés.

Nous n'allons pas nous lancer dans un grand débat pour savoir si le mot «distinct» doit s'appliquer à vous, ou à nous, ou à qui que ce soit. Ce qui est important c'est ce que les Canadiens souhaitent pour tous les citoyens, c'est-à-dire l'égalité. Je tiens à rappeler à tout le monde que nous payons des impôts et que nous voulons avoir les mêmes droits et la même considération que les autres citoyens du Canada.

En 1992, nous ne sommes pour la plupart guère plus avancés qu'en 1982. Ce n'est qu'en 1990 que la Cour suprême a à peine commencé à définir nos droits. Cela a été fait dans une affaire de pêche appelée l'affaire Sparrow. Les problèmes territoriaux des Métis n'ont toujours pas été entendus par les tribunaux parce qu'Ottawa ne l'a pas permis. Après 11 ans devant les tribunaux, après une décennie en justice, nous sommes encore très loin d'avoir accès à nos droits.

Ottawa refuse toujours de reconnaître ses obligations contractées en vertu des traités. Ottawa continue à faire passer la Loi sur les Indiens avant les droits des traités, bien que nos propres juristes estiment la chose illégale. Les Indiens non inscrits, par exemple, n'ont encore pratiquement aucun accès à leurs droits.

Cela a changé dernièrement en Nouvelle-Écosse à propos de la chasse en vertu des traités, mais même alors, nous avons dû recourir aux tribunaux pour imposer la reconnaissance de chaque virgule et de chaque syllabe des droits établis. Je pourrais continuer longtemps encore mais je crois que vous commencez à comprendre. La Commission de révision constitutionnelle a rédigé des documents de travail sur cette question et d'autres questions connexes, et certains se trouvent dans vos documents.

[*Texte*]

The bottom line is that there has been a decade of illegal exclusion and denial. The government has basically tried to tell us to forget any co-operation in getting access to our rights. I have some documents to give you that might help you understand.

Senator Meighen asked in early January about examples of self-government proposals off-reserve, and I want to give you a small sample. These documents tell a shocking story of governmental avoidance. The document I'm speaking of was tabled in 1988 by nine bands of Micmacs in Newfoundland. None of the bands are recognized because in 1949 federal policy had refused to recognize Indians on the island. No one knows or will say why. The Federation of Newfoundland Indians' proposal is now suspended because Ottawa has decided it was too political. They would rather be forced in the courts than agree to negotiations.

Has the new mood surrounding this current debate on Canadian unity changed matters? Just before Christmas the federal Cabinet decided they would still rather have the courts order them to recognize these bands than do so voluntarily. They know they will lose, they just want the courts to do their work for them, and delay matters for a decade or so. I've tabled the Newfoundland Micmac document that I was just referring to.

• 1030

Canadians wonder why we get so upset about the issue of recognition. I said at the beginning of my statement that we are supportive of recognition of Quebec as a distinct society. I have to say this is not very easy when Ottawa's position is that nine Micmac bands in Newfoundland don't exist and will not be recognized short of a court order. That is what I'm up against and I'm not getting a lot of help in keeping tempers cool.

We have also the Kawartha Nishnawbe report, which I table. This second example comes from a rural developed area in southern Ontario. The Kawartha Nishnawbe were excluded from the reserves set up in their area in the mid-1800s. They were excluded from treaty. For over a century they have fought to survive without assistance.

In 1990 they finally got an invitation to make a proposal to Ottawa and Ontario. That proposal has sat completely ignored by Ontario's Liberals and by the NDP since they were elected. Ottawa has sat back and grinned. Why? Because Ottawa has insisted for seven years that provinces have to be in the driver's seat for any self-government negotiations with off-reserve people. They say the provinces have to lead, they have to take the first step before they negotiate, but section 91.24 states clearly who has fiduciary obligations.

[*Traduction*]

En fin de compte, il y a eu 10 ans d'exclusion illégale et de déni des droits. Le gouvernement a essayé de nous montrer qu'il était inutile d'espérer obtenir la moindre coopération pour faire valoir nos droits. J'ai des documents à vous donner qui vous aideront peut-être à comprendre.

Le sénateur Meighen a voulu être informé au début janvier des exemples de propositions d'autonomie gouvernementale en dehors des réserves et je vais vous en donner un petit échantillon. Ces documents illustrent de façon flagrante le refus du gouvernement. Le document dont je parle a été déposé en 1988 par neuf bandes de Micmacs à Terre-Neuve. Aucune de ces bandes n'est reconnue parce qu'en 1949, le Fédéral avait pour politique de refuser de reconnaître les Indiens sur l'île. Personne ne sait ou ne veut dire pourquoi. La proposition de la Fédération des Indiens de Terre-Neuve est maintenant en suspens parce que Ottawa a jugé la chose trop politique. Le gouvernement préfère être contraint par les tribunaux plutôt que d'accepter des négociations.

Le nouveau climat entourant le débat actuel sur l'unité canadienne a-t-il changé les choses? Juste avant Noël, le cabinet fédéral a décidé qu'il préférait encore que ce soit les tribunaux qui lui ordonnent de reconnaître ces bandes plutôt que de le faire volontairement. Ils savent qu'ils vont perdre mais ils veulent que les tribunaux fassent le travail à leur place et que tout soit retardé pendant une dizaine d'années encore. J'ai déposé le document des Micmacs de Terre-Neuve auquel je viens de faire allusion.

Les Canadiens se demandent pourquoi nous tenons tellement à cette question de reconnaissance. J'ai dit au début de ma déclaration que nous appuyons la reconnaissance du Québec comme société distincte. Je dois dire que cela n'est pas très facile lorsqu'Ottawa considère que neuf bandes de Micmacs de Terre-Neuve n'existent pas et ne seront pas reconnues à moins d'un arrêt du tribunal. C'est contre cela que je me bats et l'on ne m'aide pas beaucoup à calmer les esprits.

Nous avons également le rapport Kawartha Nishnawbe, que je dépose. Ce deuxième exemple vient d'une zone rurale développée du sud de l'Ontario. Les Kawartha Nishnawbe ont été exclus des réserves établies dans leur secteur vers le milieu des années 1800. Ils ont été exclus des traités. Pendant plus d'un siècle, ils ont dû survivre sans traité.

En 1990, ils ont finalement été invités à faire une proposition à Ottawa et à l'Ontario. Cette proposition est demeurée tout à fait ignorée par les Libéraux de l'Ontario et par le NPD depuis son élection. Ottawa observait en ricanant. Pourquoi? Parce qu'Ottawa insiste depuis sept ans pour que les provinces prennent la direction des opérations en matière de négociations sur l'autonomie gouvernementale des Autochtones habitant en dehors des réserves. Ottawa considère que c'est aux provinces de mener le jeu et de faire le premier pas avant que des négociations soient entreprises, mais l'article 91.24 précise bien à quoi vont les obligations fiduciaires.

[*Text*]

They refuse to act alone, and our people pay the price. So now the Kawartha Nishnawbe, like the FNI, is faced with having to go to court—the people who can least afford to go to the courts, even in Ontario, even with a government that tells us it rejects the "you first" policy set out in Ottawa since 1985.

The final case in point is the proposal from our New Brunswick affiliate. It was filed in 1986 and has gone nowhere. For the same reasons that most, if not all, other non-reserve proposals have gone nowhere, Ottawa has dodged responsibility and refused to treat aboriginal peoples with equity. Provinces are scared of taking responsibility because they fear being stuck with the bill. You've heard it before. The person before me stated as much—federal off-loading.

Equity of access is a simple and effective bar against continuing discrimination by Ottawa and provinces in the implementation of our rights. It is that simple. Equity of access is essential to the implementation of any agreement on self-government. That is why we demand a protection and promotion clause that is binding on you in Parliament and on the government.

We cannot allow another 10 years to go by while our people, without resources, are forced again and again into the courts just to get access to what is already set out in the Constitution as a matter of right. In 1987 the federal proposal included an equity clause. So did the joint aboriginal and Ontario proposals. We are going to have a major problem if you do not also endorse this in your report.

In closing, I want to make two brief points. First, we are not going to get dragged into a phoney war with French Canada or with Quebec. There are some who are working against national unity and who are trying to pit Quebec and aboriginal peoples against each other. That is not what we are about, and I suggest our track record is there for everyone to see.

To be clear, we have no problem with Quebec as distinct. We support this. We are willing to go further and see a unique distribution of responsibilities within Quebec. We are willing to see our unique place and our need for protection and promotion handled by using different words from those which Quebec is insisting on. Recognition of the inherent right of self-government is obviously the central answer. The only issue is the weight that those two words bear. They must bear the same weight that is being considered by anyone else.

• 1035

Finally, as I said, we are willing and able to talk about a new covenant. In your kit you see one of our papers is titled "Towards a New Covenant". We think the most important task facing Canada is to set out what basic terms of co-existence must be agreed to now. Then we can turn to more specific issues, including any new distribution of powers, economic union measures and so on.

[*Translation*]

On refuse d'agir seuls et c'est notre peuple qui paie. ainsi, les Kawartha Nishnawbe, comme la FNI, soit contraints de recourir aux tribunaux—alors que ce sont eux qui ont le moins les moyens d'intenter des poursuites, même en Ontario, même avec un gouvernement qui prétend rejeter la politique de «vous d'abord» adoptée par Ottawa depuis 1985.

Le dernier exemple porte sur une proposition formulée par notre groupe affilié du Nouveau-Brunswick; elle a été présentée en 1986 et n'a abouti nulle part. Tout comme la plupart des propositions venant d'Autochtones habitant en dehors des réserves, sinon toutes, celle-ci n'a pas abouti parce qu'Ottawa a esquivé ses responsabilités et a refusé de traiter les Autochtones comme des égaux. Les provinces ont peur de prendre la responsabilité car elles craignent de devoir payer la note. Vous l'avez déjà entendu dire. L'intervenant qui m'a précédé l'a dit—le Fédéral s'en débarasse.

L'égalité d'accès est une réponse simple et efficace contre la discrimination perpétuelle d'Ottawa et des provinces en ce qui concerne nos droits. C'est aussi simple que cela. L'égalité d'accès est indispensable à la mise en oeuvre de tout accord sur l'autonomie gouvernementale. C'est pourquoi nous exigeons une clause de protection et de promotion qui soit exécutoire pour le Parlement et le gouvernement.

Nous ne pouvons laisser encore passer 10 ans tandis que notre peuple est contraint, alors qu'il est sans ressources, de recourir sans cesse aux tribunaux, rien que pour avoir accès à des droits qui lui sont déjà reconnus dans la Constitution. En 1987, la proposition fédérale comprenait une clause d'équité. Il en va de même pour les propositions conjointes des Autochtones et de l'Ontario. Nous allons avoir un gros problèmes si vous n'appuyez pas également cela dans votre rapport.

Pour terminer, je vais faire deux brèves observations. Premièrement, nous n'allons pas nous laisser embarquer dans une prétendu guerre avec le Canada français ou avec le Québec. Il y a des gens opposés à l'unité nationale qui essaient de dresser le Québec et les Autochtones les uns contre les autres. Ce n'est pas ce que nous voulons et ce que nous avons fait par le passé le démontre clairement.

Nous n'avons aucune objection à ce que le Québec soit distinct. Nous sommes favorables à cela. Nous sommes disposés à aller plus loin et à envisager une répartition unique des responsabilités au Québec. Nous sommes d'accord pour que notre place unique, notre besoin de protection et de soutien soient reconnus par des mots différents de ceux sur lesquels insiste le Québec. La reconnaissance du droit inhérent à l'autonomie gouvernementale est manifestement le point central. La seule question est le poids donné à ces deux mots. Ils doivent avoir le même poids que ce qu'envisagent les autres.

Enfin, comme je l'ai expliqué, nous sommes tout à fait prêts et disposés à discuter d'un nouveau pacte. Dans votre documentation, vous voyez que l'un de nos documents s'intitule «Towards a New Covenant». Le Canada a une tâche de la plus haute importance à accomplir: définir les modalités de coexistence sur lesquels il faut s'entendre maintenant. Il sera ensuite possible de passer à des questions plus précises, notamment la nouvelle répartition des pouvoirs, les mesures relatives à l'union économique et ainsi de suite.

[*Texte*]

Finally, as stressed by our principle of equity, it is crucial that you accept in clear terms that we are talking about all aboriginal peoples. We are not talking here about propping up the Indian Act legacy. We are talking about self-government for all aboriginal peoples. We're talking about consultation with all aboriginal peoples—self-government in the city, in the countryside, in remote areas for Indian and Métis peoples, regardless of status or residence, wherever our people live in their homelands in Canada. Thank you.

The Joint Chairman (Mrs. Dobbie): Thank you, Mr. George. We now have some time for questions. We'll begin with Mr. Littlechild.

Mr. Littlechild: Thank you very much, Madam Co-Chair. I welcome the president and his colleagues back to the committee, I guess, for—I'm not going to say the last time. It is, I suppose, the last time for the committee in terms of the aboriginal groups that we're meeting with.

I have two questions for you. First of all, let me compliment you once again on a very forceful statement, which you're putting on behalf of the constituency represented as well. You have again raised the national treaty covenant. In that regard, who would the signatories be to that agreement and in what capacities do you see that? Second, at our previous meeting I posed the question with respect to wording in section 35, "within the federation of Canadian law" or something like that. I can't recall exactly. I'll have to look it up in my notes. I wanted to get a response to that, whether you've had an opportunity to do that yet.

Mr. Yves Assiniwi (Special Adviser, Native Council of Canada): Yes, we've had some time to take a look at it. If you will recall our conversation in Yellowknife, we have no opposition to using the words "within Canada" at the end of the clause. We feel it's redundant, since the clause would already be within section 35 of the Constitution. Therefore, it's obvious that it is within Canada.

Not only that, but the federal argument so far on any wording on section 35, including the interpretation of the word "people" as it referred to international law, has always been that it has no reference in international law since it is a domestic use of the word within the domestic Constitution. It doesn't equate to an international recognition of the word. Those two words would be within the same section. So if that argument holds right now for Canadian diplomats abroad who are faced with the question of the word "people" and its international meaning, I don't see what the issue is about "inherent". But if you want, for your own safety, to add "within Canada" at the end, it's not a big issue.

Mr. George: The other point is that if it's put within Canadian law, then we'll probably be wrestling with legislation such as the Indian Act. It's probably preferable to have it within Canada, so that it would give us the status we deserve.

[*Traduction*]

Enfin, comme l'implique notre principe d'équité, il est essentiel que vous admettiez clairement que nous parlons de toute la population autochtone. Il ne s'agit pas de renforcer l'héritage de la Loi sur les Indiens. Il s'agit d'autonomie gouvernementale de tous les peuples autochtones. Nous voulons une consultation avec tous les peuples autochtones—autonomie gouvernementale dans les villes, dans les campagnes, dans les régions éloignées pour les Indiens et les Métis, indépendamment du statut ou de la résidence, partout où ces Autochtones habitent chez-eux, au Canada. Merci.

La coprésidente (Mme Dobbie): Merci, monsieur George. Nous avons maintenant un peu de temps pour les questions. Nous allons commencer par M. Littlechild.

M. Littlechild: Merci beaucoup, madame la coprésidente. Je suis heureux d'accueillir à nouveau le président et ses collègues au sein du comité, sans doute pour—je ne veux pas dire la dernière fois. C'est probablement la dernière fois pour le comité en ce qui concerne ses rencontres avec les groupes d'Autochtones.

J'ai deux questions à vous poser. Tout d'abord, permettez-moi de vous féliciter encore une fois de la force de la déclaration que vous présentez au nom de tous vos membres. Vous avez encore parlé du traité national. À ce propos, quels seraient les signataires de cet accord et à quel titre? Deuxièmement, à notre dernière rencontre, j'ai posé une question concernant le libellé de l'article 35, «dans la fédération du droit canadien» ou quelque chose comme ça. Je ne me souviens pas exactement. Il faudrait que je regarde mes notes. Je voulais une réponse à cela, si vous avez eu le temps de vous en occuper.

M. Yves Assiniwi (conseiller spécial, Conseil national des autochtones du Canada): Oui, nous avons eu le temps d'examiner la question. Si vous vous souvenez de notre conversation à Yellowknife, vous savez que nous ne nous opposons pas à ce que les mots «au Canada» se trouvent à la fin de l'article. Nous pensons que c'est redondant puisque cette clause ferait déjà partie de l'article 35 de la Constitution. Il est donc évident que c'est au Canada.

Non seulement cela, mais jusqu'ici le gouvernement fédéral a toujours estimé que le texte de l'article 35, y compris l'interprétation du mot «peuple» dans le contexte du droit international, n'avait aucun rapport avec le droit international puisque le mot est utilisé dans un contexte national dans le cadre de la Constitution nationale. Cela n'a donc rien à voir avec une reconnaissance internationale du mot. Ces deux termes se trouveraient dans le même article. Si cet argument est maintenu actuellement pour les diplomates canadiens à l'étranger qui doivent régler la question du mot «peuple» et de son sens international, je ne vois pas où est le problème quant au mot «inhérent». Mais si, pour votre propre sécurité, vous voulez ajouter «au Canada», à la fin, cela n'a pas grande importance.

M. George: Par ailleurs, si cela se trouve dans la loi canadienne, nous devrons probablement devoir affronter des lois comme la Loi sur les Indiens. Il vaut sans doute mieux que ce soit au Canada, pour que nous ayons le statut que nous méritons.

[*Text*]

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As I stated in my brief, the signatories would be those representing French-speaking Canada, those representing English-speaking Canada, and those representing the aboriginal peoples. The agreement would set out a framework in which we could all recognize each other's distinctiveness, inherency, and whatever else the English-speaking Canadians have. If they want more, then I guess you're going to have to talk to us. I'm just kidding.

Mr. Friesen: Thank you very much. I certainly did enjoy your presentation, both the content and the tone.

I noticed, if I heard you correctly, that you used the term "self-government" only once in your entire presentation and that was within the context of a quote, yet I know that concept is important to you. I refer to the middle section of your document entitled "Towards a New Covenant", where I read:

> But the bottom line is that we have a right to our own distinct order of constitutional government integrated within Confederation as full partners in Confederation on our own terms and with our own consent.

I'm probably like most other Canadians. We find it fairly easy to visualize self-government if we're talking about discrete regions. Where I have difficulty visualizing—and I use that term very advisedly because I have a lot of off-reserve aboriginal people living in my community and I see them as scattered, in a sense, throughout the lower mainland of B.C., for example. For me, that situation represents a problem in visualizing how self-government would work. We're on television, and I think there are probably a lot of Canadians who would like to hear an explanation of how this would work. So I ask you how you would explain self-government in the context of an urban society to us.

Mr. George: Yes, I'd be pleased to do so. As a matter of fact, on the first day of the meeting in Vancouver the URBAN Society in Vancouver will be having their annual meeting. Fifty-seven organizations in the lower mainland have formed a self-government entity under the cloak of URBAN, which stands for the Urban Representative Body of Aboriginal Nations.

They did so out of necessity, having realized that self-government isn't going to be handed to us on a silver platter. If anyone is going to take us seriously, we must go out and demonstrate what self-government is. So all the institutions and service organizations got together and decided to set up such an entity, which has reached the point where they now look after all the services that come within URBAN's domain.

The provincial Social Credit government began by funnelling money through this entity and having that entity decide how the money for services such as sexual abuse counselling, alcohol and drug counselling, and other services would be handled. All was done on a pilot project basis, but now because it has assisted the government in streamlining their processes, government members have decided it was to their advantage to core-fund this entity and to co-operate

[*Translation*]

Comme je l'ai dit dans mon mémoire, les signataires seraient les représentants du Canada d'expression française, les représentants du Canada d'expression anglaise et les représentants des peuples autochtones. L'accord établirait un cadre dans lequel nous pourrions tous reconnaître le caractère distinct des autres, leurs droits inhérents et les autres prérogatives des Canadiens anglophones. S'ils veulent plus, il faudra sans doute nous en parler. Je plaisante.

M. Friesen: Merci beaucoup. J'ai beaucoup apprécié votre exposé, à la fois le fond et le ton.

J'ai remarqué, à moins que je ne me trompe, que vous n'aviez utilisé le terme «autonomie gouvernementale» qu'une fois dans votre exposé, et ce, dans le contexte d'une citation; je sais pourtant que c'est une notion importante pour vous. Il s'agit d'un passage situé au milieu de votre document intitulé «Towards a New Covenant», où je lis:

> Mais en fin de compte, nous avons le droit de voir notre propre ordre distinct de gouvernement constitutionnel intégré à la Confédération en tant que partenaires à part entière de la Confédération selon nos propres conditions et avec notre consentement.

Je suis sans doute comme la plupart des autres Canadiens. Il est assez facile d'imaginer l'autonomie gouvernementale si l'on parle de régions distinctes. J'ai du mal à entrevoir—et j'utilise ce mot à dessein parce qu'il y a beaucoup d'autochtones habitant hors des réserves dans ma communauté, et je les vois éparpillés, dans un sens, dans tout le sud-ouest de la Colombie-Britannique, par exemple. Pour moi, il est difficile d'imaginer comment, dans ces conditions, un gouvernement autonome pourrait fonctionner. Nous sommes à la télévision, et j'imagine que de nombreux Canadiens aimeraient avoir une explication sur ce point. J'aimerais donc que vous nous expliquiez comment fonctionnerait un gouvernement autonome dans le contexte d'une société urbaine.

M. George: Avec plaisir. En fait, le premier jour de la réunion de Vancouver, la société URBAN de Vancouver tiendra sa réunion annuelle. Cinquante-sept organisations du sud-ouest ont constitué une entité gouvernementale autonome sous le sigle de URBAN, qui signifie «Urban Representative Body of Aboriginal Nations», c'est-à-dire organe urbain représentatif des nations autochtones.

Ils ont fait cela par nécessité, après s'être rendu compte qu'on n'allait pas nous donner l'autonomie gouvernementale sur un plateau d'argent. Si nous voulons être pris au sérieux, nous devons faire la démonstration de ce que peut être l'autonomie gouvernementale. Toutes les institutions et toutes les organisations de services se sont donc réunies et ont décidé de créer cette entité, qui a évolué au point de s'occuper maintenant de tous les services faisant partie du domaine de URBAN.

Le gouvernement créditiste provincial a fait passer ses fonds par cette entité en la laissant décider de l'utilisation des fonds destinés à des services comme le counselling dans les cas de violence sexuelle, d'alcoolisme et de drogue, et d'autres services. Tout cela se fait dans le cadre d'un projet pilote, mais comme ce système a permis au gouvernement de simplifier ses opérations, les membres du gouvernement ont décidé qu'il était dans leur intérêt d'accorder un financement

[*Texte*]

because, in the final analysis, streamlining and co-operation saved them money. I think everybody can agree and relate to that.

So if we take self-government to its true extension, we can take budgets such as the $52,000 per inmate that is spent in all the prisons. In Alberta, for instance, we calculated that $18 million a year goes toward incarcerating aboriginal peoples. That cries out for an aboriginal justice system. There have been several instances across Canada where aboriginals' handling of justice issues has forestalled spending $52,000 to $60,000 on an individual.

• 1045

We know what our people have gone through. We know the hurts that have happened through the residential school experience. Healing has to take place. We can relate to that. We know what it takes to heal. Our child welfare agency in Vancouver is now looking after the concerns of off-reserve aboriginal peoples. We've signed agreements—I'm speaking as though I'm still there—with bands to look after their off-reserve people in the area of Vancouver. The housing corporation operating out of Vancouver has sub-agency agreements with 80 bands, delivering services to them over and above the services delivered to off-reserve peoples. An economic development corporation is being set up in concert with 54 bands in British Columbia.

Self-government works when it's benefical to all concerned: on-reserve, provincial government, federal government, off-reserve peoples. That's what it means—working together for the benefit of all, to the exclusion of none. That's what I think Canada wants to be. That's what I've heard in Halifax, Calgary, Montreal and, to a certain extent, Toronto. I think that is what we all want to end up having.

That was a long answer to a short question, but I had to do it because it's there, it's living, it's thriving, and it's a fine example of how we are prepared to deal with our own problems.

Most of these people are volunteers. They're not getting any money from the federal government to attend meetings, like the Department of Indian Affairs gives to bands. The only people who get paid are the ones who are hired to deliver the services. The board of directors are all volunteers. Next question.

The Joint Chairman (Mrs. Dobbie): I don't think you have any more questions, do you, Benno? Well answered. Thank you. Mr. Blackburn.

M. Blackburn: Monsieur George, dans votre mémoire, vous nous dites que vous voulez qu'on obtienne le consentement des peuples aborigènes pour n'importe quel changement à la Constitution qui vous affecte. Le Comité Beaudoin-Edwards, auquel j'ai participé, faisait justement une recommandation concernant les peuples autochtones. C'était la recommandation numéro 5, où on disait:

[*Traduction*]

de base à cette entité et de coopérer avec elle, puisqu'en dernière analyse, la simplification et la coopération leur faisaient économiser de l'argent. Je crois que tout le monde est d'accord sur ce point et peut en témoigner.

Si l'on veut prolonger l'autonomie gouvernementale jusqu'au bout, on peut prendre des budgets comme les 52,000$ par détenu dépensés dans toutes les prisons. En Alberta, par exemple, nous avons compté que l'on dépensait chaque année 18 millions de dollars pour l'incarcération de personnes autochtones. Cela montre à quel point il est essentiel d'avoir un système judiciaire autochtone. Il est arrivé plusieurs fois qu'en laissant les autochtones régler des questions de justice, on a évité de dépenser de 52,000$ à 60,000$ pour un individu.

Nous savons ce qu'a vécu notre peuple. Nous connaissons toutes les souffrances éprouvées à l'époque des pensionnats. Les plaies doivent se refermer. Nous pouvons le comprendre. Nous savons ce qu'il faut pour guérir. Nous avons maintenant à Vancouver un organisme d'aide à l'enfance qui s'occupe des problèmes des autochtones vivant hors des réserves. Nous savons signé des accords—je parle comme si j'y étais encore—avec les bandes pour s'occuper des personnes vivant hors des réserves dans la région de Vancouver. La société de logement de Vancouver a des ententes subsidiaires avec 80 bandes, et leur fournit des services en plus de ceux qui sont prévus pour les personnes habitant en dehors des réserves. Une société de développement économique est en train d'être montée en accord avec 54 bandes de la Colombie-Britannique.

L'autonomie gouvernementale fonctionne lorsqu'elle est dans l'intérêt de toutes les personnes concernées: les habitants des réserves, le gouvernement provincial, le gouvernement fédéral, les personnes vivant en dehors des réserves. Tout est là—travailler ensemble dans l'intérêt de tous, en n'excluant personne. Je crois que c'est ce que veut être le Canada. C'est ce que j'ai entendu à Halifax, à Calgary, à Montréal et, dans une certaine mesure, à Toronto. Je crois que nous voulons tous aboutir à cela.

C'était une réponse bien longue à une brève question, mais je devais le faire parce que ce gouvernement est là, il est vivant, il va bien, et c'est un bon exemple de la façon dont nous sommes prêts à régler nos propres problèmes.

La plupart de ces personnes sont des bénévoles. Elles ne reçoivent pas d'argent du gouvernement fédéral pour assister aux réunions, comme ce que le ministère des Affaires indiennes donne aux bandes. Les seules personnes payées sont celles qui sont engagées pour fournir les services. Le conseil d'administration se compose uniquement de bénévoles. Question suivante.

La coprésidente (Mme Dobbie): Je crois que vous n'avez plus de questions, Benno? Bien répondu. Merci. Monsieur Blackburn.

Mr. Blackburn: Mr. George, you say in your brief that we should obtain the aboriginal people's consent for any change in the Constitution that would affect you. The Beaudoin-Edwards Committee, of which I was a member, made a recommendation concerning native people. It was recommendation 5, saying:

[*Text*]

Qu'aucune modification à la Constitution du Canada qui concernerait directement les peuples autochtones ne puisse se faire sans le consentement desdits peuples autochtones du Canada.

Je trouve intéressant de faire le parallèle. Lorsqu'on parle des peuples autochtones et qu'on veut faire des changements à la Constitution, on dit en ce qui les concerne: Il faudrait au moins avoir leur consentement. On parle du Québec comme société distincte. Le Québec demande le même genre de protection, à savoir un veto sur les changements constitutionnels qui pourraient l'affecter, entre autres au niveau de la réforme des institutions et de la Cour Suprême, mais il a toutes les difficultés au monde à l'obtenir. On a deux poids, deux mesures.

Cela dit, vous dites que vous êtes d'accord sur la société distincte du Québec. Vous ne demandez pas la définition des mêmes termes. Pouvez-vous nous donner un peu plus de précisions étant donné que les Premières nations demandent des reconnaissances semblables? Qu'en est-il dans votre cas? Pouvez-vous nous donner plus de précisions?

• 1050

Mr. George: I am Wet'suwet'en and I speak on behalf of Wet'suwet'en, and I can tell you exactly everything that the Wet'suwet'en people mean by self-government.

Nobody can pretend to do that for us. Nobody has the right to do that for us. By the same token, we do not have the right to define what Quebec means by distinct society or self-government, or whatever other term Quebec requires to run its own affairs. It's impossible. Those rights were born with you. You have those rights because of who you are. I have those rights because of who I am. The crest is on my back; it's been there for thousands of years, for people who came before me.

So if you wanted to ask me about Wet'suwet'en self-government, I could tell you, but not very well. I was never brought up with my people because of the Indian Act. I'm just learning. It was taken away from me, as was my language. My language was taken away from me because I couldn't live with my people. The Indian Act said I couldn't. The Indian Act said that because I was not status, I couldn't live with my community. Therefore, I've lost my language and culture. But I can tell you, in very brief form, what the Wet'suwet'en people mean by self-government, because that's the only people I have the right to speak on behalf of. I've just explained how off-reserve self-government could work, and that's who I have a right to speak on behalf of.

I know people have heard me say this before. I quote an elder who was at an Indigenous 500 meeting in Hull. When she was asked what self-government means, she said, self-government means minding your own business and whatever that entails. It's that simple and everybody has that right. That is the simple answer I can give you.

[*Translation*]

That no amendment to the Canadian Constitution directly affecting the aboriginal people could be adopted without the consent of such Canadian native people.

I find this parallel interesting. When we talk about native people and that we want to make changes in the Constitution, we say: We should at least have their consent. We talk about Quebec as a distinct society. Quebec is asking for the same kind of protection, that is to have a veto on constitutional changes that might affect it, on the reform of institutions and of the Supreme Court among other things, but it seems very difficult to obtain. We have one law for the rich and another for the poor.

That being said, you stated that you are in agreement on Quebec's distinct society. You are not asking for the same terms to be defined. Could you give us some details on this since the First Nations are asking for a similar recognition? What is your position? Could you give us some clarification?

M. George: Je suis Wet'suwet'en, et je parle au nom des Wet'suwet'en, et je peux vous dire exactement comment les Wet'suwet'en voient l'autonomie gouvernementale.

Personne ne peut prétendre faire cela à notre place. Personne n'a le droit de le faire. Du même coup, nous n'avons pas le droit de définir ce que le Québec entend par société distincte ou autonomie politique, ou par quelque autre terme que le Québec choisit pour diriger ses propres affaires. C'est impossible. Ces droits sont nés avec vous. Vous avez ces droits à cause de votre identité. J'ai ces droits à cause de ce que je suis. La marque est sur mon dos; elle est là depuis des milliers d'années, pour tous ceux qui sont venus avant moi.

Ainsi, si vous me posiez des questions sur le gouvernement autonome pour les Wet'suwet'en, je pourrais vous le dire, mais pas très bien. Je n'ai jamais vécu avec mon peuple, en raison de la Loi sur les Indiens. Je commence à peine à apprendre. J'ai été privé de cela, comme de ma langue. J'ai été privé de ma langue parce que je n'ai pas pu vivre avec mon peuple. C'était interdit par la Loi sur les Indiens. D'après la Loi sur les Indiens, comme je n'étais pas inscrit, je ne pouvais pas vivre dans ma communauté. J'ai donc perdu ma langue et ma culture. Mais je peux vous dire, très brièvement, ce que veulent dire les Wet'suwet'en par autonomie gouvernementale, parce que c'est les seules personnes au nom de qui j'ai le droit de parler. Je viens d'expliquer comment pourrait fonctionner un gouvernement autonome en dehors des réserves, et c'est au nom de ces personnes que j'ai le droit de parler.

Je sais que l'on m'a déjà entendu dire cela. Je reprends les paroles d'une ancienne qui était à la conférence «Indigènes 500» à Hull. Lorsqu'on lui a demandé ce que signifiait l'autonomie gouvernementale, elle a répondu: l'autonomie gouvernementale signifie s'occuper de ses propres affaires et de tout ce que cela entraîne. C'est aussi simple que cela, et tout le monde a ce droit. Voilà donc une réponse simple à votre question.

[*Texte*]

I don't have the time, I don't think, to go into detail right now about the Wet'suwet'en governments, but if I did, it would probably make a lot of sense to you, because I think we're talking about the same things.

M. Assiniwi: Monsieur Blackburn, quant à votre commentaire de deux poids, deux mesures, je suis parfaitement d'accord, mais je ne suis pas nécessairement d'accord avec vous que c'est en notre faveur.

Contrairement au gouvernement du Québec, nos juridictions ne sont pas reconnues dans la Constitution canadienne. Celles du Québec le sont. Le droit à sa langue et le droit à sa religion sont déjà garantis dans la Constitution canadienne, ce qui n'est pas notre cas. On a un retard assez incroyable sur le gouvernement du Québec quand il s'agit de la reconnaissance de nos institutions, du contrôle de nos ressources et du contrôle de nos vies. Québec est sur la case de départ, tandis que nous ne sommes même pas près d'arriver à la case de départ dans le débat constitutionnel.

Je dois aussi vous rappeler que nos efforts en vue de faire garantir et enchâsser nos droits dans la Constitution ont été frustrés de 1982 à 1987, pendant une période de cinq ans. Québec a vécu et vit encore la même frustration, cela depuis 1985, donc depuis environ cinq ans. Espérons que nous pourrons maintenant passer la porte ensemble et qu'il n'y aura plus de concurrence entre les deux.

Mr. MacLellan (Cape Breton—The Sydneys): I will share my 10 minutes with Senator Hays.

I'd like to welcome Mr. George and all of the members from the Native Council of Canada. Once again, your brief has been very helpful and very forceful. I want to thank you very much for it.

I want some clarification on the question of distinct society. I understand the position that certainly the aboriginal people are a distinct society. Because of what you feel is overlapping on the terminology, which may be sensitive in Quebec, you don't necessarily think the term "distinct society" should be used. There are other ways of saying the same thing in different terminology, and you mention that the recognition is something you feel has to be included.

• 1055

I would just like to have some idea of what you exactly believe should be included to compensate for the use of the words "distinct society". The second point is, how should the recognition as a founding nation be worded in the Constitution? Should that be in the Canada clause? Should it be the aboriginal people as one of three founding nations, or the original people of Canada, or original inhabitants? How should it be worded and where should it be in the Constitution?

Mr. George: It could be in the Canada clause but it'll have to be beefed up a little bit more than what one of the 28 proposals has there. There it states that aboriginal peoples were self-governing, so the tense of that word suggests we no

[*Traduction*]

Je ne crois pas avoir le temps d'entrer maintenant dans les détails sur les gouvernements wet'suwet'en, mais si je le faisais, vous comprendriez sans doute parfaitement, parce que je crois que nous parlons des mêmes choses.

Mr. Assiniwi: Mr. Blackburn, as to your comments about having two laws, one for the rich and one for the poor, I fully agree with you, but I'm not necessarily in agreement to say that it is in our favour.

Unlike the Quebec government, our jurisdictions are not recognized in the Canadian Constitution. Quebec jurisdictions are recognized. The right to language and the right to religion are already guaranteed in the Canadian Constitution, which is not our case. We are very much behind as compared to the Quebec government concerning the recognition of our institutions, the control of our resources and over our lives. Quebec is at the starting point whereas we are far from reaching even that starting point in the constitutional debate.

I should also remind you that our efforts to have our rights guaranteed and enshrined in the Constitution have been frustrated from 1982 to 1987, during a five-year period. Quebec has lived and is still living the same frustration, since 1985, for about five years. Let us hope that we will now be able to go through the door together and that there will not be any more competition between the two.

M. MacLellan (Cap-Breton—The Sydneys): Je vais partager mes 10 minutes avec le sénateur Hays.

Je voudrais souhaiter la bienvenue à M. George et à tous les membres du Conseil national des autochtones du Canada. Une fois de plus, votre mémoire a été très utile et très fort. Je tiens à vous en remercier vivement.

J'aimerais avoir des éclaircissements sur la question de la société distincte. Je comprends votre position voulant que les autochtones sont une société distincte. Pour ne pas sembler vouloir utiliser les mêmes termes que le Québec, ce qui pourrait lui déplaire, vous trouvez qu'il ne faut pas nécessairement utiliser les mots «société distincte». Il y a d'autres façons de dire la même chose en employant des termes différents, et vous dites souhaiter que la reconnaissance soit incluse dans la Constitution.

J'aimerais que vous me donniez une idée de ce qui, selon vous, devrait être inclus pour compenser l'emploi de l'expression «société distincte». Deuxièmement, comment la reconnaissance à titre de peuple fondateur devrait-elle être formulée dans la Constitution? Au moyen de la clause Canada? Les peuples autochtones comme membres des trois peuples fondateurs, ou les premiers peuples du Canada ou les premiers habitants? Comment libeller cette reconnaissance, et où le faire dans la Constitution?

M. George: Ce pourrait être dans la clause Canada, mais il faudra lui donner un peu plus de contenu que celui d'une des 28 propositions devant nous. Cette proposition stipule que les peuples autochtones se gouvernaient. Le temps du

[*Text*]

longer have self-government and any self-government we get is new self-government. That's why we talk inherent right. We spell distinct "i-n-h-e-r-e-n-t", inherent. It simply means that we have rights, which are human rights like anyone else's, to look after our affairs.

Granted, people may not be used to that since we've been voting only since 1960. People might not be used to that since we've been able to own businesses and land only since 1960, 15 years after some of our native war veterans died for the freedom of this country. But we do have the right and we are one of the founding members of this country. Our people have died ever since this country was in its founding stages and history shows that, at least history of late. The history I learned wasn't quite like that, and maybe that's where the problem is. Most of you are probably my age if not younger, and you probably learned from your books that Indians were savages and heathen and so on. Well, I've had reason to change my mind but I don't think you have until I have to tell you.

So we're going to have to get used to the idea that we do have those rights, and I appreciate that you've had only 32 years to get used to it. But we've had 125 years, and I think it's time we started off on a new foot.

Mr. Assiniwi: Your concern can be addressed more technically. For example, the federal government or Mr. Clark's office should start by telling us what effect distinct society would have on aboriginal people in Quebec, if any. His comment so far is that it will have some minimal effect at most. Well, we'd like to know what he thinks that minimal effect is. We have concerns that can be answered not necessarily by recognizing us as a distinct society. We were using the word "distinct" in our 1982 to 1987 process in the earlier draft, and we've dropped it. Quebec has adopted the term "distinct society" to define itself. It has taken Quebec almost five years to come to terms with that "distinct society" and accept it as a proper definition of itself. It's their term. There's no need for us to use the same term. We have our own term, but we do have some concern.

For example, there is the question of aboriginal title and civil law. Now, we know aboriginal title and aboriginal rights are now principles recognized in common law. We're getting a feeling, to say the least, from the Quebec courts that the concept is questionable in terms of civil law. So would it mean that recognizing distinct society under section 25, which you will recall is the section that also deals with aboriginal issues and aboriginal people and is a notwithstanding clause for us, will have an effect by directly recognizing the question of civil code? It would have an effect on aboriginal title and aboriginal rights in Quebec.

[*Translation*]

verbe laisse croire que nous ne nous gouvernons plus et que toute autonomie gouvernementale que nous obtiendrons sera une nouvelle autonomie. Voilà pourquoi nous parlons de droit inhérent. Nous exprimons notre caractère distinct par le mot inhérent, i-n-h-é-r-e-n-t. Cela signifie simplement que nous avons des droits, notamment le droit de tout être humain de s'occuper de ses affaires.

Il va de soi que les gens n'y sont peut-être pas habitués, étant donné que nous ne votons que depuis 1960. Ils ne sont peut-être pas habitués, parce que nous ne pouvons posséder des entreprises et des terres que depuis 1960, 15 ans après que certains de nos anciens combattants autochtones eurent donné leur vie pour défendre la liberté de ce pays. Mais nous possédons ce droit, et nous sommes l'un des peuples fondateurs de ce pays. Nos gens ont payé de leur vie depuis les premières étapes de la création du pays, et l'histoire le démontre, l'histoire récente à tout le moins. L'histoire que j'ai apprise était un peu différente; c'est peut-être là le noeud du problème. La plupart d'entre vous ont probablement mon âge ou sont plus jeunes, et vous avez probablement appris dans vos manuels d'histoire que les Indiens étaient des sauvages et des païens, etc. J'ai eu de bonnes raisons de changer d'avis, mais je ne pense pas que vous en aurez, tant que je ne vous les donnerai pas.

Nous devrons donc nous faire à l'idée que nous possédons ces droits. Je sais que vous n'avez eu que 32 ans pour vous faire à cette idée. Mais nous, nous en avons eu 125, et je pense que le moment est venu de repartir à neuf.

M. Assiniwi: Votre inquiétude peut-être apaisée de manière technique. Par exemple, le gouvernement fédéral ou le cabinet de M. Clark devrait d'abord nous dire quels effets la société distincte aura sur les peuples autochtones du Québec, le cas échéant. Jusqu'ici, M. Clark a affirmé que les effets seront tout au plus minimes. Nous aimerions qu'il définisse ce qu'il entend par «effets minimes». Nous avons des préoccupations auxquelles on peut répondre, pas nécessairement en nous reconnaissant comme une société distincte. Nous avons employé le mot «distincte» dans les premières ébauches de notre processus, de 1982 à 1987, puis nous l'avons laissé tomber. Le Québec a retenu l'expression «société distincte» pour se définir. Il a mis presque cinq ans pour définir cette «société distincte» et pour accepter que cette expression la définit bien. C'est son expression. Nous n'avons pas besoin d'employer la même. Nous avons notre propre expression, mais nous avons aussi des préoccupations.

Il y a, par exemple, la question des titres autochtones et du droit civil. Nous savons que les titres autochtones et les droits ancestraux sont désormais des principes reconnus dans le «common law». Nous avons l'impression, c'est le moins qu'on puisse dire, à en juger par les décisions des tribunaux du Québec, que ces principes sont contestables en droit civil. Cela voudrait-il dire que reconnaître la société distincte aux termes de l'article 25, qui, vous vous en souviendrez, porte également sur les questions et les peuples autochtones et constitue une clause dérogatoire pour nous, aura des conséquences en reconnaissant directement le Code civil? Il y aurait des conséquences sur les titres et les droits des autochtones au Québec.

[*Texte*]

• 1100

Those are questions that I think can be addressed without going through temper tantrums. Those are technical concerns that I think we can answer in a technical fashion. Let's drop the rhetoric and get on with the business at hand.

Senator Hays (Calgary): Thank you, Mr. George, for your excellent brief and helpful response to our questions. My main question was the one my colleague has just pursued. I just want to confirm what I hear, and you summed it up best when you said "inherent" is the key word for the people you represent. You might want to comment on that further if I misunderstood you. You see yourselves as a distinct society and would like that reference. However, the key thing for you and the people you speak for is recognition of your inherent right to self-government. I have a question on that involving section 35.

I guess all of this makes me wonder the extent to which I am a member of a self-governing group, to try to relate it to what you see wanting in your world. Of course, one of the key elements of that would be participation in a process such as this, where we are amending an important, what you would call, "covenant", which you define in the materials you've given to us. And you do have a role, but you're not happy with the role as described and provided for in sections 35 and 35.1.

To try to go to the heart of it, the role that aboriginals have to play, it just says that the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in discussions on "that item", that item being matters in the Constitution that affect aboriginals.

Comment on "inherent" if you want, but I think you've answered it, and I said what I heard. On the matter of sections 35 and 35.1, what is your advice to us in terms of remedying what you see wanting as you see yourself as self-governing, in a way I don't see it wanting because I feel I'm participating in the process?

Mr. George: I think you struck on the key word that you mentioned earlier, and that was "invitee". That's great, you invite us. For instance, we were not participating in the first ministers conference on economics yesterday, yet we presented five suggestions as to how that could be addressed. But again, you've had only 32 years, so I guess that doesn't really ring as realistic as it should. The Meech Lake draft, for instance, as I've been reminded, affected us, but we weren't invited.

If we were to hold a meeting on fee simple title and not invite homeowners, I suggest there'd be quite a furore around this table here. For instance, if I were to have a self-governing area and not invite you to a by-law change where I'd lowered the speed limit 20 miles an hour through my territory and nicked you for speeding charges, you probably wouldn't feel too good if you weren't invited to those discussions. That's what we mean. Anything that affects our

[*Traduction*]

Voilà des questions que l'on peut régler sans sortir de ses gonds. Voilà des préoccupations techniques qui, à mon avis, peuvent être réglées de manière technique. Cessons ces discours creux et passons aux choses sérieuses.

Le sénateur Hays (Calgary): Merci, monsieur George, de votre excellent mémoire et de vos réponses utiles à nos questions. Ma principale question vient d'être posée par un de mes collègues. Je veux simplement faire confirmer ce que j'entends. Vous avez bien résumé les faits quand vous avez déclaré qu'«inhérent» est le terme clé pour les gens que vous représentez. Vous voudrez peut-être apporter des éclaircissements si je vous ai mal compris. Vous vous considérez comme une société distincte et aimeriez qu'on le consacre. Toutefois, l'aspect crucial pour vous et les gens que vous représentez est la reconnaissance de votre droit inhérent à l'autonomie gouvernementale. J'ai une question à ce propos, qui touche à l'article 25.

Tout cela m'amène à m'interroger sur la mesure dans laquelle j'appartiens à un groupe qui jouit d'une autonomie gouvernementale, pour essayer de comprendre ce que vous recherchez dans votre monde. L'un des éléments clés de cette autonomie serait bien sûr la participation à un processus tel que celui-ci, par lequel nous modifions un «pacte» important, comme vous l'appelez, et que vous définissez dans les documents que vous nous avez remis. Vous aussi avez un rôle à jouer, mais vous n'êtes pas satisfaits du rôle décrit et prévu dans les articles 35 et 35.1.

Pour essayer d'aller au coeur du sujet—le rôle que les autochtones doivent jouer—, ces articles stipulent simplement que le premier ministre du Canada invitera les représentants des peuples autochtones du Canada à participer aux travaux relatifs à «cette question», cette question étant les aspects de la Constitution qui touchent aux autochtones.

Commentez le terme «inhérent» si vous en avez envie, mais je pense que vous l'avez fait et j'ai rapporté ce que j'ai entendu. Au sujet des articles 35 et 35.1, que nous conseillez-vous pour répondre à vos attentes en matière d'autonomie gouvernementale, des attentes que je n'ai pas puisque je participe au processus?

M. George: Je pense que vous avez relevé le mot clé que vous avez mentionné plus tôt, soit le mot «invité». Excellent, vous nous invitez. Ainsi, nous n'avons pas participé à la conférence des premiers ministres sur l'économie hier. Nous avons pourtant présenté cinq suggestions sur la façon de régler le problème. Mais, encore une fois, vous n'avez eu que 32 ans, de sorte que l'idée ne paraît peut-être pas aussi réaliste qu'elle le devrait. L'ébauche de l'Accord du lac Meech, par exemple, comme je l'ai rappelé, nous touchait, mais nous n'avons pas été invités.

Si nous devions organiser une réunion sur les terres occupées à titre de propriété libre et que nous n'invitions pas les propriétaires, je pense qu'il y aura un tollé de protestations autour de la table. Si je jouissais de l'autonomie gouvernementale et que je ne vous invitais pas à discuter d'une modification d'un règlement administratif ayant pour but d'abaisser la vitesse maximale à 20 milles à l'heure sur mon territoire et que je vous accusais d'excès de vitesse, vous

[*Text*]

lives we have to be involved in, and that just about includes everything that affects your lives.

Mr. Nystrom: Welcome to the organization here today. Mr. George, I commend you on your very reasonable and accommodating approach. It's an approach that I think is very, very constructive and will go a long way towards obtaining for aboriginal people the rights aboriginal people need in this country.

• 1105

For the value not only of ourselves but of our television audience today, I wonder whether you can tell us how many people your organization represents. We have four national aboriginal organizations. The Inuit represent around 30,000, but I'm not quite sure how many the others represent.

Mr. George: Statistics Canada has given us figures from 1986 that say there are in the neighbourhood of 500,000 status Indians, 300,000 of whom live on reserve. Given the federal policy that they recognize only status Indians with band membership residing on reserves, where does that leave the other 200,000? They cross our thresholds of our volunteer-run institutions off reserve that get no funding.

The other statistic Statistics Canada has is that there are in the neighbourhood of 250,000 to 300,000 non-status Indians, and the other statistic is in the neighbourhood of 250,000 to 300,000 Métis. We share representation of the Métis with the Métis National Council. We respect their jurisdiction. So between the Métis National Council and the Native Council of Canada, we embrace the interests of in the neighbourhood of 750,000 Indians. I reiterate that the press and the government had better start paying attention to the interests of these people. We speak on their behalf, and no one else does.

Mr. Nystrom: So you would be, along with the Métis National Council, the organization that represents the majority of aboriginal people in this country.

I would like to ask you two specific questions. First, in the Quebec National Assembly in 1985, when René Lévesque was the Premier of Quebec, a resolution was passed that explicitly recognized the aboriginal people. He said:

> so as to enable them to develop as distinct nations having their own identity and exercising it within Quebec;

He called them distinct nations, and they were talking about:

(a) the right to self-government within Quebec; (b) the right to their own language, culture, and traditions; (c) the right to own and control land; and so on.

The reference was to distinct nations. Might that be a term we can look at as one that may be useful in defining the uniqueness of aboriginal people in this country?

[*Translation*]

ne vous sentiriez probablement pas très bien, si vous n'étiez pas invités à ces discussions. Voilà ce que nous voulons dire. Nous devons participer à tout ce qui influence nos vies et cela inclut à peu près tout ce qui influence les vôtres.

M. Nystrom: Bienvenue à votre organisation. Monsieur George, je vous félicite de votre attitude très raisonnable et très accommodante. Selon moi, elle est très constructive et aidera grandement les autochtones à obtenir les droits dont ils ont besoin dans notre pays.

Pour nous-même, mais aussi pour les téléspectateurs qui nous regardent aujourd'hui, je me demande si vous pouvez nous indiquer combien de gens représente votre organisation. Il y a quatre organisations nationales autochtones. Les Inuit représentent environ 30,000 personnes, mais je ne sais pas exactement combien de membres les autres organisations représentent.

M. George: Statistique Canada a indiqué qu'en 1986, il y avait environ 500,000 Indiens inscrits, dont 300,000 dans les réserves. Étant donné la politique fédérale qui ne reconnaît que les Indiens inscrits membres d'une bande et habitant dans une réserve, qu'advient-il des 200,000 autres? Ils se retrouvent dans nos organismes bénévoles hors-réserve qui ne reçoivent aucune financement.

Statistique Canada estime également qu'il y a de 250,000 à 300,000 Indiens non inscrits et à peu près le même nombre de Métis. Nous partageons la représentation des Métis avec le Ralliement national des Métis. Nous respectons leur champ de compétence. Par conséquent, le Ralliement national des Métis et le Conseil national des autochtones du Canada représentent les intérêts d'environ 750,000 Indiens. Je rappelle que la presse et le gouvernement feraient bien de commencer à porter attention aux intérêts de ces gens. Nous parlons en leur nom et personne d'autre ne le fait.

M. Nystrom: Par conséquent, avec le Ralliement national des Métis, vous êtes l'organisme qui représente la plupart des autochtones du pays.

J'aimerais vous poser deux questions précises. Premièrement, l'Assemblée nationale du Québec a adopté en 1985, quand René Lévesque était premier ministre du Québec, une résolution qui reconnaissait explicitement les peuples autochtones. M. Lévesque a en effet déclaré:

> Afin de les aider à se développer en tant que nations distinctes ayant leur propre identité et l'exerçant au Québec.

Il les a appelé des nations distinctes et il parlait:

a) du droit à l'autonomie gouvernementale au Québec, b) du droit à leur propre langue, à leur culture et à leurs traditions, c) du droit de posséder et de contrôler la terre, etc.

Il était question de nations distinctes. Cette expression pourrait-elle nous aider à définir le caractère unique des peuples autochtones du pays?

[*Texte*]

Mr. George: The 1985 resolution actually was from a 1984 aboriginal draft from the constitutional table. The point I was referring to for Mr. Blackburn earlier was that we used the word "distinct" before Quebec did. But, hey, if they want it now, it's theirs, they can have it. No problem.

On that draft, do not give too much credence to that paper. It's a resolution of the House. It's not legally binding. Not only that, but the party of opposition at that time, the Liberal Party that is now in power, voted unanimously against it.

Mr. Nystrom: That's interesting to know, because that was just another term—

Mr. George: Nor are the off-reserve people or the Métis in Quebec represented in that resolution.

Mr. Nystrom: Thank you very much for that answer.

I wanted you, Mr. George, to elaborate a bit more on how the inherent right to self-government, which I support for aboriginal people and which I think most people around this table support, would apply to aboriginal people in the cities. For example, yesterday before the committee Mr. Mercredi, in his definition of inherent right to self-government, excluded only national defence and the monetary system or the currency system. It seems to me he was entertaining that self-government could include everything except for the military and currency. I wonder if you can elaborate on your point of view and specifically how you would envisage this pertaining to the aboriginal people who live in the many cities and towns of this country.

Mr. George: I suggest that it might apply to us in the same way as the rights apply to soldiers who are in Germany, in the United Nations forces. There's no question about their rights applying to them if they are Canadian citizens, so where we live really shouldn't make any difference to whether our rights apply to us.

• 1110

Granted, we still have some logistics to work out, such as land, resources, transfer payments. I say transfer payments because we pay taxes. Statistics Canada shows very clearly that the off-reserve populations, the only ones who pay taxes, if you are working off-reserve, they pay between $4 and $5 billion in taxes a year. We only get about $500 million back in programs and services. The rest is spent on keeping our people in jail or in alcohol and drug institutions. I think we can make better use of that money.

Those are the logistics we have to work out. I have shown you the model of URBAN in Vancouver, and I know there are other systems being set up in centres like Toronto and Winnipeg. Those are the ways we can fit in, and not without your participation. We expect to dialogue with anyone we are affecting. If it's the federal government, we expect to dialogue with you. If it's a provincial government, we expect to do the same. No one is going to agree to

[*Traduction*]

M. George: La résolution de 1985 découlait d'une ébauche autochtone qui avait circulé à la table constitutionnelle en 1984. Ce que je voulais faire comprendre à M. Blackburn tantôt, c'est que nous avons employé le mot «distinct» bien avant que le Québec le fasse. Mais si les Québécois veulent l'employer maintenant, nous le leur laissons, ils peuvent l'avoir. Aucun problème.

N'accordez pas trop d'importance à ce document. C'est une résolution de l'Assemblée, qui ne lie personne. De plus, le parti de l'opposition à l'époque, le Parti libéral, actuellement au pouvoir, a voté unanimement contre.

M. Nystrom: C'est un renseignement intéressant, parce que c'était tout simplement un autre terme—

M. George: Qui plus est, les Indiens hors-réserve et les Métis ne sont pas visés par cette résolution.

M. Nystrom: Merci beaucoup pour cette réponse.

Je voudrais, monsieur George, que vous expliquiez un peu plus comment le droit inhérent à l'autonomie gouvernementale, que j'appuie pour les autochtones et que probablement tout le monde autour de cette table appuie également, comment ce droit s'appliquerait aux autochtones qui vivent dans les villes. Ainsi, dans son témoignage d'hier, M. Mercredi n'a exclus de sa définition du droit inhérent à l'autonomie gouvernementale que la défense nationale et le système monétaire. Il me semble qu'il soutenait que l'autonomie gouvernementale devrait tout comprendre sauf l'armée et la monnaie. Je me demande si vous pouvez nous donner votre point de vue et nous indiquer comment vous appliqueriez ce droit aux autochtones qui vivent dans les villes du pays.

M. George: Je pense qu'il pourrait s'appliquer à nous de la même façon que les droits s'appliquent aux soldats en Allemagne ou aux forces des Nations Unies. Il ne fait aucun doute qu'ils ont des droits s'ils sont citoyens canadiens; par conséquent, le lieu de résidence ne devrait avoir aucune espèce d'incidence sur nos droits.

Je reconnais que nous devrions régler des problèmes logistiques, comme les terres, les ressources et les paiements de transfert. J'évoque les paiements de transfert parce que nous payons des impôts. Statistique Canada démontre clairement que les populations hors-réserve, les personnes qui paient des impôts quand elles travaillent hors des réserves, versent de 4 à 5 milliards de dollars en impôts par année. Nous n'obtenons en retour qu'environ 500 millions de dollars en programmes et en services. Le reste sert à garder nos gens derrière les barreaux ou dans des centres de désintoxication. Je pense que nous pouvons faire un meilleur usage de cet argent.

Voilà les aspects logistiques à régler. Je vous ai montré le modèle d'URBAN à Vancouver et je sais que d'autres systèmes sont implantés dans des villes comme Toronto et Winnipeg. Ce sont les moyens que nous pouvons utiliser, mais pas sans votre participation. Nous comptons dialoguer avec tous ceux que nous touchons. S'il s'agit du gouvernement fédéral, nous nous attendons à dialoguer avec vous. S'il s'agit d'un gouvernement provincial, nous ferons de

[*Text*]

anything and sign anything they don't agree to, thus our suggestion for a covenant and a treaty.

We can save you guys through section 35. You don't have to go through this long, drawn out 7 and 50 formula. It can be entrenched in the Constitution through section 35 and it's something we will all agree to. You won't sign anything you don't agree to, but we all agree that we want to save Canada. We all agree that the French have rights, that aboriginal people have rights, that English-speaking Canadians have rights. Let's put it down on paper and agree to it and entrench it in our section, and get on with the details of the other things concerning us.

Mr. Nystrom: I wonder if you can give us some advice as to the mechanism of how one achieves self-government. How do you see it being negotiated over the years?

Since that is my last question, I want once again to note a couple of things you said which I think are very useful for this committee. In terms of distinct societies or unique societies, you said your demand is not for the word. The important thing is that the principle be entrenched. Another thing you're saying is that you would like to compromise, but you do not abandon your goals and principles. I think those are welcome words for someone who wants to build that national accommodation. It will go a long way to making sure that aboriginal people are part of that accommodation. Your leadership is really appreciated here this morning.

My last question is on the mechanisms to achieve the goal. I'm not sure if we want to enshrine that in the Constitution because the courts would be interpreting it, but I wonder if you could provide us with a bit of insight as to what the mechanism should be. I am talking here about people you represent who are not on-reserve status Indians.

Mr. Martin Dunn (Co-Chair, Constitutional Review Commission, Native Council of Canada): If I might, Madam Chair, that's a question the NCC in particular has been addressing itself to since well before the beginning of this process in the late 1970s. We knew then that if the kinds of initiatives that were coming forward were going to work for us, we would have to propose how they would work.

In the context of the 1983-87 process, the focus seemed to be fixed on recognition of the right, which of course is still an issue, and the second one was a commitment to negotiate, understanding that there is a wide variety of aboriginal peoples in Canada and a wide variety of accommodation required to meet their just aspirations.

We struggled to get a mechanism entrenched in the Constitution that would constitutionally commit governments to negotiate. That was our basic problem, that we couldn't get governments to the table. We wanted to develop a mechanism whereby aboriginal peoples, communities, regions and tribal groups, however they defined themselves in terms of their own collectivity, could pull the trigger that would require the other parties to come to the table and begin the

[*Translation*]

même avec lui. Personne n'acceptera ni ne signera quoi que ce soit contre son gré, d'où notre proposition de pacte et de traité.

Nous pouvons vous sauver par le biais de l'article 35. Vous n'aurez pas à passer tout ce temps à examiner la formule 7/50. On peut le consacrer dans la Constitution au moyen de l'article 35. C'est un aspect sur lequel nous nous entendrons tous. Vous ne signerez rien si vous n'êtes pas d'accord, mais nous convenons tous que nous voulons sauver le Canada. Nous convenons tous que les francophones ont des droits, que les autochtones ont des droits et que les Canadiens anglophones ont des droits. Couchons-le sur papier, acceptons-le et consacrons-le dans notre article, puis passons aux autres choses qui nous intéressent.

M. Nystrom: Je me demande si vous pouvez nous conseiller sur le mécanisme qui permet d'obtenir l'autonomie gouvernementale. Comment ce mécanisme sera-t-il négocié au fil des années?

Étant donné que ce sera ma dernière question, je veux revenir une fois de plus sur certaines de vos déclarations qui, à mon avis, sont très utiles pour le comité. À propos des sociétés distinctes ou uniques, vous déclarez ne pas revendiquer l'utilisation du principe. Vous affirmez également que vous êtes prêts à faire des compromis mais que vous ne renoncez pas à vos objectifs et à vos principes. Je pense que ces affirmations sont les bienvenues, de la part de quelqu'un qui veut arriver à ce compromis national. Elles contribueront grandement à l'inclusion des autochtones dans ce compromis. Votre leadership est très apprécié ici ce matin.

Ma dernière question porte sur le mécanisme qui permettra d'atteindre l'objectif. Je ne suis pas certain que nous voulions l'enchâsser dans la Constitution car les tribunaux l'interpréteraient, mais je me demande si vous pouvez nous expliquer en quoi devrait consister ce mécanisme. Je parle ici des gens que vous représentez et qui ne sont pas des Indiens inscrits vivant dans les réserves.

M. Martin Dunn (coprésident, Commission de l'examen constitutionnel, Conseil national des autochtones du Canada): Si vous me permettez, madame la présidente, c'est une question que le CNAC s'est posée bien avant le début du processus actuel, à la fin des années 70. Nous savions que, pour que le genre de mesures qui s'annonçaient fonctionnent pour nous, nous devions en proposer le mode de fonctionnement.

Dans le cadre du processus de 1983 à 1987, l'accent a semblé porter sur la reconnaissance du droit, qui est bien sûr encore contesté, et sur la volonté de négocier, tout en tenant compte de l'existence d'un grand nombre de peuples autochtones au Canada et des nombreux compromis nécessaires pour répondre à leurs aspirations.

Nous avons lutté pour faire enchâsser dans la Constitution un mécanisme par lequel les gouvernements s'engageraient constitutionnellement à négocier. C'était là notre problème fondamental: nous ne pouvions amener les gouvernements à s'asseoir autour de la table. Nous voulions concevoir un mécanisme par lequel les peuples, les collectivités et les régions autochtones ainsi que les groupes tribaux, peu importe la façon dont ils se définissaient eux-

[*Texte*]

process of negotiation on how aboriginal government should be defined in a particular space and place.

I was very encouraged at the meeting in Toronto when Mr. Gordon Robertson talked about how his mind had been changed over the years as to how self-government might be built on the ground in Canada. He described a mechanism. Unfortunately, he used a rather difficult word, but perhaps we can turn that around.

• 1115

What he said was that it seems clear that in Canada now the inherent right to aboriginal self-government is an acceptable concept. His concern was that that then must be separated from the application of that right in specific contexts. The word "separate" was unfortunate. If he could just turn that word around and say the inherent government must be linked to its application, then we would have a basis upon which we could begin a negotiation process.

I don't think any aboriginal group in the country has any resistance to the idea that the inherent right and how it realizes itself in reality are a multi-step process, but the initial blockage was to have established in law a clear recognition that we, as aboriginal peoples, have inherited the right to self-government from our forefathers. On the basis of that inheritance we now sit down in a negotiation forum—a mutually agreeable negotiation forum—and the covenant treaty concept could certainly play a role in that context.

There are many, many mechanisms in Canadian law now by which communities of interest, as opposed to geographic communities, are recognized, Catholic school boards being one, and there are others. Those kinds of mechanisms are not strange to the Canadian system, and I am certain that given the impetus that would be generated by a clear recognition of the inherent right, it would be a much, much easier task to establish the mechanism by which that right would be applied on the ground.

Mr. Dwight Dorey (Chairman, Constitutional Task Force, Native Council of Canada): Madam Chairperson, I would like to respond to the question myself. As president of the Native Council of Nova Scotia, I want to give you some clear examples of what we're talking about in terms of self-government for off-reserve people. But prior to doing that, I also want to give you my own personal opinion of the issue of our distinctness in terms of the Constitution. I believe that when we talk about the inherent right of self-government for the aboriginal people in Canada, as was stated quite clearly in our presentation by Mr. George today, we are talking about equity of access in respect of that self-government.

If that is a fundamental aspect of the recognition of self-government, the inherent right of self-government to go into the Constitution, and if we can beef up the preamble, as was alluded to by Mr. MacLellan, I believe in doing it that way. If

[*Traduction*]

mêmes, pourraient forcer les autres parties à s'asseoir à la table et à engager le processus de négociation sur la manière dont le gouvernement autochtone devrait être défini à un endroit donné.

J'ai été très encouragé à la réunion de Toronto quand M. Gordon Robertson a indiqué comment il avait changé d'avis au fil des années quant à la manière d'instaurer l'autonomie gouvernementale au Canada. Il a décrit un mécanisme. Malheureusement, il a employé un terme un peu difficile, mais nous pouvons peut-être contourner cette difficulté.

Il a affirmé qu'il semblait évident que le droit inhérent à l'autonomie gouvernementale des autochtones est désormais une idée acceptable au Canada. Il estimait qu'il fallait maintenant séparer ce droit de son application dans certains contextes particuliers. Le mot «séparer» était malheureux. S'il avait simplement affirmé que le droit inhérent à l'autonomie gouvernementale doit être lié à son application, nous aurions eu la possibilité d'amorcer des négociations.

Je suis sûr qu'aucun groupe autochtone du Canada s'oppose à l'idée que le droit inhérent et la façon dont il se concrétise représentent un processus à plusieurs étapes. Mais ce qui nous a freiné au départ, c'est qu'il fallait faire reconnaître clairement dans le droit canadien que nous, en tant que peuples autochtones, avions hérité de nos ancêtres le droit de nous gouverner. Compte tenu de cet héritage, nous nous trouvons actuellement dans un processus de négociation—un processus de négociation qui convient à toutes les parties—et l'idée d'un pacte et d'un traité pourrait certainement jouer un rôle dans ce contexte.

Le droit canadien prévoit actuellement de nombreux mécanismes par lesquels on reconnaît des communautés d'intérêts, par rapport à des collectivités géographiques, par exemple les commissions scolaires catholiques. Ces types de mécanismes ne sont pas rares dans le système canadien et je suis convaincu que, compte tenu de l'impulsion que donnerait la reconnaissance non équivoque du droit inhérent, il serait beaucoup plus facile de mettre en place le mécanisme par lequel ce droit s'appliquerait concrètement.

M. Dwight Dorey (président, Groupe de travail constitutionnel, Conseil national des autochtones du Canada): Madame la présidente, j'aimerais répondre moi-même à cette question. À titre de président du Conseil des autochtones de la Nouvelle-Écosse, je veux vous donner des exemples très clairs de ce que nous entendons quand nous parlons d'autonomie gouvernementale des autochtones hors-réserve. Mais auparavant, je veux également vous donner mon opinion personnelle sur la question de notre caractère distinct par rapport à la Constitution. Je crois que, quand nous parlons du droit inhérent à l'autonomie gouvernementale des autochtones au Canada, comme l'a indiqué clairement M. George dans notre exposé d'aujourd'hui, nous parlons de l'égalité d'accès à ce gouvernement.

Il s'agit d'un aspect fondamental de la reconnaissance de l'autonomie gouvernementale, de l'affirmation du droit inhérent à l'autonomie gouvernementale dans la Constitution, et si nous pouvons donner un peu plus de

[*Text*]

it can be acknowledged and recognized in the preamble of the Constitution that the aboriginal people are one of the founding peoples of this country and it is not just the French and English, that will be about as distinct as we would expect to get.

Secondly, on the matter of self-government, I think, Mr. Nystrom, you pointed out in your own question that it is basically understood at this point in the process that we are talking about a self-government for the aboriginal peoples of Canada that will be negotiated.

Again, given the fact that we're talking about equity of access for the off-reserve people in this country, if that's a fundamental component of that recognition of self-government, then we will negotiate. In Nova Scotia right now there are two separate processes that I, myself, as a representative of the off-reserve people, the Micmac of Nova Scotia, am involved in. There is a tripartite process that got started as a result of the Donald Marshall inquiry, where we are dealing with issues that are primarily associated with the justice system but, nevertheless, it was agreed by all parties, the federal representatives and the provincial representatives, that we will be talking about other matters in respect of aboriginal and treaty rights, self-government being one of those things.

Through that process we are talking about things such as a Micmac justice institute in the province of Nova Scotia which, to us, is a self-governing institute for the Micmac people. And when we talk about a justice institute we don't talk about an institute that just services people on reserves. We are talking about an institute that will provide important services to people regardless of where they live. Whether they live in rural areas, whether they live in Halifax, in Sydney, or in towns, it doesn't matter. And I think there is no reason in anybody's mind why it can't be done. It is not an insurmountable task to put together and it is something that is being fairly well received to this point, I think.

• 1120

The second process that is already started is with respect to this constitutional issue that we are dealing with here. The Premier of Nova Scotia has, through the Kierans committee on the Constitution, established a bilateral process with the Micmac of Nova Scotia. I am also involved in that process, and we are talking about what we believe our inherent right of self-government to be for off-reserve people in Nova Scotia through that bilateral process. It is going to be a negotiated process.

I just want to give one clear example of what I'm talking about in terms of self-government. A Supreme Court of Canada decision in 1985 acknowledged and affirmed a pre-Confederation treaty to hunt in the province of Nova Scotia. Last year we implemented our own process of self-governing our people in accessing their treaty rights. That process is for all the people in the province of Nova Scotia, regardless of where they live. And we address safety and conservation. We

[*Translation*]

contenu au préambule, comme l'a mentionné M. McLellan, je crois que nous devrions agir dans ce sens. Si on pouvait reconnaître et affirmer dans le préambule de la Constitution que les peuples autochtones font partie des peuples fondateurs du pays, et pas seulement les Français et les Anglais, ce serait probablement la plus grande reconnaissance de notre caractère distinct à laquelle nous pourrions nous attendre.

Deuxièmement, à propos de l'autonomie gouvernementale, je pense que vous avez fait allusion dans votre question, monsieur Nystrom, au fait que l'on convient désormais que l'autonomie gouvernementale des autochtones du Canada sera négociée.

Là encore, étant donné qu'il est question d'égalité d'accès pour les autochtones hors-réserve, s'il s'agit d'un aspect essentiel de la reconnaissance de l'autonomie gouvernementale, nous négocierons. En Nouvelle-Écosse, je participe actuellement à deux processus distincts, à titre de représentant des Micmacs hors-réserves de la Nouvelle-Écosse. Il y a d'abord un processus tripartite découlant de l'enquête de Donald Marshall, où nous traitons de questions liées principalement au système judiciaire, mais toutes les parties—les représentants fédéraux et les représentants provinciaux—ont néanmoins convenu que nous discuterons d'autres questions relatives aux droits ancestraux et issus de traités, l'autonomie gouvernementale en étant une.

Au cours de ce processus, nous parlons par exemple de la création d'un institut judiciaire micmac en Nouvelle-Écosse qui, pour nous, serait un institut autonome s'adressant aux Micmacs. Et quand nous parlons d'un institut judiciaire, nous ne voulons pas dire un institut qui s'adresse uniquement aux Indiens dans les réserves. Nous parlons d'un institut qui fournira aux gens des services importants, peu importe l'endroit où ils habitent, qu'ils vivent dans les régions rurales, à Halifax, à Sydney ou dans d'autres villes. Et je pense que personne n'y voit d'objection. Ce n'est pas une tâche insurmontable, et c'est une idée qui est assez bien accueillie, jusqu'à maintenant, je crois.

Le deuxième processus touche à la question constitutionnelle que nous examinons ici. Par l'entremise du Comité Kierans sur la Constitution, le premier ministre de la Nouvelle-Écosse, a institué un processus bilatéral avec les Micmacs de la Nouvelle-Écosse. J'y participe également, nous y parlons de la façon dont nous envisageons le droit à l'autonomie gouvernementale pour les autochtones hors-réserve de la Nouvelle-Écosse. Il s'agit d'un processus de négociation.

Je veux donner un exemple clair à propos de l'autonomie gouvernementale. Une décision de la Cour suprême du Canada rendue en 1985 a reconnu et affirmé un traité antérieur à la Confédération permettant de chasser en Nouvelle-Écosse. L'an dernier, nous avons mis en oeuvre notre propre processus de gouvernement permettant à nos gens de faire respecter leurs droits issus de traités. Ce processus s'adresse à tous, peu importe où ils vivent. Et nous

[*Texte*]

provide tags to our people and reporting cards for conservation purposes, and the province has nothing to do with it. It is not interfering in the process and we are implementing it.

That is self-government, and that's what we're talking about. It doesn't matter if you live on a reserve, in an urban centre, or in a rural community; it can be done. All it takes is the will to do it and that's all we're looking for.

The Joint Chairman (Mrs. Dobbie): Thank you. I believe Mr. Littlechild has a point of order.

Mr. Littlechild: Thank you, Madam Co-Chair, I do. In the documents that were circulated this morning by the council, one is missing that was tabled with the liaison committee in Yellowknife, and I wanted to ensure that all committee members have it. The document is entitled "Aboriginal Peoples and the Division of Powers in a Reformed Federalism". It was very beneficial to us and I'm sure it will be beneficial to the whole of the committee.

The Joint Chairman (Mrs. Dobbie): Thank you, Mr. Littlechild, for that point of order.

We thank you, Mr. George and companions, for your presentation this morning.

I have a very brief last question. Mr. George, you have been asking throughout the conferences since the one held in Halifax for a conference of your own, and one has been tentatively put forward by the government. Are you in favour of that conference?

Mr. George: We still have to deliberate on that issue. Mr. Clark gave us several options to consider and we will be getting back to him on Monday, so I can't give you a real definitive answer.

The preliminary answer I could give you is that any window of opportunity we have to express further information on the off-reserve issues is a welcome one, but it has to be compatible with our other four aboriginal organizations and so on. So that answer will be available on Monday.

Before I close off, I would also like to invite everyone to our other parallel processes, our First Peoples' Forums that are taking place. Pay particular interest to the one to be held in Vancouver, where 1,000 non-aboriginal people are hoping to make representations. Those are the kind of steps we envision as building Canada, where we have dialogue with everyone.

The Joint Chairman (Mrs. Dobbie): Thank you very much. We'll see you this afternoon at the in camera session.

Now, colleagues, we must break for three minutes for a technical problem, then we will return.

• 1124

[*Traduction*]

tenons compte de la sécurité et de la conservation. Nous donnons des étiquettes et des fiches signalétiques aux fins de conservation. La province n'a rien à y voir et elle ne s'ingère pas dans le processus que nous sommes en train de mettre en oeuvre.

Voilà ce que nous entendons par autonomie gouvernementale. Il importe peu que l'on vive dans une réserve, dans un centre urbain ou dans une collectivité rurale; on peut y arriver. Tout ce qu'il faut, c'est la volonté d'y parvenir et c'est tout ce que nous recherchons.

La coprésidente (Mme Dobbie): Merci. Je crois que M. Littlechild a une observation.

M. Littlechild: Merci, madame la présidente. Vous avez raison. Parmi les documents que le conseil nous a remis ce matin, il en manque un qui a été déposé au comité de liaison de Yellowknife et je voulais m'assurer que tous les membres du comité l'ont reçu. Il s'intitule «Les Autochtones et la répartition des pouvoirs dans un fédéralisme renouvelé». Il nous a été très utile et je suis certain qu'il le sera pour l'ensemble du comité.

La coprésidente (Mme Dobbie): Merci, monsieur Littlechild, pour cette précision.

Nous vous remercions, monsieur George et vos collègues, pour cet exposé de ce matin.

J'ai une dernière question, très brève. Tout au long des conférences qui se sont déroulées depuis celle de Halifax, vous avez demandé, monsieur George, votre propre conférence. Le gouvernement en a proposé une, dont les dates restent à confirmer. Êtes-vous en faveur de cette conférence?

M. George: Nous devons encore en discuter. M. Clark nous a donné plusieurs choix que nous devons considérer. Nous lui donnerons une réponse lundi. Je ne peux pas vous répondre de manière définitive.

Pour l'instant, je peux vous dire que toute occasion nous permettant de fournir d'autres renseignements sur les questions des Indiens hors-réserve est la bienvenue, mais elle doit être compatible avec les besoins des quatre autres organisations autochtones, et autres. Nous donnerons donc notre réponse lundi prochain.

Avant de terminer, j'aimerais également vous inviter tous à nos autres processus parallèles, à nos forums des Premières nations. Portez une attention particulière à celui de Vancouver, où 1,000 autochtones espèrent présenter des témoignages. Il s'agit du genre de mesures que nous envisageons pour bâtir le Canada, et qui nous permettent de dialoguer avec tout le monde.

La coprésidente (Mme Dobbie): Merci beaucoup. Nous vous retrouverons cet après-midi pour une séance à huis clos.

Nous ferons maintenant une pause de trois minutes, chers collègues, afin de régler un problème technique. Nous revenons tout de suite.

[*Text*]

• 1127

The Joint Chairman (Mrs. Dobbie): Our technical problems have been addressed, and it is now time to return to the table for our next guests, who are the Inuit Tapirisat of Canada, with Rosemarie Kuptana.

Good morning, Mrs. Kuptana. This morning, Mrs. Kuptana, who is the President of the Inuit Tapirisat of Canada, has with her John Amagoalik of the Inuit Committee on Constitutional Issues; and Wendy Moss, the Co-ordinator for Constitutional Issues. Welcome. We have an hour, and you may begin with an address followed by some discussion and dialogue.

Ms Rosemarie Kuptana (President, Inuit Tapirisat of Canada): Thank you, Madam Chairperson.

[*Witness continues in native language*]

I would like to introduce John Amagoalik, who is the ITC constitutional committee member; and Wendy Moss, constitutional adviser. We are pleased to be here today to address this Special Joint Committee on a Renewed Canada, with our comments and our views from an Inuit perspective.

We will table with you a constitutional position paper entitled "Inuit in Canada: Striving for Equality". This is the preliminary statement of the Inuit at this time, and the French and Inuktitut are with the translators. These will be available to the committee as soon as we receive them.

• 1130

Over the last few years Inuit have expressed a renewed determination to protect our language, our culture and our traditional activities, and to have greater control and authority over our lives and our communities. Constitutional reform is necessary to achieve these objectives and to correct the injustices and inequities that exist in the present system of government. Fundamental constitutional change is required to acknowledge the development of aboriginal self-government, and to enable Inuit and all aboriginal peoples to maintain their dignity and self-respect.

Constitutional reform will allow Canadian and aboriginal peoples to participate together in reshaping Canada into a country that is more responsive to aboriginal peoples and to all Canadians. As Inuit we've frequently endured great hardship, and our culture has designed appropriate means to manage these hardships and to continue our lives productively. We've learned to celebrate the pleasures of life as well as to accept its difficulties. It is unfortunate that the recent political discussions in Canada have been marked by bitterness and confrontation. Utilizing our unique Inuit culture and value system, we believe that as Inuit and as aboriginal peoples in Canada, we have a major role to play that will contribute to Canada's successful renewal.

I will now briefly highlight the central features of the Inuit constitutional agenda. The Inuit position focuses on three constitutional imperatives. First is the constitutional entrenchment of the inherent right of aboriginal peoples to

[*Translation*]

La coprésidente (Mme Dobbie): Nos problèmes techniques ayant été réglés, nous pouvons maintenant retourner à la table pour entendre nos prochains témoins, les Inuit Tapirisat du Canada, représentés par Rosemarie Kuptana.

Bonjour, madame Kuptana. Ce matin, Mme Kuptana, présidente d'Inuit Tapirisat du Canada, est accompagnée de John Amagoalik, du Comité inuit sur les questions constitutionnelles, et de Wendy Moss, coordinatrice des questions constitutionnelles. Bienvenue. Nous avons une heure à notre disposition. Vous pouvez commencer par une déclaration, qui sera suivie d'une discussion et d'un dialogue.

Mme Rosemarie Kuptana (présidente, Inuit Tapirisat du Canada): Merci, madame la présidente.

[*Le témoin continue en langue autochtone*]

J'aimerais présenter John Amagoalik, membre du comité constitutionnel d'ITC, et Wendy Moss, conseillère constitutionnelle. Nous sommes heureux de prendre la parole devant le Comité mixte spécial sur le renouvellement du Canada et de vous exposer nos observations et nos opinions, dans une perspective inuit.

Nous déposerons un énoncé de politique constitutionnelle intitulé «Inuit in Canada: Striving for Equality». Il s'agit de la déclaration préliminaire des Inuit. Les versions française et inuktitut sont en cours de traduction et vous seront transmises dès que nous les recevrons.

Au cours des dernières années, les Inuit se sont montrés encore plus déterminés à protéger leur langue, leur culture et leurs activités traditionnelles et à exercer un plus grand contrôle sur leur vie et leurs collectivités. La réforme constitutionnelle est nécessaire pour atteindre ces objectifs et pour corriger les injustices et les inégalités qui existent dans le système de gouvernement actuel. Il faut un changement constitutionnel fondamental pour reconnaître l'autonomie gouvernementale autochtone et pour permettre aux Inuit et à tous les autochtones de garder leur dignité et leur fierté.

La réforme constitutionnelle permettra aux Canadiens et aux autochtones de travailler ensemble à rebâtir le Canada pour en faire un pays plus sensible aux besoins des autochtones et de tous les Canadiens. En tant qu'Inuit, nous avons souvent subi de grandes épreuves et notre culture a trouvé des moyens de surmonter ces épreuves et de nous permettre de continuer de mener nos vies de manière productive. Nous avons appris à célébrer les plaisirs de la vie de manière productive. Nous avons appris à célébrer les plaisirs de la vie et à en accepter les difficultés. Il est dommage que les discussions politiques qui se sont déroulées récemment au Canada aient été marquées par l'amertume et la confrontation. Notre culture et notre système de valeur inuit nous portent à croire que, à titre d'Inuit et d'autochtones du Canada, nous avons un rôle important à jouer et nous pouvons contribuer au succès du renouvellement du Canada.

Je ferai maintenant ressortir les principales caractéristiques de l'ordre du jour constitutionnel inuit. La position inuit met l'accent sur trois impératifs constitutionnels. Premièrement, l'affirmation dans la

[*Texte*]

self-government. Second is the recognition of aboriginal peoples as distinct societies. Third is guaranteed representation of aboriginal peoples at all first ministers conferences and other federal-provincial processes on the Constitution, the economy and other fundamental matters.

These matters are outstanding on Canada's human rights agenda. They are national issues, just as they are aboriginal issues and Inuit issues. These issues are also in keeping with the theme of our paper, "Striving for Equality", which we have presented you with today.

I will now briefly highlight the three positions that we have placed before you today, the first being the entrenchment of the inherent right to self-government. The current Constitution of Canada must expressly recognize the inherent right of aboriginal peoples to self-government. Sovereign law-making powers in Canada cannot be divided exclusively between the federal and provincial levels of government with other governmental bodies exercising only those powers and authorities delegated to them by the senior levels of government.

• 1135

The Constitution must be amended to clearly establish the governing rights of aboriginal peoples. Other distinct regions of the country have negotiated entry into Confederation and have been allowed the exercise of exclusive legislative powers over matters of local concern. Aboriginal people have not been permitted the same opportunity to conclude terms of union with Canada and have them reflected in the Constitution.

The myth of English-and French-speaking Canadians as the two founding peoples of Canada ignores the contribution and needs of aboriginal peoples as Canada's first citizens. This is political inequality that a self-government amendment must address.

In past rounds of constitutional discussions the debate focused on whether aboriginal people should accept delegated powers from the federal or provincial governments. Aboriginal peoples continue to insist we have never given up our self-governing rights and therefore they cannot be delegated to us by others. An inherent or pre-existing right predates the arrival of Europeans and others to North America.

By virtue of being inherent and a fundamental right of indigenous peoples, the right to self-government is of a permanent nature and cannot be restricted or limited to delegated powers. Human rights such as freedom of speech are often described as inherent or fundamental human rights that every person has by virtue of being human. The word "inherent" is also consistent with the notion of pre-existing rights and therefore with aboriginal rights.

[*Traduction*]

Constitution du droit inhérent à l'autonomie gouvernementale des autochtones. Deuxièmement, la reconnaissance des peuples autochtones comme sociétés distinctes. Troisièmement, la représentation garantie des autochtones à toutes les conférences des premiers ministres et aux autres mécanismes fédéraux-provinciaux prévus dans la Constitution sur l'économie et les autres questions fondamentales.

Ces questions n'ont pas été réglées dans le contexte des débats sur les droits de la personne. Ce sont des questions d'ordre national, autant qu'autochtone ou inuit. Elles sont également conformes au thème de notre mémoire d'aujourd'hui, soit la recherche de l'égalité.

J'exposerai brièvement les trois positions que nous vous exprimons aujourd'hui, la première étant l'affirmation du droit inhérent à l'autonomie gouvernementale. La Constitution du Canada doit reconnaître explicitement le droit inhérent à l'autonomie gouvernementale des autochtones. Les pouvoirs souverains de légiférer au Canada ne peuvent être répartis exclusivement entre le gouvernement fédéral et les provinces, les autres organismes gouvernementaux n'exerçant que les pouvoirs qui leur sont délégués par les paliers supérieurs.

La Constitution doit être modifiée pour stipuler clairement le droit à l'autonomie gouvernementale des autochtones. Les autres régions distinctes du pays ont négocié leur entrée dans la Confédération et ont pu exercer des pouvoirs législatifs exclusifs sur les questions d'intérêt local. Les autochtones n'ont pas eu la même possibilité de définir les modalités de l'union avec le Canada et de les faire enchâsser dans la Constitution.

Le mythe qui veut que les francophones et les anglophones du Canada sont les deux peuples fondateurs ne tient pas compte de la contribution et des besoins des autochtones à titre de premiers citoyens du Canada. C'est cette inégalité qu'une modification relative à l'autonomie gouvernementale doit corriger.

Au cours des discussions constitutionnelles précédentes, on s'est demandé si les autochtones devaient accepter les pouvoirs délégués par le gouvernement fédéral ou par les provinces. Les autochtones continuent de répéter qu'ils n'ont jamais renoncé à leur droit à l'autonomie gouvernementale et que ce droit ne peut donc pas leur être conféré par quelqu'un. Le droit inhérent ou pré-existant est antérieur à l'arrivée des Européens et des autres nations en Amérique du Nord.

Du fait qu'il est inhérent et constitue un droit fondamentale des autochtones, le droit à l'autonomie gouvernementale est permanent et ne peut se limiter à des pouvoirs délégués. Des droits de la personne comme la liberté d'expression sont souvent décrits comme un droit inhérent ou fondamental que possède toute personne du fait qu'elle fait partie de la race humaine. Le mot «inhérent» est également conforme à l'idée de droits pré-existants et donc de droits ancestraux.

[*Text*]

The right of aboriginal peoples to self-government is both an aboriginal and a human right. The fact that these rights exist does not mean governments do not violate such rights. It is precisely because governments tend to violate these fundamental rights that constitutional protection is required for them.

I will briefly highlight an Inuit perspective on the inherent right to self-government. National aboriginal organizations may negotiate the principles for the entrenchment of the inherent right in the Constitution. However, they cannot predetermine its application at the regional or local level. Inuit in each region will decide the form of self-government that is appropriate for their needs and will negotiate specific self-governing agreements directly with various levels of government. Therefore it's important to note that the form of self-government may differ from region to region depending upon the result of regional negotiations.

In this constitutional round, a primary goal for Inuit is the protection and the enhancement of Inuit language and culture. There are different measures that can be adopted to seek protection and enhancement of Inuktituk. I think it's very important for you here today to learn that Inuit and other aboriginal peoples have no homeland other than Canada in which our language and culture can flourish. In short, Inuit share the aspirations of other Canadians and other peoples across the world. We want to manage our affairs, see our communities prosper and grow, nurture our lands and resources, and preserve and enhance our culture. Inuit have not been well-served in the past by the application of the laws made by outside government bodies. Inuit self-governing institutions will be able to correct the failures of the past system and better provide for the present and future needs of Inuit.

• 1140

I will now address our second position, which is the recognition of Inuit as a distinct society. As Inuit, we strongly believe it is necessary to identify aboriginal peoples as distinct societies. Aboriginal peoples are intrinsic, yet a distinctive part of Canada. They should be so recognized constitutionally in any definition of Canada. The intent of distinct society recognition is not to establish superiority for a given culture or society, but rather to allow and acknowledge the rights of people, to enhance their unique cultural identity.

It has been suggested by federal and provincial politicians that it is self-evident fact that aboriginal peoples are distinctive and therefore it is not necessary for this to be constitutionally identified. Aboriginal people, however, are the original occupants of Canada and should be recognized as distinct societies in any Canada clause and also separately in Part II of the Constitution. As well, section 25 should be expanded to ensure that the interpretation of the Charter of

[*Translation*]

Le droit à l'autonomie gouvernementale des autochtones est un droit ancestral et un droit de la personne. Le fait que ces droits existent ne signifie pas que les gouvernements ne les violent pas. C'est précisément parce que les gouvernements ont tendance à les violer qu'ils ont besoin d'une protection constitutionnelle.

J'exposerai brièvement le point de vue inuit sur le droit inhérent à l'autonomie gouvernementale. Les organisations nationales autochtones peuvent négocier les principes de l'affirmation de ce droit inhérent dans la Constitution. Mais elles ne peuvent déterminer à l'avance l'application de ce droit au niveau régional ou local. Les Inuit de chaque région devront déterminer la forme de gouvernement qui répond le mieux à leurs besoins et négocier directement des ententes précises à cet égard avec les divers paliers de gouvernement. Il importe donc de souligner que la forme de gouvernement pourra varier d'une région à l'autre selon les résultats des négociations régionales.

Dans la réforme constitutionnelle actuelle, un des principaux objectifs des Inuit est de protéger et de promouvoir la langue et la culture inuit. Diverses mesures peuvent être adoptés pour protéger et promouvoir l'inuktitut. Je pense qu'il est très important pour vous ici d'apprendre que les Inuit et les autres peuples autochtones n'ont pas d'autre partie que le Canada pour y faire épanouir leur langue et leur culture. Bref, les Inuit partagent les aspirations des autres Canadiens et des autres peuples du monde. Nous voulons gérer nos affaires, voir nos communautés prospérer et grandir, mettre en valeur nos terres et nos ressources et préserver et rehausser notre culture. Dans le passé, les Inuit n'ont pas été gâtés par l'application des lois rédigées par des organes gouvernementaux extérieurs. Les institutions autonomes inuit pourront corriger les défauts du système passé et mieux satisfaire les besoins présents et futurs des Inuit.

Je vais maintenant aborder notre seconde position, à savoir la reconnaissance des Inuit comme société distincte. En tant qu'Inuit, nous pensons fermement qu'il est nécessaire d'identifier les peuples autochtones comme des sociétés distinctes. Les peuples autochtones constituent une partie intégrante mais distincte du Canada. Dans toute définition du Canada, c'est ainsi qu'ils devraient être reconnus sur le plan constitutionnel. Leur reconnaissance en tant que société distincte n'a pas pour but d'établir la supériorité d'une culture ou d'une société donnée, mais plutôt de permettre de reconnaître les droits des peuples de rehausser leur identité culturelle unique.

Des politiciens fédéraux et provinciaux ont laissé entendre qu'il est évident que les peuples autochtones sont distincts et qu'il n'est donc pas nécessaire d'en faire mention dans la Constitution. Toutefois, les peuples autochtones sont les premiers occupants du Canada et devraient être reconnus comme des sociétés distinctes dans une clause Canada, de même que séparément dans la partie II de la Constitution. En outre, il faudrait élargir l'article 25 afin de s'assurer que

[*Texte*]

Rights and Freedoms does not abrogate or derogate from the rights of aboriginal peoples by the reason of the proposed section 25.1.

What I have just presented to you is a preliminary position of the Inuit. Inuit, through this position paper, have chosen Canada and we have chosen self-determination within Canada. Some may think we don't have a choice, being a people small in numbers, but we do. We could have turned our backs on the Constitution and on Canada, but we have chosen to be part of the constitutionally formed process because this is our country and we believe it can be a country that reflects aboriginal, Inuit, Quebeckers, and other Canadians. But Inuit wish to be a part of a renewed Canada and to have a sense of ownership in the Constitution that governs us. The goal of national unity is consistent with Inuit values.

With those brief comments, I would like to open the floor to what I think is more important; that is, a dialogue with you as parliamentarians who will be making recommendations to the Government of Canada.

The Joint Chairman (Mrs. Dobbie): Thank you very much, Ms Kuptana.

• 1145

I'm going to begin by asking a question before I turn to Mr. Allmand, because I think we should be making progress in our discussions and we've had several meetings but I am still unclear about a few things.

In the proposals, the government has proposed to recognize the right to self-government, and from what we hear around the committee, many members of the committee have indicated an acceptance of the term "inherent". I see that in the Constitution now, in sections 25 and 35 and section 35.1, there is a recognition of aboriginal treaty and/or other rights and freedoms, including the rights recognized in the Royal Proclamation of 1763, and the rights and freedoms under land claims that now may be negotiated or may be negotiated in the future, as well as treaty rights under section 35. I'm trying to determine in this constitutional round precisely what the Inuit and perhaps other aboriginal groups would like to see added to the proposals. Or are you satisfied with the proposal, with the addition of an inherent right?

Ms Kuptana: If I understand your question correctly... I'm going to ask the committee members to speak a little more loudly, because I'm having problems hearing.

I think it was spelled out very clearly in my presentation today that in addition to the inherent right to self-government, Inuit are seeking distinct society recognition, as well as participation in all major constitutional forums. This is a preliminary position; we do have other positions. But I'm going briefly to address the distinct society status, as I feel that this is what is on your mind.

[*Traduction*]

l'interprétation de la Charte des droits et libertés ne porte pas atteinte aux droits des peuples autochtones par suite de la proposition contenue dans l'article 25.1.

Ce que je viens de vous présenter est un exposé de la position provisoire des Inuit. Par le biais de cet exposé de leur position, les Inuit ont choisi le Canada et l'autonomie politique au sein du Canada. Certains pensent peut-être que nous n'avons pas le choix, étant donné que nous sommes peu nombreuse, mais ce n'est pas le cas. Nous aurions pu tourner le dos à la Constitution et au Canada, mais nous avons choisi de faire partie intégrante du processus constitutionnel parce que le Canada est notre pays et que nous pensons qu'il peut refléter les aspirations des Autochtones, des Inuit, des Québécois et des autres Canadiens. Toutefois, les Inuit veulent appartenir à un Canada renouvelé et éprouver un sentiment de propriété à l'égard de la Constitution qui nous régit. L'objectif de l'unité nationale est compatible avec les valeurs inuit.

Après ces brefs commentaires, j'aimerais passer à un aspect qui m'apparaît plus important, à savoir un dialogue avec vous, les parlementaires, qui présenteront des recommandations au gouvernement du Canada.

La coprésidente (Mme Dobbie): Merci beaucoup, madame Kuptana.

Avant de passer la parole à M. Allmand, je voudrais poser une question car j'estime que nous devrions avancer dans nos discussions, mais plusieurs choses me semblent encore floues, même après plusieurs réunions.

Dans le texte des propositions constitutionnelles, le gouvernement a proposé de reconnaître le droit à l'autonomie, et d'après les commentaires que nous entendons, bon nombre des membres du comité acceptent le terme «inhérent». À l'heure actuelle, la Constitution reconnaît, dans ses articles 25 et 35 et 35.1, les droits et libertés issus de traités ou autres des peuples autochtones, y compris les droits reconnus par la Proclamation royale de 1763 et les droits et libertés issus d'accords sur des revendications territoriales en cours de négociations ou qui pourront être négociés à l'avenir, ainsi que les droits issus des traités en vertu de l'article 35. Au cours de cette ronde de pourparlers constitutionnels, j'essaie de déterminer avec précision ce que les Inuit et éventuellement d'autres groupes autochtones aimeraient voir ajouter aux propositions. Ou bien la proposition vous satisfait-elle, avec l'ajout d'un droit inhérent?

Mme Kuptana: Si je comprends bien votre question... Je demande aux membres du comité de parler un peu plus fort car j'ai des difficultés à vous entendre.

Dans l'exposé que j'ai fait aujourd'hui, je pense avoir énoncé très clairement qu'en plus du droit inhérent à l'autonomie, les Inuit cherchent à obtenir la reconnaissance en tant que société distincte ainsi que la participation à toutes les principales tribunes constitutionnelles. Il s'agit d'une position préliminaire; nous avons adopté d'autres positions. Je vais aborder brièvement la question de la société distincte, car je crois comprendre que c'est ce que vous avez à l'esprit.

[*Text*]

When we seek the recognition of a distinct society, it does not mean that Quebec is to be, should be, or will be denied its own status as a distinct society as the term is understood by Quebeckers. We have said that we have no intention of blocking recognition of Quebec as a distinct society. We have said that it is not a question of either/or, of either a distinct society clause for Quebec or a distinct society clause for aboriginal peoples.

We claim recognition as a distinct society in our own right, maybe using wording similar to that of the federal proposals, but maybe not. We are open-minded on the question of wording, but we're committed to the objective.

The Joint Chairman (Mrs. Dobbie): Thank you for that explanation.

Mr. Allmand (Notre-Dame-de-Grâce): The last words of Ms Kuptana put this in a different light. I was going to say that I have been trying to keep in touch with the aboriginal peoples for many years now and understand and support their aspirations, but I was somewhat confused the other day, and again today, when I heard your requests to be recognized as a distinct society. Maybe you can dispel my confusion. I was confused because, while you are distinct societies, I'd become convinced myself that you were much more. I'd become convinced that you were in fact nations.

• 1150

I recall very well when the National Indian Brotherhood changed its name to the Assembly of First Nations. They did it because they said, we are nations, we always were nations, we still are nations. Of course I always thought of the Inuit as a nation too.

Yesterday my colleague read into the record the motion passed by the Quebec National Assembly in March 19, 1985, in which the National Assembly recognizes the existence of the Abenaki, the Algonquin, the Cree, the Huron, the Micmac, the Mohawk and Inuit Nations in Quebec.

So while you are distinct societies, my first reaction when I heard this was that I thought it was a step backwards. I was wondering why you wouldn't want to be recognized as distinct nations. I had been convinced that you were nations.

The other thing that had me confused was that the first time in a legal sense the term "distinct society" was used was in the Meech accord, and that became a very controversial document. The words "distinct society" from the time of Meech carry a lot of baggage with them. Some of the baggage is positive but a lot of it is negative.

So that's what is confusing me. I had thought of you as nations and now you seem to be asking to be recognized as distinct societies with both the positive and negative baggage, when I thought we were moving along the road to recognizing you as nations.

[*Translation*]

Lorsque nous cherchons à obtenir la reconnaissance d'une société distincte, cela ne signifie pas que le Québec doit, devrait ou devra se voir refuser son propre statut de société distincte au sens que lui donnent les Québécois. Nous avons déclaré qu'il n'était nullement dans notre intention de bloquer la reconnaissance du Québec en tant que société distincte. Nous avons précisé que ce n'est pas une question de choix, entre une clause de société distincte pour le Québec ou une clause de société distincte pour les peuples autochtones.

Nous demandons notre reconnaissance en tant que société distincte de notre propre droit, peut-être en utilisant des mots semblables à ceux qui sont contenus dans les propositions fédérales, mais pas nécessairement. Nous sommes ouverts quant à la question du libellé, mais nous avons pris un engagement quant à l'objectif.

La coprésidente (Mme Dobbie): Merci pour cette explication.

M. Allmand (Notre-Dame-de-Grâce): Les dernières paroles de Mme Kuptana présentent le problème sous un éclairage différent. J'allais dire que je m'efforce de rester en contact avec les peuples autochtones depuis de nombreuses années et que je comprends et appuie leurs aspirations, mais j'ai été quelque peu embarrassé l'autre jour, et à nouveau aujourd'hui, en vous entendant demander d'être reconnus comme une société distincte. Vous pouvez peut-être dissiper mon embarras qui vient du fait que, même si vous êtes des sociétés distinctes, j'étais parvenu à me convaincre moi-même que vous étiez bien davantage. J'étais parvenu à me convaincre que vous étiez en fait des nations.

Je me rappelle très bien l'époque où la Fraternité des Indiens du Canada a changé de nom pour devenir l'Assemblée des Premières Nations en disant qu'ils étaient des nations, qu'ils avaient toujours été des nations, qu'ils demeuraient des nations. Evidemment, j'ai toujours pensé moi-même que les Inuits sont une nation.

Hier, ma collègue a lu en séance la motion adoptée par l'Assemblée nationale du Québec le 19 mars 1985, dans laquelle l'Assemblée nationale reconnaît l'existence des nations Abénaki, Algonquin, Cri, Huron, Micmac, Mohawk et Inuit au Québec.

Même si vous êtes des sociétés distinctes, ma première réaction en entendant cette demande a été de penser qu'il s'agit d'une régression. Je me suis demandé pourquoi vous ne souhaitiez pas être reconnus comme des nations distinctes. J'étais persuadé que vous étiez des nations.

Un autre élément a semé la confusion dans mon esprit, à savoir que l'expression «société distincte» a été utilisée pour la première fois au sens juridique dans l'Accord du lac Meech, qui est devenu un document très controversé. Depuis l'époque de Meech, l'expression «société distincte» a une connotation lourde, en partie positive mais également négative.

C'est ce qui me préoccupe. Je pensais que vous étiez des nations et maintenant vous semblez demander d'être reconnus comme des sociétés distinctes avec toutes les connotations positives et négatives, alors que je pensais que nous étions sur le chemin menant à votre reconnaissance en tant que nation.

[*Texte*]

At the very end of your answer to Mrs. Dobbie you said you're committed to the substance, and if there are better words and better ways of saying it, as long as you get full powers and the full independence and so on, you're not wed to the word. So that puts a different gloss on it, but that doesn't dispel my confusion. Maybe you want to elaborate on that.

Mr. John Amagoalik (Inuit Committee on Constitutional Issues, Inuit Tapirisat of Canada): There is no question that we are nations but at the same time we want to make it very clear, as pointed out in our position paper, that we intend to exercise our rights as nations within this country, within the constitutional framework of this nation.

About wording, of course we are open to the wording. As a matter of fact, when Mr. Clark suggested to us he believes in our cause to be recognized as distinct societies but that we could use different wording, one of our lawyers came to me immediately and said, grab this opportunity because we can work out our own terminology, our own wording. So for that reason, we would be very much open to discussing what kind of wording we will entrench in the Constitution. Again, we're not stuck on the wording, but the objective is clear.

Mr. Allmand: Well, that's good, John. I must say I've always been ready to recognize you as a nation, but I wouldn't recognize Quebec as a nation.

Can I move to another question? In a way, the Inuit on this continent are quite different from the other First Nations that have been in the past called Indians. You, for the most part, have one language. You have different dialects but one language. You live in principally three areas: the Northwest Territories, northern Quebec and Labrador, and you live in large contiguous areas.

You're on the verge of concluding an agreement on Nunavut, which will provide for a new territory and perhaps a province that will be a public government area where you'll be the overwhelming majority. I want to ask you, how do you see the differences? What are the distinctions between Nunavut as it's developing, where the government, in fact, will be an Inuit government? Inuktituk will be one of the official languages and so on. How is that distinguished from the aboriginal self-government that might come out of these discussions? Do you see the model of Greenland vis-à-vis Denmark as being a model for us to look at, or would you have us reject that model altogether and look at something different?

• 1155

How do you see the distinctions between Nunavut as it's developing and as an aboriginal self-government coming out of these negotiations? Would there be much difference at all?

[*Traduction*]

A la toute fin de votre réponse à Mme Dobbie, vous avez mentionné que vous aviez pris un engagement sur le fond, et que s'il existait de meilleurs mots et de meilleurs moyens de le dire, vous n'étiez pas attaché au libellé pourvu que vous obteniez les pouvoirs et la pleine indépendance. Cela présente le problème sous un éclairage nouveau, mais sans dissiper ma préoccupation. Voulez-vous apporter des précisions à ce sujet?

M. John Amagoalik (Comité inuit sur les affaires constitutionnelles, Tapirisat Inuit du Canada): Il ne fait aucun doute que nous sommes des nations mais, en même temps, nous voulons qu'il soit bien clair, comme nous l'avons mentionné dans l'énoncé de notre position, que nous avons l'intention d'exercer nos droits en tant que nations au sein du Canada, à l'intérieur du cadre constitutionnel du Canada.

En ce qui concerne le libellé, il est évident que nous sommes ouverts à toute suggestion, en fait, lorsque M. Clark nous a laissé entendre qu'il était favorable à notre cause en vue d'être reconnus comme des sociétés distinctes, mais que nous pourrions peut-être utiliser des termes différents, l'un de nos avocats m'a dit immédiatement de saisir cette occasion car nous pourrons définir notre propre terminologie, notre propre libellé. C'est pour cette raison que nous sommes très ouverts à toute discussion concernant le libellé du texte à enchâsser dans la Constitution. Encore une fois, le texte n'est pas immuable, mais l'objectif est clair.

M. Allmand: C'est très bien, John. Je dois avouer que j'ai toujours été prêt à vous reconnaître comme une nation, mais je ne reconnaîtrais pas le Québec comme une nation.

Puis-je poser une autre question? D'une certaine façon, les Inuit présents sur ce continent sont assez différents des autres premières nations que l'on a appelées dans le passé Indiens. Pour la plupart, vous avez une langue. Vous parlez des dialectes différents mais une seule langue. En principe, vous vivez dans trois régions: les Territoires du Nord-Ouest, le Nord du Québec et le Labrador, et vous habitez dans de vastes régions adjacentes.

Vous êtes sur le point de conclure une entente à propos du Nunavut, qui vous conférera un nouveau territoire et peut-être une province constituant une région dotée d'une administration publique dans laquelle vous serez nettement majoritaire. J'aimerais savoir comment vous entrevoyez les différences? Quelles sont les distinctions entre le Nunavut tel qu'il évolue actuellement, dans lequel le gouvernement sera en fait une administration inuit? L'inuktituk sera l'une des langues officielles et ainsi de suite. Quelle distinction faites-vous avec l'autonomie des autochtones qui pourrait découler des présentes discussions? Pensez-vous que nous devrions étudier le modèle du Groënland vis-à-vis du Danemark comme modèle possible ou préféreriez-vous que nous écartions ce modèle pour étudier quelque chose de différent?

Comment envisagez-vous les distinctions entre le Nunavut tel qu'il évolue et un gouvernement autochtone autonome découlant des présentes négociations? Y aurait-il une grande différence?

[*Text*]

Now, I see the concept very well with the Indian nations, but it's more difficult to see with Nunavut because you are by far the majority there. Perhaps it would be also a similar situation with the Dene, but the southern First Nations communities are different.

Mr. Amagoalik: Nunavut, as it is now proposed, would not be an aboriginal self-government, strictly legally speaking, because it is public government and is not being termed as an aboriginal self-government. But it is self-government in reality, as you point out, because we are a vast majority of the population. Nunavut will in reality be our form of self-government even though it is not legally termed as such.

I think the reason why Inuit tend to lean towards public governments in our regions is that we think it is a lot neater if people in a given area have the same rights and responsibilities. We don't see Nunavut as anything really different from Quebec, which has a responsibility to preserve and enhance its distinct society; Nunavut will have that same responsibility.

As for comparing Nunavut to Greenland, I'm not intimately familiar with the situation in Greenland.

Mr. Allmand: I was just wondering if you wanted us to look at the Greenland vis-à-vis Denmark model. The people of Greenland are self-governing to a certain extent, but if you don't want us to look at that example I'd accept whatever you said.

Mr. Amagoalik: It would be interesting for comparison purposes, perhaps not just in Greenland, but also the North Slope Borough in northern Alaska may also have some application to our situation here in northern Canada, especially to the communities of the Beaufort Sea. I understand their leadership is interested in looking at that model and perhaps working something out in that part of Canada similar to the arrangement that has been arrived at by the land claims settlement of 1971. As far as other examples are concerned, we may also want to look at the situation of the Maori in New Zealand. I think comparisons are helpful.

Mr. McCurdy (Windsor—St. Clair): [*Technical Difficulty—Editor*] . . .of aboriginal people, that you lay claim only to what all other people have taken for granted: history, equality, independence, and autonomy, and how those might be included in the future shaping of Canada. But it is also complete in a number of respects, having demonstrated that your concerns for yourselves are the same as those of other peoples. You share the views of so many other Canadians, and that is what I want to talk to you about. You say on page 11, for example:

> The need for increased competitiveness does not require us to sacrifice our dedication as Canadians to the ideal of equality for all citizens.

[*Translation*]

À l'heure actuelle, je vois très bien le concept pour ce qui est des nations indiennes, mais j'éprouve beaucoup plus de difficulté à comprendre dans le cas du Nunavut car vous y êtes nettement majoritaire. La situation serait peut-être semblable avec les Dénés, mais les communautés des Premières nations du sud sont différentes.

M. Amagoalik: Dans le cadre des propositions actuelles, le Nunavut ne serait pas un gouvernement autochtone autonome, au sens juridique strict, parce qu'il s'agit d'une administration publique qui n'est pas considérée comme un gouvernement autochtone autonome. Mais en réalité, comme vous le mentionnez, il s'agit d'un gouvernement autochtone puisque nous sommes nettement majoritaires. Le Nunavut sera en réalité notre forme de gouvernement autonome même si ce n'est pas l'appellation légale qui lui sera donnée.

La raison pour laquelle les Inuit ont tendance à favoriser des gouvernements publics dans nos régions découle du fait que nous pensons qu'il est beaucoup plus sensé que les habitants d'une région donnée aient les mêmes droits et responsabilités. Nous ne considérons pas le Nunavut comme quelque chose de vraiment différent du Québec, qui a la responsabilité de protéger et de rehausser sa société distincte; le Nunavut aura cette même responsabilité.

En ce qui concerne la comparaison entre le Nunavut et le Groënland, je ne suis pas très familier avec la situation qui prévaut au Groënland.

M. Allmand: Je me demandais tout simplement si vous souhaitiez nous voir étudier le modèle du Groënland vis-à-vis du Danemark. Les habitants du Groënland sont autonomes dans une certaine mesure, mais si vous ne souhaitez pas nous voir étudier cet exemple, j'accepterais votre décision.

M. Amagoalik: À titre de comparaison, ce serait intéressant, peut-être pas uniquement avec le Groënland, mais également avec le North Slope Borough, au nord de l'Alaska, dont le modèle pourrait également s'appliquer à notre situation ici dans le nord du Canada, surtout dans les communautés de la mer de Beaufort. Je crois savoir que leurs chefs s'intéressent à ce modèle et préparent peut-être dans cette région du Canada une entente semblable à celle qui est intervenue lors du règlement des revendications territoriales en 1971. Pour ce qui est d'autres exemples, nous pourrions peut-être également étudier la situation des Maori en Nouvelle-Zélande. Je crois que les comparaisons sont utiles.

M. McCurdy (Windsor—Sainte-Claire): [*Difficultés techniques—Éditeur*] . . .des peuples autochtones, que vous réclamez uniquement ce que tous les autres peuples tiennent pour acquis: l'histoire, l'égalité, l'indépendance et l'autonomie, et comment ces éléments pourraient être incorporés dans la structure future du Canada. Mais cette position est également complète à maints égards puisque vous avez démontré que vos préoccupations personnelles sont les mêmes que celles d'autres peuples. Vous partagez les opinions de tant d'autres Canadiens, et c'est de cela que je veux vous entretenir. Par exemple, vous déclarez à la page 11 de votre mémoire:

> L'accroissement nécessaire de la compétitivité n'exige pas que nous sacrifions notre dévouement en tant que Canadiens à l'idéal de l'égalité pour tous les citoyens.

[*Texte*]

That is a value that has been asserted in abundance by all Canadians, and in expressing it, you join with all other Canadians. So I want to explore with you what you say elsewhere, such as on page 8, about the idea of a social charter and a social covenant.

Could you take some time to expand on how you conceive of the social charter or covenant and how conception relates to what you foresee to be the future relationships among the governments of Canada in ensuring that in your own jurisdictions as well as in other jurisdictions in Canada, respect for social equality and equality of opportunity would apply, could be made to apply, and would be maintained throughout the country?

• 1200

Ms Wendy Moss (Coordinator, Constitutional Issues, Inuit Tapirisat of Canada): This issue is a new one to most people in this round of constitutional reform, as it is for the Inuit leaders. There has been some discussion within the Inuit committee on the constitution and the ITC board. At a minimum, there was a general interest in the principle of ensuring that a provision in the Constitution would preserve the status quo with respect to social programs. These are very important in the north as a means of attempting to rectify the socio-economic inequalities that exist between Inuit and non-Inuit.

I am not so sure there is a commitment to a particular way of achieving that objective in the Constitution, as there is a general interest in the goal of doing it and an openness on the wording. As Rosemarie said, it's at such an early stage that the Inuit leadership appears to be very open on wording on many of these positions.

Perhaps Rosemarie wants to speak to what extent the objectives of a social charter are consistent with some Inuit values with respect to looking after people in the community and that kind of thing.

Ms Kuptana: We support the principle of a social charter based on the needs of Inuit in the communities in order to promote and protect equal access to such areas as health care, education, housing, income security and a broad range of areas in which we are affected on a daily basis. As some of you know, in the northern regions of Canada there are areas that are well below Canadian standards. This is where Inuit would like to play a major role in creating an equal standard of living for Inuit and aboriginal peoples.

As far as wording in the Constitution, it is very difficult to suggest wording right now. As you can appreciate, there is no wording suggested in many of these areas in the federal proposals. Once that is available to us, we will be quite willing to get down to nuts and bolts.

[*Traduction*]

C'est une valeur que tous les Canadiens n'ont pas cessé d'affirmer et, en l'exprimant, vous rejoignez tous les autres Canadiens. J'aimerais donc étudier de plus près avec vous ce que vous déclarez ailleurs, par exemple à la page 8, à propos de l'idée d'une charte sociale et d'un contrat social.

Pouvez-vous prendre quelques minutes pour préciser comment vous concevez la charte ou le contrat social, et quel est le rapport entre cette conception et ce que vous pensez que seront les relations futures entre les gouvernements du Canada pour garantir, que dans vos propres secteurs de compétence ainsi que dans les autres secteurs de compétence au Canada, le respect pour l'égalité sociale et l'égalité des chances s'appliquent, pourraient s'appliquer et seraient assurés dans tout le pays.

Mme Wendy Moss (coordonnatrice, Affaires constitutionnelles, Tapirisat Inuit du Canada): Cette question est nouvelle pour la plupart des personnes qui participent à cette ronde de négociations sur la réforme constitutionnelle, tout comme elle l'est pour les chefs inuit. Certaines discussions se sont déroulées au sein du Comité inuit sur la Constitution et du conseil d'administration du Tapirisat Inuit du Canada. En général, les participants sont d'accord avec le principe qui veut qu'une clause de la Constitution préserve le statu quo en ce qui a trait aux programmes sociaux. Ceux-ci sont extrêmement importants dans le Nord pour tenter de remédier aux inégalités socio-économiques qui existent entre les Inuit et les autres.

Je ne suis pas aussi certaine de l'existence d'un engagement envers un moyen particulier d'atteindre cet objectif dans la Constitution que de l'existence d'un intérêt général pour l'objectif et d'une ouverture d'esprit quant à son libellé. Comme l'a dit Rosemarie, nous en sommes encore à un stade si précoce que les chefs inuit semblent très ouverts à propos du libellé de bon nombre de ces positions.

Rosemarie voudra peut-être préciser dans quelle mesure les objectifs d'une charte sociale sont compatibles avec certaines valeurs inuit pour ce qui est de prendre soin des gens dans la communauté et ainsi de suite.

Mme Kuptana: Nous appuyons le principe d'une charte sociale fondée sur les besoins des Inuit dans les communautés afin de promouvoir et de protéger l'égalité d'accès à des domaines comme les soins de santé, l'éducation, le logement, la sécurité du revenu et bien d'autres domaines qui ont une influence sur notre vie quotidienne. Comme certains d'entre vous le savent déjà, dans les régions septentrionales du Canada existent des secteurs où les normes sont bien inférieures à celles du Canada. C'est là que les Inuit aimeraient jouer un rôle prépondérant afin de créer un niveau de vie égal pour les Inuit et les peuples autochtones.

En ce qui concerne le libellé du texte à enchâsser dans la Constitution, il est très difficile d'en proposer un à l'heure actuelle. Comme vous pouvez le constater, les propositions fédérales ne suggèrent aucun libellé dans bon nombre de ces domaines. Lorsque le texte sera disponible, nous serons tout à fait disposés à l'étudier dans ses moindres détails.

[*Text*]

Mr. McCurdy: You've done well already. Thank you for that.

Mr. Waddell (Port Moody—Coquitlam): First of all, I want to thank you for your hospitality up in Iqaluit. I know you're expanding on what you said in Iqaluit. Ottawa is a lot warmer temperature-wise than Iqaluit—it was when we were there—but Iqaluit was very warm in terms of hospitality.

When we were up there I think we heard that there are 7,000 Inuit in northern Quebec. If Quebec were to declare independence and separate from Canada, what obligation does Canada have to the Inuit of northern Quebec, in your view?

Ms Kuptana: First of all, the Government of Canada has an obligation to national unity, and that means keeping this country together. As Inuit, we believe that we have just as much responsibility in terms of keeping the Inuit Nation in one country, and we are striving to do that. But in the event that there are sudden changes to the make-up of the country, we are looking at different options.

• 1205

Mr. Waddell: Are there options to ask Canada to help the Inuit people stay within Canada? This is what I'm really concerned about. This is why I think we have to sort this thing out before it escalates into that kind of situation. That is why I'm happy today that you're prepared to consider—am I right?—different words for distinct. I think the Inuit are distinctive, but as I understand your evidence, you are prepared to consider different words for distinctive, given that it's such a political symbol these days that Quebec be a distinctive society. Do I have it right that you are prepared to consider different words for the same concept?

Ms Kuptana: That's correct, Mr. Waddell. We don't know what kind of wording Quebec will negotiate for its distinct society clause, and Inuit have not yet negotiated any wording for an aboriginal distinct society clause. It seems quite obvious that wording for either clause is very much an open question, as we have been saying all along. The two distinct society questions are two separate issues, and that has to be made very clear in this country.

Mr. Waddell: I got the impression up north when we were there that one of the witnesses said that if Quebec separated, the 7,000 Inuit would ask the Canadian government to come in and physically help them. That really concerns me. I think that's where we could go down the line in this debate. I hope it's not going to happen, but I have to say that now it seems to me a possible option. If we think the present situation is explosive in Quebec, then it really becomes explosive. I won't pursue that any further, but you can correct me if the evidence I heard up north was wrong.

[*Translation*]

M. McCurdy: Vous avez déjà bien réussi. Merci beaucoup.

M. Waddell (Port Moody—Coquitlam): Tout d'abord, je tiens à vous remercier pour votre hospitalité à Iqaluit. Je sais que vous êtes en train de préciser les propos que vous avez tenus à Iqaluit. Ottawa est un coin beaucoup plus chaud qu'Iqaluit sur le plan de la température—il ne faisait pas très chaud lorsque nous étions là-bas—mais l'hospitalité que nous avons reçue à Iqaluit a été très chaleureuse.

Lors de notre séjour dans cette ville, je crois avoir entendu dire qu'il y a 7,000 Inuit dans le nord du Québec. Si le Québec devait déclarer son indépendance et se séparer du Canada, quelle serait à votre avis l'obligation du Canada envers les Inuit du nord du Québec?

Mme Kuptana: Tout d'abord, le gouvernement du Canada a une obligation en matière d'unité nationale, à savoir qu'il doit maintenir l'unité de ce pays. En tant qu'Inuit, nous pensons avoir la même responsabilité pour ce qui est de maintenir la nation inuit dans une même pays, et c'est ce que nous nous efforçons de faire. Mais au cas où la composition du Canada connaîtrait des modifications soudaines, nous envisageons d'autres options.

M. Waddell: Y a-t-il des options selon lesquelles vous pourriez demander au Canada d'aider les Inuit à demeurer au sein du Canada? C'est ce qui me préoccupe vraiment. C'est la raison pour laquelle nous devons régler cette question avant qu'elle ne dégénère et n'aboutisse à ce genre de situation. C'est la raison pour laquelle je suis heureux de constater aujourd'hui que vous êtes disposée à envisager—est-ce exact?—des termes différents pour le mot distinct. Je crois que les Inuit sont distincts, mais si je comprends bien votre témoignage, vous êtes disposée à envisager des mots différents pour le terme distinct, étant donné que le fait que le Québec devienne une société distincte représente ces derniers temps un symbole aussi politique. Ai-je raison de dire que vous êtes disposée à envisager d'autres mots pour qualifier le même concept?

Mme Kuptana: C'est exact, M. Waddell. Nous ne connaissons pas le libellé que le Québec négociera pour sa clause de société distincte et les Inuit n'ont pas encore négocié de libellé pour une clause de société distincte pour les autochtones. Il semble tout à fait évident que le libellé des deux clauses est une question très ouverte, comme nous l'avons toujours dit. Les deux questions de société distincte sont deux sujets séparés, et il faut que tout cela soit bien clair pour tous les Canadiens.

M. Waddell: Lors de notre visite là-bas dans le Nord, j'ai eu l'impression que l'un des témoins disait qu'en cas de séparation du Québec, les 7,000 Inuit demanderaient au gouvernement canadien d'intervenir et de les aider physiquement. Cette question me préoccupe vraiment. Je pense que c'est là où nous pourrions sombrer dans ce débat. J'espère que cela n'arrivera pas, mais je dois avouer que cette option me semble possible actuellement. Si nous pensons que la situation actuelle est explosive au Québec, elle le deviendra vraiment. Je n'irai pas plus loin sur ce sujet, mais vous pouvez me corriger si le témoignage que j'ai entendu dans le Nord était erroné.

[*Texte*]

I want to end with one further question, if I might. Could you summarize briefly again—forgive me, but it would be helpful to me—your position on whether the Charter of Rights applies to self-government?

Ms Kuptana: Just before we get into the Charter issue, I want to clarify that we did not have an official presentation from a Quebec Inuit member from northern Quebec. As I said, we are monitoring the situation in Quebec very closely and, as Inuit, we will strive to remain within one nation, within one Canada. That is our first alternative.

Mr. Amagoalik: We of course are very concerned about the situation Mr. Waddell alluded to. We hope we never get to that situation, and we're determined that we should not allow it to get to that situation. At the same time, we want the people of Canada and the people of Quebec to understand our situation clearly. We understand that the people of Quebec want distinct society status because they're worried about their language and culture, with 7 million French-speaking Quebeckers in a sea of 270 million North Americans. We understand their concern.

You must also remember that Inuit, as original citizens of this country, also deserve to survive, just like the French people of Quebec do. Our situation, I may suggest, is much more precarious. The simple fact that we number only 30,000 in the whole country indicates how precarious our situation is. So we understand the concern of the people of Quebec for cultural survival. We're concerned about that too, and we're in much bigger danger.

• 1210

Mr. MacDonald (Rosedale): I appreciate the discussion that's taken place in the last few minutes, because it is really quite crucial. I can speak certainly for myself, maybe for others, in saying that when the discussion arose again over the last few days about distinct society status in terms of aboriginal people, it sent shock waves, I think, for a number of people, particularly reminiscent of the situation during the Meech discussions, when the aboriginal people did not get satisfactorily a part of that process.

If I can come at it from a somewhat different angle, on page 7 of your presentation you talk about your concern about the distinct society recognition applying only to Quebec in terms of possible danger to Inuit language rights in certain regions of the country. There may be other implications that you would see as a negative consequence of only a singular designation of distinct society. From what I've heard you say today and earlier, it's my understanding that you want both adequate recognition for Quebec to protect language and culture and adequate and effective recognition for the Inuit people and other aboriginal nations. If we keep our eye on the ball in terms of making sure those guarantees are explicit

[*Traduction*]

Si vous le permettez, je terminerai par une autre question. Pouvez-vous résumer brièvement une fois de plus—pardonnez-moi mais cela me serait très utile—votre position à propos de l'application de la Charte des droits à l'autonomie politique.

Mme Kuptana: Avant d'aborder la question de la Charte, je tiens à préciser qu'il n'y a pas eu d'exposé officiel présenté par un membre Inuit du nord du Québec. Comme je l'ai mentionné, nous surveillons de très près la situation au Québec et, en tant qu'Inuit, nous nous efforcerons de demeurer au sein d'une seule nation, au sein d'un seul Canada. C'est notre première possibilité.

M. Amagoalik: Nous sommes évidemment très préoccupés par la situation à laquelle a fait allusion M. Waddell. Nous espérons ne jamais en arriver là et nous sommes déterminés à ne pas laisser la situation se détériorer à ce point. Par ailleurs, nous voulons que les habitants du Canada et du Québec comprennent très clairement notre situation. Nous comprenons bien que les gens du Québec veulent un statut de société distincte parce qu'ils sont inquiets à propos de leur langue et de leur culture, étant donné qu'il y a 7,000,000 de Québécois francophones noyés dans une mer de 270,000,000 de Nord-Américains. Nous comprenons leur préoccupation.

Vous devez également vous rappeler que les Inuit, en tant que premiers citoyens de ce pays, méritent également de survivre, tout comme les francophones du Québec. Notre situation, si je puis dire, est beaucoup plus précaire. Le simple fait que nous ne soyons que 30,000 dans tout le Canada démontre la précarité de notre situation. Nous comprenons donc parfaitement la préoccupation des Québécois pour leur survie culturelle. Cela nous préoccupe également, et le danger est beaucoup plus grand pour nous.

M. MacDonald (Rosedale): J'apprécie beaucoup la discussion qui se déroule depuis quelques minutes, car c'est un sujet vraiment capital. Je peux certainement parler en mon nom, peut-être au nom d'autres personnes, en disant que lorsque le débat a été relancé au cours des derniers jours à propos du statut de société distincte pour les peuples autochtones, beaucoup de gens ont reçu un choc, en se rappelant en particulier de la situation lors des pourparlers de Meech, auxquels les peuples autochtones n'ont pas participé de façon satisfaisante.

J'aimerais aborder le sujet sous un angle quelque peu différent. Vous dites à la page 7 de votre mémoire que vous êtes préoccupé par le fait que si la reconnaissance de la société distincte ne s'applique qu'au Québec, les droits linguistiques des Inuit dans certaines régions du pays pourraient-être menacés. La désignation d'une seule société distincte pourrait également avoir, à votre avis, d'autres implications négatives. D'après ce que vous avez dit aujourd'hui et auparavant, je crois comprendre que vous voulez à la fois une reconnaissance adéquate pour le Québec pour qu'il protège sa langue et sa culture et une reconnaissance adéquate et réelle pour les Inuit et les autres

[*Text*]

and sufficient, then as I understand it, the language is a secondary matter. But it is important that we understand what issue is being addressed here. You have put your finger on it, I think, in the presentation here today.

I would hope that somehow or other we can begin to de-escalate the symbolism aspect of the debate and assure ourselves that in the package to be agreed upon it's not going to be a win-lose, as were the implications in the Meech round, but a win-win in terms of both the people of Quebec and the aboriginal nations.

You've opened up considerable territory in this in saying that you're prepared to look at the kind of language that would be the most helpful in that. I don't know whether we can go beyond it much here today, but I think that is really crucial in terms of making progress on all fronts in this constitutional process.

Ms Kuptana: To comment briefly on what you've just stated, as Inuit we feel that Quebec is free to negotiate precise wording of its own distinct society status. The mass majority of Canadians have stated that they support the distinct society status of Quebec. Inuit fully endorse their aspirations and their goals. I think that neither process has to occur at the expense of the other. I've said that a number of times. These are separate issues. What we are seeking is a matter of simple co-existence, one of mutual respect and mutual recognition. There's distinct society for Quebec. There's distinct society for Inuit. We are not saying that we want a little piece or half of the distinctness of Quebec.

Mr. MacDonald: I shall just follow this up by asking two questions. First, as I understand it, the increasingly general acceptance of the inherent right definition is not by itself fully adequate, in your view, to guarantee the language and cultural aspects. Under the current definitions of the distinct society discussion vis-à-vis Quebec, do you feel that there should be some acknowledgement within that or some way of approaching that that would protect, if you like, to go to John Amagoalik's language, the minority within the minority protection of language and culture, as would obviously apply to Quebec? We have the situation where Quebec would be defined or described as a distinct society within which there would be this distinct or original nation that would have language and culture that would at least need to be respected and protected.

• 1215

Ms Moss: As you've heard Rosemarie and John explain today, and as I've heard Inuit leaders articulate their objectives with respect to distinct society, they don't perceive the issue as one necessarily involving conflict of objectives. To

[*Translation*]

nations autochtones. Si nous ne perdons pas de vue l'objectif qui consiste à nous assurer que ces garanties sont explicites et suffisantes, alors je crois comprendre que la langue est une question secondaire. Mais il importe pour nous de comprendre le problème qui est abordé ici. Vous l'avez pointé du doigt dans votre exposé aujourd'hui.

J'ose espérer que, d'une façon ou d'une autre, nous pourrons commencer à désamorcer l'aspect symbolique du débat et nous assurer que la proposition sur laquelle nous devrons nous entendre ne donnera pas un gagnant et un perdant, comme à la suite des négociations du Lac Meech, mais que l'on aura deux gagnants du côté des Québécois et des nations autochtones.

Vous avez fait preuve d'une ouverture remarquable en disant que vous êtes disposée à étudier le libellé qui se révèlerait le plus utile en la matière. Je ne sais pas si nous pouvons aller beaucoup plus loin ici aujourd'hui, mais je pense que c'est véritablement crucial pour permettre des progrès sur tous les fronts dans ce débat constitutionnel.

Mme Kuptana: Je vais me permettre quelques brefs commentaires sur ce que vous venez de dire. En tant qu'Inuit, nous pensons que le Québec est libre de négocier le libellé précis de son statut de société distincte. La grande majorité des Canadiens ont donné leur appui au statut de société distincte pour le Québec. Les Inuit appuient pleinement les aspirations et les objectifs des Québécois. Je pense qu'aucun processus ne doit se dérouler au détriment de l'autre. Je l'ai déjà répété de nombreuses fois. Il s'agit de problèmes séparés. Ce que nous recherchons, c'est une simple coexistence, une question de respect mutuel et de reconnaissance mutuelle. Il y a une société distincte pour le Québec. Il y a une société distincte pour les Inuit. Nous n'affirmons pas que nous voulons une petite part ou la moitié du caractère distinct du Québec.

M. MacDonald: Je voudrais continuer dans la même veine en posant deux questions. Tout d'abord, si je comprends bien, l'acceptation de plus en plus généralisée de la définition du droit inhérent n'est pas en elle-même entièrement satisfaisante, à votre avis, pour garantir les aspects linguistiques et culturels. En vertu des définitions actuelles de la société distincte dans les discussions avec le Québec, pensez-vous qu'il faudrait une reconnaissance dans ce cadre ou prévoir une certaine approche qui, si vous voulez, pour reprendre les mots de John Amagoalik, assurerait la protection de la minorité au sein de la minorité en ce qui concerne la langue et la culture, comme cela s'appliquerait de toute évidence au Québec? Nous nous retrouvons dans la situation où le Québec serait défini ou décrit comme une société distincte au sein de laquelle il y aurait cette nation distincte ou originale dont il faudrait au moins respecter et protéger la langue et la culture.

Mme Moss: Comme Rosemarie et John l'ont déjà expliqué aujourd'hui, et de la façon dont les chefs Inuit ont déjà précisé leurs objectifs à propos de la société distincte, il ne semble pas que la question implique forcément un conflit

[*Texte*]

address the specific question of what to do in the eventuality, or the risk, that collective rights within Quebec may conflict, we believe that a simple change to section 25 might take care of any potential conflict between the proposed section 25.1 and section 25, the understanding of Inuit leaders being that Quebec has no objective to impinge on Inuit rights either. We believe a small change to section 25 would be consistent with the policies of the Province of Quebec as well as those of Canada.

If you look at section 25, you see it is essentially a shield from Charter guarantees for aboriginal and treaty rights and the wording of section 25 refers only to guarantees in the Charter. So to the extent that there is a shielding effect from section 25, it is only with respect to the legal rights guaranteed in the Charter. The question then arises, a rather commonsense question, if aboriginal and treaty rights are shielded from Charter guarantees by section 25, why would you not also ensure that aboriginal and treaty rights are shielded from a Charter interpretation clause?

Mr. Littlechild: Welcome back to the committee. This is a question that I phrased in Iqaluit to LIA, the Labrador witness on the Senate reform aspect. She proposed two rolls be taken for the election of a Senate, an aboriginal roll and a non-aboriginal roll for election of senators. First of all, do you support that proposal, and if so, how do we do the aboriginal selection? Do the Inuit vote only for Inuit and the Métis vote only for a Métis senator and the Indian vote only for an Indian senator? Or do all the aboriginal peoples as a pool vote for an aboriginal representative senator?

Ms Kuptana: Mr. Littlechild, you'll note we have deliberately stayed away from the Senate reform issue in our constitutional position paper. We are still debating amongst ourselves on this specific issue. We have not yet come to a consensus and I'm hoping as we go along in this constitutional reform process we'll be able to come to a consensus.

Senator Johnson: Thank you for your presentation. I have found it very, very helpful. I think my question has been really answered. I was wondering about the distinct society and would you entertain using other wording, and you've already answered that question quite clearly, I think. The answer is, yes, you would consider using another term. That is correct?

• 1220

Ms Kuptana: That is correct. To briefly answer your question, Senator Johnson, what would distinct society status mean for the Inuit, for aboriginal peoples in Canada, I think we have to start at a factual level. Are the Inuit a society?

[*Traduction*]

d'objectifs. Pour aborder la question précise des mesures à prendre dans l'éventualité, ou devant le risque d'un conflit entre les droits collectifs au sein du Québec, nous sommes d'avis qu'une simple modification de l'article 25 pourrait régler tout conflit possible entre l'article 25.1 proposé et l'article 25, étant donné que les chefs inuit croient comprendre que le Québec n'a pas non plus pour objectif d'empiéter sur les droits des Inuit. Une petite modification de l'article 25 serait compatible avec les politiques du Québec et avec celles du Canada.

Si vous examinez l'article 25, vous constatez qu'il s'agit essentiellement d'une protection face aux garanties contenues dans la Charte concernant les droits des autochtones et ceux issus des traités, et que l'article 25 ne fait mention que des garanties contenues dans la Charte. Ainsi donc, dans la mesure où l'article 25 produit un effet d'écran, ce n'est qu'à propos des droits juridiques garantis dans la Charte. Une question se pose donc, plutôt une question de bon sens d'ailleurs :si l'article 25 fait écran aux droits des autochtones et à ceux issus des traités face aux garanties contenues dans la Charte, pourquoi ne pas vous assurer également que les droits autochtones et ceux issus des traités sont protégés contre une clause d'interprétation de la Charte?

M. Littlechild: C'est avec plaisir que je vous retrouve devant le comité. C'est une question que j'ai posée à Iqaluit aux représentants de l'AIL du Labrador à propos de la réforme du Sénat. Elle a proposé d'avoir deux listes pour l'élection au Sénat, une liste d'autochtones et une liste non-autochtone pour élire les sénateurs. Tout d'abord, appuyez-vous cette proposition et, dans l'affirmative, comment opérer la sélection des autochtones? Les Inuit voteraient-ils uniquement pour un sénateur inuit et les Métis pour un sénateur métis et les Indiens pour un sénateur indien? Ou bien tous les peuples autochtones ensemble voteraient-ils pour un sénateur autochtone?

Mme Kuptana: Monsieur Littlechild, vous remarquerez que nous avons délibérément laissé de côté la question de la réforme du Sénat dans notre énoncé de position sur la constitution. Nous sommes encore en train de discuter de ce sujet précis entre nous. Nous ne sommes pas encore parvenus à un consensus et j'espère que nous pourrons y parvenir à mesure que nous progresserons dans ce débat sur la réforme constitutionnelle.

La sénatrice Johnson: Merci pour votre exposé. Je l'ai trouvé très très intéressant. Je pense que vous avez en fait répondu à ma question. Je me posais des questions sur la société distincte et je me demandais si vous envisageriez un autre libellé, et vous avez déjà répondu de façon assez claire à cette question. La réponse est affirmative, vous envisageriez d'utiliser un autre mot. C'est exact?

Mme Kuptana: C'est exact. Pour répondre brièvement à votre question, sénateur Johnson, il faut se rappeler les faits pour comprendre ce que signifierait un statut de société distincte pour les Inuit, pour les peuples autochtones du

[*Text*]

Are the Inuit a society that is distinct, meaning that we're different in our own language? I think that some of you may have heard Zebedee Nungak's comments on television with regards to how we could identify ourselves.

[*Witness continues in native language*]

Senator Johnson: I understand and appreciate that. I was just trying to understand so it is very clear to me, that would be something you would negotiate. As Mr. Allmand said, you have always been referred to as nations, and that is the terminology that I was used to. Thank you, that clears it up.

M. Blackburn: Madame Kuptana, plus nous avançons dans ce processus, plus je me demande comment il sera possible d'arriver à une entente, avec tout ce que demandent les autochtones. M. Nungak a présenté la semaine dernière la carte géographique indiquant que les deux tiers du Québec appartiennent en quelque sorte à votre groupe. Le Saguenay—Lac-Saint-Jean et le comté de Jonquière font partie de cet espace. Deuxièmement, vous demandez aussi d'être définis comme société distincte. Le mot «inhérent» veut dire pour vous que les terres vous appartiennent. Troisièmement, en ce qui concerne la décentralisation des pouvoirs, on sait que le Québec veut avoir des pouvoirs additionnels. Vous nous dites dans votre rapport que vous vous opposez à une décentralisation des pouvoirs puisque cela aurait un impact sur les peuples autochtones. Vous dites qu'on devrait obtenir votre consensus pour faire une telle décentralisation des pouvoirs. Les possibilités s'amenuisent de jour en jour, et même d'heure en heure. Vous devrez changer votre discours. Je ne vois pas comment ce sera possible autrement.

Ms Kuptana: First of all, Mr. Blackburn, when Mr. Nungak showed his map on national television, he made no statement on territory. As far as our being able to come to some kind of common or middle ground, I am very discouraged because the way I look at it is probably the way you look at it, and I think that's sad. By what right do you presume to impose your vision of what our identity is and should be, and how it should or should not be expressed in the Constitution?

But then maybe again it's not our Constitution. Is that what you are saying when you tell us that not only do we not have recognition as a distinct society, as a society that is different from any of you, but that we are not even to speak of our aspirations? What kind of freedom of speech is this? What kind of cultural freedom do Inuit enjoy in Canadian society or any part of it if we cannot speak freely of our aspirations regarding our expression of our identity in the Constitution?

Are we afraid of ideas? Are we afraid of thoughts? Are we afraid of discussion or are we afraid of dailogue? Where does our fear stem from?

[*Translation*]

Canada. Les Inuit constituent-ils une société? Les Inuit sont-ils une société qui est distincte, c'est-à-dire que nous sommes différents à cause de notre propre langue? Certains d'entre vous ont peut-être entendu les commentaires prononcés à la télévision par Zebedee Nungak sur la façon dont nous pourrions nous identifier.

[*Le témoin poursuit en langue autochtone*]

La sénatrice Johnson: Je comprends tout cela et j'en tiens compte. J'essaie simplement de comprendre afin que ce soit bien clair pour moi, qu'il s'agit là de quelque chose que vous accepteriez de négocier. Comme l'a dit M. Allmand, on a toujours parlé de vous en tant que nation, et c'est la terminologie à laquelle j'étais habituée. Merci, d'avoir clarifié les choses.

Mr. Blackburn: Mrs. Kuptana, the more we advance in this process, the more I wonder how it will be possible to reach a consensus, with all the claims of the aboriginal people. Last week, Mr. Nungak showed a map showing that the two thirds of the province of Quebec belonged to your group. The Saguenay—Lac-Saint-Jean and the Jonquière area are part of this territory. Secondly, you are also asking to be defined as a distinct society. The word "inherent,, means for you that the land belongs to you. Thirdly, as far as decentralization of powers is concerned, we know that the province of Quebec wants additional powers. In your presentation, you tell us that you are against a decentralization of powers because that would have an impact on aboriginal people. You say that we should get your approval to proceed with such a decentralization of powers. Opportunities are slipping away by the day and even by the hour. You will have to change your position. Otherwise, I don't see how it will be possible.

Mme Kuptana: Tout d'abord, monsieur Blackburn, lorsque M. Nungak a présenté sa carte à la télévision nationale, il n'a fait aucune déclaration à propos du territoire. En ce qui concerne la possibilité de parvenir à une sorte de terrain d'entente, je suis très découragée parce que la façon dont je vois les choses est probablement la façon dont vous les voyez, et c'est triste. De quel droit osez-vous imposer votre vision de notre identité actuelle et future et de la façon de l'exprimer ou non dans la Constitution?

Mais, une fois de plus, il ne s'agit peut-être pas de notre Constitution. Est-ce le sens de vos paroles lorsque vous nous dites non seulement que nous ne sommes pas reconnus en tant que société distincte, en tant que société différente de vous, mais que nous ne devons même pas parler de nos aspirations? De quel type de liberté d'expression s'agit-il? De quel type de liberté culturelle bénéficient les Inuit dans la société canadienne ou dans une partie de cette société si nous ne pouvons parler librement de nos aspirations à propos de l'expression de notre identité au sein de la Constitution?

Avons-nous peur des idées? Avons-nous peur des pensées? Avons-nous peur de la discussion ou du dialogue? D'où provient notre peur?

[*Texte*]

• 1225

As Inuit we are prepared to come to the constitutional table and come to a mutual agreement on such wording, to negotiate such areas as the inherent right to self-government, distinct society or other kinds of wording. You know what I have said here, Mr. Blackburn. It is up to you to open your mind and to open that dialogue. We have come to you here in good faith and I expect you as a national leader and a national figure to be able to have constructive dialogue with aboriginal people.

Mr. Friesen: One of the areas that I have always thought created the greatest problems for aboriginal people was the paternalistic attitudes within DIA. Much of that centres around the term "fiduciary responsibilities". I noticed you refer to that in your paper. I think many of us have the notion that as we gain independence our dependence recedes. As we gain independence our dependence tends to go down. If we have a greater and greater dependence we lose independence. I think it is a sliding scale. And so the more independent we become, the less dependent we become.

I gather from your paper that you do not foresee a day when the fiduciary relationship between aboriginal people and the federal government will ever disappear. Do I read you correctly on that, or have I misread you?

Mr. Amagoalik: If I may respond, we don't expect Canada to become stationary for the rest of the world; Canada must evolve over time. The kind of responsibility that the Government of Canada has towards aboriginal people at this moment in our history is necessary, because we need the kind of protection that 91.24 affords us at this time. But as the country evolves, perhaps 100 years from now, perhaps we can start talking about changing the status, as the Government of Canada relates to the aboriginal peoples' status. I don't see that cemented in stone. I think Canada has to be flexible, and if it becomes necessary to discuss that special relationship, of course, we are open to that.

The Joint Chairman (Mrs. Dobbie): Thank you all. The Inuit Tapirisat, as usual, has a very comprehensive and excellent brief. We appreciate the very frank way you shared your answers with us. We will look forward to seeing you this afternoon at the in camera session. Thank you.

The meeting stands adjourned until 3:15 p.m.

[*Traduction*]

En tant qu'Inuit, nous sommes disposés à nous asseoir à la table constitutionnelle et à nous entendre sur un libellé, à négocier des sujets comme le doit inhérent à l'autonomie, la société distincte ou tout autre type de libellé. Monsieur Blackburn, vous savez très bien ce que j'ai dit ici. Il vous incombe d'élargir votre vision et d'ouvrir le dialogue. Nous nous sommes présentés devant vous en toute bonne foi et j'espère qu'en tant que chef et que personnalité d'envergure nationale vous pourrez entamer un dialogue contructif avec les peuples autochtones.

M. Friesen: D'après moi, l'un de sujets qui a toujours provoqué les plus graves problèmes pour les autochtones, c'était les attitudes paternalistes au sein du MAINC. Tout cela tourne principalement autour de l'expression «responsabilités fiduciaires». J'ai remarqué que vous y faites allusion dans votre mémoire. Bon nombre d'entre nous ont l'impression que notre dépendance diminue à mesure que notre indépendance augmente. Plus notre indépendance s'accroît, plus notre indépendance tend à baisser. Si notre dépendance est de plus en plus grande, nous perdons notre indépendance. C'est une échelle mobile. Par conséquent, plus nous devenons indépendants, moins nous devenons dépendants.

D'après votre mémoire, je crois comprendre que vous ne prévoyez jamais la disparition de la relation de confiance qui existe entre les peuples autochtones et le gouvernement fédéral. Ai-je bien lu ou vous ai-je mal interprété?

M. Amagoalik: Si vous me permettez de répondre, nous ne nous attendons pas à ce que le Canada devienne figé pour le reste du monde; le Canada doit évoluer au fil du temps. La responsabilité que le gouvernement du Canada a à l'égard des peuples autochtones à ce moment précis de notre histoire est nécessaire parce que nous avons besoin de la protection que nous confère actuellement l'article 91.24. Mais, à mesure que le pays évoluera, possiblement d'ici un siècle, nous pourrons peut-être commencer à parler de modifier le statut car il existe un rapport entre le gouvernement du Canada et le statut des peuples autochtones. Rien n'est gravé dans la pierre. Le Canada doit faire preuve de souplesse et, s'il s'avère nécessaire d'aborder la question de ce lien particulier, nous serons évidemment tout à fait disposés à le faire.

La coprésidente (Mme Dobbie): Merci à vous tous. Comme d'habitude, le Tapirisat inuit a remis un mémoire excellent et très complet. Nous apprécions la franchise avec laquelle vous avez partagé vos points de vue avec nous. Nous vous retrouverons avec plaisir cet après-midi pour la séance à huis-clos. Je vous remercie.

La séance est levée jusqu'à 15h15.

MAIL POSTE

Issue No. 65

Tuesday, February 11, 1992

Third Session of the Thirty-fourth Parliament,
1991-92

Fascicule n° 65

Le mardi 11 février 1992

Troisième session de la trente-quatrième législature,
1991-1992

SENATE

HOUSE OF COMMONS

SÉNAT

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The Honourable Gérald Beaudoin, Senator

Dorothy Dobbie, M.P.

Cogrésidents:

L'honorable Gérald Beaudoin, sénateur

Dorothy Dobbie, députée

Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on a

Renewed Canada

Procès-verbaux et témoignages du Comité mixte spécial du Sénat et de la Chambre des communes sur le

Renouvellement du Canada

RESPECTING:

The Government of Canada's proposals for renewed Canada

CONCERNANT:

Les propositions du gouvernement du Canada relatives au renouvellement du Canada

WITNESSES:

(See back cover)

TÉMOINS:

(Voir à l'endos)

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WITNESSES

From the Government of Manitoba:

The Honourable Gary Filmon, Premier;

Clayton Manness, Minister of Finance;

Jim McCrae, Minister of Justice.

From the Native Council of Canada:

Ron George, President;

Phil Fraser, Vice-President;

Martin Dunn, Co-Chair, Constitutional Review Commission;

Yves Assiniwi, Special Adviser;

Dwight Dorey, Chair, Constitutional Task Force;

Brad Morse, Constitutional Adviser.

From the Inuit Tapirisat of Canada:

Rosemarie Kuptana, President;

John Amagoalik, Inuit Committee on Constitutional Issues;

Wendy Moss, Coordinator, Constitutional Issues.

TÉMOINS

Du gouvernement du Manitoba:

L'honorable Gary Filmon, premier ministre;

Clayton Manness, ministre des Finances;

Jim McCrae, ministre de la Justice.

Du Conseil national des autochtones du Canada:

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Phil Fraser, vice-président;

Martin Dunn, coprésident, Commission de l'examen constitutionnel;

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HOUSE OF COMMONS

Issue No. 65

Tuesday, February 11, 1992

Joint Chairmen:

The Honourable Gérald Beaudoin, Senator

Dorothy Dobbie, M.P.

SÉNAT

CHAMBRE DES COMMUNES

Fascicule nº 65

Le mardi 11 février 1992

Coprésidents:

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Dorothy Dobbie, députée

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Third Session of the Thirty-fourth Parliament, 1991-92

Troisième session de la trente-quatrième législature, 1991-1992

24559—1

SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON A RENEWED CANADA

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Daniel Hays
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Ross Reid
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Ian Waddell—(20)

(Quorum 13)

Charles Robert

Richard Rumas

Joint Clerks of the Committee

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(Quorum 13)

Les cogreffiers du Comité

Charles Robert

Richard Rumas

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MINUTES OF PROCEEDINGS

TUESDAY, FEBRUARY 11, 1992
(70)

[*Text*]

The Special Joint Committee on a Renewed Canada met at 3:20 o'clock p.m. this day, in Room 200 of the West Block, the Joint Chairman, the Honourable Senator Gérald Beaudoin, presiding.

Members of the Committee present:

Representing the Senate: The Honourable Senators E.W. Barootes, Gérald Beaudoin, Mario Beaulieu, Daniel Hays, Janis Johnson, Allan MacEachen, Donald Oliver and Peter Stollery.

Representing the House of Commons: Warren Allmand, Jean-Pierre Blackburn, Ethel Blondin, Gabriel Desjardins, Dorothy Dobbie, Ronald Duhamel, Benno Friesen, Albina Guarnieri, Ken Hughes, Lynn Hunter, Wilton Littlechild, David MacDonald, Russell MacLellan, Lorne Nystrom, André Ouellet, Ross Reid, John Reimer, Monique B. Tardif and Ian Waddell.

Other Members present: Phillip Edmonston, Howard McCurdy and Rob Nicholson.

In attendance: David Broadbent, Executive Director and Roger Tassé, Constitutional Adviser.

Witnesses: From the Metis National Council: Yvon Dumont, President, Manitoba Metis Federation; Tony Belcourt, Ontario Metis Aboriginal Association; Norman Evans, Pacific Metis Federation; Larry Desmeules, Metis Nation of Alberta; Gary Bohnet, Metis Nation of Northwest Territories.

Pursuant to its Orders of Reference dated Wednesday, June 19, 1991 and Friday, June 21, 1991, the Committee resumed its study of the Government's proposals for a Renewed Canada (*see Minutes of Proceedings, Wednesday, September 25, 1991, Issues No. 1*).

The witnesses made statements and answered questions.

At 4:27 o'clock p.m., the sitting was suspended.

At 4:43 o'clock p.m., the sitting resumed *in camera*.

The Committee discussed constitutional issues with representatives of the Assembly of First Nations, the Inuit Tapirisat of Canada, the Metis National Council and the Native Council of Canada.

At 6:25 o'clock p.m., the Committee adjourned to the call of the Chair.

Charles Robert

Joint Clerk of the Committee

Richard Rumas

Joint Clerk of the Committee

PROCÈS-VERBAL

LE MARDI 11 FÉVRIER 1992
(70)

[*Traduction*]

Le Comité mixte spécial sur le renouvellement du Canada se réunit à 15 h 20, dans la salle 200 de l'édifice de l'Ouest, sous la présidence de l'honorable sénateur Gérald Beaudoin (*coprésident*).

Membres du Comité présents:

Représentant le Sénat: Les hononorables sénateurs E.W. Barootes, Gérald Beaudoin, Mario Beaulieu, Daniel Hays, Janis Johnson, Allan MacEachen, Donald Oliver et Peter Stollery.

Représentant la Chambre des communes: Warren Allmand, Jean-Pierre Blackburn, Ethel Blondin, Gabriel Desjardins, Dorothy Dobbie, Ronald Duhamel, Benno Friesen, Albina Guarnieri, Ken Hughes, Lynn Hunter, Wilton Littlechild, David MacDonald, Russell MacLellan, Lorne Nystrom, André Ouellet, Ross Reid, John Reimer, Monique B. Tardif et Ian Waddell.

Autres députés présents: Phillip Edmonston, Howard McCurdy et Rob Nicholson.

Aussi présents: David Broadbent, directeur exécutif; Roger Tassé, conseiller constitutionnel.

Témoins: Du Conseil national des Métis: Yvon Dumont, président, Fédération des Métis du Manitoba; Tony Belcourt, Association des Métis et des autochtones de l'Ontario; Norman Evans, Fédération des Métis du Pacifique; Larry Desmeules, Nation métisse de l'Alberta; Gary Bohnet, Nation métisse des Territoires du Nord-Ouest.

Conformément à ses ordres de renvoi des mercredi 19 et vendredi 21 juin 1991, le Comité reprend l'étude des propositions du gouvernement relatives au renouvellement du Canada (*voir les Procès-verbaux et témoignages du mercredi 25 septembre 1991, fascicule nº 1*).

Les témoins font des exposés et répondent aux questions.

À 16 h 27, la séance est suspendue.

À 16 h 43, la séance reprend à huis clos.

Le Comité s'entretient avec les représentants de l'Assemblée des Premières nations, de Inuit Tapirisat du Canada, du Conseil national des Métis et du Conseil national des autochtones du Canada.

À 18 h 25, le Comité s'ajourne jusqu'à nouvelle convocation des coprésidents.

Le cogreffier du Comité

Charles Robert

Le cogreffier du Comité

Richard Rumas

[*Text*]

EVIDENCE

[*Recorded by Electronic Apparatus*]

Tuesday, February 11, 1992

• 1527

The Joint Chairman (Senator Beaudoin): Colleagues, we will start our hearing this afternoon with the President of the Metis National Council, Mr. Yvon Dumont.

Mr. Dumont, you have one hour for proceedings and after that we will adjourn for a few minutes before I call the next meeting in camera.

Mr. Norman Evans (President of the Pacific Metis Federation and Spokesman for the Metis National Council): Mr. Beaudoin, things do change in the political spectrum. Even governments change. So do leaders change. My name is Mr. Evans. I am the interim spokesman for the Metis National Council. I am not Mr. Dumont. He is on my right.

The Joint Chairman (Senator Beaudoin): Well, I still welcome all of you.

Mr. Evans: But you called him by name. First of all, on behalf of the Metis Nation, we want to begin today by thanking the committee for allowing us to make this presentation and present our views on the federal proposals.

We appreciate the hard work the committee has undertaken over the last several months. We are particularly pleased you are taking the time to meet with us for the third time. We know your deliberations have been characterized by an openess and a willingness to learn about our people, and we commend all of you for a job well done.

The Metis National Council have addressed all 28 proposals and have shared our suggested changes with the liaison committee. Today we table our final suggested changes to the federal proposals. It is important for us to highlight our priority issues to assist you in drafting your report. We are tabling wording that you may wish to consider in your final report.

Our presentation today focuses upon the division of powers, the Metis jurisdictional issue, Metis self-government, Senate reform, an ongoing process, the entrenchment of a bilateral process, and the Canada clause. We would like to raise two additional items: the establishment of a Metis land base and the clarification of the apparent misunderstanding of our position on the distinct society clause for Quebec.

Turning now to the division of powers, we want to stress our disappointment in the nature of the discussions concerning the division of powers. The Halifax conference did not adequately reflect the fact there is a third order of government.

[*Translation*]

TÉMOIGNAGES

[*Enregistrement électronique*]

Le mardi 11 février 1992

Le coprésident (le sénateur Beaudoin): Chers collègues, nous allons commencer nos audiences de cet après-midi avec le président du Ralliement national des Métis, M. Yvon Dumont.

Monsieur Dumont, vous disposez d'une heure, après quoi nous ajournerons quelques instants avant de tenir notre séance suivante à huis clos.

M. Norman Evans (président de la Pacific Metis Federation et porte-parole du Ralliement national des Métis): Monsieur Beaudoin, tout évolue en politique. Même les gouvernements changent. Il en va de même pour les dirigeants. Je suis M. Evans. Je suis le porte-parole intérimaire du Ralliement national des Métis. Je ne suis pas M. Dumont. Il est à ma droite.

Le coprésident (le sénateur Beaudoin): De toute façon, bienvenue à tous.

M. Evans: C'est parce que vous l'aviez mentionné personnellement. Tout d'abord, au nom de la nation métis, nous souhaitons remercier le comité de nous avoir permis de faire cet exposé et de soumettre notre point de vue sur les propositions fédérales.

Nous admirons le travail considérable accompli par votre comité au cours des derniers mois. Nous sommes particulièrement heureux que vous ayez pris le temps de nous rencontrer une troisième fois. Nous savons que vos délibérations se sont déroulées dans un esprit d'ouverture et que vous souhaitez en savoir plus sur notre peuple. Nous vous félicitons tous pour la qualité de votre travail.

Le Ralliement national des Métis a examiné les 28 propositions et communiqué ses suggestions de changements au comité de liaison. Nous vous présentons aujourd'hui nos dernières suggestions de modifications aux propositions fédérales. Il est important que nous insistions sur les points que nous jugeons prioritaires pour vous aider à rédiger votre rapport. Nous vous soumettons un texte dont vous voudrez peut-être vous inspirer dans votre rapport final.

Notre exposé d'aujourd'hui portera sur la répartition des pouvoirs, la question de la compétence des Métis, l'autonomie gouvernementale des Métis, la réforme du Sénat, un dossier qui suit son cours, l'enchâssement du processus bilatéral et la clause Canada. Nous souhaiterions aborder deux points supplémentaires: la création d'une assise territoriale des Métis et la clarification d'un malentendu apparent sur notre position à propos de la clause de société distincte pour le Québec.

Pour ce qui est de la répartition des pouvoirs, nous tenons à souligner que nous sommes déçus par le débat sur cette répartition. La conférence de Halifax n'a pas correctement reflété l'existence d'un troisième ordre de gouvernement.

[*Texte*]

• 1530

We believe any changes to the division of powers must anticipate the interests of Metis governments. Our position, elaborated upon in our response to the 28 proposals, essentially suggests that any transfers of jurisdiction between the federal and provincial governments require Metis consent.

On jurisdiction, in the orientation session we outlined the need for the federal government to assume its obligations under section 91.24 of the Constitution Act, 1867. While the federal government asserted its jurisdiction for the Metis under section 91.24 to implement the terms of the Manitoba Act and through the Dominion Lands Act, it abandoned its obligations earlier this century. This policy must end.

After a failed attempt to implement land legislation affecting Metis, the federal government practised a policy of benign neglect. Acts of omission rather than commission were the order of the day. The Supreme Court has now recognized that the federal government owes a fiduciary obligation to all aboriginal peoples, including Metis. The courts are now getting ahead of the federal government and the political process. It is now incumbent upon the federal government to change its policy and assume its responsibilities. That is why we encourage your committee to recommend to the federal government that it assert its jurisdictional responsibilities for Metis under section 91.24.

In assuming its jurisdiction, we do not believe the federal government should place us under the Indian Act. We categorically reject the Indian Act, as do many First Nations. We are prepared to sit down with the federal government and work out how its jurisdiction might be exercised in the context of Metis self-government.

We remain committed to explicit constitutional reaffirmation of the inherent right of Metis self-government in section 35 of the Constitution Act, 1982. These self-governing rights must be judicially enforceable. We recognize, however, that a judicial interpretation of self-government prior to the negotiation of self-government agreements creates risks for the Metis nation and other levels of government. Accordingly, the Metis National Council supports delaying the enforcement of the right for a period of up to five years. However, agreements reached during the intervening periods should receive immediate enforceability.

We do not believe the lower courts of the country are particularly suited to interpret the meaning of self-government. This is why we believe an extra tribunal should be established to resolve disputes between all levels of government in the first instance. The decisions of the tribunal should be binding upon the parties, with an appeal line directly to the Supreme Court of Canada. This is in line with the proposals made by Premier Ghiz.

[*Traduction*]

Nous croyons que toute renégociation du partage des compétences doit tenir compte des intérêts des gouvernements métis. Notre position, bien expliquée dans notre réponse aux 28 propositions, signifie essentiellement que toute délégation de pouvoir entre les gouvernement fédéral et provinciaux devra se faire avec le consentement des Métis.

Pour ce qui est des questions de compétence, lors de la séance d'orientation, nous avons expliqué qu'il était nécessaire que le gouvernement fédéral assume ses obligations en vertu de l'article 91.24 de la Loi constitutionnelle de 1867. Le gouvernement fédéral avait reconnu sa responsabilité à l'égard des Métis dans l'article 91.24 en vue de respecter les dispositions de la Loi de 1870 sur le Manitoba et de la Loi des terres fédérales, mais il a abandonné ses obligations au début du siècle. Cela doit changer.

Après avoir vainement tenté d'adopter une loi foncière concernant les Métis, le gouvernement fédéral a opté pour une politique de négligence. On a péché par omission plutôt que par commission. La Cour suprême a maintenant reconnu que le gouvernement fédéral avait une obligation fiduciaire envers tous les autothtones, y compris les Métis. Les tribunaux devancent le gouvernement fédéral et le processus politique. Le gouvernement fédéral se doit maintenant de modifier sa politique et d'assumer ses responsabilités. C'est pourquoi nous encourageons votre comité à recommander au gouvernement fédéral qu'il confirme ses responsabilités envers les Métis en vertu de l'article 91.24.

Nous ne croyons pas que la reconnaissance de sa compétence autorise le gouvernement fédéral à nous assujettir à la Loi sur les Indiens. Nous nous opposons catégoriquement à cette Loi comme beaucoup de premières nations d'ailleurs. Nous sommes disposés à discuter avec le gouvernement fédéral pour établir avec lui les modalités de sa compétence dans le contexte de l'autonomie politique des Métis.

Nous avons toujours la ferme intention de faire réitérer expressément le droit inhérent des Métis à l'autonomie politique en vertu de l'article 35 de la Loi constitutionnelle de 1982. Il devrait être possible de faire reconnaître ces droits à l'autonomie devant les tribunaux. Il est vrai qu'il serait risqué pour les Métis et les autres paliers de gouvernement d'obtenir une interprétation judiciaire du concept avant que ne soient négociés des accords sur l'autonomie politique. Par conséquent, le Ralliement national des Métis préconise le report de l'exercice de ce droit pendant une période allant jusqu'à cinq ans. Cependant, les accords convenus dans l'intervalle devraient pouvoir être mis en oeuvre immédiatement.

Nous croyons que les tribunaux de première instance ne sont pas particulièrement en mesure d'interpréter le concept d'autonomie politique. C'est pourquoi nous croyons qu'il faudrait créer un nouveau tribunal pour entendre les litiges entre les divers paliers de gouvernement. Cette décision serait exécutoire mais pourrait faire l'objet d'un appel à la Cour suprême du Canada. Cette suggestion est conforme à celle du premier ministre Ghiz.

[*Text*]

We also assert it is necessary for an orderly transition of jurisdictional power from both levels of government to the Metis Nation. This can be accomplished through self-government negotiations leading to an agreement whereby both levels of government would vacate a jurisdictional area upon the establishment of Metis laws. It would allow those communities in a position to exercise self-government to do so upon the establishment of Metis laws. It would also allow those communities that are not so advanced the time necessary to determine the responsibility they intend to assume.

In this respect the onus to negotiate becomes fundamentally important. We make it clear, however, that the Metis Nation is prepared to enter into negotiations on self-government immediately. The Metis National Council is adamant that governments must negotiate self-government agreements. The commitment to negotiate self-government must be explicitly entrenched in the Constitution. The constitutional commitment to negotiate must include, but not be limited to, matters respecting self-government including jurisdiction, powers, land, resources, funding, and preservation and enhancement of language and Metis culture.

As we indicated to the liaison committee, the Metis do not have, nor have they ever had, a self-identifying Metis person appointed to serve in the Senate. We indicated at the Calgary conference on Senate reform that federal institutions should reflect the diversity of our peoples in the country. We want to participate in these institutions. Our exclusion from representation in the Senate is a fundamental flaw in the upper chamber. This is why the Metis National Council supports guaranteed Senate districts for Metis people in each province and territory in the Metis homeland, which includes Ontario, Manitoba, Saskatchewan, Alberta, British Columbia and the Northwest Territories—separate from Indian and Inuit peoples.

• 1535

We want to point out that we are pleased with the support we received at the Calgary conference and believe the committee's report should recommend guaranteed Metis representation in the Senate and in the House of Commons.

We do not agree with those in Calgary who suggest that the entrenchment of self-government must be a precondition to Metis representation in the Senate. No such precondition is constitutionally necessary. The opportunity to achieve equitable reprsentation in the Senate is now and the government should act upon it.

The Metis Nation is very clear, in that we desire to work towards building a new and strengthened Canadian federation. This is why we support guaranteed Metis participation in the constitutional process, and support Metis involvement in any ongoing constitutional process.

We see the need for a constitutionally entrenched process to deal with issues not dealt with in this current round. Such conferences must be constitutionally entrenched and held at least annually, with full MNC involvement in the preparatory process and the study of agendas.

[*Translation*]

Nous affirmions également que le transfert de compétences des deux paliers de gouvernement à la nation métis s'effectue de façon méthodique. Pour ce faire, les négociations sur l'autonomie gouvernementale doivent aboutir à un accord selon lequel les deux paliers de gouvernement libéreront les champs de compétence au fur et à mesure de l'entrée en vigueur des lois métis. Ainsi, les collectivités seraient en mesure de se gouverner dès l'adoption des lois métis, et celles qui ne seront pas encore prêtes à le faire auront le temps de déterminer quelle compétence elles ont l'intention d'exercer.

À cet égard, l'obligation de négocier est fondamentale. La nation métis est prête à entamer immédiatement des négociations sur son autonomie politique. Le Ralliement national des Métis tient absolument à ce que les gouvernements négocient les accords d'autonomie politique. Cette obligation de négocier doit être mentionnée expressément dans la Constitution, en précisant notamment les sujets suivants: la compétence, les pouvoirs, les territoires, les ressources, le financement, la protection et la valorisation de la langue et de la culture métis.

Comme nous l'avons signalé au comité de liaison, nous n'avons jamais eu de représentant métis au Sénat. Nous avons dit à la conférence de Calgary sur la réforme du Sénat que les institutions fédérales devraient refléter la diversité de la population canadienne. Nous voulons faire partie intégrante de ces institutions. Le fait que nous ne soyons pas représentés au Sénat est un vice fondamental. C'est pourquoi le Ralliement national des Métis aimerait que dans chaque province et territoire où il y a des Métis, c'est-à-dire en Ontario, au Manitoba, en Saskatchewan, en Alberta, en Colombie-Britannique et dans les Territoires du Nord-Ouest, on crée des districts dont le représentant au Sénat serait Métis, indépendamment des Indiens et des Inuit.

Nous sommes heureux de l'appui que nous avons reçu à la conférence de Calgary et nous croyons que le rapport du comité devrait recommander une représentation garantie des Métis au Sénat et à la Chambre des communes.

Nous ne sommes pas d'accord avec ceux qui, à Calgary, ont proposé que la constitutionnalisation de l'autonomie politique soit une condition préalable à la représentation des Métis au Sénat. La Constitution n'exige aucune condition préalable. Nous avons la possibilité d'assurer une représentation équitable au Sénat maintenant et le gouvernement doit agir en ce sens.

La nation métis sait ce qu'elle veut; elle souhaite contribuer à l'édification d'une nouvelle fédération canadienne renforcée. C'est pourquoi nous voulons que l'on nous garantisse la participation des Métis aux négociations constitutionnelles actuelles et futures.

Nous jugeons nécessaire de prévoir dans la Constitution un processus de règlement des problèmes qui ne pourront être réglés pendant les négociations en cours. La Constitution doit prévoir la tenue de conférences annuelles auxquelles le Ralliement participerait pleinement depuis leur préparation jusqu'à l'étude de l'ordre du jour.

[*Texte*]

The agenda should include matters not dealt with from the 1983 political accord and other matters that may be agreed to from time to time.

We also assert the Metis Nation should be involved in the next stage of the preparatory process, in this round of constitutional discussions. We also support the extension of the committee's mandate to convene a meeting to discuss your report.

The Prime Minister has written the premiers, outlining a process for bilateral discussions. However, no such letter was sent to the aboriginal organizations. We indicated to Mr. Clark our desire to be involved in the process to be set in place, following the release of your report. We ask you to make this recommendation in your final report.

Concerning the bilateral process, the federal proposals include a commitment by the government to resolve the responsibilities of both levels of government as they relate to the Metis. This proposal is consistent with the Prime Minister's commitment to the Metis Nation on October 4, 1991, to establish a bilateral process with the Metis.

We are prepared to enter into this dialogue immediately. The failure of the federal government to come to the table tells us the commitment to establish a bilateral process should receive constitutional entrenchment.

In other words, we are tired of having governments tell us that they are going to enter into processes—they speak, but there is no action. We insist on a bilateral process with the federal government. Only through a constitutional commitment will the Metis Nation be assured of a process to deal directly with Metis issues.

Regarding the Canada clause, the present wording of the Canada clause places aboriginal self-government in the past tense. This may lead the courts to conclude self-government does not presently exist under section 35. We do not agree with this proposal. The language of the Canada clause must be changed to strengthen the interpretation of our rights, not weaken them.

The committee should build upon the federal proposals which recognize the prominent role of the Metis in the development of Canada. This can be accomplished by amending the Canada clause to recognize the contribution of the Metis Nation in bringing Manitoba into Confederation.

The Metis outside Alberta do not have an identifiable land base. We do not understand how a country with the second largest land mass in the world cannot recognize our rights to land. It's all the more distressing when you consider there are only 26 million people in this country.

We indicated to you in the orientation session that the federal government breached its fiduciary obligation in failing to protect Metis lands from the encroachment from settlers. We were promised land under the Manitoba Act, but these promises were broken.

[*Traduction*]

Cet ordre du jour devrait comporter les questions qui n'auront pas été réglées par l'accord politique de 1983 et d'autres sujets sur lesquels on pourra s'entendre régulièrement.

Nous affirmons aussi que la nation métis devrait participer activement à la prochaine étape préparatoire de la ronde actuelle des négociations constitutionnelles. Nous demandons aussi que le mandat du comité soit prolongé afin qu'il puisse tenir une réunion où l'on discuterait de son rapport.

Le premier ministre du Canada a écrit aux premiers ministres des provinces pour leur exposer le processus des discussions bilatérales. Les organismes autochtones n'ont pourtant reçu aucune lettre comparable. Nous avons dit à M. Clark que nous souhaitions participer aux négociations qui suivront la publication de votre rapport. Nous vous demandons d'en faire une recommandation de votre rapport final.

Au sujet des discussions bilatérales, les propositions fédérales parlent de l'engagement du gouvernement à trancher la question des responsabilités des deux paliers de gouvernement à l'endroit des Métis. Cette proposition est conforme à l'engagement qu'a pris le premier ministre du Canada envers la nation métis le 4 octobre 1991, visant à instaurer un processus de discussions bilatérales avec les Métis.

Nous sommes prêts à dialoguer immédiatement. L'absence du gouvernement fédéral aux discussions, signifie qu'il faut consacrer dans la Constitution ce processus bilatéral.

Autrement dit, nous en avons assez des belles paroles des gouvernements qui nous annoncent constamment des discussions, mais sans jamais donner suite. Nous tenons absolument à un processus bilatéral avec le gouvernement fédéral. C'est seulement si la Constitution le prévoit que la nation métis sera certaine de pouvoir discuter expressément des questions qui la concernent.

Pour ce qui est de la clause Canada, le texte anglais de la proposition gouvernementale parle de l'autonomie politique des autochtones au passé, ce qui pourrait amener les tribunaux à conclure que l'article 35 ne prévoit pas ce droit actuellement. Nous ne sommes pas d'accord. Il faut modifier le texte de la clause Canada de façon à renforcer nos droits, et non pas à les affaiblir.

Le comité devrait étoffer les propositions gouvernementales qui reconnaissent le grand rôle qu'ont joué les Métis dans l'histoire du Canada, notamment en reconnaissant, dans la clause Canada, que la nation métis a contribué à intégrer le Manitoba à la Confédération.

Les Métis de l'extérieur de l'Alberta n'ont pas de territoire propre. Nous ne comprenons pas comment le pays qui a la deuxième plus grande superficie au monde soit incapable de reconnaître nos droits à un territoire. C'est d'autant plus inquiétant que la population n'est que de 26 millions d'habitants.

Lors de la séance d'orientation, nous vous avons dit que le gouvernement fédéral n'avait pas respecté ses obligations fiduciaires en omettant de protéger les terres des Métis contre l'établissement des colons. Dans la Loi sur le Manitoba, on nous promettait des terres, mais ces promesses n'ont pas été tenues.

[*Text*]

We have attempted to readdress this issue. However, the federal government continues to deny our claims under the specific and comprehensive land claim policies. Several recent changes to the land claims policy have not dealt with outstanding Metis land claims. The committee must recommend the establishment of a land base in its final report.

A land base with adequate resources will permit self-government to flourish. Self-government must deliver programs and services to our people, with standards comparable to those accorded to other Canadians. Federal and provincial governments have a role to play consistent with current fiscal provisions. Governments can provide assistance in the form of equalization payments or the transfer of tax points. Reallocation of current expenditures targeted for the Metis Nation will ensure more effective use of the resources. Such a policy must include resources for Metis to prepare their submissions and include a clearly defined process to expedite the resolution of land settlements.

• 1540

Related to the land issue is the question of extension of provincial boundaries and the constitutional status of the territories. The Metis Nation believes that territorial consent must be obtained prior to the creation of new provinces and the extension of provincial boundaries. We also believe that the amending formula should allow the federal government alone to create new provinces.

I would like to turn now to the very contentious issue of Quebec as a distinct society. We also want to take this opportunity to clear up any misunderstanding on our position regarding the question of a distinct society for Quebec.

We support the recognition of Quebec as a distinct society. We believe such a designation addresses the cultural and political aspirations of Quebec. However, such a designation must not abrogate or derogate from aboriginal and treaty rights. This can be accomplished through a clause in the Constitution that specifically states:

> The recognition of Quebec as a distinct society shall not abrogate or derogate from the aboriginal treaty or other rights and freedoms of the aboriginal peoples of Canada.

We believe this approach best accommodates the interests of Quebeckers and the aboriginal people.

In closing, we want to thank the committee again for the opportunity to share our views on the federal proposals, and trust you will accommodate our concerns and suggestions in your final report. Thank you very much. We're open for questions now.

The Joint Chairman (Senator Beaudoin): Thank you, Mr. Evans. We will now start our question period with the Liberals, Mr. Ronald Duhamel.

[*Translation*]

Nous avons tenté de faire corriger la situation. Malheureusement, le gouvernement fédéral continue de refuser nos revendications en vertu des politiques sur les revendications territoriales particulières et globales. Plusieurs changements apportés récemment à ces politiques n'ont pas réglé les revendications métis en suspens. Le comité doit recommander dans son rapport final l'établissement d'une assise territoriale pour les Métis.

Nous avons besoin d'un territoire propre dont les ressources soient suffisantes pour permettre l'épanouissement de notre autonomie politique. Notre gouvernement doit assurer aux Métis des programmes et des services dont les normes seront comparables à ce qui est offert aux autres Canadiens. Les gouvernements fédéral et provinciaux doivent jouer un rôle conforme aux dispositions fiscales actuelles. Les gouvernements peuvent nous aider au moyen des paiements de péréquation et d'un transfert d'impôts. La réaffectation des dépenses actuellement consacrées à la nation métis assurera une utilisation plus efficace des ressources. Il faudrait notamment prévoir des ressources pour la préparation des soumissions par les Métis et définir clairement un processus qui accélérera le règlement des revendications territoriales.

La redéfinition des frontières provinciales et le statut constitutionnel des territoires se rapportent à la question territoriale. La nation métis croit qu'il faut obtenir le consentement des territoires avant de créer de nouvelles provinces ou de déplacer les limites provinciales. Nous croyons aussi que la formule d'amendement devrait permettre au seul gouvernement fédéral de créer de nouvelles provinces.

J'en arrive maintenant à la question très litigieuse du concept de société distincte pour le Québec. Nous voulons profiter de l'occasion pour dissiper tout malentendu quant à notre position à ce sujet.

Nous sommes pour la reconnaissance du Québec comme société distincte. Nous croyons que cela répondrait aux aspirations culturelles et politiques du Québec. Toutefois, cette reconnaissance ne doit pas porter atteinte aux droits ancestraux et aux droits issus de traités. Ce serait possible si la disposition ajoutée à la Constitution se lisait comme suit:

> La reconnaissance du Québec comme société distincte ne doit en aucune façon porter atteinte aux droits ancestraux ou issus de traités ou autres droits et libertés des peuples autochtones du Canada.

Nous croyons que ce serait le meilleur moyen de concilier les intérêts des Québécois et des autochtones.

En terminant, nous voulons remercier le comité de nous avoir fourni l'occasion d'exposer notre point de vue sur les propositions fédérales. Nous espérons que vous tiendrez compte de nos inquiétudes et de nos suggestions dans votre rapport final. Merci beaucoup. Nous pouvons répondre aux questions.

Le coprésident (le sénateur Beaudoin): Merci, monsieur Evans. Nous allons commencer par les Libéraux, M. Ronald Duhamel.

[*Texte*]

Mr. Duhamel (St. Boniface): Mr. Evans, gentlemen, thank you for your presentation. It's very comprehensive and helpful. My first question deals with the distinct society. There appears to be right now a divergence of opinion among the aboriginal peoples, as I understand it. Please correct me if I'm wrong. The Assembly of First Nations has indicated they want that particular distinction. The Native Council of Canada has indicated they do not need it, they are in fact distinct. In fact one comment was made today: "We had it. You want it? You can keep it". It was very clear.

The Inuit Tapirisat have indicated some real flexibility. In fact they've indicated they'd like to see the essence of distinct much more than the label itself. As I understand it, you do not feel you need that. Would you explain your position to me to make absolutely certain that I understand it. Perhaps a second and related question is how do we deal with this divergence right now? What can we do to come to grips with what appears to be different positions?

Mr. Evans: The Metis National Council's position on the distinct society issue is very clear. First, we are a distinct society. As far as the Metis people and Metis Nation go, we are a distinct society. We do not require that type of clause in the Constitution. But there's another addition to that clause that requires what Quebec wants. We understand that. They want their language, their culture, and their civil law. In our opinion, inherent right to self-government, once constitutionalized, protects those three rights. So we have no issue with Quebec as long as their distinct society with their laws and culture does not take away from our rights.

Mr. Duhamel: Do you have any advice as to how we might resolve this dilemma of a number of positions?

Mr. Evans: You have our position and I think you have the other groups' positions. I wouldn't want to start playing social worker here today as far as moving those people together.

Mr. Duhamel: Well I think you'll appreciate that I'm always looking for advice. It was done in a very positive kind of way.

You will recall as well that there have been discussions right from the beginning of the constitutional process on the possibility of a conference that would deal with aboriginal issues. In fact my party has indicated its support of that. Now it doesn't appear as if it's going to happen, but there is some indication it might occur subsequent to the presentation of the report. I'm not exactly sure where that's at; perhaps you know more than I do. I'd be pleased if you were able to share with us if you have more relevant information. A second part to that question: would it be useful if there were to be one subsequent to the presentation of our report to Parliament?

• 1545

Mr. Evans: I definitely think it would be useful, in answer to the second part of your question, and I think such a conference would be useful for us as aboriginal people to present to the Canadian public our views in a forum where

[*Traduction*]

M. Duhamel (Saint-Boniface): Monsieur Evans, messieurs, je vous remercie de cet exposé. Il est exhaustif et fort utile. Ma première question porte sur la société distincte. Il semble que les opinions soient maintenant partagées chez les autochtones. Corrigez-moi si je me trompe. L'Assemblée des premières nations a demandé à être reconnue comme société distincte. Le Conseil national des autochtones a dit ne pas avoir besoin de cette reconnaissance puisqu'ils étaient en fait distincts. D'ailleurs on a entendu des commentaires très clairs aujourd'hui: «Nous l'avions. Vous le voulez? Gardez-le».

Le Inuit Tapirisat fait preuve d'une souplesse réelle. L'association a précisé qu'elle préférerait l'essence du concept plutôt que l'étiquette même. Si je vous ai bien compris, vous ne semblez pas en avoir besoin. Pourriez-vous expliquer très clairement votre position afin que je sois certain d'avoir bien compris. J'aurais une deuxième question à ce sujet; comment faut-il considérer cette divergence d'opinions? Que peut-on faire face à ces positions différentes?

M. Evans: Le Ralliement national des Métis a une position très claire sur le concept de la société distincte. Tout d'abord, nous formons une société distincte. Pour les métis, cela ne fait aucun doute. Nous n'avons pas besoin de l'écrire dans la Constitution. Mais il y a aussi quelque chose d'autre sur ce que le Québec veut. C'est compréhensible. Le Québec veut protéger sa langue, sa culture et son droit civil. Selon nous, le droit inhérent à l'autonomie politique, une fois reconnu dans la Constitution, protègerait ces trois droits. Nous n'avons donc aucune objection à ce que le Québec soit reconnu comme une société distincte, tant que ses lois et sa culture ne portent pas atteinte à nos droits.

M. Duhamel: Pouvez-vous nous dire comment nous pourrions régler notre dilemme étant donné ces positions divergentes?

M. Evans: Écoutez, vous connaissez notre position et celle des autres associations. Je n'ai pas l'intention de jouer au modérateur ici.

M. Duhamel: Vous comprendrez que j'ai besoin de conseils. Mes intentions sont tout à fait constructives.

Vous vous souviendrez aussi que dès le début des négociations constitutionnelles, on a discuté de la possibilité d'une conférence sur les questions autochtones. Mon parti y était d'ailleurs favorable. Il semble bien maintenant qu'il n'y en aura pas, mais il se pourrait tout de même qu'il y en ait une après la présentation du rapport. Je ne suis pas vraiment au courant; peut-être en savez-vous plus que moi. Disposez-vous de renseignements plus nouveaux que vous pourriez nous communiquer? Est-ce qu'une conférence après la présentation de notre rapport au Parlement serait utile?

M. Evans: Certainement, pour répondre à votre deuxième question, parce qu'elle nous permettrait à nous, autochtones, de présenter notre point de vue aux Canadiens à une réunion qui nous concernerait exclusivement.

[*Text*]

we have the agenda and we are the topic of the conversation completely, but I must qualify those remarks by reference to the agreement that was reached in principle with Mr. Clark. Mr. Clark decided not to fund an aboriginal conference, and there is dispute as to why he did not want to fund it and I don't want to get into that, but the decision was made not to fund the aboriginal conference by the government.

Mr. Clark then suggested we have a meeting with the full Cabinet committee, with the aboriginal groups, and that there be an extension of the liaison committee to allow us to have, we don't want to dare use the word conference but, a forum whereby there would be public participation and participation of the four aboriginal groups, a much more scaled-down forum than what was in Toronto. In Toronto there were some 250 people. We're suggesting figures somewhere in the vicinity of 120 and 140.

But as far as the four aboriginal groups have been concerned, the idea of the government funding a conference, that issue was dead, it was no longer applicable. We also told Mr. Clark we may hold a conference of our own, Mr. Clark said that's fine, and Mr. Mercredi made an appeal for funding from the Canadian public sector to finance such a conference.

Mr. Duhamel: All right, thank you. How do you, as an organization, feel with respect to your involvement in the process today? The question is not intended to try to elicit a response that would be negative. I just really want to know if you feel you've had significant input, in terms of your feelings, with regard to these particular proposals. Has it been adequate? There's never too much, but has it been adequate?

Mr. Evans: Looking at the Toronto convention, it seemed to me aboriginal issues began to crystallize in people's minds. There never is enough time to address all the issues, but I think it would really depend upon your report, when you submit it, and how much you heard and what we read that you have to say, as to whether there was enough time or not.

Mr. Duhamel: I look at your report today, I've read it and I've listened and I've heard a lot. Now what it is that I'm able to do with that with my colleagues I don't know yet, but I'm sure you'll be there to remind us if we haven't done enough.

Mr. Evans: That is a guarantee.

Mr. Duhamel: Thank you. I was wondering whether or not that would be so. You've made a reference to Metis laws. One of the issues that has been raised on several occasions is whether or not those particular laws would be subject to the Canadian Charter of Rights and Freedoms. What is your position on that?

Mr. Evans: When we're speaking of a Metis Charter of Rights and Freedoms, I think in a country that has a Charter of Rights and Freedoms entrenched in its Constitution for all peoples, for any one group to say we are not going to recognize that, or that is subject to our Charter of Rights and Freedoms, is walking on dangerous ground. We don't want our Charter of Rights and Freedoms to be referred to as by-laws either.

When we talk about the justice system and the Metis justice system, the traditional Metis justice system, I think I can answer your question better by way of analogy.

[*Translation*]

Toutefois, on ne peut pas faire abstraction de notre accord de principe avec M. Clark. M. Clark a décidé de ne pas financer la tenue d'une conférence sur les autochtones—on ne sait pas au juste pourquoi—mais c'est ainsi.

Il a ensuite proposé que tous les groupes autochtones rencontrent le Comité plénier du Cabinet et qu'il y ait un prolongement du Comité de liaison qui nous permette d'organiser une sorte d'atelier—nous n'osons pas parler de conférence—auxquels participeraient le public et les quatre associations autochtones. Ce ne serait pas aussi important que la conférence de Toronto où il y avait 250 personnes. À ce nouvel atelier, nous serions à peu près 120 ou 140.

Pour ce qui est des quatre groupes autochtones, il n'est plus du tout question d'une conférence financée par le gouvernement. Nous avons prévenu M. Clark que nous organiserions peut-être notre propre conférence. Il ne s'y oppose pas. M. Mercredi a donc demandé aux Canadiens de contribuer au financement d'une telle conférence.

M. Duhamel: Très bien, je vous remercie. Qu'est-ce que votre organisation pense de sa participation jusqu'à présent? Je ne veux pas de réponse négative. Je veux simplement savoir si vous avez l'impression que les propositions tiennent compte de vos sentiments. Évidemment, ce n'est jamais assez, mais êtes-vous satisfait?

M. Evans: Je pense que depuis la conférence de Toronto, les questions autochtones se cristallisent dans l'esprit des gens. On n'aura jamais le temps de régler toutes les questions, mais je crois que cela dépendra beaucoup de votre rapport, du moment où il sera déposé, de ce que vous aurez pu entendre. C'est après seulement que nous saurons s'il est trop tard ou non.

M. Duhamel: J'ai lu votre mémoire et je vous ai écouté. Je ne sais pas ce que mes collègues et moi pourront en faire, mais je suis certain que vous saurez nous dire si nous en avons fait assez.

M. Evans: Vous pouvez en être certain.

M. Duhamel: Merci. Je n'en étais pas certain. Vous avez fait allusion aux lois Métis. On a demandé à plusieurs reprises si ces lois seraient assujetties à la Charte canadienne des droits et libertés. Quelle est votre position?

M. Evans: Dans un pays dont la Constitution comprend une Charte des droits et libertés universelle, ce serait très risqué d'affirmer que l'on est pas disposé à reconnaître le document. Mais nous ne voulons pas non plus que notre Charte des droits et libertés soit considérée comme un simple règlement administratif.

Pour discuter du système judiciaire métis traditionnel, il vaut mieux procéder par analogie.

[*Texte*]

As some of you on the committee know, I have a law practice in British Columbia. I have been in court defending clients for stealing a bottle of shampoo from a store, and this government is paying roughly $10,000 a head to prosecute over a 69¢ bottle of shampoo. Under the traditional Metis justice system that person would be dealt with by an elder or by a group of elders. That person would be dealt with within the community. Our position is that if you are caught stealing a bottle of shampoo in your own community, we wouldn't want to have to go to that expense to deal with that type of issue.

• 1550

If you are dealing with a much heavier issue, looking into the indictable area of the Criminal Code—heavier crimes of murder and that sort of thing—I think that again is another issue. But these are negotiated grievances that we want to negotiate with the government on our own justice system.

I think you people are aware that the Law Reform Commission of Canada recommended an aboriginal justice system for aboriginal peoples. They are practising it in the States, on the Navaho reserve and several reserves down there, and it seems to work quite well.

Mr. Duhamel: I simply want to understand. Are you indicating then that there are certain features of your laws, perhaps many of them, particularly those dealing with more serious issues, that would be subject to?

Mr. Evans: Maybe subject to, and I say that would be as a matter of negotiation. Our traditional way of dealing with our people is within our communities.

Mr. Duhamel: I appreciate that.

Mr. Evans: In Canada, of course, you have the Criminal Code, which runs the full spectrum of the land.

Mr. Duhamel: Thank you.

Ms Hunter (Saanich—Gulf Islands): I would like to welcome you all again before the committee. I must say I appreciate your introductory remarks about the close relationship that has been established between the Metis National Council and this committee over the past few months. I particularly appreciated the orientation session, where we had the opportunity of meeting many from your communities. That was a real delight for me personally.

My question is with regard to the Metis land base. I know that in British Columbia any settlement of aboriginal land claims is used as a red flag by some segments of society to raise fear in the community. Perhaps you would like to take the opportunity to explain more fully what the implications of a Metis land base would be.

Mr. Evans: Well, not being affiliated with any political party in B.C., I can suggest that the precipitators of that fear are no longer in office there.

In any event, the Metis land base in B.C.—we have discussed this and are beginning to have discussions with the province. One of the questions that came up in Toronto was does that mean that all the Metis people are going to flock to a land base. I really like people to get out of that reserve mentality, because we don't appreciate it and I don't think the other aboriginal groups appreciate it.

[*Traduction*]

Comme certains d'entre vous le savent, je pratique le droit en Colombie-Britannique. J'ai défendu des clients qui étaient accusés d'avoir volé une bouteille de shampoing dans un magasin. Le gouvernement a payé à peu près 10,000$ pour poursuivre quelqu'un accusé d'avoir volé une bouteille de 69c. Dans la tradition Métis, ce serait un ancien ou un groupe d'anciens qui s'occuperait de la personne, au sein même de la collectivité. Nous croyons qu'il est inutile de dépenser autant pour punir quelqu'un qui a volé une bouteille de shampoing.

Quant aux infractions plus sérieuses, celles qui sont régies par le Code criminel comme le meurtre, c'est une autre affaire. Nous voulons pouvoir négocier notre propre système judiciaire avec le gouvernement.

Vous savez sûrement que la Commission de réforme du droit du Canada a recommandé un système judiciaire autochtone pour les autochtones. Cela existe déjà aux États-Unis dans la réserve Navaho et dans plusieurs autres aussi, et tout semble fonctionner très bien.

M. Duhamel: J'essaie seulement de comprendre. Voulez-vous dire que beaucoup de dispositions de vos lois, surtout celles qui se rapportent à des infractions plus graves, seraient assujetties?

M. Evans: Peut-être, mais comme je vous l'ai dit, ce serait à négocier. Nous avons notre façon à nous de traiter les gens dans nos collectivités.

M. Duhamel: Je sais.

M. Evans: Au Canada, évidemment, il y a le Code criminel qui s'applique partout.

M. Duhamel: Merci.

Mme Hunter (Saanich—Les Îles-du-Golfe): Je veux vous souhaiter à tous la bienvenue. J'ai apprécié vos remarques au sujet de la relation étroite qu'a établi le Ralliement national des Métis avec le comité depuis quelques mois. J'ai particulièrement aimé la séance d'orientation où nous avons eu l'occasion de rencontrer beaucoup de Métis. J'en ai vraiment été ravie.

Ma question porte sur l'assise territoriale Métis. Je sais qu'en Colombie-Britannique, tout règlement d'une revendication territoriale autochtone est exploité par certains segments de la société pour faire peur aux gens. Peut-être pourriez-vous en profiter pour expliquer un peu mieux ce qu'implique une assise territoriale Métis.

M. Evans: Comme je ne suis membre d'aucun parti politique provincial en Colombie-Britannique, je peux vous dire que ceux qui ont voulu faire peur ne sont plus au pouvoir.

De toute façon, nous avons commencé à discuter d'une assise territoriale Métis avec le gouvernement de la Colombie-Britannique. À Toronto, quelqu'un a demandé si cela signifiait que tous les Métis iraient vivre sur ce territoire. Je voudrais vraiment que les gens cessent de penser toujours en fonction de réserves, car c'est un concept qui nous déplaît autant qu'aux autres groupes autochtones.

[*Text*]

With regard to Metis land base, there are certain sections in B.C. where we have significant communities. Kelly Lake is one. That may be an area where we want to assert a land claim.

The idea of self-government—I think you will find this in the opening remarks—is the right to determine your future. The Metis people are not all on reserves. None of us is on reserves. We only have land bases in Alberta at this point in time.

We are talking about a land base for areas within the province of British Columbia, where there are significant communities of Metis people who would like to attach themselves to a land base, a land base that is sufficient with natural resources—we don't want the side of a cliff or the bottom of a muskeg—to accommodate our people.

We want to participate in Canada in a meaningful way. In order to do that, we have, as a government— The provinces get transfer payments from the federal government and the provinces send tax dollars to the federal government. Why can't it be that way with the aboriginal governments? Why can't we have transfer payments from the government, and our businesses—we pay taxes.

I will give you an example. People always say that the budget in the Department of Indian Affairs is ridiculous. It is more than $4 billion a year. But we know that the off-reserve Indians and the Metis people pay over $4.5 billion a year in taxes. So the Canadian taxpayer is not paying for this. We are paying for our own people.

• 1555

As Metis people, we have always been entrepreneurs, and we can contribute in this society in a meaningful way if we are given that opportunity. The only way we can be given that opportunity and a guarantee that the opportunity will exist from here into the endless future is if entrenched right of self-government is in the Constitution.

Ms Hunter: With your permission, Mr. Chairman, I would like to share my time with Mr. Waddell.

The Joint Chairman (Senator Beaudoin): Mr. Waddell.

Mr. Waddell (Port Moody—Coquitlam): I also want to thank you. As Lynn Hunter said, your co-operation with the committee has been superb. I thank you for that wonderful day in Edmonton.

You have suggested in the past, have you not, that the federal government should define its political responsibilities regarding the Metis? I wonder if you would be open to the suggestion that section 91.24 of the British North America Act be amended to provide the federal government with jurisdiction for Indians, Inuit and Metis. It just says Indians now. It has been interpreted Inuit by the courts, and there is nothing there with Metis. It would say Indians, Inuit and Metis, and for land reserves for Indians, Inuit and Metis, and then that the federal government should be instructed to move immediately to open up a bilateral process with the Metis that doesn't require amendment to the Constitution. I

[*Translation*]

Pour ce qui est de l'assise territoriale métis, il y a des collectivités autochtones importantes dans certaines régions de la Colombie-Britannique, notamment à Kelly Lake. Voilà un endroit où nous voudrions avoir un territoire.

Pour nous, l'autonomie politique, c'est avoir le droit de décider de son avenir. Les métis n'habitent pas tous dans des réserves. Aucun d'entre nous n'habite dans une réserve. À l'heure actuelle, nous n'avons des territoires qu'en Alberta.

Nous voudrions avoir une assise territoriale dans certaines régions de la Colombie-Britannique où l'on trouve d'importantes collectivités métis qui souhaiteraient avoir leurs territoires propres, et qui comporteraient évidemment assez de ressources naturelles pour faire vivre les gens. Nous ne voulons pas d'une falaise ou du fond d'un muskeg.

Nous voulons apporter une contribution réelle au Canada. Pour y parvenir, comme gouvernement... Les gouvernements provinciaux reçoivent des paiements de transfert du gouvernement fédéral en échange de quoi ils lui envoient leurs impôts. Pourquoi ne pourrait-on pas faire la même chose pour les gouvernements autochtones? Pourquoi ne pourrions-nous pas recevoir des paiements de transfert—après tout, nous payons des impôts.

Laissez-moi vous donner un exemple. Les gens disent toujours que le budget du ministère des Affaires indiennes est ridicule. Il est de plus de 4 milliards de dollars par année. Mais nous savons que les Indiens et les Métis qui ne vivent pas dans des réserves payent plus de 4,5 milliards de dollars d'impôts par an. Ne dites pas alors que ce sont les contribuables canadiens qui payent. C'est notre argent qui est remis à notre peuple.

Nous, les Métis, avons toujours possédé l'esprit d'entreprise et il suffit qu'on nous en donne l'occasion pour que nous apportions une réelle contribution à la société canadienne. Or, pour nous, cette occasion et la garantie de sa pérennité, passe par la consécration constitutionnelle de notre droit à l'autonomie gouvernementale.

Mme Hunter: Monsieur le président, j'aimerais si vous le voulez bien partager mon temps de parole avec M. Waddell.

Le coprésident (le sénateur Beaudoin): Monsieur Waddell, vous avez la parole.

M. Waddell (Port Moody—Coquitlam): Je tiens, à mon tour, à vous exprimer mes remerciements. Ainsi que Lynn Hunter nous le disait plus tôt, le comité a apprécié au plus haut point l'esprit de coopération dont vous avez fait preuve. Je vous remercie en outre pour cette merveilleuse journée passée à Edmonton.

N'avez-vous pas déja eu l'occasion de dire qu'il conviendrait, d'après vous, que le gouvernement fédéral définisse plus clairement ses responsabilités politiques à l'égard des Métis? Conviendrait-il, d'après vous, de modifier le paragraphe 91.24 de la Loi de l'Amérique du Nord britannique afin de confirmer que les compétences du gouvernement fédéral s'étendent aux Indiens, aux Inuit et aux Métis. Le libellé actuel ne parle que des Indiens. La jurisprudence y inclut également les Inuit mais rien n'a été prévu en ce qui concerne les Métis. Ainsi, dans une nouvelle formulation, cette disposition préciserait que les compétences fédérales s'étendent aux Indiens, aux Inuit et aux Métis ainsi

[*Texte*]

wonder if that would meet your requirements from the federal government in this round of constitutional negotiations.

Mr. Evans: It almost gets us to the finish line. We agree that we should be included under section 91.24, in that the federal government is the person responsible for us, and in that historically the federal government has been responsible for us, but I think we have made it abundantly clear in all our presentations at the hearings that we want a third order of government. We want self-government. We do not want to be under the Indian Act. Let's make that abundantly clear. We do not want to be under some federal legislative act.

Mr. Waddell: This is in addition to inherent government?

Mr. Evans: This is in addition. Well, that is just a matter of the technicalities of putting us in there, and then the law suit starts.

As far as section 91.24 goes, yes, we agree. Yvon, would you like to add to that?

Mr. Yvon Dumont (President, Metis National Council): Mr. Waddell, as far as section 91.24 is concerned, the Metis National Council has taken the position that for the last 100 years or so, since 1867 until the present time or until an amendment takes place to Canada's Constitution, section 91.24 included the Metis. All that's required is the political will of the federal government to accept that responsibility and to assert its jurisdiction now. If you are looking for something you can recommend that doesn't require constitutional change, that is one.

As far as changing the wording of section 91.24, I don't think it is necessary because it's our position that it's already in there. If it's already in there, then we don't want to tinker with it. We just want the federal government to accept its responsibility, or to accept that they have jurisdiction and to assert that jurisdiction to legislate for Metis people.

Mr. Littlechild (Wetaskiwin): I have three short questions. The first is with respect to the bilateral process that you recommend, and have done for a long time now. This morning when we heard from Premier Filmon—I am looking for the exact quote, but I can't find it right now—he referred to trilateral meetings that would be necessary in the area of aboriginal peoples' discussions. When you say bilateral process, do you mean the Metis nations bilaterally with the federal and provincial governments, or just the federal government?

[*Traduction*]

qu'aux territoires qui leur sont réservés. On demanderait alors au gouvernement fédéral d'engager des négociations bilatérales avec les Métis, dans le cadre d'un processus qui n'exigerait donc aucune modification constitutionnelle. Cela répondrait-il à ce que vous attendez du gouvernement fédéral dans le cadre de ce cyle de pourparlers constitutionnels?

M. Evans: Cela répondrait en grande partie à nos attentes. Nous sommes d'accord qu'il conviendrait de nous citer nommément au paragraphe 91.24 afin que les responsabilités fédérales à notre égard ne fassent plus aucun doute. À l'origine c'est effectivement le gouvernement fédéral qui avait compétence à notre égard, mais nous continuons à soutenir, comme nous avons eu maintes fois l'occasion de le faire, qu'il faudra constituer une troisième catégorie de gouvernement. Nous revendiquons en effet l'autonomie gouvernementale et nous ne voulons pas rester soumis aux dispositions de la Loi sur les Indiens. Soyons parfaitement clairs sur ce point. Nous ne voulons pas relever d'une loi fédérale.

M. Waddell: Cette revendication vient-elle s'ajouter au droit inhérent à l'autonomie gouvernementale?

M. Evans: Oui. C'est, en quelque sorte, un préalable technique qui permettra d'engager la discussion sur le fond.

Cela dit, nous sommes d'accord au sujet du paragraphe 91.24. Yvon, sans doute avez-vous quelque chose à ajouter sur ce point?

M. Yvon Dumont (président, Metis National Council): Monsieur Waddell, en ce qui concerne le paragraphe 91.24, le *Metis National Council* estime que depuis plus de 100 ans, c'est-à-dire de 1867 à nos jours, ou jusqu'à ce que la Constitution soit amendée, le paragraphe 91.24 s'applique aux Métis. Il suffit donc que le gouvernement fédéral manifeste la volonté politique et assume ses responsabilités sur ce point. Nous lui demandons de confirmer ses compétences en la matière. Voilà bien une mesure qui n'exigerait aucune modification constitutionnelle.

Il n'est pas, à notre avis, nécessaire de modifier le libellé du paragraphe 91.24 étant donné qu'il s'applique déjà à nous dans sa forme actuelle. Cela étant, nous ne voyons aucune raison d'y toucher. Mais nous tenons à ce que le gouvernement fédéral assume ses responsabilités et reconnaisse les compétences qui lui ont été conférées à l'égard des Métis et accepte d'exercer son autorité législative à l'égard de notre peuple.

M. Littlechild (Wetaskiwin): J'ai trois questions très brèves à vous poser. La première touche au processus bilatéral que vous appelez de vos voeux depuis longtemps. Ce matin nous avons entendu une communication du premier ministre Filmon—je ne semble pas pouvoir retrouver la citation que j'avais mise de côté—communication au cours de laquelle il a évoqué les réunions tripartites nécessaires pour tenter d'aboutir à un règlement satisfaisant des revendications autochtones. Vous avez parlé de mécanismes bipartites. Entendez-vous par cela des négociations bilatérales entre, d'une part, les nations métis et d'autre part, les gouvernements fédéral et provinciaux ou avec le gouvernement fédéral uniquement?

[*Text*]

• 1600

Mr. Evans: No. It's obvious that we will have to enter into a process that's going to involve the provinces, a trilateral process. The Prime Minister has promised us a bilateral process and he has failed to this point in time to begin that process.

Mr. Littlechild: The second argument, again you restate very clearly and strongly, is with respect to the land base. I think what Mr. Waddell was asking you about was section 91.24. Would the amendment that I think was tabled in Yellowknife to amend 91.24 to say "Indian, Metis, Inuit, and lands reserved for Indian, Metis and Inuit" in your view deal with the land base question?

Mr. Evans: In order to answer that question adequately I think we'd be here all afternoon, because we're looking at Metis lands that were traditionally held by Metis people, so that if we went back to section 91.24 and went back to 1867, what lands at that point in time would have been reserved for Metis people and what lands would have been Metis lands, then we're looking at Manitoba—if they want to turn the city of Winnipeg over I don't think Yvon will mind—that sort of thing, and us being dispossessed of our lands, the Dominion Lands Act, the scrip commissions, pushed off our lands all the way into the northeastern part of British Columbia, I don't know if it would catch it all as far as lands are concerned. The present situation today did not exist in 1867 with the enacting of the Constitution. I don't really know how that would fit, but as far as Metis land claims go, yes, we have a claim to land. We've been pushed right across the western part of this country, right off our lands.

Mr. Littlechild: Lastly, perhaps either Senator Dumont or Senator Desmeules might want to answer this one.

Mr. Evans: It's Senator Desmeules and Lieutenant Governor Dumont. That's the way it goes.

Mr. Littlechild: It's with respect to a Senate reform question. You obviously highlight that there are no Metis senators in the chamber right now, but in the brief that you just presented you talk about support of the Senate seats for Metis. In terms of the elected Senate, if that's the way the report goes, would the Metis be electing their own senator from a Metis list, or would it be an aboriginal grouping that would—

Mr. Evans: No. Metis.

Mr. Littlechild: A Metis for Metis.

Mr. Evans: Metis for Metis.

Mr. Littlechild: All right. Thank you.

Mr. Reimer (Kitchener): Let me refer to page nine of your brief regarding distinct society. In the second sentence there in that section you say:

> We support the recognition of Quebec as a distinct society. We believe such a designation addresses the cultural and political aspirations of Quebec.

[*Translation*]

M. Evans: Non. Il est bien évident qu'il va falloir engager un processus impliquant les provinces, c'est-à-dire un processus tripartite. Le premier ministre avait promis d'engager avec nous un processus bipartite mais il n'a pas encore donné suite à son engagement.

M. Littlechild: Ma seconde question a trait à l'assise territoriale, c'est-à-dire aux revendications que vous avez formulées très clairement et très fermement. M. Waddell vous a interrogé au sujet du paragraphe 91.24. À Yellowknife un amendement au paragraphe 91.24 a été proposé afin que cette disposition s'applique, dorénavant aux «Indiens, Métis et Inuit ainsi qu'aux terres qui leur sont réservées». À votre avis, cela permet-il de régler la question de la l'assise territoriale?

M. Evans: Il me faudrait tout l'après-midi pour vous répondre correctement sur ce point, car il s'agit des terres qui étaient à l'origine occupées par notre peuple. Si nous remontons donc à 1867, il s'agit des terres qui avaient été, à cette époque, attribuées aux Métis. On songe tout de suite au Manitoba sans tout de même demander à ce qu'on nous rende entièrement la ville de Winnipeg. Nous avons donc été dépouillés de nos terres aussi bien par la Loi des terres fédérales que par les commissions des titres et nous avons été chassés jusqu'au coin nord-est de la Colombie-Britannique. Je ne suis donc pas certain que ce changement de formulation règle, à lui seul, la question de nos territoires. La situation actuelle est très différente de celle de 1867, date de l'adoption de la Constitution. On ne voit pas encore très bien comment tous ces divers éléments finiront par se rejoindre, mais c'est un fait que nous avons des droits sur un certain nombre de territoires. Nous avons été chassés de nos terres et repoussés très loin à l'ouest.

M. Littlechild: Ma dernière question s'adresse soit au sénateur Dumont soit au sénateur Desmeules.

M. Evans: Permettez-moi cette petite précision, il s'agit du sénateur Desmeules et du lieutenant-gouverneur Dumont.

M. Littlechild: Ma question a trait à la réforme du Sénat. Vous avez raison de dire qu'à l'heure actuelle aucun Métis ne siège à la Chambre haute, mais dans votre mémoire vous semblez favorable à l'idée de réserver un certain nombre de sièges aux représentants de ce peuple. Si l'on décide de passer à un Sénat élu, les Métis éliront-ils leur sénateur à partir d'une liste de candidats métis ou à partir d'une liste de candidats autochtones?

M. Evans: Non, nous serions appelés à choisir entre des candidats métis.

M. Littlechild: Les sénateurs métis seraient donc élus par le peuple métis.

M. Evans: Oui.

M. Littlechild: Entendu. Je vous remercie.

M. Reimer (Kitchener): Je me réfère à la page 9 de votre mémoire, au passage traitant de la société distincte. À la seconde phrase de ce paragraphe vous affirmez que:

> Nous pensons qu'il convient effectivement de reconnaître que le Québec constitue une société distincte. Nous estimons que cela répond aux aspirations culturelles et politiques des Québécois.

[*Texte*]

You're strongly in support of the recognition of Quebec as a distinct society, I take it, from those two sentences. Then you go on and you say:

> However, such a designation must not abrogate or derogate from aboriginal and treaty rights.

Then when I read section 25, the statement right after the Charter of Rights and the general statement there, does that not in fact say exactly what you want?

Mr. Evans: Yes it does, but there's another section in that Charter that has a notwithstanding provision in it, which really erases everything.

Mr. Reimer: But I'd have to ask again though—

Mr. Blackburn (Jonquière): It doesn't apply to that.

Mr. Reimer: My colleague is correct that it doesn't apply to that, so I question it again. I would think that section 25, as it now stands, achieves exactly what you're asking. I'm puzzled by the way in which you want to add something there to the distinct society clause.

Mr. Evans: If it does cover it and if it's your interpretation that it does cover it, that's no problem. We just want to make sure. Never mind that historically, for 120-some years, we've had difficulty with documents and the words of the government. You have asked us to give you what we want, and we just want to ensure that is taken care of.

• 1605

Mr. Reimer: I would submit that section 25 is very clear and doesn't apply to the concern that you're raising. The concern you're raising, I guess, causes me a concern that we might lose one of the very objectives of this Canada round, and that is to solve the problem of recognition of Quebec as a distinct society by bringing another element into it. If we don't have to bring that into it, let's not bring it in. That's why I'm asking you. I would submit that it's better not to do what you're requesting because it's not necessary and because it clouds the issue on distinct society.

Mr. Dumont: We don't think that anything in the Constitution ought to be changed if it's already there.

There are some people who are concerned that the distinct society clause as it is proposed might affect the rights of aboriginal peoples. I think that this committee can express their view. We are saying that if you're right, we don't have a problem with it. We would have to get the interpretation of some expert on that, but if we're not satisfied, then we have to take whatever steps are necessary to make sure that our rights are protected.

Senator Oliver (Nova Scotia): I'd like to add my words to those of Mr. Littlechild in welcoming you here today. As usual, your presentation is excellent and it's constructive, it's instructive. There are two areas I would like to ask you about, and ironically as it may sound, they are the same two areas Mr. Littlechild talked about, bilateral and the land base.

[*Traduction*]

J'en conclus que vous soutenez fermement les efforts du Québec en vue de se voir reconnaître en tant que société distincte. Un peu plus loin vous affirmez:

> Mais cette appellation ne doit pas porter atteinte aux droits ancestraux des autochtones ou aux droits qui leur sont reconnus dans les traités conclus avec eux.

Mais alors, l'article 25, c'est-à-dire ce qui vient tout de suite après la Charte des droits et l'énoncé général, ne correspond-il pas exactement à vos revendications essentielles?

M. Evans: Oui, mais n'oublions pas que la Charte contient également une clause dérogatoire qui permet de faire fi de toutes les garanties qui y sont par ailleurs inscrites.

M. Reimer: Oui mais encore une fois. . .

M. Blackburn (Jonquière): Cette clause ne s'applique pas à vos droits.

M. Reimer: Mon collègue a raison de faire remarquer que cette clause ne s'applique pas aux droits qui vous sont reconnus et je maintiens mon interrogation. J'estime pour ma part que, sous sa forme actuelle, l'article 25 correspond parfaitement à vos revendications essentielles. Je trouve tout à fait curieux que vous vouliez rajouter quelque chose à la clause de société distincte.

M. Evans: Si, sous sa forme actuelle, cette disposition tient compte de nos revendications, que vous en êtes parfaitement convaincu, le problème ne se pose pas. Cela dit, nous tenions à en être assurés. N'oubliez pas que depuis 120 ans avec ses paroles et ses documents, le gouvernement nous a créé bien des difficultés. Vous nous avez demandé de préciser nos exigences et nous aimerions nous assurer qu'elles sont prises en compte.

M. Reimer: J'estime, pour ma part, que l'article 25 est parfaitement clair et qu'il ne s'applique pas au domaine que vous venez d'évoquer. Ce que vous dites suscite chez moi une vive inquiétude car je crains que l'on échoue dans l'un des principaux objectifs de ce cycle de négociations en ajoutant aux débats censés aboutir à la reconnaissance du Québec en tant que société distincte un élément extrinsèque. Essayons, dans la mesure du possible, de nous en tenir à l'objet même des négociations. Je vous le demande très simplement. À mon avis, ce que vous proposez ne me paraît pas nécessaire et j'ajoute qu'il risque d'obscurcir le débat sur la société distincte.

M. Dumont: Nous estimons qu'il n'y a pas lieu de modifier les dispositions déjà inscrites dans la Constitution.

Certains craignent qu'une clause de la société distincte, sous la forme envisagée actuellement, risquerait de nuire aux droits des autochtones. Le comité a toute latitude pour exprimer son avis sur ce point, mais, si vous avez raison, nous n'y voyons aucune objection. Il faudrait obtenir, sur ce point, l'avis d'un expert, mais si la situation ne nous paraît pas satisfaisante, nous devrons envisager toute mesure nous permettant d'assurer la protection de nos droits.

Le sénateur Oliver (Nouvelle-Écosse): Permettez-moi, après M. Littlechild, de vous souhaiter à mon tour la bienvenue. Comme d'habitude, l'exposé que vous nous présentez est à la fois constructif et instructif. J'aimerais, à mon tour, évoquer les deux domaines dont M. Littlechild nous parlait tout à l'heure, c'est-à-dire les négociations bilatérales et l'assise territoriale.

[*Text*]

I'd like to start with bilateral. Basically the bilateral means the two, Metis and the Government of Canada, but when you talk about the bilateral process one gets the impression that you have a process in mind. Can you tell us about it? Apart from sitting down with officials of the federal government, what form will it take and what types of things will be on the agenda? How often will they meet? Just give us more details so as a committee we can have some idea of what you have in mind. We all understand the word "bilateral", but surely there's more than that.

Mr. Evans: There definitely is more than that. If you look historically at provincial governments and their dealings with Metis people, they haven't always assisted us. The federal government is the only political force that can deal with certain issues. Sections 91 and 92 divide powers.

We're a nation of people, and we can deal with certain matters within a province, but there are certain matters that require us to deal with the federal government alone. That's why we want a bilateral process to affect some of those matters. I don't want to get into the detail of what those matters are.

Mr. Tony Belcourt (Board Member, Ontario Metis and Aboriginal Association): Mr. Chairman, the federal government has jurisdictional authority to deal with Metis under section 91.24. It chose to exercise that authority up until the early 1920s. It did so through the Manitoba Act, through the Dominion Lands Act, through the issuance of scrips, through treaties up to treaty number 11. This was an authority. The federal government, even as we pointed out in Edmonton, wrote to the Manitoba government and said we're the only ones with authority concerning the Metis. That was convenient to the federal government at the time.

It is a constitutional responsibility of the federal government to deal with the Metis. We have outstanding claims. We told you before that our lands were to be set aside—not a matter of being promised—by the Constitution of Canada. The Metis were dispossessed of these lands.

• 1610

We have claims based not just on the Manitoba Act, but other claims. The federal government's policy concerning claims right now specifically prohibits the Metis from being able to deal with the federal government on our outstanding claims. In terms of a settlement of those claims, we want to see the manifestation of that settlement see itself in the form of lands. The provinces will obviously have to come and participate here, but the federal government has an

[*Translation*]

D'abord, en ce qui concerne les négociations. On entend par bilatérales, des négociations réunissant les Métis et le gouvernement du Canada, mais lorsque vous évoquez cette question, on a l'impression que vous songez à un mécanisme précis, pourriez-vous préciser votre pensée sur ce point? Sans doute y aura-t-il des pourparlers avec des représentants du gouvernement fédéral, mais quelle forme ces négociations vont-elles revêtir et quelles sont les questions qui sont inscrites à l'ordre du jour? Quel calendrier envisagez-vous pour les rencontres? Pourriez-vous nous donner des explications afin de permettre au comité de mieux cerner votre pensée. Personne ici n'ignore le sens du mot «bilatéral», mais je pense qu'il convient d'étoffer un peu la notion.

M. Evans: C'est vrai que ce terme recouvre une réalité plus complexe. Il faut bien reconnaître, en remontant le cours de l'histoire, que les gouvernements provinciaux, dans les rapports avec les Métis, ne se sont pas toujours montrés très utiles. Le gouvernement fédéral est la seule autorité politique capable de régler certaines questions. En effet, les articles 91 et 92 établissent une répartition des compétences.

En tant que peuples, en tant que nations, nous pouvons régler, avec un gouvernement provincial, un certain nombre de questions, mais dans d'autres domaines il nous faut traiter directement avec le gouvernement fédéral. C'est pour cela que nous voudrions voir instaurer un mécanisme bipartite dans le cadre duquel on pourrait régler certains de ces dossiers là. Je n'entends pas en dire plus sur ce que sont ces dossiers.

M. Tony Belcourt (membre du Conseil d'administration, Ontario Metis and Aboriginal Association): Monsieur le président, aux termes du paragraphe 91.24, la compétence fédérale s'étend aux Métis. Jusqu'au début des années 20, le gouvernement a exercé ses compétences, notamment dans le cadre de la Loi sur le Manitoba, de la Loi des terres fédérales, par l'émission de titres et par la conclusion de traités jusqu'à la signature du traité 11. Pendant tout ce temps-là, il a fait acte d'autorité. Comme nous l'avons souligné à Edmonton, le gouvernement fédéral avait même écrit au gouvernement du Manitoba pour confirmer que les Métis relevaient de sa seule compétence. Sans doute le gouvernement fédéral avait-il trouvé utile, à l'époque, de défendre une telle position.

Les Métis relèvent donc des responsabilités constitutionnelles qui incombent au gouvernement fédéral. Or, notre peuple a présenté des revendications qui demeurent en souffrance. Nous voulons que certains territoires nous soient reconnus dans la Constitution. Les Métis ont été dépouillés de ces terres et nous ne nous contenterons pas de promesses à cet égard.

Les revendications fondées sur la Loi sur le Manitoba ne sont pas les seules que nous fassions valoir. Il y en a d'autres. L'actuelle politique fédérale en matière de revendications territoriales interdit explicitement aux Métis de soumettre les revendications en souffrance au gouvernement fédéral. Or, pour nous, la seule issue possible à nos revendications serait la reconnaissance de nos droits sur un certain nombre de territoires. Il est clair que les provinces

[*Texte*]

obligation. We want them to deal with it, and we have other rights as aboriginal people that the federal government has a fiduciary responsibility to uphold. We want to discuss that with the federal government.

Senator Oliver: So by "the process" you just see some kind of a meeting between Metis leaders and the federal government to sit down and discuss the types of things you're talking about, but you don't have any more details as to the type of bilateral process itself. It's the process that I'm trying to flush out. What will it look like? What will it be like? What form will it take?

Mr. Belcourt: We don't need to have a specific definition of the process itself, any more than the Prime Minister did when he promised on October 4, 1991—

Senator Oliver: I understand that.

Mr. Belcourt: —to us that there are three ways to settle Metis claims, and he specifically mentioned that one of them was through a bilateral process.

The Metis people have been petitioning the federal government since 1991 about this. They want a process. All kinds of papers have been put before this House of Commons and the federal government identifying the various areas that we want to discuss in terms of a bilateral process. It includes at the top of the list land, but now also such things as fiscal and so on in terms of self-government negotiations.

Senator Oliver: I understand that.

My second question deals with the land base. You make it clear that the Metis have no identifiable land base, although a suggestion has been made today that you would like to have some land around Kelly Lake. How much land, and what kind of adequate resources would you like to see on that land? Are we talking about 1,000 acres, 50,000 acres?

Mr. Larry Desmeules (President, Metis Nation of Alberta): I would just like to add to what Tony is saying on the bilateral process. We need a bilateral process because provincial governments change and attitudes in provincial governments and policies within provincial governments change, and not always in our favour even though we're in the province.

[*Traduction*]

auront leur mot à dire, mais nous estimons que sur cette question le gouvernement fédéral ne pourra pas se soustraire à ses obligations. Nous lui demandons donc de reprendre le dossier et de se pencher également sur les autres droits que nous revendiquons en tant que peuple autochtone, droits qu'il incombe au gouvernement fédéral de défendre en tant que fiduciaire. Nous voulons parler de tout cela avec le gouvernement fédéral.

Le sénateur Oliver: Donc, lorsque vous parlez de «mécanisme» ou de «processus», vous envisagez simplement une rencontre entre des représentants du gouvernement fédéral et des responsables métis afin de parler des sujets que vous venez d'évoquer. Vous n'êtes donc pas particulièrement fixé sur les détails pratiques de ce mécanisme ou sur le déroulement de ce processus? C'est pourtant sur ce point que j'aimerais en savoir plus. À quoi cela va-t-il ressembler? Quelle forme ce mécanisme est-il appelé à prendre?

M. Belcourt: Il n'est pas nécessaire de fixer dès maintenant de manière précise les détails du processus en cause, pas plus que le premier ministre n'a ressenti le besoin de le faire le 4 octobre 1991...

Le sénateur Oliver: Oui, j'en suis parfaitement conscient.

M. Belcourt: Il nous avait dit qu'il existait trois manières possibles de régler les revendications avancées par les Métis, et il avait précisé que des pourparlers bilatéraux représentaient une des solutions possibles.

Depuis 1991, le peuple métis demande au gouvernement fédéral de s'exécuter. Nous voulons qu'un processus de ce genre soit engagé. Nous avons porté devant la Chambre des communes et devant le gouvernement fédéral un grand nombre de documents sur les sujets que nous aimerions voir évoqués dans le cadre des pourparlers bilatéraux. Notre revendication principale porte, bien sûr, sur les territoires, mais nous formulons également un certain nombre de demandes, de nature financière notamment, dans le cadre de négociations sur l'autonomie gouvernementale.

Le sénateur Oliver: Je vois.

Ma seconde question a trait à l'assise territoriale. Vous affirmez que les Métis ne possèdent pas d'assise territoriale géographiquement définie, mais vous avez laissé entendre que vous voudriez que l'on vous reconnaisse certains des territoires entourant le lac Kelly. Sur quelle étendue portent vos revendications et quelles sont les ressources auxquelles vous prétendez? S'agit-il de 1,000 acres, de 50,000?

M. Larry Desmeules (président, Metis Nation of Alberta): Permettez-moi d'ajouter un mot à ce que Tony vient de dire au sujet du mécanisme bipartite. Nous voulons que soient engagés des pourparlers bilatéraux car les gouvernements provinciaux se succèdent et les attitudes et les politiques d'un gouvernement provincial peuvent être remplacées par les nouvelles attitudes ou nouvelles politiques de son successeur. J'ajoute d'ailleurs que ce changement ne nous est pas toujours favorable.

[*Text*]

Let me give you an example when you talk about land base. We have an extremely large land base in Alberta. We had 12 settlements at one time. Now we have eight. If you want to compare them in size, if you take all the reserves in Alberta put together, they are 100,000 acres smaller than all the reserves put together.

The problem is that Bill 35, which the provincial government put into place last year, was to entrench that land, because it was under a settlements act. It was like provincial government reserves compared to federal government reserves. They had this particular land base for 50 years because of previous leadership back 50 years ago, because the organization I represent is 65 years old. They had the ability somehow to negotiate a very large land base. The government of the day began to realize the poverty of our people, who fought in wars but some of those gentlemen were landless.

We have different kinds of Metis. Whether you realize it or not, we have tribal Metis too, who are very traditional, more from the mother's side.

To give you an example of the federal government, when Bill 35 came through, a contingent from Ottawa came down here to entrench that land, because only the federal government could entrench it. They wouldn't do it. The policy to which Tony refers they simply last year exercised, hands off: don't touch it, because it'll start something going in Saskatchewan, Manitoba, Ontario, or the Northwest Territories. We already had possession of this land, for over 50 years.

Jim Horsman and the Attorney General in Edmonton reaffirmed that decision in December, when we had a meeting on the very same subject we're meeting on here today. They reaffirmed that position to the federal government to us in an all-party meeting.

You ask us why we need a bilateral process. It's because we can't always trust these other governments and we need the provinces to fall back on when the feds wash their hands of us. They dust us off only when they need us. You talk about why we need a bilateral process: they probably threw that in to get us into the constitutional talks. That was the carrot; now we want the carrot.

• 1615

M. Blackburn: En ce qui concerne la question de sièges au Sénat pour les autochtones, si nous arrivions à la conclusion qu'il devrait y avoir quatre sièges, par exemple, est-ce qu'on devrait préciser qu'il devrait y en avoir un par groupe au niveau des peuples autochtones ou si on devrait laisser cela pleinement ouvert?

[*Translation*]

En ce qui concerne l'assise territoriale, permettez-moi de vous citer un exemple. En Alberta, notre assise territoriale est très étendue. À une certaine époque, notre peuple y avait 12 communautés. Le nombre en est maintenant de huit. Mais, à titre de comparaison, je précise que la surface totale de nos réserves territoriales de l'Alberta est de 100,000 acres inférieure à la surface totale de l'ensemble du territoire qui nous est affecté.

L'année dernière, le gouvernement provincial a adopté la loi 35 qui était sensée consolider nos droits à des territoires qui nous avaient été initialement reconnus dans le cadre de la Loi sur l'occupation des terres. C'est un peu, si vous voulez, la différence qui existe entre des réserves provinciales et des réserves fédérales. Les terres en cause avaient été concédées, il y a 50 ans, par le gouvernement provincial de l'époque. Je précise que la création de l'organisation que je représente remonte à plus de 65 ans. Enfin, les Métis avaient pu obtenir l'octroi d'un vaste territoire car le gouvernement de l'époque avait pris conscience du dénuement de notre peuple. Certains des nôtres avaient combattu dans les rangs canadiens mais se retrouvaient sans la moindre parcelle de terre.

Il existe plusieurs sortes de Métis. Sachez qu'il y a par exemple, chez les Métis, des sociétés tribales de type tout à fait traditionnel, souvent d'ailleurs de nature matriarcale.

Donc, dès l'adoption de la loi 35, on a vu apparaître une équipe de fonctionnaires fédéraux venus d'Ottawa pour consacrer nos droits à ces territoires puisque le gouvernement fédéral est seul habilité à procéder à ce genre d'opération. Ils ont refusé et ont décidé tout simplement de ne pas se mêler de cette affaire estimant, comme nous l'expliquait Tony, qu'il convenait surtout de ne rien faire par crainte d'amorcer un mouvement qui s'étendrait à la Saskatchewan, au Manitoba, en Ontario ou dans les Territoires du Nord-Ouest. Mais, pourtant, ces territoires nous avaient déjà été reconnus il y a 50 ans.

Jim Horsman et le procureur général de la province ont confirmé cette décision en décembre dernier lors d'une réunion portant précisément sur la question dont nous sommes en train de débattre aujourd'hui. Lors d'une rencontre réunissant les représentants des divers partis politiques, la province a maintenu sa position vis-à-vis du gouvernement fédéral.

Vous nous demandez pourquoi nous tenons à des pourparlers bilatéraux. C'est simplement que nous ne pouvons pas faire confiance aux autres gouvernements et que nous aurons besoin de pouvoir nous adresser à nouveau aux provinces si le gouvernement fédéral se désintéresse de nous. Le gouvernement fédéral ressort notre dossier lorsque cela lui rend service. Vous nous demandez pourquoi nous réclamons l'engagement de pourparlers bilatéraux: nous avons l'impression que le gouvernement nous l'a promis pour garantir notre participation aux pourparlers constitutionnels. On nous a tendu une carotte; eh bien, maintenant, nous exigeons qu'enfin on nous la donne.

Mr. Blackburn: My question has to do with the Senate and with the seats that might be reserved for the native peoples. Supposing it is decided to set aside four Senate seats to represent native peoples, should each of the native peoples get one seat or should the seats remain, as it were, at large?

[*Texte*]

Mr. Evans: I don't want to get into the number games with you, Mr. Blackburn, but our nation of people and the vast expanse of country they are in would require us to take up at least those four seats—if we're talking about a Senate, that is, that equally represents the population.

Mr. Desmeules: You should not put us in competition with other aboriginal groups in any of your recommendations. That is what is wrong today, there is too much competition. We should not be in competition with the Inuit or the NCC or the AFN. We are not here to be in competition with other aboriginal groups, we're here to fight for our basic rights. If you're going to set up a competition, let's get into hockey or something.

Mr. Gary Bohnet (President, Metis Nation of Northwest Territories): Just to be more specific, Mr. Blackburn, when we're talking about Senate seats for the aboriginal people in our presentation here, we're representing the Metis Nation. We're talking about Metis Senate seats with 50 other aboriginal groups who will also ask for seats for their particular constituents. We support that, but the Metis need seats.

M. Blackburn: Merci de ces précisions.

La question du droit inhérent crée passablement de problèmes. On peut s'imaginer qu'au Québec comme partout au Canada, il y aura de grandes craintes que vous utilisiez ce droit pour la réclamation de terres, en vertu du mot «inhérent». Il est possible que nous voulions préciser que le droit inhérent ne doit pas être utilisé devant les tribunaux pour toute réclamation de terre. Comment réagissez-vous à cela?

Mr. Evans: I'm having difficulty finding the adjectives to respond to you correctly. No, that is part of our inherent right to self-government. It is our inherent right to the land, just as Quebec has its rights to the province and its right to a distinct society.

M. Blackburn: Si vous ne voulez pas qu'on mette cela dans la Constitution, c'est que vous voulez bel et bien vous servir de ce mot-là pour vous approprier beaucoup de terres au Canada.

Mr. Evans: No, that's not correct. We want to use the... I recognize Tony wants to speak, and he's going to speak as soon as I'm finished. The inherent right is something we have, and it is not a matter of using it to appropriate lands in the province of Quebec or anywhere else. It's a matter that we have an inherent right to self-government. That does include land.

I think, Mr. Blackburn, that Quebec wants a distinct society clause within the Constitution to protect its language, its culture and its civil law. We recognize and appreciate that. All we are asking Quebec to do is recognize the aboriginal peoples' request within the Constitution.

Mr. Belcourt: Thank you for allowing me to say something. I am boiling now. I want to make something quite clear. We're not saying we want to appropriate any of your lands; these are our lands. The inherent right to self-

[*Traduction*]

M. Evans: Monsieur Blackburn, je ne veux pas entrer dans ce genre de calculs avec vous, mais notre peuple et l'étendue de son territoire justifieraient qu'on lui reconnaisse, à lui seul, quatre sièges au Sénat. C'est ce qui assurerait une représentation équitable de notre population.

M. Desmeules: Tâchez, dans vos recommandations, de ne pas mettre les divers peuples autochtones en concurrence. L'excès de concurrence est un des grands défauts de notre époque. Nous ne voulons pas être mis en concurrence avec les Inuit, avec le CNAC ou avec l'APN. Nous ne sommes pas ici pour concurrencer les autres groupes autochtones mais bien pour défendre nos droits fondamentaux. Si nous voulons de la compétition, nous pouvons toujours faire du hockey.

M. Gary Bohnet (président, Metis Nation of Northwest Territories): Monsieur Blackburn, je précise que lorsque dans le cadre de notre exposé nous parlons de sièges autochtones au Sénat, nous parlons, bien sûr de sièges accordés à la nation métis. Il y a 50 autres groupes autochtones qui entendront, eux aussi, obtenir une représentation au Sénat. Nous sommes d'accord qu'ils y ont droit, mais les Métis doivent se voir accorder un certain nombre de sièges.

Mr. Blackburn: Thank you for explaining that.

The inherent right question raises a number of rather difficult problems. It is likely that in Quebec and, more generally, in Canada many will shrink at the thought that you might use that right, because of its «inherent» character, to put forward very substantial land claims. It may be desirable to specify that the inherent right cannot be invoked in court as a basis for land claims. How do you feel about that?

M. Evans: J'ai du mal à trouver les mots qui me permettraient de vous répondre de façon précise. Non, cela relève de notre droit inhérent à l'assise gouvernementale. Nous avons un droit inhérent à l'assise territoriale dont je vous parlais tout à l'heure, comme le Québec a des droits vis-à-vis de la province et a le droit de se voir reconnaître le titre de société distincte.

Mr. Blackburn: If you do not want to see that specified in the Constitution, is it not precisely because you intend to use the notion of inherent right as a basis for further land claims?

M. Evans: Non, cela est inexact. Nous entendons avoir recours à...je vois que Tony a quelque chose à dire et je lui passerai la parole dès que j'aurai terminé. Le droit inhérent est quelque chose que nous possédons et il ne s'agit donc pas d'un prétexte pour nous procurer des terres au Québec ou autre part. Il est évident que nous possédons un droit inhérent à l'autonomie gouvernementale.

Bien sûr, cela comprend des territoires. Monsieur Blackburn, le Québec veut que l'on consacre, dans la Constitution, son titre de société distincte afin de pouvoir protéger sa langue, sa culture et son droit civil. Nous reconnaissons qu'il en a parfaitement le droit. Cela dit, nous demandons au Québec de reconnaître, à son tour, le bien-fondé constitutionnel des revendications que font valoir les peuples autochtones.

M. Belcourt: Je vous remercie d'avoir bien voulu me céder la parole. J'ai le sang qui boue. J'aimerais que nous soyons d'accord sur une chose. Nous ne revendiquons pas vos terres; nous insistons pour que l'on nous rende les nôtres. Le

[*Text*]

government of the Metis is a constitutional reality. It was recognized in the Manitoba Act. We told you before and we hope you'll do some research on this if you don't understand it. The Government of Canada negotiated with the government of the Metis. It recognized the government of the Metis. This is a recognition of our inherent right to self-government.

One of the things that was provided for when the negotiations took place in the case of Manitoba was the setting aside in that constitutional act of two provisions for the protection of Metis lands. These are our lands. We're not talking about trying to acquire something that you might own.

• 1620

We want recognition finally. The recognition of an inherent right to self-government is not some trickery. We would think that this is an up-front, good—

M. Blackburn: Pouvez-vous me dire comment je vais expliquer aux Québécois et aux Canadiens que ce sont vos terres et qu'on vous signe un document comme celui-là? Expliquez-moi comment je vais justifier aux Canadiens et aux Québécois que je vous donne le droit inhérent à l'autonomie gouvernementale, ce qui veut dire que vous avez le territoire? Comment vais-je expliquer cela aux Canadiens et aux Québécois? Essayez de leur vendre cela, vous autres!

Mr. Evans: I'm not having any difficulty selling Quebec to the rest of Canada and selling the fact that they're entitled to their language, their culture and their civil law. For many years the Anglo society had all the wealth in Quebec, and now the francophones are exercising their rights and we recognize that. We recognize Quebec's position and we want to—

M. Blackburn: Moi, je vous dis que si le droit inhérent n'est pas balisé, je ne signerai pas une clause comme celle-là, qui vous donne des terres et qui vous donne des droits sur des terres qui appartiennent déjà à l'ensemble des Canadiens et des Québécois. Ou bien il sera balisé, ou bien il ne sera pas possible qu'on s'entende.

Mr. Evans: Then I would say that if the good Lord is willing, in another 120 years you and I will be sitting at the table again, because that's not a right, that's not a condition. We'll not make a deal on our inherent rights, just as you'll not make a deal on your language, your culture, and your civil law.

Le coprésident (le sénateur Beaudoin): Je suis obligé d'arrêter le débat parce que je pense bien qu'on ne le terminera pas cet après-midi. Chacun exprime très clairement son point de vue.

Monsieur Evans, monsieur Dumont, monsieur Belcourt, monsieur Desmeules et monsieur Bohnet,

[*Translation*]

droit inhérent des Métis à l'autonomie gouvernementale constitue un fait incontestable de notre ordre constitutionnel. Ce droit a été reconnu par la Loi sur le Manitoba. Cela, nous vous l'avons déjà dit et nous espérons, dans la mesure où vous ne comprenez pas, que vous ferez les recherches nécessaires pour savoir précisément ce qu'il en est. Le gouvernement du Canada a négocié avec le gouvernement des Métis. Il a reconnu le gouvernement de la nation Métis. C'est-à-dire qu'il a reconnu notre droit inhérent à l'autonomie gouvernementale.

Les négociations qui avaient eu lieu au Manitoba ont entraîné, notamment, dans le cadre de cette loi constitutionnelle, l'adoption de deux dispositions assurant la protection des territoires Métis. Ces territoires-là sont à nous. Il n'est, de notre part, nullement question d'essayer de vous prendre quelque chose qui vous appartiendrait.

Nous entendons, enfin, être reconnus. La reconnaissance de notre droit inhérent à l'autonomie gouvernementale n'est pas une entourloupette. Pour nous, il s'agit d'une position parfaitement claire et fondée en droit.

Mr. Blackburn: Would you please tell me how I am going to explain to Quebec and to the rest of Canada that these lands belong to you and that we are going to sign such a document? Please explain to me how I am going to explain to the people of Canada and to the people of Quebec that I am going to recognize your inherent right to self-government and your ownership of these vast tracts of land? Can you tell me how I am going to explain all this to the Canadian people and to the people of Quebec? The rest of you can try to have them swallow this if you want!

M. Evans: Je n'éprouve aucune difficulté à vendre au Canada l'idée d'un Québec qui constitue une société distincte ayant le droit de maintenir sa propre langue, sa culture et son droit civil. Pendant longtemps, les anglophones du Québec détenaient toute la richesse et maintenant les francophones ont décidé de faire valoir leurs droits et nous leur reconnaissons le droit de le faire. Nous reconnaissons le bon droit du Québec et nous voulons. . .

Mr. Blackburn: And I am letting you know that unless we set out some specific guidelines for the exercise of that inherent right, I will not go along with a provision that grants you lands and gives you title to lands that already belong to the people of Canada and of Quebec. Unless the limits of that inherent right are clearly marked out, we will not come to an agreement.

M. Evans: Dans ce cas-là, si Dieu le veut, les négociations se poursuivront pendant plus d'un siècle et je maintiendrai ma position car ce que vous dites n'est pas fondé. Nos droits inhérents ne feront l'objet d'aucun compromis pas plus que vous n'entendez céder sur votre langue, votre culture et votre système de droit civil.

The Joint Chairman (Senator Beaudoin): We will have to leave it at that because it seems unlikely we will be able to conclude by the end of this afternoon. Everyone has very clearly stated their point of view.

Mr. Evans, Mr. Dumont, Mr. Belcourt, Mr. Desmeules and Mr. Bohnet,

[*Texte*]

I wish to thank you very much for your presentation. You are our last witnesses during our tour. Before I adjourn I would ask the co-chair to say a few words, but first I have some statistics. We had 69 meetings, we heard 560 witnesses, we received approximately 2000 letters and 2000 memoranda, all in a few months. I wish to thank you for this appearance, which is the last one. We will adjourn in a few minutes for an in camera meeting, to which you're invited, of course.

Madam Dorothy Dobbie, the co-chair.

The Joint Chairman (Mrs. Dobbie): Thank you. Just before we close for the final time in these public hearings I'd like to thank all of the many individuals from the House of Commons, the staff—particularly the Commons broadcasting branch, the directors, the cameramen and all of the others who have been with us from the very beginning and who have been so patient and worked so hard for so many long hours.

I'd also like to thank the clerks and all of the members of the staff of the committee, who have been wonderful in their support of us and have seen us through some tough times and some good times. I also very much appreciate both the House of Commons and the Senate staff for all their good work and dedication.

I'd also like to thank our colleagues for their dedication, their courage, their stamina, which was really needed sometimes, and again for helping us through the good times and also through some tough times. I particularly want to thank all our colleagues for their non-partisan approach to these hearings and the very thorough job they did of exploring all of the issues.

Now our heads are full of information. We have heard, as the senator has said, from approximately 560 witnesses and 195 groups. We've also heard from all of the people at the conferences. Somehow, we have to come to terms with all of this and write a report that is fair and balanced and responds to the national interest for the common good of all. We thank everybody for their input.

• 1625

Le coprésident (le sénateur Beaudoin): Je me joins à Mme la coprésidente pour remercier tous ceux qui ont travaillé avec nous, sans oublier les interprètes qui nous ont suivis partout. Je remercie aussi tous les gens qui ont travaillé de près et de loin avec nous. On est très contents, même si on a travaillé très fort, parce qu'au fond, on travaille pour tenir notre pays ensemble. C'est une cause merveilleuse.

[*Traduction*]

je tiens à vous remercier des éléments que vous nous avez présentés. Vous êtes les derniers à témoigner devant le comité dans le cadre de ce déplacement. Avant de lever la séance, je vais demander à la coprésidente de vous dire quelques mots, mais j'aimerais d'abord citer certains chiffres. Nous avons tenu 69 séances, entendu 560 témoins et reçu quelque 2,000 lettres et 2,000 mémoires. Tout cela, dans l'espace de quelques mois. Je tiens à vous remercier d'avoir comparu devant le comité au cours de cette dernière séance. Dans quelques minutes, la séance va être levée et nous poursuivrons nos délibérations à huis clos. Vous êtes, bien sûr, invités à participer.

Je cède maintenant la parole à notre coprésidente, Mme Dorothy Dobbie.

La coprésidente (Mme Dobbie): Merci. Avant de mettre un terme à cette dernière séance de nos audiences publiques, je tiens à remercier tous nos collaborateurs de la Chambre des communes et, en particulier, le service de la radiodiffusion, les réalisateurs, les opérateurs et tous ceux qui, depuis le tout début, nous ont suivi sans ménager leur peine.

Je tiens également à remercier les greffiers et tous les autres attachés du comité. Ils n'ont pas cherché à ménager leur peine et nous les remercions d'avoir soutenu si merveilleusement notre action pour le meilleur et pour le pire. Je tiens également à dire notre reconnaissance au personnel de la Chambre des communes et du Sénat et à les remercier de leurs efforts et de leur assiduité.

Je tiens également à remercier nos collègues de leur ardeur au travail et de leur sens du bien commun. La partie n'a pas toujours été facile, mais je pense que nous avons su partager les difficultés. Je tiens, tout particulièrement, à remercier l'ensemble de nos collègues d'avoir su mettre de côté les différends d'ordre partisan et de ne pas avoir hésité devant les complexités de la tâche.

Nous avons absorbé en grand nombre des éléments d'information et, comme vient de le dire l'honorable sénateur, nous avons entendu quelque 560 témoins et recueilli le point de vue de 195 groupes. Nous avons également entendu tous les participants aux diverses conférences. Maintenant, il va nous falloir tenter d'en faire la synthèse et de préparer un rapport équilibré qui rende compte de tout cela en tenant compte de l'intérêt général. À tous ceux qui ont participé, nous exprimons nos remerciements.

The Joint Chairman (Senator Beaudoin): Along with your Joint Chairman, I too would like to thank all of those who have worked with us, including our unfailing interpreters. I also wish to express our thanks to all the people who, in one way or another, contributed to all of this. We have worked very hard but it has been a joy to work to keep our country together. It is hard to find a more worthwhile cause.

[*Text*]

Mr. Littlechild: Thank you, Mr. Joint Chairman. Just before we close I wanted to not only echo your thanks to all the great Canadians who came before us as witnesses, including those this afternoon, but to thank you two as co-chairs. I can't remember exactly when we started, but since we did it's been a very balanced leadership by both of you, and I want to thank you.

The Joint Chairman (Senator Beaudoin): Thank you.

Mr. Nystrom (Yorkton—Melville): I wanted to say two things to the co-chairs. First of all, I think the whole process has been the most consultative we've ever had on the Constitution of this country. I don't think we can over-consult when it comes to the Constitution. The Constitution belongs to the people of this country and it is very important that they have their say in terms of speaking to federal parliamentarians. I just wish that all the provinces would have a consultative system as thorough as we have had. Some of the provinces have done very well and some lag behind. I think we've set a very good example.

The last point I want to make, and I think it's appropriate coming from someone in the opposition, is that I want to publicly thank the co-chairs for the work they have done. I do that partly because we had a rather rocky beginning a long time ago, and perhaps because we had a rocky beginning we were able to do better in the end. Sometimes when things don't happen the way they should happen it forces everybody to change course a bit and in the end things work out. I think you've both done a commendable job and have been very non-partisan, very fair and very objective in the way you've chaired our meetings. I think all of us would like to thank you for that.

Je remercie beaucoup les deux coprésidents de notre Comité constitutionnel. Vous avez été non partisans et très justes avec tous, quel que soit leur parti. Merci beaucoup.

Le coprésident (le sénateur Beaudoin): Merci. Honorable Warren Allmand, on vous donne le dernier mot.

Mr. Allmand (Notre-Dame-de-Grâce): Madam Chair and Mr. Chair, I don't want to give the Canadian public the impression that this is the last day of the meeting of this committee. As you know, we have some very long hours to put in drafting a report and I presume we will meet again publicly when we present the report and that will be our last act.

[*Translation*]

M. Littlechild: Merci, monsieur le coprésident. Avant que nous terminions, je voulais m'associer aux remerciements que vous adressez à tous nos concitoyens qui ont comparu devant le comité en tant que témoins, y compris ceux que nous avons accueilli ici cet après-midi. Mais aussi, je tiens à remercier nos deux coprésidents. Je ne me souviens pas de la date précise à laquelle nous avons commencé nos travaux, mais depuis le début, vous avez tous les deux présidé avec beaucoup de sérénité et je vous en remercie.

Le coprésident (le sénateur Beaudoin): Merci.

M. Nystrom (Yorkton—Melville): J'aimerais, pour ma part, adresser deux remarques aux coprésidents. Nos travaux constituent, je pense, le processus de consultation le plus complet que nous ayons jamais engagé en matière constitutionnelle. Il est vrai que dans ce domaine je ne pense pas qu'on puisse jamais trop consulter la population. La Constitution appartient aux citoyens et je pense qu'il est très important de leur donner les moyens de faire connaître leurs sentiments à la représentation nationale. il serait, je pense, souhaitable que toutes les provinces mettent en place un système de consultation aussi complet que celui-ci. Certaines des provinces ont déjà fait beaucoup dans ce sens mais d'autres sont en retard. Je pense que nous avons plutôt donné un bon exemple.

Je tiens, en dernier lieu, et je crois qu'il sied que cela soit fait par un représentant de l'oppposition, à remercier publiquement les coprésidents pour tout ce qu'ils ont contribué aux débats. Et je le fais d'autant volontiers, qu'au départ, cela remonte loin maintenant, nous avons eu des débuts un peu difficiles, mais c'est peut-être ce qui nous a permis de progresser. Parfois, l'imprévu oblige chacun à modifier son approche afin de contribuer à une solution. Je vous remercie donc de la manière dont vous avez présidé les séances et dont vous avez su faire régner un climat d'équité et d'objectivité. Je pense que nous sommes tous d'accord sur ce point.

I wish to extend my sincere thanks to the two Joint Chairmen of our Constitutional Committee. During our many meetings, you unfailingly displayed a fair and objective attitude to members of all parties. I sincerely thank you for that.

The Joint Chairman (Senator Beaudoin): Thank you. We will now call upon Honourable Warren Allmand who will be the last speaker for today.

M. Allmand (Notre-Dame-de-Grâce): Madame la co-présidente, monsieur le coprésident, je ne voudrais pas que les Canadiens aient l'impression que cette réunion met un terme aux travaux du comité. En effet, chacun sait que la rédaction de notre rapport va prendre encore beaucoup d'efforts. Sans doute allons-nous nous réunir publiquement une dernière fois le jour de sa présentation.

[*Texte*]

There's a lot more to be done. I want to, on behalf of our party, sincerely thank the witnesses who came from long distances and spent a lot of time preparing their briefs and contributed to the input to this committee. It was invaluable and it was done with goodwill and a generosity of spirit that I haven't seen in too many committees. It will be very helpful.

I think the people of Canada recognize that we are in a very difficult situation constitutionally and that we must go more than a country mile to solve it, and they've shown great spirit. I want to thank the witnesses today and all the other witnesses and I want to thank the co-chairs. I want to remind them and the committee that we have a lot of hard slugging to do to put out a report that is going to respond to the needs of Canadians.

Mr. Reid (St. John's East): Thank you to the co-chairs. On behalf of my colleagues, I want to echo particularly what Mr. Littlechild has said, what Lorne and Warren Allmand have said as well. It's been a pretty tough go since the 26th day of September. I think it's been worth it. It's been worth it for all of us and I think it's been worth it for this process. I think Canadians feel that they have seen the process, they've had the opportunity to be part of it. For those who have done the work around us, it has been tremendous. All of our colleagues have worked very hard. The witnesses, all of them who have come before us, sometimes more than once, have put a tremendous amount of effort and made a contribution.

Unfortunately, we do have another two weeks to go, and it's going to be a very tough two weeks on all of us physically and emotionally. It's the most important part of the work, in that it validates all of the things that have gone before, particularly the testimony that we've seen, the conferences we've participated in.

• 1630

At this, our last public hearing, I again reiterate the comments of thanks and remind us all that the first day of March is only a beginning, it's not an end; this process that we've undertaken contributes to the next set of processes, and we should all keep that in mind.

Le coprésident (le sénateur Beaudoin): Merci. La séance est levée.

[*Traduction*]

En attendant, beaucoup reste à faire. Au nom des membres de notre parti, je tiens à témoigner toute notre reconnaissance aux témoins qui sont parfois venus de très loin et n'ont pas ménagé leur peine pour rédiger des mémoires et participer aux délibérations du comité. Leurs efforts ont été essentiels et je tiens à rendre hommage à leur bonne volonté et à la générosité avec laquelle ils ont joint leurs efforts aux nôtres. Ils ont été, à cet égard, exemplaires et je pense que leurs contributions auront un effet durable.

Les Canadiens savent que nous traversons une phase particulièrement délicate de notre histoire constitutionnelle et que chacun va devoir faire preuve d'un supplément de bonne volonté. Je pense qu'ici nous avons su partir d'un bon pied. Je tiens donc à remercier l'ensemble des témoins et les deux coprésidents. Au risque de me répéter, j'insiste sur le fait que notre tâche est loin d'être terminée car il va falloir maintenant donner forme à tout cela dans le rapport qui sera publié.

M. Reid (St. John's-Est): Je tiens, au nom de mes collègues, à m'associer à ces remerciements que l'on adresse à nos deux coprésidents et, en particulier, à ce qu'ont dit M. Littlechild, Lorne et Warren Allmand. C'est vrai que, depuis le 26 septembre, la tâche n'a pas été facile. Cela dit, je ne pense pas que nous ayons travaillé en vain. Les Canadiens ont ainsi pu participer de manière tout à fait exceptionnelle à la vie politique du pays et personne ne regrette, je pense, les efforts consentis. Nous pourrons dire que personne n'a épargné sa peine.

Malheureusement, il nous reste sans doute deux semaines très difficiles aussi bien au physique qu'au moral, mais ce sera le point culminant de nos efforts, le résultat qui justifiera tout ce qui a été fait jusqu'ici et, en particulier, les témoignages que sont venus nous donner des gens qui sont parfois venus de très loin, et tout ce qui a été fait dans le cadre des conférences auxquelles nous avons pris part.

À l'occasion de cette séance, la dernière audience publique à laquelle nous participons, je vous réitère encore une fois nos remerciements et je voudrais vous rappeler que le 1er mars n'est qu'un début, et non une fin; ce processus que nous avons entamé ouvre la voie à l'étape suivante, il ne faut pas l'oublier.

The Joint Chairman (Senator Beaudoin): Thank you. The meeting is adjourned.

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WITNESSES

From the Metis National Council:

Yvon Dumont, President, Manitoba Metis Federation;

Tony Belcourt, Ontario Metis Aboriginal Association;

Norman Evans, Pacific Metis Federation;

Larry Desmeules, Metis Nation of Alberta;

Gary Bohnet, Metis Nation of Northwest Territories.

TÉMOINS

Du Conseil national des Métis:

Yvon Dumont, président, Fédération des Métis du Manitoba;

Tony Belcourt, Association des Métis et des autochtones de l'Ontario;

Norman Evans, Fédération des Métis du Pacifique;

Larry Desmeules, Nation métisse de l'Alberta;

Gary Bohnet, Nation métisse des Territoires du Nord-Ouest.

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SENATE

HOUSE OF COMMONS

Issue No. 66

Thursday, February 27, 1992
Friday, February 28, 1992

Joint Chairmen:
Hon. Gérald Beaudoin, Senator
Dorothy Dobbie, M.P.

SÉNAT

CHAMBRE DES COMMUNES

Fascicule N° 66

Le jeudi 27 février 1992
Le vendredi 28 février 1992

Coprésidents :
L'hon. Gérald Beaudoin, sénateur
Dorothy Dobbie, députée

Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on a

Renewed Canada

Procès-verbaux et témoignages du Comité mixte spécial du Sénat et de la Chambre des communes sur le

Renouvellement du Canada

RESPECTING:

The Government of Canada's proposals for a renewed Canada.

INCLUDING:

The Report to the Senate and to the House of Commons

CONCERNANT :

Les propositions du gouvernement du Canada relatives au renouvellement du Canada.

Y COMPRIS :

Le Rapport au Sénat et à la Chambre des communes

Third Session of the Thirty-fourth Parliament, 1991-92

Troisième session de la trente-quatrième législature, 1991-1992

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ORDERS OF REFERENCE OF THE HOUSE OF COMMONS

Extract from the Votes & Proceedings of the House of Commons of Wednesday, June 19, 1991:

Mr. Clark (Yellowhead), seconded by Mrs. Vézina, moved, — That a Special Joint Committee of the Senate and the House of Commons be appointed to inquire into and make recommendations to Parliament on the Government of Canada's proposals for a renewed Canada contained in the documents to be referred to it by the Government;

That fifteen Members of the House of Commons and ten Members of the Senate be the Members of the Special Joint Committee: such Members on the part of the House of Commons to be designated upon the report of the Standing Committee on House Management, which report shall be deemed concurred in upon presentation or, if the House is not sitting at the time of such Standing Committee on House Management Report such report shall be deemed concurred in upon its being filed with the Clerk of the House of Commons;

That the Committee have the power to appoint from among its Members such sub-committees as may be deemed advisable, and to delegate to such sub-committees all or any of its powers except the power to report directly to the House;

That the Committee have the power to sit during sittings and adjournments of the House of Commons;

That the Committee, or sub-committees, have the power to travel, and to hold public hearings, within Canada;

That the Committee provide Canadians with an opportunity to participate fully in the development of the government of Canada's plan for a renewed Canada;

That the Committee have the power to hold joint sittings with the committees of legislatures or individual members of provincial and territorial legislatures;

That the Committee develop procedures to ensure aboriginal peoples participate fully in the development of the Government of Canada's plan for a renewed Canada and, in particular, on issues of special interest to them;

That the Committee have the power to send for persons, papers and records, and to examine witnesses and to print such papers and evidence from day to day as may be ordered by the Committee;

That the Committee be authorized to put in place mechanisms designed to encourage and facilitate the participation of individuals and groups of Canadians;

That the Committee be empowered to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings or of proceedings of its sub-committees, pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons;

That the Committee be granted allocations for expert assistance;

That the Committee be empowered to retain the service of professional, clerical and stenographic staff as deemed advisable by the Joint Chairs;

That the Committee submit its report not later than February 28, 1992 provided that, if the House of Commons is not sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons and with the Clerk of the Senate;

That changes in membership of the Committee be effective immediately after a notification, signed by the Member acting as Chief Whip of any recognized party, has been filed with the Clerk of the Committee;

That the quorum of the Committee be thirteen Members whenever a vote, resolution or other decision is taken so long as both Houses are represented, and the Joint Chairs are authorized to hold meetings, to receive evidence and to authorize the printing thereof, when nine Members are present so long as both Houses are represented; and

That a Message be sent to the Senate requesting that House to unite with this House for the above purpose, and to select, if the Senate deems it advisable, ten Senators to act on the proposed Special Joint Committee.

ATTEST

ROBERT MARLEAU

Clerk of the House of Commons

ORDERS OF REFERENCE OF THE SENATE

Friday, 21st June, 1991

ORDERED: That a Message be sent to the House of Commons to inform the House that the Senate do unite with the House of Commons in the appointment of a Special Joint Committee to inquire into and make recommendations to Parliament on the proposals of the Government of Canada for a renewed Canada contained in documents to be referred to it, from time to time, by the Government of Canada;

That ten members of the Senate and twenty members of the House of Commons be appointed to be members of the Special Joint Committee;

That the quorum of the Joint Committee be thirteen Members whenever a vote, resolution or other decision is to be taken so long as both Houses are represented, and that the Joint Chairs are authorized to hold hearings, to receive evidence and to authorize the printing thereof, when nine Members are present so long as both Houses are represented;

That the members to act for the Senate on the Joint Committee be the Honourable Senators Atkins, Balfour, Barootes, Beaudoin, Beaulieu, Bélisle, Frith, Gigantès, MacEachen and Molgat;

That it be an instruction to the Joint Committee that it provide Canadians the opportunity to participate fully in the development of the plan proposed by the Government of Canada for a renewed Canada;

That it be an instruction to the Joint Committee that it develop mechanisms designed to encourage and facilitate the participation of individuals and groups of Canadians;

That it be an instruction to the Joint Committee that it develop procedures to ensure that aboriginal peoples participate fully in the development of the plan proposed by the Government of Canada for a renewed Canada, and, in particular, on issues of special interest to them;

That it be an instruction to the Joint Committee that it submit its final report not later than February 28, 1992.

That, if either the Senate or the House of Commons is not sitting on the day such report is deposited with the Clerk of the Senate and the Clerk of the House of Commons, the same shall be deemed submitted;

That the Joint Committee be empowered to appoint, from among its Members, such sub-committees as may be deemed advisable, and to delegate to such sub-committees all or any of its powers, except the power to report to the Senate;

That the Joint Committee, or sub-committees, thereof, be empowered to travel, and to hold public hearings, within Canada.

That the Joint Committee be empowered to sit during sittings and adjournments of the Senate;

That the Joint Committee be empowered to hold joint hearings with committees of legislatures or with individual members of provincial and territorial legislatures;

That the Joint Committee be empowered to send for persons, papers and records, and to examine witnesses and to print such papers and evidence, from day to day, as may be ordered by the Joint Committee;

That the Joint Committee be empowered to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings and of the proceedings of its sub-committees, pursuant to the principles and practices governing the broadcasting of proceedings of the House of Commons;

That the parties represented on the Joint Committee be granted allocations for expert assistance with the work of the Committee in proportion to representation of the said parties in the House of Commons; and

That the Joint Committee be empowered to retain the services of professional, clerical, and stenographic staff as deemed advisable by the Joint Chairs.

ATTEST

GORDON BARNHART

Clerk of the Senate

EXECUTIVE SUMMARY

At the end of our extraordinary experience together we have a new sense of hope and optimism for our country. Our contacts with Canadians across the country — through their letters and briefs, or through their participation in our hearings and in five major constitutional conferences — has shown us again the side of the Canadian character which is so much admired outside Canada, though often taken too much for granted at home.

The Canadians we met over the last few months displayed exactly the qualities of civility, tolerance, decency, solidarity, and generosity of spirit that we like to claim as distinctive features of the Canadian character but sometimes do not dare hope to find. Over the months we have been at work, the great good sense of the Canadian people has emerged again to occupy the centre of public life. Their moderation, their love of country, their willingness to reach out to each other across the barriers of language, region or culture impressed us everywhere and filled us with gratitude. It seems to us now that we are renewing more than our country or our Constitution: we are renewing our faith in ourselves.

How We Conducted Our Work

The Special Joint Committee on a Renewed Canada was established by an Order of the House of Commons dated June 19, 1991, and an Order of the Senate dated June 21, 1991, to make recommendations on the Government of Canada's proposals for a renewed Canada. We received 3,000 submissions — a parliamentary record — held 78 meetings totalling 227 hours of hearings, and listened to testimony from 700 individuals.

The Committee visited every province and territory and participated in five national constitutional conferences organized by major Canadian research institutes to examine dimensions of the federal government's proposals. We were enormously impressed by the good-will and sincere concern of all the groups and individuals who took the trouble to prepare submissions or presentations to us, or who participated in the constitutional conferences. The way in which the conference participants made every effort to understand each other's point of view and to reach a consensus that was best for the country showed us again what is so genuinely admirable about Canada, and why it should and can remain united.

The Roots of the Future

In their moments of doubt, Canadians sometimes seem to think that the Canadian experiment is much more fragile or artificial than it really is. This is understandable. But it is too short-sighted. The roots of Canada today are much deeper and older than we often think. There are important themes or ideals in Canadian life that provide the foundation for our country

and our Constitution, and that should give us confidence about the future. These include the search for an identity based on just relations among Canadians and among Canadian communities; the building of a unified Canadian economy that sustains a high level of social well-being; a parliamentary tradition that has spawned a political culture characterized by civility, mutual respect, and widening liberty within a framework of peace, order and good government; and a marked preference for evolutionary over radical or revolutionary change.

We believe that federalism is a system particularly well suited to respond to the two chief needs and trends of the contemporary world: the need for provincial or local autonomy and the simultaneous need for participation in wider political and economic communities capable of responding to the global challenges and problems of a shrinking world. One of the major themes of our report is the growing reality of interdependence in the contemporary world. The real challenge for governments and communities everywhere is to manage that interdependence. The strength of federalism is precisely the capacity it offers to manage our inevitable interdependence for the greater good of all Canadians, while respecting the diversity and the distinct needs of our various communities.

The Elements of Renewal

In the renewal of our Constitution and of our country, there are two immediate challenges to which we think Canadians must respond: the challenge of *inclusion* and the challenge of *vision*. Both have four parts.

The Challenge of Vision

The challenge of vision is to redefine ourselves around a new sense of purpose, and to give ourselves the tools that can make these goals a reality.

1) The first step is the inclusion in our Constitution of a new provision, sometimes called a Canada Clause, that will declare to ourselves and to the world who we are and what we wish to be as a political community. We have recommended a Preamble and a Canada Clause.

2) The second step should establish a new social contract among Canadians and among the political partners in the federation. We call this new contract the Canadian Social Covenant and we have provided a draft for Canadians to consider.

3) We believe that the Constitution should also include a declaration committing Canadians and their governments to the important economic goals of our country. We call this element of renewal the Declaration on the Economic Union. The Declaration and the Covenant would mutually support and reinforce each other. A new social contract will be an important element in economic renewal; a competitive economy is an essential condition of social well-being.

4) None of these elements would get us very far, however, if we did not also give ourselves the political instruments to turn them into reality. Definitions and declarations are important steps, but it is also important to go beyond words to actions. We must give ourselves the means to achieve the political cohesion and direction necessary to turn hopes into reality. We think the traditional Canadian instrument of the First Ministers Conference has an important role to play.

Because of our belief in the need for a new spirit of cooperation and shared management between all levels of government, we also put forward a series of proposals concerning intergovernmental relations and the use of the federal spending power. We recommend, for example, an important new constitutional provision giving constitutional protection to intergovernmental agreements, ensuring that they may not be altered at the whim of one level of government or the other. This proposal takes on special significance in the light of another recommendation for federal-provincial agreements on the management of joint policy fields where provinces have a primary interest, agreements that would guide the use of the federal spending power and that would be constitutionally protected by the previous proposal. This proposal might apply to such areas as *tourism*, *forestry*, *mining*, *recreation*, *housing*, *municipal affairs*, *regional development* and *family policy*. In addition we propose a new constitutional provision that would permit the federal and provincial governments to delegate legislative powers to each other, under a process that will ensure public debate and transparency.

We also recommend two new areas of concurrent jurisdiction to be shared between the federal and provincial governments (*inland fisheries* and *personal bankruptcy*) as well as the right to opt-in to an amendment affirming exclusive provincial jurisdiction over *labour market training*. Finally we recommend that constitutional recognition be provided for the right of a province to opt out of any new Canada-wide shared-cost program and to receive compensation if it meets the objectives of the new Canada-wide program. Constitutional guarantees would provide that no unilateral changes could be made to the funding arrangements over a mutually agreed period.

We believe that, taken together, these recommendations will help to establish the sense of direction and the spirit of cooperation and shared management of our interdependence that is essential if Canada is to hold its own, and indeed forge ahead, in a ruggedly competitive world. We will not be able to meet the challenge of vision, however, if we have not first established a minimum national consensus, if we have not made major progress toward meeting the other challenge, the *challenge of inclusion*.

The Challenge of Inclusion

The challenge of inclusion is to ensure that individual Canadians and Canadian communities have access and opportunity to participate as fully as they choose in our common life and institutions, that they feel respected and that their distinctive contribution is valued and welcome. This challenge also has four parts.

1) The first priority is to ensure that Quebec feels itself a full and willing partner in the constitutional family once again. If we cannot, it will be very difficult for us to get on with the important tasks facing our country including those we have identified in the challenge of vision. For Quebec we think our proposals offer an impressive package of adjustments that address real needs and concerns in appropriate and coherent ways. Our proposals deal with the definition and protection of Quebec's distinct society, the amending formula, central institutions, the division of powers, intergovernmental relations and the use of the federal spending power.

Among other things, our recommendations affirm Quebec's distinct society both in the *Charter* and in our proposed Canada Clause and Preamble. In the central institutions of the federation, we recommend a constitutional guarantee of three civil law justices from Quebec (out of nine) on the Supreme Court of Canada, an amendment securing the Quebec government's role (similar to other provinces) in the appointment of Supreme Court judges from Quebec, and a double majority procedure for matters affecting language and culture in a reformed Senate. We suggest two changes to the amending formula: one that would require Quebec's consent to any constitutional changes to the central institutions of the federation (the House of Commons, Senate and Supreme Court of Canada), and another that would allow Quebec (and other provinces) to opt out of any amendment transferring powers to the federal government and to receive reasonable compensation. On the division of powers we made recommendations with respect to Quebec's legislative jurisdiction over *culture*. We leave open the possibility that other provinces may have their legislative jurisdiction over culture affirmed. We also suggest that First Ministers could examine whether another distribution of powers and responsibilities in the fields of *marriage and divorce* would better meet Quebec's special needs, while protecting mobility and enforceability of judgments and orders. Of course, Quebec would benefit equally from our recommendations on intergovernmental agreements, the federal spending power, legislative delegation, concurrent powers, labour market training, and shared-cost programs, already mentioned.

Taken as a whole, and with other recommendations on intergovernmental relations and the spending power already mentioned, we believe that our proposals respond to Quebec's key concerns — and to those of many other provinces — in a fair and honourable manner. They do so in a way that is equitable to all provinces, recognizing Quebec's distinct society and needs without creating any inequities or privileges or diminishing in any way the role and strength of the federal government to respond to national needs.

2) The second challenge is the inclusion of the aboriginal peoples. They too must be included within Canada as equal partners. We believe our proposals can help Canadians make progress along this road.

We recommend, first and foremost, that the inherent right of aboriginal peoples to self-government within Canada should be recognized and entrenched in the Canadian Constitution. As far as the implementation of self-government is concerned, we

recommend the use of working groups to aid negotiations, the entrenchment of a transition process, the creation of a mechanism (such as an independent tribunal) to assist implementation, and we also recommend that the fundamental rights of all Canadians, both men and women should continue to receive full constitutional protection. Among other things, we propose that future constitutional amendments affecting the rights of aboriginal peoples should require their consent prior to implementation, that aboriginal representatives be invited to future constitutional conferences, that a constitutional conference be convened within two years after constitutional recognition of the aboriginal peoples' inherent right of self-government comes into force, that the aboriginal peoples be represented in a reformed Senate in a manner to be negotiated with them, and that the federal government should respond to the representations of the Metis for access to a land and resource base.

We do not believe this report has said or should try to say the last word on the place of the aboriginal peoples in Canada's future constitutional order. There are many steps still to come, including the report of the Royal Commission on Aboriginal Peoples. We have tried to make a useful contribution to this ongoing process, to advance it in constructive ways, and are hopeful we have succeeded. But we are conscious that many others must now take a part in the process of decision, including the aboriginal peoples themselves.

3) The third part is the challenge of inclusion of Western and Atlantic Canada. For too long, Canadians living outside Central Canada have felt excluded from national decision-making, because the much larger population of the central provinces gives them so much larger a voice in our national political institutions. Neither Western nor Atlantic Canadians want out of Canada. They both want in. We must equip ourselves with the instruments of federalism possessed by every other successful federation to give the people of Canada's regions a real voice and influence in the national political life of our country, counterbalancing in fair and appropriate ways the weight that central Canadians now enjoy through representation by population.

That is why we recommend an elected Senate with a better share of representation for provinces with smaller populations, a Senate with real powers over all federal legislation, and a power to review and approve the appointment of heads of major federal agencies whose policies and decisions have profound impact on daily life in all of Canada's regions. We do not believe that a reformed, elected Senate is a panacea. It cannot solve everything. But we think it will make an important contribution to unifying the country, giving greater legitimacy and strength to our national goals and institutions, as Western and Atlantic Canadians become accustomed to seeing their own concerns and outlook holding greater weight in the national decision-making process.

4) The fourth part of the challenge of inclusion is to reflect more adequately than at present the gender balance and genuine diversity of Canadian society. We have addressed this challenge in a variety of ways. The Preamble and Canada Clause we have drafted, for example, are intended to provide a definition and portrait of our country in which all Canadians can recognize themselves and feel included in the Canadian family.

The most important proposal we make to address this challenge is perhaps our recommendation for an electoral system based on proportional representation in a reformed Senate. One of the repeated themes at the Calgary constitutional conference was that many groups in Canadian society look to electoral reform in the Senate as a means to reflect more accurately the gender balance and diversity of Canadian society in our national political life. We believe our proposal for Senate reform can help to accomplish this objective. The provision for political parties to present slates of candidates in multi-member constituencies will give parties the opportunity to present slates representative of Canadian diversity and to be judged by the voters for doing so. In this way we can advance the process of inclusion that will bring all parts of Canadian society into the mainstream of political life.

The Way Ahead

We believe that the proposals offered in our report are an imaginative and coherent response to the two challenges we identified in it: the challenge of *inclusion* and the challenge of *vision*. It now remains to take these recommendations a step further and to begin the discussions between governments, and between Canadians, that will lead to action and bring about the renewal of our country.

The time is short. The Quebec referendum scheduled for October 1992 is one of the urgent deadlines that await us, but it is not the only one. Many Canadians believe, and we agree, that it is essential to take action on the Constitution now so that the country can get on with other things, including the economic and social renewal we included in the challenge of vision. If Canada cannot break the constitutional logjam swiftly, the rest of the world will pass it by.

Because of the pace at which these deadlines are approaching, we believe that intergovernmental discussion should begin as soon as possible after our report is submitted to Parliament. We make no assumption about the precise form such discussion should take, but we believe it is now essential to engage as many governments as possible in the constitutional dialogue in order to arrive at an intergovernmental consensus on the elements of renewal at the earliest possible moment. In order to speed up this process as much as possible, we suggest that our report should serve as the basis for discussion from which an intergovernmental consensus could be built.

As they develop their own consensus we believe that First Ministers would be well advised to think in terms of at least two constitutional packages. It will be essential to avoid putting the country in the position in which a reform package were to fail because one or two elements required a unanimous agreement that was not forthcoming. We suggest therefore that governments should consider developing one set of proposals that require only the approval of two-thirds of the provinces representing at least 50 per cent of the Canadian population, and another set of proposals on which unanimity may be required.

Involving the People in the Constitutional Process

One of the most interesting results of the patriation process that occurred between 1980 and 1982 was the degree of public interest generated in the Constitution of Canada. Since that time, through the work of various parliamentary committees and of the Citizens' Forum, public interest and participation have increased and found many avenues of expression. Thousands of groups and individuals have appeared before federal and provincial committees; people have become involved in constitutional groups which could almost be compared to constitutional assemblies.

Most recently we have had the experience of five constitutional conferences held in various cities across Canada addressing aspects of the Government of Canada's proposals for a renewed Canada. The conferences were televised and widely covered by the media. Out of each conference came a report which we have found helpful in doing our work as a committee.

We believe the process of public consultation and public involvement in the constitutional process should continue in various forms across the country. Canadians have much to offer the constitutional process and mechanisms should be established to allow them to make their views known.

We recommend that the federal, provincial and territorial governments be urged to consult with and involve the public in constitutional discussions through a variety of processes. We also recommend that a federal law be enacted to enable the federal government, at its discretion, to create a process of public consultation to confirm the existence of a national consensus or to facilitate the adoption of the required constitutional amendments. Finally, we recommend that the government ensure the meaningful involvement of all the provinces, territories and aboriginal leaders on the development of the format and substance of the government's response to this report.

A Future Together

At the beginning of our report we remarked that, in moments of doubt, Canadians sometimes seem to think that the Canadian experiment is more fragile or artificial than it really is. Our own experience together and our encounters with Canadians have strengthened our conviction that the roots of our partnership are much deeper, and its foundations much stronger, than the ups and downs of everyday life reveal. We have sketched a few of the important themes that bind us together, the two main challenges we face as a country in a changing world, and some of the concrete constitutional reforms we must undertake to meet those challenges. Taken together we believe that our portrait of Canada is realistic, our diagnosis accurate, and our remedies practical. We think they give reason for all Canadians to look to the future with confidence, confident that together we can meet all the challenges facing our country, confident that we can look forward to a future together as proud, as envied and as worthy as our past.

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PART I

Introduction

CHAPTER I

Our Mandate and Work

The Special Joint Committee on a Renewed Canada was established by an Order of the House of Commons dated June 19, 1991, and an Order of the Senate dated June 21, 1991. Both Orders instructed us to inquire into and make recommendations to the Parliament of Canada on the proposals of the federal government for the renewal of our country. The proposals were made public by the government on September 24, 1991, in a document entitled "Shaping Canada's Future Together." The next day, on September 25, 1991, we held our first public meeting and began our work.

• How We Conducted Our Work

Our central commitment was to provide Canadians with an opportunity to participate in the development of the government's plan for a renewed Canada. To this end, we set out to gather as much information as we could on the views of Canadians vis-à-vis the federal government's proposals.

Public hearings were an important component of our work. Seventy-eight meetings totalling 227 hours of hearings were held, and over 700 individuals representing many more Canadians appeared to testify. We also travelled to every province and territory of the nation to seek out the views of Canadians. Although holding meetings across such a vast country proved to be a physically gruelling experience, we have no regrets. It allowed us to acquaint ourselves directly with the feelings and opinions of Canadians in a way that would have been impossible had we stayed in Ottawa.

We also sought the opinion of Canadians by way of written submissions. Their response was astounding. Nearly 3,000 submissions were received.

Also of considerable benefit to us was our participation in five national conferences dealing with constitutional reform. The conferences, organized by major Canadian research institutes and sponsored by the federal government, were held in various cities across the country during the months of January and February. The first four conferences each dealt with a topic of direct concern to our work: the division of powers (Halifax), the reform of our democratic institutions (Calgary), the renewal of the Canadian economic union (Montreal), and the shared rights and

values of Canadians (Toronto). A concluding conference (Vancouver) was held to review the consensus developed at the first four conferences and provide participants with a last opportunity to express their views. The insightful discussions and vigorous debates that took place during these conferences were of considerable help to us.

We would like to express our deep appreciation to all those Canadians who contributed to our work. Without their participation, we would have been unable to successfully complete this Report.

• What We Learned

As we criss-crossed the nation, one fact became strikingly clear: most Canadians are deeply attached to their country and want it to remain united. Disagreements may exist on specific issues related to the renewal of Canada, but the majority of Canadians have profound affection for their country.

Unfortunately, the fondness of Canadians for their country has been clouded over by feelings of frustration and despair regarding Canada's unresolved constitutional problems. Canadians are tired of the constant bickering over the Constitution. Canadians are also worried by other matters that affect their country. The state of the economy and Canada's capacity to compete in a globalized world market, for instance, were recurring preoccupations expressed in submissions as well as by those who appeared before us. The condition of our public finances and the ability of our governments to continue to provide the social services for which Canada is renowned were other recurring themes of our discussions with Canadians. Still another concern was the state of the environment and the very real possibility that tomorrow's children may inherit an ecologically depleted planet as a result of today's excesses.

We understand these concerns. The world around us continues to change at an unrelenting pace. We believe that the significance of the constitutional debate should not be underestimated. A constitution is the legal and political foundation upon which a nation rests. It describes the mechanisms and processes through which citizens can address the difficulties of the present and take advantage of the opportunities of the future. Our nation will be unable to face the challenges of the emerging "new world order" if its own house is not in order.

Canada is at a critical point in its history. Either it continues on the path of unity, a strong nation, confident of its future and of its people, or it engages itself on a drastically new path, one laden with uncertainty and doubt. This Report sets out our contribution to the building of a new and stronger Canada.

CHAPTER II

The Roots of the Future

The challenges facing our country are so enormous, and our emotions so stretched, that it is sometimes hard to imagine that we should be able to meet both our external and internal needs at the same time. In this mood we are inclined to exaggerate the difficulties, underestimate our resources of character and experience, and take refuge in shallow or short-term views.

We are not given to this view. It does not do anything approaching justice to the very great Canadian achievements of the last decades that have won Canada the respect and envy of the world. Nor does it do justice to the authentic and underlying convictions of Canadians, what they believe in their heart of hearts.

Our experience together over the past few months — our travels, our conversations with Canadians, our participation in a series of remarkable constitutional conferences — all this has persuaded us that Canadians still possess immense reserves of energy, good-will, talent, and hopes for their country.

Canadians sometimes seem to think that the Canadian experiment is a much more fragile or artificial one than it really is. But that view does not take account of the roots of contemporary Canadian life, which are far deeper and older than many Canadians today are inclined to think. It does not do justice to the very long journey that Canadians have taken together toward the ideals of Canadian life — a journey that, in the eyes of the world, is a noble one, and of great worth.

A constitution is but the expression of the values and principles which are at the root of our nationhood. Thus it is worthwhile to go back briefly to the origins of those values and principles.

• In Search of Canadian Identity

Canadians are no better and no worse than other human beings: we have as much inherent capacity for perpetrating or tolerating injustice as any other people. Nevertheless, certain inescapable conditions of Canadian life, certain consistent circumstances or influences, and

certain initial choices dictated by these set Canadian life in an initial pattern. The logic of this pattern, worked out afresh in each generation, has obliged us to uncover gradually — sometimes painfully, and often generations too late — the requirements of justice in a Canadian setting.

Two constitutional documents which served as cornerstones of early Canadian life are the Royal Proclamation of 1763 and the Quebec Act of 1774. In these documents much of what was to follow in Canadian life was laid down. In the first it was determined that established governments in Canada would treat with the aboriginal peoples as autonomous and self-governing peoples. In the second, that legal provision would be made for a distinctive society in Quebec with institutions, laws and culture quite different than those of the surrounding English-speaking societies. The full implications of these decisions were by no means foreseen, and we have not stopped working out their meaning today.

One of the unanticipated consequences of these decisions was that Canada could never really embrace what later came to be known in the United States as the concept of the "melting-pot." Canadians chose instead to support linguistic and cultural diversity. There would also be two great linguistic communities in Canada, with all that this implies for institutions, communications, networks, social structure, and governments in modern societies.

These initial commitments, the meaning of which was only gradually and painfully worked out, led us to discover additional standards of fairness for individuals, for communities, for regions, and cultures within the Canadian family. Thus Canada's social fabric is now interwoven with programs of income security, social insurance, pensions and old-age security, equalization, regional development, measures which have made Canada the envy of much of the world, and that have come to define many Canadians' own sense of identity.

• Territory and Economy

Another important theme of Canadian life has been the search for a union wide enough to stimulate the kind of vigorous economic activity that would enhance broader social well-being.

From earliest times the fur trade spread its way west from the St. Lawrence and Hudson's Bay to embrace a continent and sketch in the future shape of Canada. When the Canadian ministers went to Charlottetown in 1864 they were the guests of Maritime delegates already assembled to investigate the benefits of a wider union among their own provinces. The achievement of Confederation in 1867, the purchase of Rupert's Land, the entry of British Columbia, the creation of the prairie provinces, the saga of the transcontinental railway were all important steps in the continuing quest to consolidate a national territory adequate to promote a world-class economy. When Newfoundlanders completed the union by their decision to join Canada in 1949, they did so in the hope that they could raise their own standard of economic and social life by participating in the wider economic space that Canada offered.

Today the importance of maintaining solid economic performance in a highly competitive world economy is greater than at any time in our past. But the challenge now is not just to preserve the broad economic space that Canada offers: it is to find the means that will allow us to make the economy based upon it as efficient and productive as any in the world.

• A Parliamentary People

The celebration this year of the bicentenary of parliamentary institutions in Ontario and Quebec has served to remind us that for at least 200 years we have been a parliamentary people.

The development of distinctive parliamentary systems is something that English-speaking and French-speaking Canadians have accomplished together. They were not handed these institutions fully-formed. The principles of responsible parliamentary government were not fully worked out even in Britain when parliamentary institutions came to Canada. And Canadians were among the pioneers of the emerging principles of parliamentary responsibility. The partnership of Louis-Hippolyte LaFontaine and Robert Baldwin in the establishment of responsible government in the province of Canada is one of the great sagas of our history and an enduring symbol of the partnership of the English-speaking and French-speaking peoples in Canada. The similar role of Joseph Howe in Nova Scotia is an equally important part of the world heritage of parliamentary democracy, where Canada was a beacon and example to a host of new countries which followed her into the commonwealth of nations.

Canadians were also pioneers of the marriage of parliamentary institutions and federalism. Until the Canadians proved it could be done, there was some doubt whether these two concepts could be made to live together. The successful Canadian experience showed the way for Australia, India and other modern federations.

Canadians cherish the political values and the political culture the parliamentary tradition has nurtured in Canada. They are proud of the fact that Canadian life has been less marked by violence and disorder than other countries and that Canadians have by and large sought the path of moderation, compromise, understanding, and respect for each other. Peace, Order and Good Government is more than a legal phrase in our Constitution. It is an expression, as we said earlier, of Canadian values and principles. It is proof that together we have developed a parliamentary democracy in North America with distinctive notions of civility, community, solidarity, and ordered liberty that transcend language or region and set us apart from the rest of the continent.

• The Evolutionary Way

Parliamentary institutions are themselves inherently evolutionary. Based largely on convention and precedent, they have evolved from those of a centralized and powerful European

monarchy to those of a modern North American federal democracy with remarkable continuity, and continue to evolve today to allow a larger role for communities and individual members.

This evolutionary pattern has become ingrained in the Canadian temperament. On several occasions in our history, Canadians have been invited to stray from this path, to break with the past, to join with others or to abandon each other. The final verdict of the people has always been to keep the links unbroken, with the past and with each other.

The Canadian way is the path of gradualism, flexibility and liberty.

• Three Roads

Today Canadians face a choice among three roads that beckon them: the way of the status quo; the path of radical change; and the path of evolutionary progress. While many people may feel comfortable with the status quo, it is not this Committee's way.

Shall we continue on the evolutionary path of the past, or choose a radically new one? Many voices urge us to strike out on new paths that would break sharply with the past. Many look to other political models, in the U.S. or Europe, and hold them up to us to imitate. Yet few of these models have genuine relevance to Canada which has its own traditions, circumstances, experience and needs.

It seems to us self-evident that the only practical and noble way to build on the Canadian inheritance is to continue on the Canadian path of tolerance, liberty and order within a parliamentary framework. We are convinced that we can significantly advance the cause of social justice in our time and in the future: justice for English-speaking and French-speaking people everywhere, both women and men; for Quebec; for Atlantic and Western Canada; for the people of the North; for the aboriginal peoples; for new Canadians; and for all those who have not been able or allowed to play their full part in Canadian life.

• Common Interests and the Common Good

Canadians will be held together in this common enterprise by the values and ideals of Canadian life but also by self-interest, in the highest and best sense. By combining their talents, energies, resources, capital and territory, Canadians have built one of the most prosperous communities on earth and have been able to share their good fortune to equalize opportunities among people and regions, and to pursue the goal of social justice.

Economic Interests:

The Canadian union has allowed the development of one of the world's strongest economies and has allowed Canadians to enjoy one of the world's highest standards of living.

The success of the Canadian economy is not just a question of "space". It is also the result of the common instruments Canadians have largely been able to forge to manage their economic space, and the influence their resulting economic strength has given them in the world. From this point of view the potential fragmentation of the Canadian state is particularly worrisome.

Globalization and increasing competitiveness in the international economy make the importance of the Canadian economic union greater than ever. It must be preserved and enhanced.

Social Interests:

As we already noted, the Canadian union has fostered the construction of one of the most admirable and admired social safety nets anywhere, a social security system that has made it the envy of the world. The network of Canadian social programs has become one of the strongest elements of our Canadian identity, our infrastructure of social programs is a benefit of Canadian citizenship that is cherished by all Canadians, including Quebecers.

Cultural Interests:

The Canadian federation has also played a very important role in helping Canadians to build and develop an increasingly impressive body of cultural achievements, creations, and institutions. By pooling their resources, Canadians have fostered artistic creation at a level of excellence that has often brought international recognition. The Canada Council, CBC/Radio-Canada, the National Film Board, the National Museums, the Social Sciences and Humanities Research Council and other such institutions have been the central influence in the cultural renaissance and flowering that Canada has experienced in the post-war period. This is as true in Quebec as elsewhere in Canada, and one of the achievements of modern Canada of which we can be proud.

The preservation of this cultural heritage and the means for its extension in the years to come are objectives that must be pursued in the process of constitutional renewal.

• Values and Identity

One of the developments of recent years which should encourage us about the potential for cooperation among Canadians is a noticeable convergence at the level of fundamental values. There are still important nuances of taste and life-style across the various Canadian communities, as in any country, but on the critical matters there is also a remarkable degree of agreement. As the report of the Quebec Liberal Party's constitutional committee (Allaire report) noted recently: "Québécois share fundamental values of the Canadian people, including respect for human rights, freedom of expression, unity and harmony between fellow citizens, and the right of every individual to fulfil his essential needs. These values have earned Canadians the respect of the entire world community." *[Unofficial translation].*

Canadians do not want identical lives, cultures or beliefs. But there is no necessary conflict between strong local, provincial, or cultural identities and wider national or pan-Canadian identities. As scholarly research has shown, these are often mutually reinforcing, not incompatible. Those who have the strongest local identities often have the strongest Canadian identities as well, and a weak Canadian identity may well translate as a weak local or provincial identity.

As long as there is a Canada there will continue to be a place — and a need — for a vibrant Canadian identity, not as something that competes with or negates other identities but as something that supports and complements them, the sum of the whole. There will also be a role for all levels of government to express and promote these various intertwined identities, both the wider Canadian one and the particular provincial, cultural or other identities it embraces and cherishes.

• Federalism: the Management of Interdependence

The genius of the federal form of government is that it can respond simultaneously to the need for autonomy and diversity for provincial, regional, local or cultural communities; and to the need for participation in a wider political and economic community capable of responding to inter-regional and global challenges.

Thus Canadian federalism proved remarkably foresighted. It provided a base for the growth and development of local and provincial communities. It recognized the principles of diversity and linguistic duality in embryo form and provided a basis for the growth and development of the French-speaking community in Quebec and elsewhere through much effort and struggle. At the same time, the Canadian federal system provided the means for national decision-making, economic leadership, and the sharing of resources and opportunities through an effective central government.

The original framers of the Canadian Constitution divided the responsibilities of federal and provincial legislatures in a manner which, on the whole, has stood the test of time. The division has evolved to meet changing needs and has shown itself capable of continuing adjustment as circumstances may require. By and large the courts have interpreted the division of powers creatively in accordance with what in our time has come to be called (especially in the European context) the principle of "subsidiarity": the principle which holds that things that require to be managed on a wide scale should be the responsibility of the federal government, while things that can be well managed at the provincial or local level should be located there. Our remarkable economic, social and cultural achievements attest the wisdom of the Fathers of our 1867 Constitution.

But naturally, the Fathers of Confederation could not foresee all the requirements that an evolving world would impose upon their original design. After 125 years there is now a widely recognized need to adapt our institutions, both of parliament and of federalism, to allow some

of these requirements to be met more effectively, and make it possible for Canada to respond to some of the key needs of today. In particular there is a need to remedy the obvious gap in our institutional framework: the absence of an effective second chamber in the federal parliament that can give the people of Canada's regions or provinces a larger voice in national decision-making.

In approaching the reforms of our federal system and institutions, it will be very important to avoid being waylaid by some of the myths of federalism. Apart from the distribution of powers between two orders of government, both responsible to the same population but for different purposes, there are no absolute principles or characteristics of federalism. Every federal community has its own history, character and needs, and the federal idea must be adapted to the specific requirements of time and place. Indeed one of the strengths of federalism is precisely its flexibility and adaptiveness, its ability not just to reconcile the needs of different communities and to reconcile local interests with more general ones but to do so in different ways in different places and at different times.

It is certainly not the case, for example, that the "equality" of the constituent states is a sacred principle of federalism. In fact there are only two federations that have chosen to represent the member states "equally" in the second chamber of the federal legislature: all the others have done it "unequally." It would certainly be possible for Canada to adopt the principle of equality in the reform of the Senate of Canada, or in any other matter, but it would have to be for reasons other than that federalism required it, because federalism in and of itself requires no such thing.

Another prevalent myth of federalism which could greatly undermine efforts to adapt our own federation to the needs of today is the notion that federalism functions best and most legitimately when powers are defined and divided with surgical precision, the two orders of government operating in what used to be called "water-tight compartments." This is a myth of federalism which is enjoying a rebirth in our time as reformers of federalism seek to disentangle the activities and roles of governments. There is undoubtedly much to be done in this area, and there is good reason to avoid unnecessary or costly overlap and duplication. However, globalization is swiftly wiping out the boundaries between the local, the national and the international, as all informed observers acknowledge.

The reality of our world, the central fact of which account must be taken, in the design of federalism and in the fate of nations, is not independence but interdependence. The complexity and scale of modern problems of public policy and management no longer permit, if they ever did, a "water-tight" division of powers. The challenge before us in the reform and renewal of our federal system, and in securing our place in the world, is to manage the interdependence among governments within the Canadian federation. It is to that end that much of our effort must now turn if Canada is to be able to forge a place in the new world that is emerging before our eyes. The strength of federalism is precisely that it offers us the tools and the opportunity to manage our interdependence for the greater good of all Canadians.

• The Constitution: Importance and Limits

Because federalism involves a distribution of responsibilities among at least two orders of government, the constitution assumes a vital role in defining the nature of that distribution and serving as a reference point for the settlement of disputes or disagreements.

A written constitution is important to a people as the source and guardian of certain fundamental rights and principles. These rights are important to all citizens. But they are especially important to minorities within the wider population as a source of protection against the abuse of power by the majority which may be inclined to push aside the rightful claims of the minority from time to time, either wilfully or simply through blindness and neglect.

All three of these conditions apply in Canada. Canada is a federal country, and it is now endowed with a Charter of Rights that is an important, though not the only, bulwark of liberties. It is also the home of important minorities that seek and deserve the reassurance that constitutional guarantees can give them. For Quebec and for linguistic minorities throughout the country constitutional provisions are an important source of protection and security, and an assurance about their place and role in the country. For them as for other minorities and groups, the constitution should guard against changing circumstances and shield them from vulnerability to the changing moods of the majority.

While a constitution is of the greatest importance to a federal, bilingual country like Canada — that is why it has occupied so much of our national life in recent years — we should also be mindful of its limits. A constitution cannot bear all our burdens. We cannot and should not try to have everything about our country and its political life reflected in it. We cannot put everything into the constitution in the hope that it will somehow make up for our own shortcomings. The ultimate responsibility is our own, and the Canadian Constitution is wise in maintaining that as much as possible should be decided by Canadians through their normal political life and institutions, not by fiat of the constitution or the courts. A constitution cannot foresee everything, and it cannot solve everything. It is not a mechanism for resolving disputes over public policy.

What a constitution can do is to establish the ground rules, the framework, the goals and the spirit in which we can address these essential tasks, and this is important enough.

In adapting that framework for the 21st century there are two priorities that stand out. We must give ourselves effective federal institutions that will allow us to make and implement the important decisions that will be required to make the Canadian economy and society competitive in a globalizing and interdependent world. And we must do so in a way that all regions and cultures recognize as legitimate and just, reflecting and responding in a reasonable manner to their own values, aspirations and concerns. This means we must create for ourselves institutions, processes and arrangements that Canadians feel are fair and representative, through which Canadians feel adequately consulted and involved, through which the various provincial societies are able to work together for the greater good of the wider Canadian society.

• Conclusion

In constitutional matters as in life, perfection can be the enemy of the good. The greatest obstacle to constitutional progress at this turning point in our history would be a fit of constitutional perfectionism. There can be no perfect solution. In constitution-making there is always a risk, because things are never perfectly clear, neither intentions nor words, and the future is unknown. Constitution-making is a process that evolves over time as a country develops.

The question before us is not whether we can discover and establish the ideal form of the Canadian Constitution. The question is whether we can make the constitutional adjustments needed now that will allow us to continue our journey together in the best spirit of our past, whether we can find the means to permit a continued broadening-down of justice and well-being for all the people and communities of Canada.

PART II

Toward Renewal

In the renewal of our Constitution and of our country, there are two immediate challenges to which Canadians must respond: a challenge of *inclusion* and a challenge of *vision*.

1. The Challenge of Inclusion

The *challenge of inclusion* has four parts. The first challenge is the challenge of Quebec, the urgent need to include Quebec willingly in the Canadian constitutional family. Quebec has never ceased to be part of the Canadian Constitution in law: the Constitution applies in Quebec as fully as elsewhere. But the failure to secure the consent of the Quebec legislature or government to the patriation of the Constitution in 1982 has promoted the view, particularly in Quebec, that the process of constitutional renewal initiated by patriation was not fully completed. The first priority then must be the inclusion of Quebec.

The second part of the challenge of inclusion is the challenge of the aboriginal peoples. Canadians are committed to include the first inhabitants of our land as full partners in the national enterprise, establishing with them relations of equity and justice consistent with the dignity of their status as the first peoples of Canada. It is now time to make good on this commitment, long neglected or respected only in part.

The third part of the challenge of inclusion is the challenge of Western and Atlantic Canada. For too long Canadians living in the western and eastern provinces have felt excluded from national decision-making because the much larger population of the central provinces gives them so much larger a voice in our national political institutions. We have all listened to the frustrations of our fellow Canadians from the west and east who feel that, on election night and between elections, their own political preferences are overshadowed by the wishes of Ontario and Quebec. It is time to address this problem which, if it were allowed to fester much longer, could transform alienation into something much more grave and destructive. Neither Western nor Atlantic Canadians want out of Canada. They both want in. It is now of the highest importance to supply an adequate response to this altogether legitimate aspiration. We must equip ourselves with the instruments of federalism possessed by virtually every other successful federation: such instruments will allow the people of Canada's regions to have, and to feel that they have, a real voice and influence in the national political life of our country, counterbalancing in fair and appropriate ways the weight that central Canadians now enjoy through representation by population.

We think that the institutional remedy we offer for Western and Atlantic Canada can also help respond to the fourth part of the challenge of inclusion, the need to reflect more adequately than at present the gender balance and genuine diversity of Canadian society. The public life of Canada is still largely the preserve of its traditional leaders and does not always express the

changing make-up and outlook of Canadian society. Our political institutions do not yet reflect the fact that over half the population are women, still less the variety of special needs and cultural perspectives that are now part of the Canadian reality. We think it is important for future social and political consensus in our country to begin the process of inclusion that will bring all parts of Canadian society into the mainstream of political life. We believe a start can be made by the same electoral and institutional reforms that will also bring western and eastern Canadians much more fully into the national decision-making process.

2. The Challenge of Vision

A response to the challenge of inclusion will help to strengthen the foundation of Canadian life and the legitimacy of our national political institutions. But the question remains: for what purpose, and to what ends?

The question is not an idle one. And some kind of response to it is an important part of our national renewal. We are not living in a world that is as comfortable or forgiving as it has been for Canada at some times in the recent past. It is a harsher and more competitive world, as so many Canadians in all social conditions and regions have discovered over the past few years. Unless Canadians are able to redefine themselves around a new sense of purpose, a new vision of identity and goals, together with the tools that can make them a reality, we will not be able to hold on to many of our most cherished social achievements, let alone keep pace with a rapidly evolving world.

We think a response to the *challenge of vision* can take four important forms, among others. First there is a need for a new provision in the Constitution that defines the Canadian people and their highest political values. This clause would declare to the world what it means to be Canadian and what Canadians wish to be as a political community.

Next the Canadian Constitution should establish a new social contract among Canadians, and among the political partners of the Canadian federation. It should furnish a statement of the country's highest social objectives: the social achievements it wishes to protect and preserve, the broad social goals it wishes to pursue in the future, the values and principles of social policy it wishes to guarantee to future generations of Canadians.

We believe that the Constitution should also include a declaration committing Canadians and their governments to the important economic goals of our country, the objectives we must achieve if the country is to preserve and enhance the quality of social, civic and private life on which it has come to pride itself, as being the very essence of Canada. These matters mutually support and reinforce each other. A new social contract will be an important element in economic renewal; and a competitive economy is the essential condition of social well-being.

Finally, but no less important, we believe it will be essential for Canadians to give themselves the new political and governmental instruments they need to turn these values and objectives into reality. Canada has not always lacked for good ideas. But it has often lacked

the means to forge a political consensus, the instruments of political cohesion that could give them effect. Definitions and declarations are an essential first step, but it is also important to go beyond words to actions. For that reason we think it is time for Canada to take a further step along the road of political maturity. We must give ourselves the means to achieve the political cohesion and direction that will be necessary for strength and well-being in the emerging world our children will inherit.

CHAPTER III

People and Communities

The Constitution has played a great part in shaping Canada. It has been the blueprint for building our country, establishing how we govern ourselves and providing the foundation for our sense of justice and mutual respect. The Constitution has allowed us to achieve a degree of harmony and prosperity that is the envy of the modern world. But, these will not endure unless the Constitution continues to respond to the fundamental needs and aspirations of all Canadians.

Canada is people, many different people. Yet, our differences need not be a source of tension, as they perhaps too often are. We are bound together by the things we have in common. One of these things, perhaps the most important of them, is the mutual respect we share for the diverse characteristics of individuals and communities. Our differences make us distinctive, they are protected by our freedoms, but they must not be allowed to divide us.

In this section of the report, we discuss a number of the proposals of the federal government relating to people and communities. These proposals concern the Canada Clause, Quebec's distinct society, English- and French-speaking communities, the aboriginal peoples, property rights and the legislative override provision. All of these proposals affect the identity of our people and communities and the relationships among them.

A. STATEMENT OF CANADIAN IDENTITY AND VALUES

At least one thing is clear from the present Constitutional debate: the Constitution is no longer the preserve of experts and specialists. Canadians across this country are profoundly interested in their Constitution and what happens to it. Despite its legal language and the complexity of the questions it raises, the Constitution belongs to *all* the people of Canada. This is why we believe that the Constitution must include a statement that describes who we are as a people and what we aspire to be.

We have heard many suggestions about how to express our identity and aspirations. We believe there is agreement on two important points: the statement must be both *memorable* and *inclusive*. It cannot be a dry list of ingredients taken from the constitutional cupboard. It needs a sense of poetry and, as was said at the Conference on Identity, Rights and Values, it should be a "written flag," flying in our hearts and minds. It must unite us with the history and values

that we share, not merely containing something for everyone, but rather expressing what we *together* recognize and hold dear.

It is not easy to craft a statement that is both memorable and inclusive. But we can start by thinking about the things that define us as country.

We should turn first to our history as groups of people bearing diverse languages and cultures and making this equally diverse land our common home. Our history begins with the aboriginal peoples. It follows the French and then the British settlers. It continues with the arrival of peoples from all over the world. Our history is ever-present and constantly unfolding.

From our history comes the fundamental respect we hold for one another, respect expressed in our democratic and judicial institutions and our rights and freedoms, both individual and collective. Our history gives us a rich tapestry of linguistic and cultural communities that thrive together, both nourishing and sharing their identities.

This diversity is a two-way street. We respect the differences of others that they may respect ours; we safeguard our own characteristics and are enriched by those of others. In particular, we recognize the distinct society of Quebec and the vitality of our two official languages across this country. We equally recognize the aboriginal peoples and their inherent rights as the cornerstone of their languages, cultures and values.

Finally, we are defined by the land on which our country is built and the environment that it supports. We are nothing without them. They are constitutional in the most literal sense of the word. We must affirm our commitment to the environment for our own sake and, more importantly, for the sake of generations to come.

The proposal to entrench a statement of our identity and values raises the question of where it should be placed in the Constitution. There have been many suggestions. The federal government has proposed placing it in section 2 of the *Constitution Act, 1867.* Others have suggested it should replace the existing preamble to that Act, or that it should be a preamble to a new constitutional Act, or to the Constitution as a whole. It has also been suggested that there should be both a preamble and a "Canada Clause," each of which would address different aspects of our identity and values. The first would be a more poetic version which could appeal to our hearts and love for our country, its people and their values. The other would specifically list our characteristics as Canadians and the things we hold dear.

The Writers' Union of Canada proposed a draft at the Conference on Identity, Rights and Values held in Toronto. Their proposal met with considerable favour both for its content and as a unified proposal, as opposed to the many, yet very valuable, isolated characteristics and values submitted by individuals and the workshop rapporteurs.

The Committee has looked at the many excellent lists of values and characteristics submitted to us in our hearings and at the five constitutional conferences. They have made a valuable contribution to our deliberations.

We recommend that a statement of Canada's identity and values be included in a prominent place in the Constitution. We recommend the following preamble:

PREAMBLE

We are the people of Canada,
drawn from the four winds of the earth,
a privileged people,
citizens of a sovereign state.

Trustees of a vast northern land,
we celebrate its beauty and grandeur.
Aboriginal peoples, immigrants,
French-speaking, English-speaking,
Canadians all,
we honour our roots and value our
diversity.

We affirm that our country
is founded upon principles that
acknowledge the supremacy of God,
the dignity of each person,
the importance of family,
and the value of community.

We recognize that we remain free
only when freedom is founded on
respect for moral and spiritual values,
and the rule of law
in the service of justice.

We cherish this free and united country,
its place within the family of nations,
and accepting the responsibilities
privileges bring,
we pledge to strengthen this land
as a home of peace, hope and goodwill.

We further recommend that a Canada Clause be included in section 2 of the *Constitution Act, 1867* and, as such, interpretative in effect.

We recommend the following Canada Clause:

CANADA CLAUSE

The following would be added to the *Constitution Act, 1867* as section 2:

Declaration

2. We, Canadians all, convinced of the nobility of our collective experiment, hereby renew our historic resolve to live together in a federal state;

We acknowledge that we are deeply indebted to our forebears:

the aboriginal peoples, whose inherent rights stem from their being the first inhabitants of our vast territory to govern themselves according to their own laws, customs and traditions for the protection of their diverse languages and cultures;

the French and British settlers, who to this country brought their own unique languages and cultures but together forged political institutions that strengthened our union and enabled Quebec to flourish as a distinct society within Canada; and

the peoples from myriad other nations, scattered the world over, who came to our shores and helped us greatly to fulfil the promise of this fair land;

We reaffirm our profound attachment to the principles and values that have drawn us together, enlightened our national life, and afforded us peace and security, such as our unshakable respect for the institutions of Parliamentary democracy; the special responsibility of Quebec to preserve and promote its distinct society; the right and responsibility of aboriginal peoples to protect and develop their unique cultures, languages and traditions; a profound commitment to the vitality and development of official language minority communities; an abiding obligation to assure the equality of women and men; and the recognition of the irreplaceable value of our multicultural heritage;

We pledge to honourably discharge our responsibility to our children, so that they may do the same for their own, of ensuring their prosperity and the integrity of their environment.

Therefore we, Canadians all, formally adopt this, our Constitution, including the *Canadian Charter of Rights and Freedoms*, as the solemn expression of our national will and hopes.

The Committee has examined alternative drafts which can be found in Appendix B.

B. QUEBEC'S DISTINCT SOCIETY AND CANADA'S LINGUISTIC DUALITY

Among the striking and precious realities of Canadian life are the twin facts that our country is composed of not one but two great language communities, French-speaking and English-speaking; and the large majority of the French-speaking community lives within one of our largest provinces, where it is itself a majority, the only French-speaking majority in any political community in North America.

The recognition of Quebec as a distinct society is in reality the affirmation of a legal, sociological and demographic fact. Various British statutes affecting British North America enacted long before Confederation recognized this fact. For example the Quebec Act of 1774, responded to French Canada's demands for the preservation of its laws and customs. The Constitutional Act of 1791, divided Quebec into two parts corresponding to the linguistic and cultural divergence of its inhabitants. These two statutes acknowledged and provided the political framework for a distinct society in Quebec with institutions, laws and culture quite different from those of other political communities in North America. In 1867, Confederation recognized and reestablished Quebec's distinct society as an autonomous political community while it embraced the principle of linguistic duality in the political institutions of a new country that would eventually span a continent.

In the 1960s, Quebec's Quiet Revolution provided another opportunity for a major step forward, as English-speaking Canadians learned again the true nature of Canada and French-speaking Québécois, like French-speaking Canadians elsewhere, considered their future possibilities and the needs of modern French-speaking communities in North America. In Ottawa and in the provinces outside Quebec francophone rights were once again affirmed and strengthened, especially by the *Official Languages Act* of 1969. In numerous places outside Quebec strong, modern francophone communities developed, especially in New Brunswick and Ontario, while the French-speaking society of Quebec went through not one but two social revolutions, mastering first of all the instruments of modern government and then establishing itself in the vanguard of business life in the province. In doing so it questioned and debated its relationship with English-speaking Canadians in Quebec and in Canada as a whole, a debate that continues today.

The patriation of the Constitution in 1982 represented both a progress and a setback in the gradual search for the stable foundations of Canadian life. On the one hand, it recognized and protected linguistic duality in Canada's national political institutions more clearly and firmly than ever before while it extended important protection for minority linguistic rights throughout the country. At the same time, it accomplished these important things without the formal approval of the Government of Quebec, the only political institution controlled by a majority of francophones.

The federal government's proposals are intended to provide both symbolic and substantive reassurance about the place of Quebec, of French-speaking Canadians and of all linguistic

minorities in the future life of Canada, and to provide a new moral basis for Canadian life. They would accomplish two things. First they would provide constitutional recognition of a self-evident fact — that Quebec forms a distinct society in North America, where a French-speaking majority has fostered a unique culture and a distinctive civil law tradition, among other things — and to ensure that the *Canadian Charter of Rights and Freedoms* is interpreted in a manner consistent with this fact. Second they would provide similar recognition of the existence both of French-speaking Canadians throughout the country but especially in Quebec, and of English-speaking Canadians also present in Quebec but primarily located in other provinces — and ensure that the *Charter* would be interpreted in a manner consistent with these realities also. This proposal is entirely consistent with other parts of the *Charter* which already provide such explicit recognition for aboriginal rights and Canada's multicultural heritage.

Linguistic duality is placed in the *Charter* as an interpretive clause to recognize official language minority communities in a minority situation in Quebec and throughout Canada.

Most witnesses appearing before the Committee affirmed the necessity to recognize Quebec's distinct society or Canada's linguistic duality. Both the Toronto and Vancouver constitutional conferences strongly and unequivocally endorsed constitutional recognition of both these fundamental realities of Canada. The committee believes that after several years of difficulty and misunderstanding Canadians of both languages have passed through an important learning experience and are ready for another major step forward in providing a stable and enduring moral foundation for the Canadian future.

We recommend:

The *Canadian Charter of Rights and Freedoms* should be amended to include the following section after section 25:

Quebec's distinct society and Canada's linguistic duality

25.1 (1) This Charter shall be interpreted in a manner consistent with

(a) the preservation and promotion of Quebec as a distinct society within Canada; and

(b) the vitality and development of the language and culture of French-speaking and English-speaking minority communities throughout Canada.

(2) For the purposes of subsection (1), "distinct society", in relation to Quebec, includes

(a) a French-speaking majority;

(b) a unique culture; and

(c) a civil law tradition.

C. ABORIGINAL MATTERS

1. We Believe in the Promise of Canada

Across this land, from sea to sea to sea, there is a call for a fundamental change in the way governments and aboriginal peoples relate to each other. That call comes from people of all backgrounds and is supported by Canadians. Only through fundamental renewal can we achieve a strong and united nation, with all residents opting in to the renewed Canada.

This renewal can be achieved only by building relationships between aboriginal peoples and other communities. We must start by redefining the relationship between aboriginal peoples and the Government of Canada. The first building block is mutual recognition. The old colonial, paternalistic ways and institutions must be swept away, replaced by new institutions built on the recognition of inherent rights.

The renewed Canada can be built only through partnership shared by all the peoples of Canada. Partnership implies the acceptance of the basic values of sharing, honesty and kindness.

Above all, we must show mutual respect.

Our recommendations on issues affecting aboriginal peoples represent only one step in a wider renewal process. Aboriginal communities have also established their own constitutional process and the Royal Commission on Aboriginal Peoples is continuing its work.

As Canada goes through a metamorphosis in its 125th year, we hope that our recommendations will help aboriginal peoples to view themselves as part of the Canadian family.

We believe in the promise of Canada. We invite aboriginal peoples and all others to join in building this renewed Canada. Only together, as partners, can we make the promise of Canada a reality.

2. The Work of the Committee

The Committee heard from aboriginal peoples from all parts of Canada. Three days in Ottawa were devoted to consultations with the four national organizations. The Committee also heard from the Native Women's Association of Canada. The Liaison Committee of six members met with aboriginal representatives across Canada, meeting for a day with the Metis National Council in Edmonton, the Assembly of First Nations in Vancouver, the Native Council of Canada in Yellowknife and the Inuit Tapirisat of Canada in Iqaluit. The Committee heard from

the leaders of Indians in Nova Scotia, Quebec, British Columbia, Yukon and the Northwest Territories, Metis in Manitoba, Treaty Indians in Saskatchewan, and Inuit in the Northwest Territories.

We were impressed by the commitment of aboriginal peoples to a united Canada. Ms. Sheila Lumsden, the Youth Coordinator for the Inuit Tapirisat of Canada told us in Iqaluit that Inuit youth: "feel positive about Canada and the future." Chief Roland Crow of the Federation of Saskatchewan Indian Nations noted that, "We are pleased to be here to present our views about how this country, this beautiful country called Canada, can stay together."

As Mr. Jim Durocher, of the Metis National Council said:

> We do not seek sovereignty outside of Canada. We believe strongly in the need in Canadian unity and seek a new version of Canadian federalism. We believe there is room for all of us in this great land. This is our land. We have always been prepared to share it, but that does not mean that we are prepared to step aside and let our rights be trampled upon. There is room for everyone. No one needs to gain at the expense of others.

We noted the spirit of openness and generosity with which Canadians in all parts of Canada are now prepared to approach these issues. The Honourable Moe Sihota, the Minister responsible for Constitutional Affairs for British Columbia, told us that:

> British Columbia is committed to ensuring this round of negotiations and reform does in fact deal with aboriginal issues in a manner that satisfies the legitimate aspirations of First Nations.

The federal government proposals, *Shaping Canada's Future Together*, specifically refer to aboriginal peoples in four proposals, as well as in the wording suggested for the Canada Clause. We want to address mechanisms for the participation of aboriginal peoples in the present and future constitutional processes. As well, we want to examine the rights to be entrenched in the Constitution and the jurisdictions that aboriginal governments would exercise. We also address the representation of aboriginal peoples in the Senate, as well as their recognition in the Canada Clause.

3. Aboriginal Self-Government

Aboriginal peoples frequently told the committee that they had functioning systems of government for thousands of years before the arrival of Europeans, or in the case of the Metis formed a provisional government in what is now Manitoba. At the time of Confederation in 1867, aboriginal peoples were not recognized or included as equals. So after 125 years, witnesses argued the time has come to bring aboriginal peoples into the Constitution with equality and respect.

There is a strong consensus that the right to self-government should be described as "inherent". Many witnesses stressed that the word "inherent" merely expresses reality: the right

derives from the status and history of aboriginal peoples and is not conferred by the Constitution.

Aboriginal leaders have stated that they do not intend to use the phrase "inherent right" to assert international sovereignty as it is practised by nation states. Although the expression nation-to-nation is used, these relationships are viewed as a form of bond within Canada — expressed for many in treaties with the Crown — rather than a basis for the establishment of an independent nation state.

A process to define the powers that will be exercised by aboriginal governments should be entrenched in the Constitution. This process will require negotiations between the federal and provincial governments and aboriginal peoples. The process must provide for the full involvement and informed consent of aboriginal peoples, and will fulfil the government's commitment to ensure the participation of aboriginal peoples in the current constitutional round. Self-government would manifest itself differently for different aboriginal peoples, for example Metis people living in cities may wish to have their own housing authorities and school boards.

At a more technical level, the Committee has been told that the inherent right of self-government may already be entrenched in section 35 of the *Constitution Act, 1982*. Most witnesses argued that the right should be justiciable as soon as it is entrenched and we see no reason for delay. We did not hear any evidence on whether the entrenchment of this right would affect land claims. We consider this is an important issue which deserves further study.

The Committee has also benefitted from the thoughtful analysis of the Royal Commission on Aboriginal Peoples, which published its commentary on February 13, 1992. We endorse their six criteria for the entrenchment of the aboriginal right to self-government:

> ...any new constitutional provision...should indicate that the right is *inherent* in nature, *circumscribed* in extent, and *sovereign* within its sphere. The provision should be adopted with the *consent* of the aboriginal peoples, and should be *consistent* with the view that section 35 may already recognize a right of self-government. Finally, it should be *justiciable* immediately.

We note that in recommending the immediate entrenchment of self-government we have therefore recommended against the period of delay.

The Committee recommends the entrenchment in section 35 of the *Constitution Act, 1982* of the inherent right of aboriginal peoples to self-government within Canada.[1]

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[1]See Draft Constitutional Amendments, Appendix A at p. 107.

a. Self-Government: Jurisdiction and Implementation

Indians, status and non-status, on and off reserve, Inuit and Metis have different existing situations and therefore different interests in any self-government negotiations. For example, Indians living on reserve could quickly take control of their own lands and resources. The implementation process must accommodate these different interests.

Many people inquired of the Committee what rights would be entailed in aboriginal self-government. During our hearings, aboriginal leaders themselves provided various lists of potential jurisdictions. These lists included the responsibilities set out in the proposals of the Government of Canada.

It is envisaged that some areas of jurisdiction will be exclusive to aboriginal governments; others would remain exclusively under federal or provincial control; others would be shared and some may not be exercised by aboriginal peoples. The Committee anticipates a variety of agreements which will correspond to the wide range of community needs across Canada. The resulting pattern of exclusive and overlapping spheres of jurisdiction is, of course, a familiar feature of the existing federal system in Canada. Constitutional recognition of aboriginal self-government can only contribute to a more united Canada.

The implementation of self-government will require negotiations between aboriginal peoples and existing governments, federal, provincial and territorial, to establish their respective jurisdictions and relationships.

One productive way to proceed may be to begin with a few major, broadly applicable agreements under which communities would then negotiate individual agreements at their own pace. These agreements could take the form of treaties or amendments to existing treaties, which would receive constitutional protection. The Committee's preference is for rapid progress. The simplest approach might be for each of the four national aboriginal organizations to negotiate such an agreement, but in some cases there may be good reasons for having negotiations at the regional level. The circumstances of Treaty Indians on the Prairies, for example, are different than those of Indians in British Columbia. Involvement of provincial governments in these negotiations because of their constitutional powers is necessary. The Working Group, Tribunal and dispute resolution mechanisms developed in negotiations such as those involving the Tungavik Federation of Nunavut may be a useful model and should be looked at carefully as an aid to the negotiation process.

Parties to a negotiation sometimes find themselves at an impasse even with the best of intentions. Recourse to the courts is time consuming, costly and the outcome is often uncertain. We believe that another mechanism is required to assist in the implementation of self-government and to resolve differences. A large variety of expert tribunals exist which could serve as models. A mechanism such as an independent tribunal might be of assistance, leaving open the possibility of recourse to a court of law.

The modern application of self-government will require negotiations with respect to the jurisdiction to be exercised by self-governing aboriginal communities. We recommend the entrenchment of a transition process to identify the responsibilities that will be exercised by aboriginal governments and their relationship to federal, provincial and territorial governments.[2]

b. The Canadian Charter of Rights and Freedoms

The *Canadian Charter of Rights and Freedoms* is a uniquely Canadian expression of the balance between individual and collective rights. Some witnesses told us that aboriginal customary law, a part of self-government, may clash with the European-based liberal democratic values reflected in the *Charter*. Several aboriginal organizations noted that they were thinking of, or in the process of developing, their own Charter, with a different balance of collective and individual rights more attuned to their particular traditions. The four parallel aboriginal constitutional processes are on-going, and the final position of these organizations on this important issue is still to be determined.

The *Charter* states in section 25, "the guarantee of this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada." The *Charter* is available to protect individuals against the arbitrary actions of governments. The Committee heard from the Native Women's Association of Canada, who strongly supported the continued application of the *Charter*. They also proposed that aboriginal self-government should be entrenched in a way that ensures its equal application to men and women.

We recommend that the fundamental rights and freedoms of all Canadians, including the equality of the rights of men and women, ought to receive full constitutional protection.

c. Federal Responsibilities Under Section 91(24)

In 1867, the federal government assumed responsibility for "Indians and Lands reserved for Indians" under section 91(24) of the *Constitution Act, 1867*. Parliament has responsibility for Inuit as a result of a 1939 decision of the courts, but it has never assumed legislative responsibility for Metis. The Committee heard from the Metis that the federal government should now accept responsibility for Metis under section 91(24).

We recommend that the federal government respond to the representations of the Metis for access to a land and resource base.

For First Nations, one of the constitutional effects of entrenching the right to self-government will be the eventual transfer of federal jurisdiction for "Indians, and Lands reserved

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[2]See Draft Constitutional Amendments, Appendix A at p. 107.

for Indians" under section 91(24) to Indian people themselves. Once this is accomplished, section 91(24) can be deleted. More important, the need for the *Indian Act* will be lessened to the point where it will become almost irrelevant for Indians. The transfer of the powers of the Minister of Indian Affairs to self-governing Indian communities will also require clarification of the fiduciary relationship with Indians. Under self-government, relations between the federal government and aboriginal governments would be similar to those between the federal and provincial governments.

We recommend that federal treaty obligations, fiduciary and trust responsibilities, and the provision of fiscal transfers that continue after the implementation of forms of self-government by various aboriginal groups be administered by a small bureau jointly managed by the federal government and representatives of the aboriginal peoples.

4. Aboriginal Constitutional Process

In its report tabled in the spring of 1991, the Special Joint Committee on the Process for Amending the Constitution of Canada discussed and recommended certain changes to address the concerns of aboriginal peoples. The Committee concurs with the analysis leading to those recommendations, and supports their intent, but we believe that a formal constitutional conference can be successful only if solid progress on self-government can be made at the level of the working groups proposed. While the Special Joint Committee on the Process for Amending the Constitution of Canada recommended a fixed timetable for constitutional conferences, we believe that greater reliance on working groups to make progress will mean that these conferences will be of greater use if more flexibility is allowed in their timing.

We recommend:

i) **in order to protect the aboriginal and treaty rights which the Constitution guarantees to the aboriginal peoples of Canada, that any amendment to the Constitution of Canada directly affecting the aboriginal peoples[3] require the consent of the aboriginal peoples of Canada prior to its implementation;**

ii) **that representatives of the aboriginal peoples of Canada be invited to all future constitutional conferences relating to the matters referred to in paragraph (i); and**

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[3]These matters are contained in section 91(24) of the *Constitution Act, 1867*, and sections 25 and 35 of the *Constitution Act, 1982.*

iii) **that the Constitution provide that a constitutional conference be convened within two years after the amendment on the inherent right of self-government of the aboriginal peoples of Canada comes into force.**[4]

5. Representation of Aboriginal Peoples in the Senate

The Government of Canada proposes to guarantee representation for aboriginal peoples in a reformed Senate. There is general support for this inclusiveness in Canadian political institutions, and the Committee supports the principle.

The discussions on this subject occurred in advance of the publication by the Royal Commission on Electoral Reform and Party Financing of its comprehensive report on representation in the House of Commons. The mechanism proposed for the election of aboriginal members to the Commons is more complex than a simple guarantee, but could apply equally to an elected Senate. The mechanism has also been developed with the benefit of considerable consultation and consideration.

Under the proposal of the Royal Commission, aboriginal voters would have the choice of whether to register on an aboriginal voters list or on the general voters list. Aboriginal constituencies would be created whenever a sufficient number of voters elected to register. These constituencies would be the same as general constituencies in all respects, except they would necessarily be geographically much larger. This approach would guarantee access to the electoral process on equal terms, but would not guarantee a fixed number of seats.

The Royal Commission consulted widely on its proposal and found general support for its proposal for aboriginal constituencies, including a majority view that this would compliment the objective of self-government. The Committee believes that this approach is worthy of consideration for a reformed Senate.

We recommend that, if they wish, aboriginal peoples be guaranteed representation in a reformed Senate, and commend the mechanism and options proposed by the Royal Commission on Electoral Reform and Party Financing.

6. A Canada Clause in the Constitution: Reference to Aboriginal Peoples

There are three areas where reference to aboriginal peoples is required.

First, a statement to the effect that Canada is a people made up of Indians and Inuit, the first peoples, followed much later by English and French-speaking peoples, the union of these peoples the Metis, and peoples from numerous other nations from every continent.

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[4]See Draft Constitutional Amendments, Appendix A at p. 107.

It would also be appropriate to incorporate the central notion of the inherent right of aboriginal peoples to self-government within Canada.

Aboriginal peoples have expressed the strong desire for the protection of their unique cultures, languages and traditions to be incorporated in the Constitution. The Committee believes this is a legitimate aspiration of the first peoples of Canada which serves to enrich us all.

We recommend that the role of the Indian, Inuit and Metis peoples in the development of Canada, as well as their inherent rights as the First Peoples be recognized in the proposed Canada Clause. In addition, the clause should contain a recognition of the right and responsibility of aboriginal peoples to protect and develop their unique cultures, languages and traditions.[5]

7. Conclusions

There are a number of other areas where aboriginal peoples, like many other Canadians, may be affected by the constitutional proposals. Witnesses have expressed particular concerns with the effects of a redistribution of federal powers to the provinces in advance of the transfer of powers to aboriginal governments, and economic union. The Committee believes that the governments involved must take appropriate measures to consult all those affected and take their views into account.

As Chief Peter Chiese said in his prayer to open the constitutional circle of the Assembly of First Nations: We must all lift each other up.

D. OTHER CHARTER ISSUES

1. Entrenching Property Rights

As part of its proposal to reaffirm the rights and freedoms of citizens, the Government of Canada has proposed that the *Canadian Charter of Rights and Freedoms* be amended to guarantee property rights.

This proposal recognizes that property rights are an important aspect of our society, as already recognized in the *Canadian Bill of Rights* and the *Alberta Bill of Rights*. Since 1982, two provincial legislative assemblies, British Columbia and Ontario, supported the addition of property rights to the *Charter* as did the House of Commons in 1988. Canada also endorsed property rights as a fundamental human right when it signed the Universal Declaration of Human Rights in 1947.

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[5]See Draft Constitutional Amendments, Appendix A p. 129.

We have heard a great deal of opposition to this proposal. Concerns have been expressed and fears were raised about its impact on, for example, aboriginal land claims, women's rights, provincial matrimonial property laws as well as laws protecting the environment. Specific concerns were also raised with respect to the special needs of Prince Edward Island to protect its shoreline and farmlands from absentee landlords.

Unfortunately, there was little explanation by the federal government for the inclusion of property rights in its proposals let alone as an addition to the *Charter*. While recognizing the views of those opposed, it is important to note the comments of Mr. John Tait, Deputy Minister of Justice, who made it very clear that no right in the *Charter* is absolute. All rights are subject to section 1 which states that the rights and freedoms set out in the *Charter* are subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. He went on to say that all rights are also limited by section 25 dealing with aboriginal people and by section 28 as it applies to the equality of the sexes.

The government members of the Committee support the federal proposal that the right to enjoy property and not to be deprived thereof without due process and reasonable compensation be entrenched in the *Canadian Charter of Rights and Freedoms*. The opposition members of the Committee disagree with this position.

2. Notwithstanding Clause

The notwithstanding clause or override provision is found in section 33 of the *Canadian Charter of Rights and Freedoms*. It allows Parliament, or a provincial legislature, to pass legislation that overrides section 2 (fundamental freedoms), sections 7 to 14 (legal rights) and section 15 (equality rights) of the *Charter*.

The federal government is proposing to maintain section 33 while making it harder to use. Under the proposal, the override provision could be invoked only if at least 60 per cent of all members of a legislature voted in favour of it. As the provision now stands, the consent of a majority of the members present at a sitting of the legislature is sufficient to override the *Charter* in a piece of legislation.

The presence of the override provision in the *Charter* is controversial. During our hearings in Halifax, Ottawa, Winnipeg and Toronto, a number of witnesses argued persuasively for a more fundamental change than the federal government is proposing. They asked us to consider making it impossible to use the clause to override equality rights guaranteed in section 15 of the *Charter*. That section guarantees the equality of every individual before and under the law, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Other witnesses told us that the notwithstanding clause is a particularly Canadian solution to resolve the inherent tension between the supremacy of Parliament and the power of the courts.

We are not certain that this debate can be resolved during this round of constitutional reform, if ever.

Many asked us to recommend the addition of a new provision that will stipulate that the rights and freedoms guaranteed by the *Charter* are guaranteed equally to all regardless of race, colour or national or ethnic origin, or that section 27 of the *Charter* — the clause dealing with Canada's multicultural heritage — be amended to provide that the *Charter* shall be interpreted in a manner consistent with racial and ethnic equality. We think these proposals merit further study, but fear that there may not be time this round to deal adequately with the complex issues involved.

Because of the complexity of the issues raised, we believe that study of the federal government's proposal to make the notwithstanding clause more difficult to invoke be postponed for another round of constitutional discussions.

- **New Democratic Party Dissent**

The New Democrats consider that the concerns expressed about the notwithstanding clause were not adequately described. A number of witnesses insisted that the notwithstanding clause undermines the very nature of the *Canadian Charter of Rights and Freedoms*. Minority groups in particular argued that at least section 15(1) of the *Charter* should be exempted from the notwithstanding clause. With the simple legislative majority override, they argued, minorities are no more protected from rights abuse than they would be without the *Charter*.

Therefore the New Democratic Party members of the Committee recommend that section 15(1) of the *Canadian Charter of Rights and Freedoms* be exempted from section 33.

During hearings in Toronto, Halifax, Ottawa and Winnipeg witnesses from many national and regional organizations representing ethnic and racial minorities suggested that the rights and freedoms guaranteed by the *Charter* be guaranteed equally to all regardless of race, colour, national or ethnic origin.

The new section they proposed would be modelled on section 28 which provides that rights are guaranteed equally to both sexes. We think this proposal also merits further study by the First Ministers but fear that we have not had time to consider the apparently complex issues involved.

That being said, we assert that Canada owes its character in large part to the ethnically and racially diverse people who have come to its shores from other lands not only to build a new life, but to participate fully in public debate and citizenship. One of the themes of this constitutional round is described as inclusiveness: for Quebec, for French speaking and English speaking minorities, for aboriginal peoples, for Canada's regions. We think, therefore, that all

of Canada's diverse peoples must see themselves in the Constitution as Canadians of equal status. Our Basic Law must reflect the diversity of our country.

That is why we recommend the suggestion from the Anti-Defamation League of the B'nai B'rith. They proposed that section 27 of the *Charter* — the clause dealing with Canada's multicultural heritage — be amended to provide that the *Charter* shall be interpreted in a manner consistent with racial and ethnic equality. This would build on an existing provision of the *Charter* that is widely supported and which has begun to be used by the courts to interpret the *Charter* in light of the racial and ethnic diversity of Canada.

The New Democratic Party members recommend that section 27 of the *Canadian Charter of Rights and Freedoms* be amended to provide that the *Charter* shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians and the preservation and promotion of racial and ethnic equality.

3. The Right to Privacy

As stated in the federal proposal, the *Canadian Charter of Rights and Freedoms* was a significant step forward in the protection of the fundamental rights of Canadians. However, under the *Charter* there is no specific guarantee of a right to privacy. We heard testimony that an individual's right to enjoy personal privacy is a central shared value among Canadians. In a society in which surveillance has increased, the right to privacy will become even more important.

This was one of the conclusions of the Justice and Solicitor General Committee of the House of Commons in its unanimous 1987 report on the revision of the federal *Privacy Act*. That Committee suggested that serious consideration be given to creating a constitutional right to personal privacy. It went on to say that the absence of "common law and/or charter based right to personal privacy in Canada is a significant impediment to the protection of individual human rights."

Some government members of the Committee support the entrenchment of a right to privacy. The opposition members disagree.

CHAPTER IV

Federal Institutions for a Renewed Canada

INTRODUCTION

The Government of Canada's proposals outline a series of changes to two of our major central institutions: Parliament and the Supreme Court of Canada. These proposals are important because the institutions they will affect have such an immense impact on the way we live. Parliament is the foundation of our democracy, representing the people in the making of the laws, and holding government accountable for its actions. The Supreme Court is the guardian of the rule of law, exercising final authority in the interpretation of the law, including the Constitution itself.

Although some of the changes proposed by the federal government do not involve constitutional amendments, we have found it useful to consider them alongside those which do require amendments because, together, they will have a combined effect on the working of our institutions. In addition to considering the proposals individually, we have thus asked ourselves whether, in combination, they go in the right direction, and to the required extent.

Our recommendations reflect two broad themes. The first is the need of Canada's outlying regions for better representation within our central institutions, and the need of all regions for an enhanced capacity to articulate their distinctive concerns. We recommend that the House of Commons review its practices and procedures. We also make recommendations which will enhance the legitimacy of Senators as representatives of the Canadian regions. Our recommendations will also increase provincial and territorial input into appointments to the Supreme Court of Canada.

Our second theme complements the first. The combined effect of our recommendations will be a subtle shift of power out of the hands of the executive government, and into the hands of those who directly represent the needs and concerns of people outside Ottawa.

In concert, our recommendations and the federal government proposals to which they contribute will, we believe, increase the role of consensus in our social and political life. Governments will face greater impediments if they seek to do things which are strenuously opposed in particular regions, or are generally unpopular. More positively, there will be a

greater incentive for governments to build a broad consensus before making changes which impact on peoples' lives.

These themes of change respond to basic messages Canadians have been sending to governments. We believe our recommendations will help Canada's central institutions contribute fully to national renewal, and the lives of Canadians.

A. THE HOUSE OF COMMONS

In proposal 8 the Government of Canada commits itself to further reform of House of Commons procedures and practices. This proposal does not involve changes to the Constitution. It is recognized, as well, that procedural reform cannot be brought about by the Government acting on its own. By convention, House procedure is arrived at by consensus among the major political parties. The reforms proposed by the federal government carry forward the general thrust of parliamentary reform since the early 1980s.

The legitimacy of the legislative institutions of our democratic parliamentary system is an indispensable component of Canadian renewal. In our view, the full range of options for the reform of the House of Commons needs to be explored, so that all Canadians can take pride in it as their effective voice at the centre of government, and feel for their House of Commons the unqualified respect they plainly desire to feel.

We recommend:

i) **as reform of the procedures, practices and representational effectiveness of the House of Commons does not require constitutional change, the federal government's proposals on this matter should not be pursued during the current constitutional round; and**

ii) **the question of a comprehensive review of the procedures and practices of the House of Commons should be addressed by the House of Commons.**

B. REFORM OF THE SENATE

1. The Need for Reform

In its September 1991 constitutional proposals, the Government of Canada recognizes that, in a renewed Canada, central institutions must become more responsive to the needs of Atlantic and Western Canada. Senate reform is presented as a central element in the response to these needs. It is argued that an elected, more equitable and effective Senate, with its legitimacy enhanced, could make a fundamental contribution to increased regional participation in the federal parliament.

In making this argument, the federal proposal reflects a consistent finding of major studies since the mid-1980s, including those of the 1984 Special Joint Committee on Senate Reform (the Molgat-Cosgrove Committee), the 1985 Alberta Select Special Committee on Upper House Reform, and the Royal Commission on the Economic Union and Development Prospects for Canada of the same year. These studies all recognized the existence of increasingly bitter resentments in Western and Atlantic Canada over the perceived unresponsiveness of successive Canadian governments to the needs of people and communities outside central Canada. As well, they argued that an effective Senate could make a significant contribution to resolving this problem, and that direct election was an essential precondition for effectiveness.

Our hearings have strongly confirmed the need for more effective representation of the outlying regions, and more responsive government. Many Canadians in the West and in the Atlantic provinces have a sense that their needs and concerns routinely lose out in decision-making within the central government. This sense of injustice, in turn, sometimes breeds a generalized suspicion of the centre, and resistance to legitimate demands coming, in particular, from Quebec.

A renewed Canada cannot be achieved through fairness for some. It will need to offer fairness to all. For many Canadians, Senate reform has become a crucial element in the renewal of Canada.

The breadth of the demand for Senate reform, and the importance attached to progress in this area by Canadians outside central Canada, was also strongly in evidence at the Calgary conference on institutional reform. In the words of the conference report:

> Conference participants were unanimous in rejecting the status quo; for a wide range of reasons, they found the existing Senate inadequate and felt that it must be reformed.

We believe that the need for increased regional responsiveness within central institutions, and the potential of a reformed Senate to contribute to the meeting of this need, are elements in a growing constitutional consensus among Canadians. The task which remains is the design of an upper chamber which responds to this consensus.

The federal government's proposal outlines some of the features which a reformed Senate might possess. Others, such as the electoral system and distribution of seats, are left unspecified, and highlighted for special attention by this Committee.

2. The Role and Functions of a Reformed Senate

a. Roles

The history of Canada's Senate, and upper chambers in other countries, tells us that there are many roles which could be played by a reformed Senate. It could be, among others, a house of cultural and linguistic minorities; a house reflecting Canada's diversity, and giving special

representation to women, aboriginal peoples and ethnic groups; a house of the provinces, representing provincial governments; or a house giving increased representation to the people of the smaller provinces or regions, and thus counterbalancing the principle of representation by population expressed in the House of Commons.

The choice among these options is not arbitrary. In reforming the Senate, we must identify real problems, and respond to them with appropriate institutional remedies.

The prevailing consensus about the Senate, backed up by the consistent findings of parliamentary committees and other investigations in recent years, is that the primary role of the Senate should be regional representation. A reformed Senate must contribute visibly to the meeting of this need, or risk being irrelevant.

- Regional Representation: Governments or People? Regions or Provinces?

In most recent proposals, including that of the Government of Canada, regional representation has been seen to require the representation of people, rather than governments. This is an important distinction.

The idea that provincial or territorial governments should be represented within the Senate (possibly through their capacity to appoint Senators) attracted considerable interest in the 1970s. It was revived, in a qualified form and as an interim measure, by the Meech Lake Accord and still has its proponents, several of whom were among our witnesses.

While the representation of provincial and territorial governments achieves a form of provincial and territorial representation, it is subject to a major objection. Provincial and territorial governments are selected in elections fought on provincial or territorial issues. They do not necessarily represent the views, or even broad political party preferences, of voters with respect to national issues. They thus have legitimacy when they address those aspects of national decisions which affect the jurisdictions and responsibilities of provincial and territorial governments, but they have no mandate to deal with national issues generally.

These considerations lead us to conclude that, for the purpose of Senate reform, regional representation means representing the people of the regions, rather than provincial or territorial governments.

The federal proposal argues that the reality of contemporary Canadian politics is that people identify primarily with their provinces or territories, rather than their geographical regions. The Senate should therefore represent people on a provincial or territorial rather than a regional basis.

We think this argument has merit, although it remains true that many people describe themselves as "Westerners," "Northerners," or "Maritimers." The evolution of the various regions since Confederation has acted to highlight many of the differences between and among

provinces in the West and Atlantic Canada, and between these and the North. If the term "regional representation" were to provide a rationale for glossing over these differences among provinces and territories, it could provide a seriously misleading basis for the reform of central institutions.

We therefore conclude that regional representation must be understood as the representation of the people of the provinces and territories, rather than their governments. It must also be recognized that, for people in the central provinces, regional representation is already substantially achieved through the operation of the representation by population principle in the House of Commons. It is primarily the people in the Atlantic and Western provinces and the territories who continue to need enhanced representation. This is the specific meaning of the regional representation role which must be carried out by a reformed Senate.

b. Functions

It is useful to distinguish between the central purpose, or role, of an institution, and the various activities which it carries out. Most institutions have one basic role, but perform a number of functions, some of which may be required by that role and some of which may be relatively unrelated to it. One of the challenges of institutional reform is to ensure that these secondary functions do not interfere with the performance of the basic role, and identify implications which a change of basic role may have for the secondary functions.

- Legislative Review

Clearly, the review of federal legislation should be the primary function of a reformed Senate. If it were unable to do this, the ability of the Senate to represent regional needs and concerns would be seriously undermined. This was the view of virtually all witnesses appearing before the Committee.

- Policy Studies

A number of our witnesses have noted the achievements of the current Senate in the investigation of policy issues. These also receive special mention in the federal government's proposal, which applauds the work of Senate committees in the investigation of policy issues. In our view this function, as is the case with legislative review, is directly related to the basic role of the Senate. Committee investigations, in both Houses, are an indispensable means for identifying and representing the concerns of Canadians.

- Reflecting Canada's Duality

Witnesses noted that, at Confederation, Quebec was awarded a slightly larger quota of Senate seats in recognition of needs created by its role as the institutional home of a distinct society living in the French language in North America. These needs remain, and must be

reflected broadly in federal institutions and practices, as well as in any redistribution of Senate seats.

Canada's duality has a second dimension, created by the existence of francophone communities throughout Canada, and an anglophone community within Quebec. We believe that the reflection of this reality should be recognized as an important function of any reformed Senate, and incorporated within the design of constituencies.

- Reflecting diversity

Several witnesses argued that the Senate should more broadly reflect Canada's diversity. This issue received special attention at the Calgary constitutional conference where demands for gender equality and greater political participation were made by under-represented groups. We believe that a reformed Senate can play a useful role in reflecting Canada's diversity, and that this role can be enhanced through careful attention to the details of reform.

- Representation of Aboriginal Peoples

In its proposals 6 and 9, the Government of Canada calls for guaranteed aboriginal representation in a reformed Senate. There was considerable support for this proposal among our witnesses.

c. Summing Up

To sum up, we believe that Senate reform has become vitally important so that Canadians can have an upper house which directly represents the people of the regions, especially the less populous regions/provinces. We also believe that the representation should be by province and territory, and that the Senate will carry out its representative role by performing a variety of functions, most importantly the review of legislation.

3. The Selection of Senators

a. The Principle

As has been seen above, the predominant view among advocates of Senate reform since the early 1980s has been that the Senate should be directly elected. Our witnesses fully reflected this view, paying scant attention to the alternatives of appointment or indirect election (e.g., selection by other legislatures).

We too believe that the time has come for Canada to directly elect its Senators. The reasons which led successive committees and other investigative bodies in the early 1980s to favour direct election in our judgement fully retain their validity. If we wish to establish a strong and effective institution to ensure the responsiveness of the central government to regional

needs, that institution needs to have the legitimacy which comes from having been chosen directly by the people.

We recommend:

Senators should be chosen by the people of Canada by direct election.

b. An Electoral System for a Reformed Senate

One possible electoral system option for a reformed Senate would employ single member constituencies with plurality voting. This is the "first-past-the-post" system now in use for the House of Commons. One of its advantages is that it is familiar to Canadians, and the basis on which a candidate is declared elected is easily understood. Also, it is relatively easy to administer, and the possibilities for abuse are thus minimized. Finally, it brings candidates close to voters by using relatively small single-member constituencies, and thus fosters ties between electors and the elected.

Among our witnesses, however, and at the Calgary constitutional conference, the "first-past-the-post" system for a reformed Senate had few supporters, despite the fact that its virtues were generally recognized. Its decisive drawback, for most of its critics, was that it often produces results which are not reflective of the levels of support obtained by various political parties from voters. Typically, it transforms relatively small pluralities of the popular vote into handsome majorities in the legislature, while underrepresenting the smaller political parties.

The dominant theme in the presentations of our witnesses was the advocacy of some form of proportional representation. It was argued by many that such a system, irrespective of its other advantages, would be desirable because it would clearly distinguish the composition of the Senate from that of the House of Commons. This would help to avoid the possibility that an elected Senate would simply duplicate the voting patterns of the House of Commons.

It was recognized, as well, that proportional representation would better reflect the party preferences of voters within the various regions, and avoid the tendency of the present system to translate these preferences into relatively monolithic single-party groups of elected representatives from the various provinces.

Finally, a number of our witnesses anticipated a theme which surfaced at the Calgary conference, when they argued that proportional representation would also provide better representation for women and other groups underrepresented within our current system.

The tendency of proportional representation systems to restrict even the larger political parties to minorities of seats, and (in some cases) to foster the development of small single-issue parties, was recognized by several witnesses. It was not, however, viewed as an insuperable problem. The probability of government-party minorities in a reformed Senate was seen as a positive contribution to its distinctive role.

We have come to share the conviction of many Canadians that an electoral system achieving proportional representation would contribute significantly to the legitimacy and effectiveness of a renewed Canadian Senate.

We recommend:

The Senate should be elected by proportional representation.

The decision to adopt a system involving proportional representation leaves a number of important choices to be made, because there are wide variations among such systems. Indeed, the performance of each system is a product of the combined effect of a multitude of individual features, which can sometimes interact to counter what should be its basic characteristics. For example, in theory the system used to elect the Australian Senate reduces the focus on party affiliation, and focuses the attention of voters on candidates. In practice, however, the parties widely distribute "How to vote" cards, and voters often rely on these to vote for party slates.

The design of an electoral system requires attention to the whole range of possible features, in order to ensure that various features support one another to achieve the desired combined effect. Unless the details are settled in a comprehensive way, a commitment to any particular feature may only impede the attainment of the overall effects desired. For this reason, we have chosen to state a number of objectives which we believe the electoral system of a reformed Senate should serve, rather than to specify selected details of the system.

In addition to achieving the proportional representation of the various political parties within the Senate, the electoral system adopted for a reformed Senate should have the following characteristics:

a) parties should nominate slates of candidates in multi-member constituencies;

b) independent candidates should be able to present themselves for election;

c) parties should use the opportunity presented by multiple nominations to promote gender equality and the representation of Canada's social and cultural diversity within the political process; and

d) voters should have the flexibility to exercise a democratic preference among candidates within and across the slates of candidates nominated by political parties.

The system we favour satisfies all of these principles. Under our system, provinces would be divided into districts, each electing three or four Senators. Electors would be allowed to rank candidates on the list and the three or four candidates with the largest number of votes would be declared elected. This method combines the best features from both proportional representation and first-past-the-post: voters are free to choose; small parties are encouraged;

and the confusing and cumbersome single transferable vote option associated with some forms of proportional representation is eliminated.

c. Size of Constituencies and of the Senate

A concrete proposal for the distribution of Senate seats requires the establishment of the size of constituencies (implying their number, and thus the size of the Senate) as well as the establishment of the general principle of distribution.

A number of considerations have to be weighed in establishing the size and number of constituencies. First, attention must be given to the compatibility of the constituency size with the electoral system. A system involving proportional representation, such as we have recommended, requires multi-member constituencies returning at least four members.

It must be recognized, as well, that large constituencies have a number of drawbacks. They add to the distance between candidates and voters, and tend to make voters more reliant on party affiliations in choosing candidates. At the same time, they tend to make candidates more dependent on party assistance in coping with the organizational challenges and costs of campaigning, and give an advantage to widely-known party notables at nomination time. These factors create special impediments for independent candidates who may wish to run.

With these considerations in mind, we think that constituencies should be no larger than is necessary for the successful operation of an electoral system involving proportional representation.

This requires, first of all, either that the number of seats assigned to each province or territory in the Senate be at least four, or that it be recognized that the system will provide only a very rough approximation of proportionality in the territories and, possibly, smaller provinces.

Secondly, our "no larger than necessary" principle requires that, where possible, the quotas of seats assigned to most provinces should be divisible into more than one constituency, and in the case of the larger provinces, into several constituencies, normally electing no more than four Senators.

With these considerations in mind,

We recommend:

Where possible, the constituencies from which Senators will be elected to a reformed Senate should be multi-member constituencies, normally electing, where practicable, at least four Senators.

d. Timing and Electoral Terms

A final issue relating to the electoral system is the timing of elections and the length of terms. We heard diverse views about this, with some witnesses recommending each of the three major options: elections simultaneous with those of the House of Commons; elections simultaneous with those of the provinces and territories; and elections at scheduled intervals established by fixed terms of office.

Of the major options, we think the second — simultaneity with provincial and territorial elections — is the least desirable, although we note that it has some strong proponents, particularly in Western Canada. This option would result in frequent interruptions of the business of Parliament, as various provincial and territorial delegations sought re-election. Furthermore, it would inevitably involve Senators in electoral campaigns focused on provincial and territorial issues, rather than directing attention to the provincial and territorial perspectives on national issues which their role will require them to represent. It would also blur the distinction between federal and provincial responsibilities, and make it more difficult for voters to hold either level of government accountable for its actions.

The federal government's proposal favours elections simultaneous with those for the House of Commons. The explanation given is that this would emphasize the federal character of the Senate, and recognize that the Senate and the House of Commons share a common legislative agenda. We recognize that both of these points are valid. We are concerned, however, that simultaneity with House of Commons elections would associate a reformed Senate too closely with the House of Commons, and prevent the emergence of a less partisan and more individualistic style of campaigning.

A number of our witnesses called for fixed electoral terms and elections separate from those for either the House of Commons or provincial legislatures. This was also the clear preference of those in attendance at the Calgary constitutional conference. It was felt that separate elections would help to distance Senate elections from those for the House of Commons, enable them to be less partisan, and enhance the likelihood that Senators would represent regional concerns rather than party positions following their election.

We think our witnesses have identified the key issue here: what arrangements will make the most effective contribution to regional representation? We think fixed terms are the superior solution, for the reason identified by our witnesses.

The various proposals provided to us, or made in recent years, differ widely from one another over the appropriate length of a Senator's term in office. Proposals range from relatively long terms, of up to nine years, to terms of four years or less. Proposals also differ over whether all Senators should be elected at the same time, or have staggered terms with perhaps one-half running in each election.

Our discussions have led us to the conclusion that staggered terms should be avoided. An electoral system involving proportional representation works best when there are relatively large numbers of competing candidates, and staggered terms would mean that only a fraction of the Senate's membership would run in each election. We also think terms as long as nine years would tend to insulate Senators from their electors, and reduce their credibility.

We recommend:

A reformed Senate should have fixed terms of no more than six years in length.

4. Distribution of Seats

The distribution of seats in the Senate was a much-debated issue at the time of Confederation. The views expressed by our witnesses, and by those in attendance at the Calgary constitutional conference, provide ample testimony that this issue continues to be sensitive and, for some Canadians, highly symbolic.

a. A Distribution Principle

We think it is important to recognize that there would be little difference, in practice, among many current proposals for the distribution of Senate seats. In all of the proposals which we have reviewed, no single province or territory would have a sufficient number of Senators to block legislation opposed within that province or territory. Equally, no single province or territory would have a large enough group of Senators to ensure the passage of legislation favoured by its residents. The fate of all legislation will be determined by coalitions of Senators from various provinces and territories, and the influence of Senators from any particular province or territory will depend much more heavily on their ability to build these coalitions than on their numerical strength.

We believe, for the reasons stated above in our discussion of the idea of regional representation, that the central basis upon which seats in a reformed Senate should be distributed is now provincial and territorial rather than regional. In this, we agree with the federal proposal, as well as a number of previous studies and proposals.

The view that seats should be distributed on a provincial and territorial rather than a regional basis leaves open two major possibilities: an equal number of seats for each province, or an "equitable" number which departs from strict equality in order to give some reflection to the disparities in size among the various provinces.

The central question here is one of fairness. Should Prince Edward Island, with approximately 0.5 per cent of the national population, have the same number of Senate seats as Ontario, with 36.6 per cent of the national population, or Quebec, with 25.5 per cent? Given these population disparities, we think strict equality would sacrifice fairness to the people of the provinces and territories in the name of fairness to the provinces and territories themselves. The

provinces and territories would be treated equally, but there would be vast inequalities in the weight of representation given to people in the various provinces and territories. Yet the purpose of a directly-elected Senate is to represent the people of the provinces and territories, not the provinces and territories or their governments.

These considerations might have to be set aside, if equal representation of the provinces in the upper chamber were a reflection of some fundamental principle of federalism. There is, however, no evidence of this. Provincial inequality, in this respect, did not trouble the Fathers of Confederation when they established the existing Senate. Nor did it trouble the founders of most other federal countries, where the sub-national units usually have unequal representation in the upper house. Nor is any principle of equality, with respect to representation in upper houses, asserted in the classical theoretical works on federalism, such as *The Federalist*, or the writings of Alexis de Tocqueville. We conclude therefore that there is no requirement for equality flowing from the federal principle itself.

Finally, we believe that the people of the territories should be represented in a reformed Senate according to the same principle as the people of the provinces. If the new Senate were being established to represent governments, then it might be appropriate to reflect differences between territorial and provincial status in its composition. The people of the territories, however, have the same status as the people of the provinces. They are citizens of Canada. If the populations of the various provinces warrant equal numbers of Senators, then, for the same reasons, the populations of the territories must be given numbers of Senators equal to those given to the populations of the provinces.

Alternatively, Canadians can leave aside a concern with strict equality, and focus on the principle of fairness. This principle, we believe, requires that the smaller provinces (and the territories) be assigned a sufficiently large number of seats to enable the Senate to perform its role of counterbalancing the principle of representation by population embodied in the lower House. Strict equality is not needed.

We recommend:

The distribution of seats among the provinces in a reformed Canadian Senate should be equitable, reflecting the need of less populous provinces and the territories for disproportionately large numbers of seats in the Upper House.

b. Our Proposed Distribution

Our discussions have convinced us that, while the principle of fairness is the indispensable basis for distributing Senate seats, it does not prescribe any particular distribution. Instead, it provides a basis for judgments, and requires these judgments to take account of multitude of factors. A fair distribution of Senate seats must, for example, recognize the overall need for a Senate which will counterbalance, but not overwhelm, the principle of representation by population. A fair distribution must also respect traditional regional protections, while

responding to the fact that demographic trends have substantially changed the distribution of the national population that existed in 1867. It must, as well, be recognizable by most Canadians as being fair. The renewal of Canada is about restoring the national consensus on which our institutions are grounded; it cannot be achieved through the creation of winners and losers.

The distribution of Senate seats also has to take into account section 51A of the *Constitution Act, 1867* which requires that the number of members of the House of Commons from a province shall not be less than its number of Senators. Too small a Senate may not provide enough of a guarantee for a province's representation in the House of Commons; too large a Senate may require an increase in a province's representation in the Commons. Guided by such technical considerations, and after lengthy discussions about the balances involved in distributing Senate seats among the provinces, territories and (prospectively) aboriginal governments, we have identified two possible alternatives that are presented below for further consideration.

Seats in a reformed Canadian Senate could be distributed as follows:

British Columbia	18	12
Alberta	18	12
Saskatchewan	12	8
Manitoba	12	8
Ontario	30	20
Quebec	30	20
New Brunswick	10	8
Nova Scotia	10	8
Prince Edward Island	4	4
Newfoundland	7	6
Northwest Territories	2	2
Yukon	1	1
TOTAL	**154**	**109**

- **Liberal Party dissent**

The Liberal members disagree with the recommended options for the composition of the Senate. The Liberal members feel that Canadians do not need a larger Senate as proposed by

the majority but that, in fact, a smaller and more equal Senate than we now have would add to its effectiveness. Therefore, the Liberal members recommend the following:

Yukon	1
Northwest Territories	1
British Columbia	9
Alberta	9
Saskatchewan	8
Manitoba	8
Ontario	18
Quebec	18
New Brunswick	8
Nova Scotia	8
Newfoundland	8
Prince Edward Island	4
TOTAL	**100**

c. Aboriginal Representation

In our discussion, elsewhere in this report, of the federal government's proposal for guaranteed aboriginal representation in the Senate we recognize that the establishment of aboriginal governments will create a new order of government in Canada. Since the purpose of the Senate involves representation of the populations of Canada's sub-units (provinces and territories), it may then be simply a matter of consistency to represent aboriginal peoples.

Since aboriginal self-government remains, with certain exceptions, to be achieved, a recommendation for the precise form of representation for aboriginal peoples in the Senate would, in our view, be premature.

We recommend:

Guaranteed aboriginal representation in the Canadian Senate will be a logical extension of aboriginal self-government, and the details of this representation should be negotiated with aboriginal peoples, consistent with the relationship between numbers of seats and population applied to the distribution of Senate seats among provinces and territories.

5. The Powers of the Senate

The powers of the Senate are one of the key issues that will determine both the success with which a reformed Senate can perform its role and the legitimacy that it is given by the people of Canada's provinces, territories and regions to represent them and their interests. The Senate's powers cannot, however, be considered in isolation from other features of the reformed Senate, especially the distribution of seats. These will always interact. For example, if

provinces and territories were to be equally represented in a reformed Senate, the larger provinces would be much less willing to give the Senate wide powers. By the same token, a Senate with very weak powers would be unlikely to achieve great credibility in Canadian public opinion nor would it attract credible candidates to seek election. Furthermore, an elected Senate that had very wide powers would also risk confrontation with the House of Commons and potential deadlock of the parliamentary system. For these reasons all the features of a reformed Senate need to be considered together and their combined impact carefully evaluated.

a. Ordinary Legislative Review

The Government of Canada's proposals in *Shaping Canada's Future Together* recommend a Senate with relatively strong but carefully circumscribed powers. As a general rule the government suggests that in order for measures to become law the approval of both the Senate and the House of Commons should continue to be required as at present. In other words the Senate would be able not merely to hold up legislation coming from the House of Commons but to defeat it outright where appropriate.

However, the government's proposal suggests two important qualifications or exceptions to the general rule. In relation to matters of particular national importance, such as national defence and international issues, the Senate would have a suspensive veto power for six months, following which a measure could be presented to the House of Commons once again and become law, if adopted, without further consideration by the Senate. Another exception is suggested for "appropriation bills and measures to raise funds including borrowing authorities." On these matters, it is proposed, the Senate would have no legislative role.

These proposals were considered by the Calgary constitutional conference, which generally supported the idea that "as a general rule" the approval of the Senate should be required for ordinary legislation, but did not approve the exceptions suggested in the federal government's proposals.

Our conclusion is in harmony with that of the Calgary conference and extends it. We agree that as a general rule the approval of the House of Commons and Senate should continue to be required for all ordinary legislation. We do not agree, however, that matters of particular national importance such as national defence and international issues should be excluded from this rule. This is not a large category and measures that would be included in it are not always of major importance but instead often house-keeping matters between governments such as double taxation agreements. Among the other more important matters many would be of very high interest to the people of Canada's regions: measures such as the Canada-United States Free Trade Agreement. We can see no convincing reason why the Senate should have less power to deal with these issues than others. We recommend therefore that legislation in this category be treated like other ordinary legislation and require the approval of the Senate as well as the House of Commons.

We recommend:

The powers of a reformed Senate should be similar to those of the House of Commons on all bills except supply bills, as discussed below. All normal legislation with policy content should require the consent of the Senate. There should be no exception for matters of "national importance" such as national defence and international issues.

On the other hand we do believe that the relationship between the powers of the Senate and the powers of the House of Commons is a matter that needs careful consideration. Although it is important that the Senate have powers wide enough to allow it to carry out legislative review and regional representation effectively and with heightened legitimacy in the eyes of Canada's regions, it is also important to preserve the balance of the parliamentary system and the principles of responsible government. The federal government's proposals suggest that the Senate should not become a "confidence chamber", and we agree. But confidence is more than a matter of confidence motions. It is also the ability of the democratically-elected majority to carry out the main lines of its legislative program and to be held accountable for doing so by the electorate. While it is quite appropriate in our view to modify some of the traditional notions of responsible government in order to make room both for better regional representation through an elected Senate and also more effective representation in the House of Commons, we would not wish to create a parliamentary stalemate where one house of parliament simply frustrated the will of the other.

We think it is very important therefore to give careful attention to the deadlock-breaking mechanisms and procedures that should be put in place to arbitrate major disagreements between the Senate and the Commons. This is especially important since the electoral system we have proposed for a reformed Senate would mean that governments would rarely, if ever, have a majority in the Senate. This question received the attention of a majority of workshops at the Calgary conference, some of which proposed some form of override power for the House of Commons in cases of deadlock. Such a power has also been recommended in previous Senate Reform proposals. The report of the Alberta Special Select Committee on Senate Reform proposed in 1985, for example, that the House of Commons should be able to override decisions of the Senate by a vote larger in percent than the Senate's vote to amend or defeat. In a similar vein, a report published by the Canada West Foundation in 1990 suggested that the House of Commons should be able to override the Senate by means of a two-thirds vote of the House. Others have suggested an override by simple majority vote or the resolution of deadlock through a "Reconciliation Committee" composed of representatives from the Senate and the Commons.

Although we do not disagree with the idea of a conference committee as a means for resolving major differences (which is already provided for in the rules of the Senate and the Standing Orders of the Commons), we think that it should only be a first step and that there should be some further means to resolve deadlock between the Senate and the House of Commons on matters the Commons believes to be of crucial importance to the country. We therefore favour the idea of an override power to be used by the House of Commons. Whether

the override power should require a Commons vote greater in percent than the Senate's, as proposed by the Alberta Select Committee, or a two-thirds vote of the Commons as proposed by the Canada West Foundation, or some other formula, is a matter on which we do not feel it necessary to make a recommendation at this time. But the concept of a deadlock-breaking mechanism in the form of a special override power for the House of Commons is an important concept which we believe should be included in any future proposals for Senate reform. Our conclusion is in harmony with the consensus of the Calgary conference.

We recommend:

In cases of deadlock on normal bills, the House of Commons should be able to override a Senate vote.

Some members of the Committee believe the override should require a 60 per cent majority in the House of Commons.

If the Senate possessed unlimited time to consider legislation it would be able to thwart the will of the House of Commons regardless of its formal powers or the deadlock-breaking mechanisms provided in the Constitution. Especially in a reformed Senate where governments may never have a majority we believe it is important to have constitutional provisions that provide for an orderly progress of the legislative business of the Senate. We therefore endorse another recommendation of the Alberta Special Select Committee that there should be a time limit of 180 days for Senate consideration of ordinary legislation, following transmission from the House of Commons.

The Senate should be required to dispose of normal legislation within 180 days after it is received from the House of Commons.

- **Liberal Party dissent**

The Liberal members of the Committee believe that a fundamental objective of Senate reform is to provide a more effective control of the Executive.

The Liberal members of the committee disagree with the majority recommendation concerning the powers of the Senate because of the proposed House of Commons override of a Senate veto of legislation. Such an override will undermine the effectiveness of a reformed Senate.

Therefore, the Liberal members of the Committee recommend that a reformed Senate be granted an absolute veto on all bills, except for appropriation and budget bills for which a 30 day and a 180 day suspensive veto respectively would apply, after which period the appropriation or budget bill could be passed in the House by a simple majority.

b. Supply Bills

The Government of Canada's proposals for Senate reform also recommend an important qualification to the Senate's powers to deal with "appropriation bills and measures to raise funds including borrowing authorities." In relation to these matters it is suggested that the Senate should have no legislative role at all.

There are two issues to be examined here. One has to do with the definition of appropriation bills, and the other has to do with the Senate's role.

On the question of definition, we think it is important that appropriation bills be narrowly defined. Some have assumed that the proposal is meant to include all money bills. Witnesses who appeared before us on behalf of the federal government and who have spoken at the constitutional conferences have assured us that the proposals intend a much narrower definition, one that would include only main appropriation bills and routine tax measures. All other bills with significant policy content would be subject to scrutiny by the Senate. Even this definition may be somewhat too wide. One government witness suggested that "the extension of the application or changes in [tax] rates" would fall outside the Senate's authority, even though taxation may have an important impact on regional interests. We think that appropriation bills in this category should be clearly and narrowly defined to include only supply measures solely for the ordinary functioning of the government.

If appropriation bills are defined in this manner, we agree that the powers of the Senate in relation to them should not be equal to those of the House of Commons. It should not be possible for the Senate to block supply and to halt the ordinary functioning of government simply because of a disagreement with the House of Commons or with the government. It is essential for the ordinary business of government to be carried on without interruption while appropriate debate on legislation continues. The government must be able to govern. We therefore agree that the Senate's powers should be curtailed in this area.

However, the federal government's proposal goes too far. If it were accepted, the Senate would not be able even to debate supply bills, let alone defeat them. We see no reason why the Senate should not have an opportunity to express views on supply bills even if it cannot block supply. We propose that the Senate should have a legislative role in relation to supply bills, narrowly defined, but that it should be required to dispose of them within a 30-day period. In cases of disagreement with the House of Commons, it should be necessary for the House of Commons to reaffirm the measure; it should not become law automatically at the end of the suspensive period.

In the case of supply bills, the Senate should be required to dispose of the measure within 30 days of receiving it from the House of Commons. At the end of the 30-day period if the bill is amended or defeated by the Senate it would be necessary for the House of Commons to reaffirm the measure by a simple majority.

If these proposals were to be adopted it would be necessary to establish some appropriate means to identify whether a measure were a supply bill as defined above. We suggest that the power to certify bills as belonging to the category of supply bills should reside in the Speaker of the House of Commons. The Senate should be able to reverse a certification decision of the Speaker of the House of Commons by a vote of 80 per cent of Senators. But there should be no appeal to the House of Commons or to the courts. In order to prevent a government from including in a routine supply bill measures which have significant regional impact or which would otherwise fall within the wider powers of the Senate, the Speaker should have authority to split bills, where appropriate, and to determine where portions of bills should be put into separate legislation for consideration by the Senate.

The Speaker of the House of Commons should certify bills as supply bills for the ordinary functioning of the government.

c. *Double Majority*

The Government of Canada's constitutional proposals recommend that the Senate should have a double majority voting procedure for matters of language and culture. Similar proposals have already been put forward by the Alberta Special Select Committee, the government of Newfoundland (1989), the Macdonald Commission (1985), the Special Joint Parliamentary Committee on Senate Reform (1984), and in many other reports and proposals. The government of Newfoundland and Labrador has suggested that a double majority provision should apply also to constitutional amendments affecting linguistic or cultural rights or the civil law. At the Calgary constitutional conference wide support was also expressed for a double majority proposal; no workshop opposed it.

We agree with the federal government's proposal for a double majority provision in the Senate for matters of language and culture. Senate approval for matters relating to the language and culture of French-speaking communities should require the support of a majority of Senators voting and a majority of francophone Senators voting. Since the purpose of a double majority provision is to protect the minority, a similar provision is not required for English-speaking Senators.

Measures affecting the language or culture of French-speaking communities should require the approval of a majority of Senators voting and a majority of francophone Senators voting.

As in the case of supply bills, it will be necessary to provide an appropriate process to establish whether or not a measure falls into the category that requires approval in the Senate by a double majority. We suggest that the power to certify bills as requiring a double majority should be exercised by the Speaker of the Senate, on the assumption that the Speaker would be elected by a reformed Senate, not appointed by the government as at present. In this regard, the Speaker of the Senate should consult the Commissioner of Official Languages.

If it is thought necessary to provide an appeal mechanism there should be an appeal to the whole Senate, one in which a double majority is used, but not to the courts. In the case of an appeal that seeks to overturn a ruling of the Speaker that a measure should be subject to a double majority, a successful vote should require a two-thirds majority of all Senators voting and a majority of francophone Senators voting. In the case of an appeal that seeks to overturn a ruling of the Speaker that a measure should not be subject to a double majority, a successful appeal should require only a majority of Senators voting and a majority of francophone Senators voting. The reason for this distinction is simple and flows from the rationale of the double majority itself: in order to protect the minority it should be harder for the majority to overturn a ruling of the Speaker in this area.

The Speaker of the Senate should certify bills as being measures affecting language or culture of French-speaking communities on which a double majority voting procedure is required. There should be no appeal of the Speaker's decision to the courts.

d. Ratification of Appointments

The Government of Canada's proposals recommend that a reformed Senate have the power to ratify the appointment of the heads of a number of federal agencies including the Governor of the Bank of Canada, the heads of national cultural institutions (such as the Canadian Broadcasting Corporation, the National Film Board, the National Library, the National Archives, the national museums, the Canadian Film Development Corporation, the Canada Council, and the National Arts Centre), and the heads of regulatory board and agencies (such as the National Energy Board, the National Transportation Agency, the Canadian Radio-television and Telecommunications Commission, the Immigration and Refugee Board, and the proposed Canadian Environmental Assessment Agency).

We agree with this recommendation (proposal 11). Since these agencies can have a significant impact on the lives of Canadians in all parts and regions of the country, it is appropriate that the Senate have the opportunity to review the suitability of candidates.

We take the list of potential agencies included in the federal government's proposal to be illustrative rather than exhaustive. Other agencies might well be added to the list, including the heads of the federal research granting councils which have a major impact on higher education and culture right across the country.

The Senate should have a mandate to ratify the appointment of the Governor of the Bank of Canada and the appointments of the heads of national cultural institutions, as well as the heads of regulatory boards and agencies.

C. THE SUPREME COURT OF CANADA

Established by an Act of Parliament as a general court of appeal in 1875, the Supreme Court of Canada became a true court of last resort in 1949, when appeals from the decisions of the Canadian courts to the Judicial Committee of the British Privy Council were abolished. With the enactment of the *Canadian Charter of Rights and Freedoms* in 1982, the Supreme Court took on even wider responsibilities. In addition to its role as constitutional arbiter, particularly on the distribution of powers between Parliament and the provincial legislatures, it became responsible to decide whether federal and provincial laws violate the individual rights and freedoms entrenched in the *Charter*. Since the Court has become a mainstay of Canadian public life, its composition and operation are of paramount importance. The time has come to further the process initiated by the enactment of sections 41 and 42 of the *Constitution Act, 1982*. These, as enhanced by the current proposals for amendment, would prevent the Court's basic characteristics from being altered by unilateral federal legislation which can be enacted without consultation with the other partners in the federation.

The government proposes to amend the *Constitution Act, 1982* to provide for the appointment of the Supreme Court judges from lists of candidates submitted by provincial and territorial governments. Such amendment could be approved under the amending formula set out in section 38(1) of the *Constitution Act, 1982*, that is with the consent of the federal government and seven provinces including at least 50 per cent of the population (the 7/50 formula).

The federal government says it is prepared to proceed with a more comprehensive proposal entrenching in the Constitution the existence of the Supreme Court of Canada and its current composition, which totals nine judges including three from the province of Quebec trained in civil law. This guarantee is of vital importance to Quebec as it provides an element in the protection of the distinct society, particularly the civil code. Participants in the present debate seem to agree that now is the time to go ahead with an amendment achieving this comprehensive reform. We note that paragraph 41(d) of the *Constitution Act, 1982* requires unanimous approval of the federal and provincial governments for such an amendment.

None of those who appeared before us or took part in the debate on the Supreme Court of Canada questioned the need to entrench the Court in the Constitution. However, opinions were divided on the process for appointing judges.

Some recommended that nominating councils be set up to enable the legal community, at both the federal and provincial levels, to have a say in a decision that would ultimately rest with the federal government. Others suggested the creation of an arbitration body to resolve deadlocks in intergovernmental consultations. Without rejecting either idea out of hand, we feel that the key element of the reform is participation by the provinces and territories. The Court deals with the nation's basic political issues. We consider that governments should agree on candidates for appointment to the Court. The Constitution can only establish the framework for

this process. To have the Constitution entrust a non-political body with the settlement of potential disputes seems to us inappropriate.

We agree with the Government proposal to amend the Constitution Act, 1982, to provide for the appointment of the Supreme Court judges from lists of candidates submitted by provincial and territorial governments. To prevent paralysis of the Supreme Court's activities by a drawn-out dispute, we propose the constitutionalization of a simpler version of the mechanism contained in section 30 of the *Supreme Court Act*. This section empowers the Chief Justice of Canada to appoint, on a temporary basis, an *ad hoc* justice from among judges of the Federal Court or a provincial superior court. Such an appointment would be made only if governments reach a deadlock. It would enable the Court to operate normally until a mutually acceptable candidate is found. Such amendments could be adopted under the 7/50 formula.

We also recommend that the government's proposal in its comprehensive version, merits the support of all governments.[6] Under this proposal, the existence of the Supreme Court of Canada and its current composition, which totals nine judges including three from the province of Quebec trained in civil law, would be entrenched.

[6]See Draft Constitutional Amendments, Appendix A at p. 109.

CHAPTER V

Sharing Responsibilities and Benefits

INTRODUCTION

As we are about to celebrate the 125th anniversary of the Canadian federation, new internal and external challenges force us to re-examine once more how we allocate the responsibilities for various policy issues between the two orders of government and how we could improve on the management of our economic and social affairs. Although this task may appear particularly complex and difficult in the current constitutional round, we believe that it is best viewed as only one more step of a normal and continuing process of adjustment and adaptation to changing needs and conditions.

Internally, the Government of Quebec has expressed dissatisfaction with the current sharing of responsibilities between the federal and provincial governments and believes that a re-arrangement is required to better serve the needs of the province's residents. Not all provinces have expressed a similar wish to exercise greater responsibility in various areas, but many believe that we could significantly improve on the ways governments manage their shared responsibilities. At the core of the issue is interdependence and how our federal system could be made more effective in managing this interdependence while respecting the essence of federalism, i.e., a clear allocation of legislative responsibilities between the two orders of government.

Externally, globalization and increased world competition compel us to ensure that our economy functions as smoothly as possible if we want to secure our future and that of our children. Changing world conditions will bring about change, whatever we do. The real issue is whether we want to be able to influence the course of change or simply let it fashion and mould our nation while we look on passively, doing nothing to protect or raise our standards of living. What is at stake is not greater personal wealth, but the very foundations of our commitment to caring and sharing, so widely admired and envied abroad. The social values we cherish need a well-functioning and strong economy to nurture them. There is little dispute about the need to secure our economic and social well-being, but the way we go about achieving this objective is subject to greater discussion and difference of views and opinions. We believe that during the current constitutional round it is important in debating the merits of various proposals, not to lose sight of the ultimate objective, which is to ensure the well-being of all Canadians.

A. MANAGING INTERDEPENDENCE IN OUR FEDERAL SYSTEM

1. Introduction

a. The 1867 Constitution: a Flexible Tool Meeting the Needs of Canadians

In 1867, when the Fathers of Confederation laid the foundations of Canadian federalism, the role of government was much more limited than now. Governments were primarily responsible for providing a legal framework within which society could go about its daily business, for providing a limited number of services such as law enforcement, national defence, roads, bridges, and for supporting major public works such as canals and railways. Government spending was small and only of limited use as a policy tool. The world has changed considerably since Confederation. The problems and challenges faced by Canada are more complex. Canadians have learned to expect governments to assume more economic, social and cultural responsibilities than they did in the 19th century.

A key element of a constitution in a federal system is the assignment of responsibilities and powers to the two orders of government. The framers of the 1867 Constitution focused extensively on the division of legislative powers, reflecting the predominance of legislation as a policy tool at that time. They applied two broad principles to the distribution of legislative powers set out in sections 91 to 95 of the *Constitution Act, 1867.* The first is that matters that are interprovincial or international in scope should be assigned to the federal parliament; matters that are essentially provincial or local in scope, or that can be best addressed by laws tailored to a particular provincial community should be assigned to the provincial legislatures. The second is based on a rough distinction between those things that are rooted in communal and cultural differences, and for which the various provincial communities in Canada are likely to have quite different wants or needs, and those things that largely transcend cultural or social differences and are likely to be of common interest to citizens throughout the country.

In addition to empowering the federal parliament and the provincial legislatures to make laws with respect to specific subject matters, the Constitution explicitly or implicitly authorizes the two orders of government to tax, to spend and to provide services. Taken together, these constitute the four powers or instruments governments can use to achieve their policy objectives.

b. Adapting Governmental Responsibilities and Powers to New Political, Social and Economic Conditions

The technical, economic and social innovations and developments of the 20th century have opened new policy fields requiring clarification of the legislative responsibilities of each order of government. The courts have been instrumental in this process. They have clarified and extended the legislative powers of the federal government in new policy fields by applying the existing division of powers to new situations. Not all judicial decisions, however, broadened federal powers. In many instances, the courts protected and clarified the authority of the provincial legislatures by restricting the scope of federal jurisdiction.

The use of the other three powers, in particular that of the spending power, was also broadened by governments in response to various economic and social developments, particularly from the 1930s onwards.

As a result, the relatively tight compartmentalization of the division of areas of responsibilities that prevailed from Confederation to World War I, began to crumble during the Great Depression and World War II. This reflected the fact that governments, particularly the federal government, expanded the range of their activities, notably in the social policy field. Frequently, they did so not through the exercise of their legislative powers, but through the use of the other powers or instruments at their disposal.

Despite the absence of explicit references to government expenditures in the Constitution, government spending has become a key influence in the modern world and affects virtually every aspect of our lives.

c. The Emergence of the Federal Spending Power

In response to a broad demand for economic and social reforms after World War II the federal government launched a number of national initiatives which were dependent on the spending power. In contrast to most federal activities prior to World War II, the new federal programs were often established in areas of exclusive provincial jurisdiction. We were told that in fiscal year 1991/1992, about 35 per cent of federal spending is taking place in areas of provincial legislative jurisdiction.

At the same time that the federal government greatly expanded its activities, provincial governments became much more active, particularly from the early 1960s onwards. In fact, total expenditures of provincial and municipal governments and hospitals (P-L-H) are now almost 40 per cent larger than those of the federal government, whereas, in 1960, P-L-H expenditures were about equal to those of the federal government.

The spending power emerged as a powerful instrument of change to a large extent in response to the growing complexity of the modern world which blurs purely legal distinctions in the division of legislative powers. Many problems of modern society have a provincial dimension and a national or international dimension. The result is that both orders of government frequently have an interest in a given policy field and a presence through the use of their full range of powers.

d. Provincial and Other Reactions to the Federal Spending Power

Federal spending is occasionally seen as a blunt instrument used to impose federal programs on unwilling provinces. The use of the spending power can have a negative impact on provincial fiscal policies by encouraging the implementation of programs and budgetary allocations that may be inappropriate in the light of local conditions. Some provincial governments, in particular those of Quebec, have frequently expressed concerns about the use

of the federal spending power in areas of exclusive provincial legislative jurisdiction. Other provincial governments have emphasized the budgetary planning problems they have had with shared-cost programs in areas of provincial jurisdiction due to the fact that the federal government may change unilaterally the terms of the program. Many briefs submitted to the Committee argued that the expansion of federal programs into areas of provincial jurisdiction has led to inefficient delivery of services and costly overlaps and duplications, where both levels of government adopt similar programs for roughly identical populations.

Strict compartmentalization of policy areas may have been the most appropriate arrangement to meet the demands of the people towards the end of the 19th century. Today, new challenges force us once more to be imaginative in designing the system by which we govern ourselves. The division of legislative powers is only one aspect of effective governance. In fact, we believe that focusing exclusively on the distribution of legislative powers would miss the essence of the current debate on the distribution of powers. Another source of tension within the Confederation is the use of the federal spending power in areas of exclusive provincial jurisdiction.

In response to these concerns, we will consider, in the context of our recommendations on jurisdictional change, the possibility of placing certain controls on the federal spending power through intergovernmental agreements.

There is clearly a need for coordination and cooperation between governments in cases where the federal power to spend affects areas falling under the exclusive legislative jurisdiction of the provinces. We say all this, recognizing, of course, the importance of the federal spending power, especially as it relates to the smaller, less populous provinces.

We do not believe that a withdrawal of the federal government is an appropriate response for all provinces. We think we can find ways to give provinces, which desire so, the option of exercising a leadership role in their areas of exclusive jurisdiction. We need also greater cooperation for the better management of our limited public resources and the better definition of mutually supportive roles or responsibilities. This will not stifle innovation or compromise the federal principle. Canada is not alone in facing these issues: cooperation between governments and greater policy coordination is a worldwide trend.

Many people are deeply attached, for example, to national standards, seeing this as an essential part of Canadian citizenship. Others see national standards as being rules and norms the federal government imposes on the provincial governments without respecting diversity in needs and aspirations. While these two views appear irreconcilable, we believe that a more cooperative and harmonious federalism would go a great way towards establishing bridges between the two polar views. Standards should be developed cooperatively between the two orders of governments and with the participation of the Canadian people.

The nature of national standards may vary considerably from field to field. In some areas, like health and other social programs, we think it is important to maintain uniform standards.

But in some newer areas, there is room for flexibility. For example, do labour training standards have to be identical across provinces or would it be enough to cooperatively establish a core or minimum standard which each province would be free to enrich? Could mutual recognition of provincial standards be envisaged? This is not the place to specify labour training standards, but the point is that cooperation between the federal and provincial governments and public input are essential in establishing new standards and that we need to be remain flexible and imaginative as often a wide variety of avenues are open for exploration.

Our reflection on how we could improve the functioning of the Canadian federal structure and better adapt it to different regional needs and wants has lead us to conclude that, in addition to a clarification of the roles of the two orders of government in a number of areas, we need a wider range of instruments or arrangements to deal with shared responsibilities.

2. Instruments to Manage our Federal System and Promote Intergovernmental Cooperation

a. Concurrency

In the original distribution of responsibilities for law-making between the two orders of government, the Fathers of Confederation recognized that in some fields both the federal and provincial governments should have law-making powers, because both had legitimate interests in these areas. From the start, agriculture and immigration were what is called "concurrent powers", that is to say both orders of government are equally entitled to make laws in the field. In order to avoid conflict, and avoid putting citizens in the awkward position of being subject to contradictory laws, the Constitution provided that whenever a provincial and a federal law conflicted in these areas, the federal law would prevail. That is what is meant by saying that federal and provincial powers in these areas are "concurrent", but the federal power is "paramount".

In the post-war period two new concurrent powers were added to the Constitution. In 1951 and 1964, old-age pensions and supplementary benefits were established as a concurrent power of both the federal and provincial governments. In 1982 both the federal and provincial governments were given power to make laws concerning the export of natural resources and electrical power from a province. In the second case the federal power was again made "paramount". But in the first case — pensions — provincial powers were given precedence, the first time this was done anywhere in the world.

Canada's experience with concurrent powers and the wide use that is made of concurrent powers in other federal constitutions have encouraged many people in Canada to wonder whether an even wider application of "concurrency" might not be a solution to Canada's longstanding debate about the appropriate distribution of law-making responsibilities.

In our discussions we have to date been able to identify a few areas where concurrency might be considered. Two of these are *inland fisheries* and *personal bankruptcy*. In these two

fields the federal government's law-making power should be paramount, and the fields should be managed by intergovernmental agreements, similar to those already implemented or proposed in the field of immigration, through which governments would agree how to employ their concurrent law-making powers and coordinate their activities and policies in the field.

Because of its different civil code, Quebec may have special needs in the areas of *marriage and divorce*. We recommend that First Ministers examine whether any alternative arrangements to the current distribution of powers and responsibilities in this field would allow Quebec to better meet its special needs, while ensuring mobility and the enforceability of judgments and orders.

A great number of witnesses have spoken about the importance of the *environment* and the contribution governments can make to its protection. At the present time, there is no subject heading in the Constitution dealing with this matter. But, both the federal and provincial governments, under various heads of power, share responsibility for the environment. We agree with this sharing of responsibility and see no need for constitutional change in this area.

We recommend that *inland fisheries* and *personal bankruptcy* be made concurrent powers with federal paramountcy.[7]

b. Streamlining Government

Because a federal system involves two orders of government, it occasionally results in some degree of overlap and duplication of programs and services.

Several witnesses told us that there is room for improvement in the way governments manage their common policy interests. They thought more could be done to reduce unnecessary overlap and duplication. Running through their commentary was the desire that in addition to reforming the Constitution, governments should commit themselves to making the existing system work better. We agree.

We therefore support efforts to streamline government. We urge governments to keep the public informed of their discussions, and to bear in mind that the capacity of the federal government to maintain national or international standards should not be diminished by the eventual streamlining agreements.

The proposal of the Government of Canada for streamlining government (proposal 26) strikes us as a reasonable approach. It is designed to maximize efficiency in the delivery of services through administrative agreements between the two orders of government. For example, the federal government, with the consent of a province, may contract out the operation of a ferry service on a fee-for-service basis. Of course, federal standards and regulations would have to be met by the province in such an endeavour.

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[7]See Draft Constitutional Amendments, Appendix A at p. 114.

Streamlining does not involve constitutional change, but intergovernmental cooperation and agreement on the rationalization of services and their delivery. Specifically, the federal proposal lists a number of areas for streamlining. We do not believe it would be useful for us to comment on the specific items identified by the Government of Canada as candidates for streamlining. The topic is not one involving constitutional change, and governments are in a better position than the Committee to cooperatively identify the subject matters for streamlining and to work out the administrative and financial details of any streamlining agreements. Any streamlining agreements involving a rationalization of program delivery would not alter the legislative authority of Parliament or the provincial legislatures.

We recommend that the federal and provincial governments examine ways to eliminate unnecessary overlap and duplication and make more efficient use of public resources.

c. Delegation

The Constitution does not permit the delegation of legislative power by Parliament to a provincial legislature, or vice versa. The federal government has proposed that the Constitution be amended to permit this form of delegation.

Legislative delegation would provide Parliament and the legislatures with greater flexibility in recognizing the different needs of different provinces. It would also provide a broader means for coordinating the exercise of federal and provincial powers, fostering intergovernmental cooperation and harmonizing laws. Legislative delegation could be an important tool for streamlining government services and regulation, improving the functioning of the Canadian federation and responding to the needs of particular provinces for the ultimate benefit of Canadians as a whole.

Despite these advantages, legislative delegation has raised a number of concerns among the witnesses who appeared before us. These concerns reflect the fact that the federal government's proposals do not elaborate how and under what circumstances legislative delegation would be permitted. In the past, federal-provincial arrangements have been largely negotiated in secret with little if any public participation. If this practice were extended to legislative delegation, it would attract great criticism. Concerns also arose on the basis that delegation could result in a rearrangement of the federal-provincial distribution of powers and responsibilities without appropriate public consultation.

We consider that these concerns must be addressed before legislative delegation is permitted. To do this, we suggest that the proposal to permit legislative delegation should contain a number of limits on its use.

First, powers should only be delegated by law, after consultation with the public and debate in Parliament and the provincial legislative assemblies. Legislative delegation must be done openly and publicly with an opportunity for a renewed Senate to safeguard against any erosion

of the federal-provincial division of powers and responsibilities. As part of this consultation, the governments involved in the delegation of power and other governments should consider the effect of the delegation on the federation as a whole. If the proposed delegation would have effect outside of the boundaries of the province concerned, then perhaps it should be the subject of discussions at a First Ministers' Conference.

Second, Parliament or a provincial legislature should be able to define the scope of the powers it delegates and impose conditions governing their exercise. In this way, Parliament and the legislatures could ensure that the powers they delegate are used in a way that is consistent with the objectives of the delegation.

Third, delegation should be accompanied by financial compensation reflecting the costs involved in administering legislation enacted under the delegated powers and the financial compensation shall reflect the spirit of section 36 of the *Constitution Act, 1982*.

Fourth, in the case of delegation to a provincial legislature, the provincial government should assume the official languages obligations of the federal government.

Fifth, each delegation of power should be renewed every five years to provide an opportunity to determine whether the power still needs to be delegated. Over the course of a number of years, circumstances may change and there must be a mechanism for ensuring that there is a continuing need for a delegation of the power and that the terms of the delegation reflect this need.

Finally, where Parliament or a legislature decides that a delegation of its power is no longer needed, or that its terms should be changed, it should be able to revoke or amend the delegation. This would ensure that ultimate accountability remains with the delegating Parliament or legislature. However, to prevent undue disruption and ensure a smooth reversion of power, there should be a requirement to give reasonable advance notice of the revocation or amendment.

We recommend that the proposal to permit legislative delegation between Parliament and the provincial legislatures be adopted within a constitutional framework that will ensure that the concerns expressed about it are met.[8]

d. Intergovernmental Agreements

Intergovernmental agreements are important tools for coordinating the activities of the federal and provincial governments. They have been concluded in a host of areas and relate to the exercise of powers, the expenditure of money, the provision of services and the administration and enforcement of laws.

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[8]See Draft Constitutional Amendments, Appendix A at p. 114.

Although intergovernmental agreements are similar to agreements between private individuals, they differ substantially in at least one way. Because of the constitutional principle of parliamentary supremacy, they are not binding on Parliament or the legislatures. This results in uncertainty and, as the recent challenge to the *Canada Assistance Plan* amendments has shown, it can create bitter divisions between governments.

Two of the federal government's proposals recognize this problem. The government has offered to negotiate and give constitutional protection to agreements relating to immigration and cultural matters. However, we consider that this problem should be addressed more generally. For example, the government's proposals relating to shared-cost programs and conditional transfers (proposal 27) illustrate another area in which intergovernmental agreements may require constitutional protection.

There are a number of ways in which intergovernmental agreements can be protected. The greatest protection would be afforded by a constitutional amendment that would make them part of the Constitution. However, the complexity of the constitutional amendment process makes this impracticable in most cases. Not only would it be difficult to give the agreements constitutional status, it would also be difficult to change or revoke them should the need arise.

A better way to give intergovernmental agreements stability and protect them from unilateral changes would be to provide a process in the Constitution for their approval. The agreements would not form part of the Constitution and the *Canadian Charter of Rights and Freedoms* would apply to them. The approval process would be designed to open the agreements to public scrutiny and debate.

We propose a process that would provide for the approval of an agreement by laws or resolutions passed by Parliament and the legislature of each province that is a party to the agreement. Once approved, any alteration or revocation of the agreement would have to be approved as well, unless the agreement itself established a different process for its alteration or revocation. This process would give stability to intergovernmental agreements and it would ensure public debate in Parliament and the legislatures on the merits of the agreements.

We recommend that the *Constitution Act, 1867* be amended to provide a mechanism for giving more certainty to the public policy process in relation to intergovernmental agreements and protecting them from unilateral amendment.[9]

[9]See Draft Constitutional Amendments, Appendix A at p. 116.

3. Improving Shared Management of Specific Fields

a. Labour Market Training

Labour market training is not listed as an explicit head of power in the *Constitution Act, 1867*, but is considered to be a natural extension of education, a legislative power allocated exclusively to provinces under section 93 of the *Constitution Act, 1867.* The federal government is active in this area under its constitutional responsibility for unemployment insurance and through the use of the federal spending power.

Concerns have been expressed at times, particularly in the province of Quebec, about the presence of the federal government in training. Federal labour training programs are said to be difficult to integrate consistently with provincial training, education, social, regional development and industrial programs. Public and private concerns have also been raised, mostly in Quebec, about overlaps and duplications and excessive administrative costs for governments and the private sector.

More provincial control over labour market training programs is a practical answer to the diversity of the country. As well, for language reasons, Quebecers are less likely than residents of other provinces to pursue employment opportunities outside of the province. Quebec's labour training needs differ from those of other parts of the country. We believe that the current constitutional round is an opportune time to examine whether better ways exist for the federal and provincial governments to manage their shared presence in the field.

As a part of the proposals related to the division of powers, the federal government has put forward proposal 18 stating that

> section 92 of the *Constitution Act, 1867* be amended to recognize explicitly that labour market training is an area of exclusive provincial jurisdiction.

We believe that the federal government should respect the provincial exclusive jurisdiction in labour market training. Not all provincial governments would want to assume responsibility for current federal programs. Indeed, we recognize the particular importance of federal labour training programs for some of the smaller provinces and we expect the federal government to continue to be a major provider of such services in these provinces. Nevertheless, the option to exercise this responsibility should be available.

Financial compensation would need to be considered in the case of jointly agreed-on federal withdrawal from labour training. Although we believe that the specifics of the financial arrangement should be a matter of discussion and negotiation between the two governments, we recommend that two broad principles be respected.

First, we believe that compensation should be subject to a condition that the funds be spent on training. Such a general condition should be agreeable to both parties as it gives Parliament

a guarantee that the funds will be spent in the area for which they are earmarked and it does not constrain provincial governments in their activities. Furthermore, in the spirit of the *Official Languages Act* any compensation should be conditional on a commitment by a province to take account of the needs of its official language minority. As the proposed agreement would give a province complete freedom in defining and implementing training programs, we believe that the proposed general condition would not impinge on provincial priorities in labour market training.

Second, because training is so important for economic development and growth, we believe that the allocation of federal training monies among provinces should be done in the spirit of section 36 of the *Constitution Act, 1982* which commits governments to further economic development to reduce disparities in opportunities.

Our recommendations do not affect the authority of the Parliament of Canada to legislate on matters related to labour market training in its areas of exclusive jurisdiction such as unemployment insurance.

We recommend that:

i) **the *Constitution Act, 1867* be amended to provide that any province may affirm by law its exclusive legislative jurisdiction over labour market training.[10]**

ii) **the federal government negotiate an intergovernmental agreement with every province exercising this option. The agreement would define and clarify the responsibilities of each order of government and set jointly agreed-on limits on federal spending on labour market training in the province. Standards in such programs are to be agreed upon mutually between provincial and federal governments and set out in such agreements. This intergovernmental agreement could be constitutionally protected as discussed above at page 68.**

iii) **financial compensation would be subject to a general condition that the funds be actually spent on training.**

iv) **because training is a key to economic development, the share of federal labour training funds allocated to a province that has signed an intergovernmental agreement should reflect the spirit of section 36 of the *Constitution Act, 1982*. By this we mean that a province's share of federal training funds should not be based on a simple measure of the province's weight in the Canadian economy such as population, employment or production share but should reflect its relative needs.**

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[10]See Draft Constitutional Amendments, Appendix A at p. 117.

v) **the federal government's obligations for aboriginal affairs be maintained and respected and its official languages obligations shall also be provided for under the intergovernmental agreement.**

vi) **the federal government's ability to legislate on labour market training not be affected in areas of exclusive jurisdiction pertaining to unemployment insurance or any other head of power.**

The federal government proposal on labour market training also suggested that leadership in the area of skills standards should be exercised jointly by the federal and provincial governments and the private sector be given an enhanced role in training and standard setting.

The Committee agrees with this proposal.

We believe that it is important to recognize that the private sector, that is workers, businesses and the education community, has an important contribution to make in this area.

Standards have become a controversial and emotional issue in Canada. In the case of setting skills standards, we recognize that improvement is required. However, we also believe that the federal government should not impose its views arbitrarily on the provinces and the private sector. We support the federal government's proposal to adopt a cooperative and harmonious approach involving all the partners in the development of jointly-acceptable national standards.

We believe that intergovernmental agreements in the field of labour market training would be one important instrument for promoting the development of skills standards. Formal mechanisms and processes for defining such standards and involving the federal and provincial governments and the private sector should be an integral part of intergovernmental agreements in labour market training.

Also to accommodate particular provincial needs, governments should examine the possibility of allowing for some diversity in standards. This would take into account that standards could be agreed upon by provinces and indeed, some provinces may not want this power at all. It should also be noted that standards should be framed in such a matter as to promote mobility of labour.

b. Recognizing Areas of Provincial Jurisdiction: Tourism, Forestry, Mining, Recreation, Housing, Municipal Affairs

The Government of Canada's proposal 24 states that it *"is prepared to recognize the exclusive jurisdiction of the provinces and to discuss how best to exercise its own responsibilities in a manner appropriate to the sector in the following areas: tourism, forestry, mining, recreation, housing, municipal/urban affairs"* while at the same time affirming that, *"the*

Government of Canada is committed to ensuring the preservation of Canada's existing research and development capacity and its obligations for international and native affairs".

The Constitution currently gives provinces either explicit or implicit exclusive legislative power over these areas. Mining, forestry and municipal institutions are cited explicitly as exclusive provincial jurisdictions in sections 92 and 92A of the Constitution. Although tourism, recreation and housing are not listed explicitly in the Constitution they are considered to be exclusive provincial jurisdictions under the provincial powers to legislate on matters related to the management of public lands and property and civil rights and on all matters of local and private nature.

The federal government is also active in these fields, mostly through the use of its spending power, but also through its responsibility for international trade, research and development and aboriginal affairs. The federal government proposes to maintain its responsibilities in these areas, while respecting the provinces' jurisdiction under the explicit and implicit heads of powers in sections 92 and 92A.

The federal spending power has been used two ways: one, through the establishment of unilateral programs such as various research and development programs; and two, through bilateral shared-cost agreements such as in tourism, where the federal government offers dollars for federal programs within provincial boundaries that can only be accessed through matching dollars spent by the provinces.

Some of these programs, particularly the latter, have been the cause for irritation between the two levels of government. Shared-cost programs can have the effect of forcing provincial governments into spending simply to access federal funds, even though the programs in question may not be a matter of priority for that province. The duplication and overlap of administration and spending is wasteful. It causes confusion in the public and promotes competition that increases the cost of government.

It is proposed that federal monies usually spent in a particular area would be unconditionally turned over to the province for use in this area upon signing an agreement. Any continued use of the federal spending power in the field would be conditional on the approval of the province.

For Quebec, whose priorities may be materially affected because of language or other differences, the opportunity to manage these programs according to provincial imperatives is particularly attractive.

On the other hand, some provinces are satisfied, indeed happy, with the status quo and would argue against a withdrawal of the federal government from these programs. In fact, on the basis of the testimony we have heard, we are not convinced that all provinces may want the federal government to vacate all these fields or that the federal government could or should do so.

In short, we believe that it would be unrealistic to expect that a given area could be tightly sheltered from any federal influence. This is implied not only by the federal government's obligations for international affairs and aboriginal peoples and the protection and support of Canada's research and development capacity but also by the general impact on the various sectors of federal tax and spending policies. In many instances, the latter policies will impact directly or indirectly on these sectors even though the latter are not specific policy targets. At issue is how we manage this shared influence. We believe that the federal and provincial governments' approach to this issue should be flexible and allow for diversity of wants and needs.

We recommend that the federal government offer to negotiate bilateral agreements in the areas of *tourism, forestry, mining, recreation, housing, municipal/urban affairs* with any province wishing to do so, to better define the roles of each government and to harmonize their policies.

Such agreements would explicitly recognize the province's leadership role in the field and the province's authority to control the initiation, design and delivery of programs in the field. Such understandings between the federal government and a province would be constitutionally protected by using the approval process for intergovernmental agreements discussed above at pages 68-69.

We believe that the approach described above could also be applied to other areas which are either totally within provincial jurisdiction or are presently shared with the federal government. We recommend the areas of *regional development*, and *family policy* as ideal candidates for such a treatment to the extent that these are within provincial jurisdiction.

The federal spending power could be dealt with in a similar fashion in relation to *energy*.

Although spending by the federal government is currently of limited importance in some of the areas listed above, clarifying responsibilities now will help to prevent future tensions and conflicts should the federal government decide at some point to become more active in these areas of exclusive provincial jurisdiction.

We recognize that *health, education* and *social services* are under provincial jurisdiction. The federal government has instituted a number of Canada-wide programs in some of these areas. We believe that the federal government should continue to deliver these.

- **Liberal Party Dissent**

The Liberal members of the Committee disagree with the conclusion of the majority with respect to regional development, energy and health. The Liberal members believe that there is a better way to meet the challenges of interdependence referred to earlier in this report.

Regional development is important to all of Canada. It has been particularly important in Atlantic Canada, many parts of Quebec, the West and the North. The federal role in regional development has been essential and it must continue.

Section 36 of the Constitution Act, 1982, says "Parliament and the legislatures, together with the government of Canada and the provincial governments are committed to furthering economic development to reduce disparities in opportunities."

To give concrete effect to that commitment, the Liberal members recommend creating a new concurrent head of power with provincial paramountcy in the Constitution entitled Regional Development. The objective is to make it possible for both levels of government to collaborate in establishing priorities which do not conflict.

This concurrent legislative jurisdiction would be much stronger for Quebec than having to rely on negotiating an agreement that requires the approval not only of the National Assembly but also of the Senate and the House of Commons.

The Liberal members never received an explanation from government members as to the reason why there is a reference to energy in this Section. Liberal members take the view that any agreements with respect to energy, must at least respect national energy needs, environmental priorities and the rights of aboriginal peoples.

In energy, as in all subject matters, Liberal members believe that any restrictions on the federal spending power can only be the result of negotiated agreements.

The Liberal members believe that the protection of health care is so fundamental to Canadians that they recommend that the Constitution enshrine not only a commitment but an obligation of governments to provide universal, publicly funded hospital and medical care to all citizens.

c. Culture and Broadcasting

1) Introduction

Culture provides Canadians with the ability to appreciate and understand one another. It binds us together, as members of a community, and is a civilizing force that brings out what we have in common, regardless of language, colour, religion or beliefs.

The role of governments is to provide the legal, fiscal and physical support to enable culture and the arts to flourish. Obviously, governments cannot regulate all aspects of cultural expression. Nor would we want this to be the case. There is, after all, no official culture in Canada. But there are a myriad of governmental policies and laws that have a direct impact on our cultural life. And it is to the relative role of the federal and provincial governments in our federal system, and the proposals of the Government of Canada for constitutional reform, that we now turn.

2) The Need for a Continuing Federal Presence

In our analysis of the division of powers, we have shown how it is necessary to move beyond a narrow focus on the distribution of legislative jurisdiction, and assess the impact in a given policy field of a government's power to spend, tax and provide services through institutions, agencies or crown corporations.

The federal government is present in the field of culture through a combination of these powers. It has a legislative presence through its jurisdiction over copyright and broadcasting; a spending presence through direct grants to individuals, organizations and minority language communities; an institutional presence through agencies such as the National Film Board or the national museums. As for taxes, its policies encourage the preservation of our cultural heritage and provide direct support for all the arts.

For us, there is no question that the federal government must and will remain involved in the arts. It is quite clear that there are many aspects of Canada's artistic or cultural life that can be dealt with only at the federal level. For example, it is a federal responsibility to ensure that Canada's trade agreements permit vulnerable cultural industries to survive. Federal *institutions* such as the National Library, the Canada Council or the National Arts Centre are cultural treasures which foster the development of the Canadian identity and are a source of pride for all Canadians. We and most Canadians want them to carry on.

Similarly, the federal government should be able to continue to use its taxation power to support the arts through measures such as capital cost allowances for film, or deductibility for donations to cultural institutions.

Nor do we question the need to maintain existing federal legislative powers in relation to copyright and broadcasting. It is clear that these are matters that in any federation fall rationally under federal jurisdiction to prevent the disorder of competing claims and policies.

3) The Legitimate Role of the Provinces

The continuing need for a federal presence in culture does not in any way preclude or belittle the legitimate role of the provinces. Indeed, under the Constitution, the provinces have the primary legislative role with respect to general cultural matters. Although culture is not an enumerated head of power, cultural activities have a direct relationship to provincial jurisdiction

over education, property and civil rights, and matters of a local or private nature in the province.

Provincial spending and tax measures are as important for many of the performing arts, museums, libraries, and other institutions and artistic endeavours as federal spending and tax policies.

4) The Proposals of the Government of Canada

In *Shaping Canada's Future Together* the federal government is making two proposals that are closely related. First, it indicates its willingness to negotiate with any province, upon its request, an agreement to define clearly the role of each order of government in relation to cultural activities (proposal 20). Where appropriate, the government proposes to "constitutionalize" the resulting agreement.

Second, with respect to broadcasting, the federal government proposes to consult with the provinces on the issuance of new licences, to allow provincial broadcasting undertakings to evolve into full public broadcasters, to regionalize the operations of the CRTC and to allow for provincial participation in the nomination of regional commissioners of the CRTC.

The principal difficulty with the federal proposals is that many fear they mean the federal government will withdraw entirely from the cultural field. As we see it, the purpose of the agreements would be to enable governmental support for the arts to be tailored to the needs of each province. They should not be an excuse for a federal withdrawal from arts funding. Federal spending is crucial to the continued existence of vital cultural activities in all parts of the country. We agree with the Prince Edward Island Council of the Arts who said:

> There should be national funding of the arts because it is essential for the well-being and development of the cultural sector in Canada. Furthermore, it is essential for national unity and the survival of Canada as a nation.

Although we do not share the apprehension that the federal proposal would involve a major reduction of federal support for the arts, we are willing to accept that serious concern exists among artists and cultural industries.

> **We believe the federal offer to negotiate arrangements on culture with all provinces requires further examination. In particular, governments should consult the artistic and cultural communities affected before proceeding with this initiative.**

5) The Special Needs of Quebec

A recurring theme of our hearings, and of the constitutional conferences we attended, was that the special needs of Quebec with respect to the preservation of a majority French-speaking society in North America must be recognized during this round of constitutional reform.

The Halifax Conference on the Division of Powers found the federal proposals on culture desirable for Quebec, in view of the unique problems faced by the Government of Quebec as the principal agent for the preservation and promotion of Quebec's distinctiveness, but questioned the need for cultural agreements with the other provinces. We heard from several witnesses, such as Keith Kelly, National Director of the Canadian Council of the Arts, who said that there is a "need to create a special relationship" between the federal government and the Government of Quebec, but who were worried about the implications of any major reorganization of responsibility for culture between the two orders of government that would affect all provinces.

- ***Affirming Quebec's Legislative Powers***

We have already identified the need for a continued federal presence in culture through the exercise of its legislative powers over such matters as copyright and broadcasting. We have recognized the importance of federal spending in the arts and the contribution of institutions such as the Canada Council, the National Film Board and the CBC to our national life. And we note with pride the contribution of federal organizations such as Radio-Canada to the vitality of the French language in North America.

However, in view of the widespread acceptance of the unique situation of Quebec, we believe it would be appropriate to affirm the primordial interest of the Government of Quebec in cultural affairs as the only senior government in North America with a French-speaking majority.

Although all provinces have legislative jurisdiction over cultural affairs it is not explicitly enumerated in the Constitution.

We recommend that the legislative jurisdiction of Quebec over cultural affairs be explicitly affirmed through an amendment to the *Constitution Act, 1867*,[11] upon Quebec's request.

We leave open the possibility that in the future other provinces may be interested in having their legislative jurisdiction over cultural affairs affirmed in the Constitution.

- ***Rationalizing Federal/Provincial Spending in Quebec and the Exercise of Powers***

Together with this affirmation of the primary *legislative* jurisdiction of the legislature of Quebec over cultural affairs, we believe it would be necessary to act upon the federal government's undertaking to negotiate with the Government of Quebec an intergovernmental agreement that would define clearly the role of each government in the cultural field. Such an agreement would be an important tool for coordinating the activities of the federal and provincial

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[11]See Draft Constitutional Amendments, Appendix A at p. 118.

governments. It could be modelled on the existing Canada/Quebec agreement on immigration — an area where shared responsibility is explicit in the Constitution.

We believe an agreement on culture should identify areas where direct payments to individuals and private cultural organizations would be the exclusive responsibility of the province. Quebec would receive its share of federal spending programs on culture to be disposed of in accordance with the priorities established by the province. The federal presence in programs meeting fundamental national objectives, e.g., international or interprovincial cultural exchanges, would be maintained.

In the field of broadcasting, an agreement would identify the broad objectives for the issuance of new licences in the province; establish language-related content requirements; set out the desirable balance between private, public, special interest and community broadcasters. The federal regulator, the CRTC, would be bound by the agreement.

An arrangement along these lines would allow governments to better define their roles and activities. It would give additional flexibility to Quebec to continue its leading role in promoting its distinct culture. Most important, it would demonstrate to Quebecers that their culture is secure in Canada and underline the adaptability of the federal system.

As for the federal government's proposal to "constitutionalize" intergovernmental agreements on culture, we prefer our proposal with respect to intergovernmental agreements generally, i.e., that they be given stability by protecting them from unilateral amendment (see p. 68 above).

We recommend that the Government of Canada negotiate with the Government of Quebec an agreement to establish cooperative arrangements in the fields of culture. Such an agreement would set out the respective roles of the federal and provincial governments in funding activities and identify those funds that should be transferred to the province as discussed above. Any continued use of the federal spending power would be conditional on the approval of the province, subject to the ability of the federal government to maintain programs clearly identified as related to national objectives.

In the field of broadcasting, an agreement should be entered into to improve the participation of Quebec in federal regulation of broadcasting. Improving provincial input in federal regulation of broadcasting may be of interest to other provinces and the negotiation of agreements should be open to them as well.

- **Liberal Party Dissent**

The Liberal members of the Committee believe that in cultural matters the Quebec government must play a leading role, but that there must be a federal presence.

Therefore, the Liberal members recommend a new head of power in the Constitution to be entitled "Cultural Matters". It would provide that both Parliament and provincial legislatures may make laws with respect to cultural matters. Provincial laws would have paramountcy, subject to the federal power over national cultural institutions and the federal power to make payments directly to individuals and organizations.

The Liberal members recommend that the federal government not make capital expenditures in the cultural area without the approval of the appropriate province, unless the federal government undertakes to pay operation and maintenance costs.

With respect to broadcasting, the Liberal members reaffirm that there is exclusive federal jurisdiction. No intergovernmental agreement should be able to bind the CRTC.

d. Immigration

The federal government's proposal offers to negotiate particular immigration agreements with the provinces and to constitutionalize them. This proposal recognizes immigration as a matter of shared jurisdiction between the federal and provincial governments. Immigration also has a substantial effect on other matters within provincial jurisdiction. Intergovernmental cooperation is necessary to avoid regulatory confusion and overlap. The need for these types of agreements and the feasibility of negotiating them has been demonstrated over the years by successive agreements between the federal government and the Government of Quebec, the last of which came into effect April 1, 1991.

Further reasons for immigration agreements lie in the economic, linguistic and demographic differences among the provinces. These may require particular aspects of immigration to be treated differently from one province to another. For example, different steps may be necessary to ensure that immigrants fit comfortably into the communities where they settle, depending on the characteristics and needs of each community. This is nowhere more true than in Quebec where particular attention must be paid to preserving and promoting its distinct linguistic and cultural character.

The main objective of the federal government's proposal is to give immigration agreements stability by preventing them from being amended or revoked without the agreement of all the governments that are parties to them. The Committee considers that this objective is commendable.

The federal government's proposal does not outline what means will be used to accomplish this objective. There has been some suggestion that it will be accomplished through constitutional amendments to make the immigration agreements part of the Constitution. However, we consider that this would be both impractical and unnecessary. Constitutional changes of this nature require the consent of the Senate, the House of Commons and the legislative assemblies of at least seven provinces containing at least 50 per cent of the population. The same requirement would apply if changes had to be made to agreements

included in the Constitution in this fashion. If an agreement relates to only one or two provinces, there is little reason to involve the governments of the other provinces.

There are two simpler ways of protecting immigration agreements. First, the Constitution could be amended to include a process for giving the force of law to immigration agreements and preventing them from being unilaterally amended or revoked. The process would require resolutions of the Senate and the House of Commons and the legislative assembly of the province concerned. It would also ensure that the agreements are subject to the *Canadian Charter of Rights and Freedoms* and should clearly recognize the federal government's responsibility to set national standards and objectives relating to immigration or aliens.

The second way of protecting immigration agreements would be through our proposal regarding the protection of federal-provincial agreements generally. This proposal similarly involves the participation of only those jurisdictions that are parties to the agreement. It is discussed above at pages 68-69.

We support the proposal of the Government of Canada to negotiate and give more certainty to the public policy process in relation to immigration agreements with the provinces. We recommend that these agreements be constitutionally protected from unilateral amendment.[12]

e. Shared-Cost Programs: The Exercise of the Federal Spending in Areas of Provincial Jurisdiction

A number of concerns have been raised in recent years about the use of the federal spending power in areas of exclusive provincial jurisdiction, particularly in the case of national shared-cost programs. We recognize that this is a source of considerable intergovernmental tension and greater formal cooperation would go a long way towards eliminating many, if not all, irritants. We do not think, however, that a blanket restriction on the use of the federal spending power is an appropriate response. On the contrary, we believe that the interests of all our fellow Canadian citizens would be better served by a flexible approach promoting greater harmony and cooperation.

We believe that the issue of national shared-cost programs is best addressed by reviewing separately concerns about existing programs and those related to new programs.

- **Existing Shared-Cost Programs**

Numerous witnesses have spoken highly of existing shared-cost programs, such as the *Canada Assistance Plan*, which have allowed all Canadians to benefit equally, and regardless of their province of residence, from the expansion of the national social programs. These programs have come to be perceived as some of the important threads of the Canadian fabric.

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[12]See Draft Constitutional Amendments, Appendix A at p. 118.

We heard, however, a number of concerns about the fact that the federal government could unilaterally change the terms of these programs. This is seen as imposing in some cases undue financial hardship on provinces. As federal monies are financing such programs, we strongly believe that Parliament has to retain ultimate control of the programs' terms and conditions. However, we also recognize that provincial governments legitimately require a certain degree of certainty and assurance if the programs are to be implemented successfully.

We recommend that the federal and provincial governments work together towards establishing procedures for implementing changes in terms and conditions of existing shared-cost programs. For example, we believe that one could consider fixing the program's terms and conditions under a binding intergovernmental agreement for a period of, for example, four to five years. In our view, such an approach would not undermine Parliament's authority while addressing many of the provincial governments' concerns.

- **New Shared-Cost Programs**

The issue of new national shared-cost programs is complex and its resolution requires striking a delicate balance between legitimate provincial and national concerns.

To eliminate further intergovernmental conflict in this area, the federal government has put forward a proposal to commit itself "*not to introduce new Canada-wide shared-cost programs ... in areas of exclusive provincial jurisdiction without the approval of at least seven provinces representing 50 percent of the population*" and to "*provide for reasonable compensation to non-participating provinces which establish their own programs meeting the objectives of the new Canada-wide program*". (proposal 27)

This proposal received a great number of responses among the witnesses appearing before the Committee. Some feared that the proposal could undermine the social fabric of Canada while a few supported an even stronger and tighter restriction on the use of the federal spending power.

We believe that a satisfactory middle-ground solution can be found between these sharply opposing views and we suggest that the following elements are the key building blocks to a generally acceptable compromise: flexibility, provincial input in the program design, withdrawal option and compensation if similar provincial programs are implemented. It is important that the provinces not feel compelled to participate. The emphasis should be on provinces opting in, to take advantage, rather than opting out. Furthermore, we believe that the objective test for compensation should be the consistency of the purpose or goal of the provincial program with that of the federal program; a certain degree of diversity in the delivery of the program should be allowed for.

Although the proposal's intention to take better account of provincial concerns and needs is laudable, we believe that subjecting the initiation of these programs to a 7/50 rule would

unnecessarily constrain the federal government. A more flexible approach is required. In our view, a more satisfactory compromise would be one that would not subject a new federal initiative to provincial approval but would allow for provincial opting-out with conditional compensation. It offers the advantage of giving the federal government and the provinces considerably more room to innovate. At the same time it provides greater scope for competition and innovation in program delivery as more provinces could opt to implement their own programs while respecting the spirit and objectives of the national program.

As to the conditions attached to the potential compensation, we endorse the more precise wording "*(provincial) programs meeting (the) objectives of the new Canada-wide programs*" contained in the federal government proposal.

Finally, we believe that any new Canada-wide shared-cost program should assure provinces that terms and conditions of the program will not change abruptly.

We recommend:

i) **that the *Constitution Act, 1867* be amended, by adding a section stating that the Government of Canada shall provide reasonable compensation to the government of a province that chooses not to participate in a new Canada-wide shared-cost program that is established by the Government of Canada in an area of exclusive provincial jurisdiction, if the province carries on a program or initiative that meets the objectives of the new Canada-wide program; and**[13]

ii) **that any new Canada-wide shared-cost program be constitutionally protected from unilateral changes to the terms of the program over a jointly agreed-on period through the approval process for inter-governmental agreements discussed at pages 68-69.**

4. Residual Power

The residual power in a federal constitution is what is left over after specific legislative powers have been distributed between the two levels of government. In Canada, federal legislative authority over residual matters is based on the opening words of section 91 of the *Constitution Act, 1867.* These grant Parliament the power to make laws for the "peace, order and good government of Canada."

We were told that the federal residual power has been very narrowly interpreted by the courts. Generally speaking, the courts have restricted it to 1) matters of national concern, or 2) national emergencies.

[13]See Draft Constitutional Amendments, Appendix A at p. 120.

A third branch of peace, order and good government is also said to exist: the "gap" or "purely residual" branch. It has been applied less frequently than the other branches of the federal residual power. Moreover, the provinces possess a kind of "gap" power of their own in section 92(16), which gives their legislatures the exclusive authority to enact legislation with respect to all matters of a "local or private nature in the province."

The federal government is proposing to recognize the jurisdiction of the provincial legislatures to enact legislation for non-national matters not specifically assigned to Parliament by the Constitution. This proposal would preserve Parliament's authority to deal with national matters or emergencies. In other words, the government proposes to transfer to the provinces only the third or "gap" branch of the federal residual power.

We are of the view that the government's proposal does not amount to a constitutional change, but is an attempt to reflect in the words of the Constitution the existing judicial interpretation of residual powers, both federal and provincial. While some witnesses have asked for an elimination of the "national concern" branch of the residual power, the majority have argued that Parliament must be able to legislate when a matter is of truly national dimensions and where uniformity of law throughout the country is crucial or the problem is beyond the ability of the provinces to deal with even if they act together. No witnesses recommended the abolition of the "emergency branch" of the federal residual power.

We believe that the "national concern" and "emergency" powers of Parliament must be maintained, and are confident that, as in the past, the courts will be prudent in applying them so as not to disrupt the federal/provincial balance in the Constitution.

As for transferring the "gap branch" of the federal residual power to the provinces, we question the need for such a change in view of the limited scope of non-national "purely residual" federal matters. We are concerned that any change to the term "peace, order and good government" in the opening words of section 91 may affect the "national concern" and "emergency" branches of the federal residual power.

We recommend that the residual power should not be changed.

5. Declaratory Power

Under paragraph 92(10)(c) of the *Constitution Act, 1867*, Parliament may declare a work "to be for the general advantage of Canada". The effect of a declaration is to bring the work within the legislative jurisdiction of Parliament. This power is generally known as the "declaratory power". It has been used at least 470 times since Confederation, principally during the 19th century and the early part of the 20th century in relation to transportation undertakings such as railways, canals and bridges. Since 1960 it has only been used five times. However, declarations are still in force in respect of many works.

The Government has proposed that the declaratory power be removed from the Constitution. This proposal echoes a number of reports on the Constitution proposing that the declaratory power be abolished or only be exercised with the approval of the provinces.

We have heard many witnesses who welcomed the federal government's proposal as a step towards promoting greater harmony between the federal and provincial governments. However, we also heard much apprehension expressed about the effect the removal of the declaratory power could have. Particular concern was expressed about its effect on grain elevators which are now regulated by Parliament by virtue of this power. In addition, the Standing Committee of the House of Commons on the Environment has expressed concern that this proposal would remove a power that Parliament needs to deal with environmental matters.

We agree that these concerns must be met before the declaratory power can be abolished. It may be necessary to provide that works now declared under this power should continue under federal jurisdiction, at least until there is agreement among all concerned that they should be returned to provincial jurisdiction.

Many of the declared works have been federally regulated for so long that it may not be practicable to return them. In addition, some of the declarations eliminate doubts about whether particular works fall under federal or provincial jurisdiction and it may be necessary to continue them in force to avoid resurrecting uncertainties.

The government members of the Committee support the proposal that the federal declaratory power be repealed, subject to a transitional provision for existing declared works. The opposition members of the Committee disagree with the proposal to repeal the declaratory power.

B. ENSURING THE WELL-BEING OF CANADIANS AND MANAGING INTERDEPENDENCE

The Committee believes the current round of constitutional negotiations provides a unique opportunity to adjust the Constitution to respond to the twin goals of creating and equitably distributing the benefits of our efforts as a nation.

Canada is not just a political union made up of the provinces and territories and a common market in which goods move freely, but one which encourages the creation of those circumstances which allow people to prosper in all parts of the country. Even more so, Canada is a social union, in which governments are expected to promote equality of opportunity, access to basic social services and the health and education of our population. This twin reality is inadequately reflected in our Constitution and in our institutions of federalism. This is why we believe the Constitution should be revised. The principle components of our recommendations in the social and economic fields are those for a common market, a Social Covenant, a Declaration of the Economic Union, and reforms to the Bank of Canada.

1. The Common Market — Section 121

One of the principle forces behind Confederation in 1867 was the need to create an economic union linking the former British North American colonies. Section 121 of the *Constitution Act, 1867* — the common market clause — was one of the most important provisions of the new Constitution. It prohibited tariff barriers between the provinces so that goods such as lumber, agricultural products and manufactured products — the principle components of the 19th century economy — could be freely traded among them. However, despite section 121, barriers to trade continue to exist between the provinces.

The federal government proposes to expand section 121 to cover the mobility of persons, goods, services and capital without barriers or restrictions based on provincial or territorial boundaries (proposal 14). The proposed amendment to section 121 would have restricted the ability of any government to erect and maintain territorial "barriers or restrictions", except those that may be put in place with respect to regional economic development and equalization, regional development within a province, and restrictions in the national interest.

The majority of witnesses, including all the provincial premiers who appeared before us, endorsed the principle of the common market, although they expressed a number of concerns about its operation. Witnesses were not sure what would constitute a "barrier or restriction" under this proposal, and were concerned for the future of agricultural marketing boards, public insurance schemes, and possibly even social programs and employment standards.

Although we support the thrust of the federal proposal, we agree that the legitimate concerns which were expressed about its unintended impact must be addressed. Indeed, such matters as provincial monopolies, generally available subsidies and tax-based schemes to encourage capital formation (such as the Quebec Stock Saving Plan) should be exempt from section 121.

We recommend that section 121 of the *Constitution Act, 1867* be replaced with a new section establishing Canada as an economic union. This new section would not permit governmental prohibitions or restrictions on the movement of goods, services, persons and capital if the prohibitions or restrictions impeded the efficient functioning of the economic union and constituted arbitrary discrimination or disguised restrictions on trade across provincial or territorial boundaries. However, the new section 121 would contain exceptions to address the legitimate concerns that we have heard. It would also require governments to seek agreement on equivalent national standards to enhance the mobility and well-being of persons in Canada.[14]

[14]See Draft Constitutional Amendments, Appendix A, p. 120

Some witnesses had a further objection to the proposal to expand section 121. They accepted that a trading nation such as Canada needs to ensure the free flow of goods, services, people and capital domestically, but they maintained that the courts are not the appropriate forum in which to settle disputes on such complex issues of law and public policy. They would prefer to see dispute settlement contained with another process, which would encourage negotiations and leave the final settlement of disputes in the hands of recognized experts in this field.

We recommend that a dispute settlement mechanism be chosen which would comprise three steps: 1) a review mechanism to determine whether a complaint presents a *prima facie* case; 2) a conciliation mechanism which would attempt to reach a negotiated settlement; and 3) a trade tribunal which would make a final and binding decision, should conciliation fail.[15]

2. The Social Covenant

Putting in place mechanisms to ensure efficiency and the creation of the greatest amount of wealth possible is vitally important, but Canadians also demand more. Canadians want to ensure that the benefits which accrue to the nation through our greater efficiency are distributed equitably, through the promotion of the goals of social well-being which are a part of being Canadian. Thus, we have felt this round of constitutional negotiations to be an appropriate time to include a Social Covenant in the Constitution.

At present, the main constitutional pillars from which our social safety net hangs are section 36 of the *Constitution Act, 1982* and sections 7 and 15 of the *Canadian Charter of Rights and Freedoms*. Although the commitments to equal opportunity, economic development and essential public services in section 36 and the protection for security of the person and equality in the *Charter* are vitally important, the Constitution can do more. Because of its generality, the legal and persuasive status of section 36 is very weak. Because sections 7 and 15 of the *Charter* are rights granted to individuals, they are unable to express governmental commitments to society as a whole. Our intention in recommending a Social Covenant is to reinforce the commitments contained in these sections of the Constitution and express other governmental commitments to social programs which Canadians see as part of their national identity.

We recommend the *Constitution Act, 1982* be amended by adding a new section 36.1, which would commit governments to fostering the following social commitments:

a) - comprehensive, universal, portable, publicly administered and accessible health care;

b) - adequate social services and social benefits;

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[15]No draft constitutional amendment has been prepared for this recommendation.

c) - high quality education;

d) - the right of workers to organize and bargain collectively; and

e) - the integrity of the environment.

While these commitments are in many ways as important to Canadians as their legal rights and freedoms, they are different. These commitments express goals, not rights and they embrace responsibilities of enormous scope. Therefore, while these are appropriate subjects for constitutional recognition, elected governments should retain the authority to decide how they can best be fulfilled. We believe that the matters addressed in the Social Covenant are best resolved through democratic means. However, these commitments must be more than merely words. Thus, we believe that the compliance of governments with the Social Covenant must be subject to public review, including public hearings and periodic reports by a specialized commission, whose reports would be tabled in Parliament and provincial and territorial legislative bodies.

3. The Declaration of the Economic Union

Many witnesses told us that they wanted the federal and provincial governments to cooperate to streamline their activities and conserve expenditures. They also said that they wanted to preserve a strong federal government that could institute national programs.

Witnesses said they wanted all governments to manage tax resources better and to protect the national social programs they have come to expect.

Clearly, the ability of governments to deliver social programs is linked to the ability of the economic union to generate wealth. And just as clearly, Canadians are committed to both. These ideas were repeated over and over at the Conference on the Economic Union in Montreal.

In order to ensure that our fundamental social commitments as a just nation can be met, we recognize the importance of fostering the productivity of all Canadians. Although our proposal to amend section 121 of the *Constitution Act, 1867* goes a long way toward achieving this goal, we believe the goal would be further promoted through a statement in the Constitution expressing the commitment of governments to strengthen the economic union.

We recommend that the *Constitution Act, 1982* be amended by adding a new section 36.2, which would commit governments to:

a) - working cooperatively to strengthen the economic union;

b) - ensuring the mobility of persons, goods, services and capital;

c) - pursuing the goal of full employment; and

d) - ensuring all Canadians have a reasonable standard of living.[16]

While these are appropriate subjects for constitutional recognition, elected governments should retain authority to decide how they can best be fulfilled. However, these commitments must be more than mere words. Thus, we believe that the compliance of governments with the Declaration of the Economic Union must be subject to public review, including public hearings and periodic reports by a specialized commission, whose reports would be tabled in Parliament, and provincial and territorial legislative bodies.

4. Reforming the Bank of Canada

We endorse the proposals to establish a regular cycle of appearances by the Governor of the Bank before Parliament to discuss and review financial and economic developments, and to require the Governor to meet with the federal and provincial ministers of finance.

We recognize that the questions of the nature of the mandate and the legitimacy of the Bank of Canada are intimately linked, but believe that, given the little support for the federal proposal and the wide range of alternative suggestions put forward by a great number of people, these issues would be best examined outside the current constitutional round.

We recommend therefore that the issue of the Bank of Canada mandate not be part of the constitutional discussions.

However, we believe that a greater sensitivity to regional concerns would contribute to strengthen the legitimacy of the Bank of Canada. However, none of these changes require constitutional amendments. They should therefore be considered outside the framework of constitutional reform.

We recommend that the federal government proceed with its proposal to consult provincial and territorial governments in the matter of appointments to the Board of Directors of the Bank of Canada and the establishment of regional consultative panels.

5. The Conference of First Ministers

Since the early 1960s, the First Ministers of Canada have felt compelled by events to meet more and more frequently, publicly and privately, to discuss national political issues of common concern.

Today, Canadians face the challenges of international competition, social changes and environmental quality. After having heard their concerns during the past few months, we are

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[16]See Draft Constitutional Amendment, Appendix A, p. 122

lead to believe that the constitutional framework of the country must provide for joint action by all governments in Canada. The time has come to depart from conflicting federalism and entrench in our Constitution a permanent forum where the decision-makers will discuss the current issues of public policy.

In the Meech Lake Accord, the First Ministers agreed to constitutionalize an annual conference on the economy and other matters. Since 1987, the social needs of the population and the burden of taxpayers have increased. We feel that social changes and the severe fiscal pressure under which our governments operate require the joint management of social and economic policy.

We therefore propose the entrenchment in the Constitution of an annual conference of the First Ministers which would deal primarily with social and economic matters but also with any other issue that the First Ministers would wish to discuss.[17]

[17]See Draft Constitutional Amendments, Appendix A at p. 124.

CHAPTER VI

Amending Formula

• The Constitutional Background

1) *Constitution Act, 1982*

As a result of the 1982 "patriation" amendments, there are now five procedures for amending the Constitution of Canada:

a) **The general procedure** in section 38 of the *Constitution Act, 1982*, requires the consent of Parliament and two-thirds of the provinces with 50 per cent of the population. It applies to all amendments that do not fall under one of the other procedures, including most amendments to the division of powers, the powers of the House of Commons and Senate, the Supreme Court of Canada (except its composition) and the creation of new provinces. It permits opting out for all matters transferring powers from the provinces to Parliament, and compensation for education and culture.

b) **The unanimity procedure** in section 41 of the *Constitution Act, 1982*, requires the consent of Parliament and the legislative assemblies of all provinces. It applies to changes to the monarchy, the minimum number of members in the House of Commons to which a province is entitled, the general use of the English or French languages, the composition of the Supreme Court of Canada, and any amendment to the amending formulas.

c) **The bilateral procedure** in section 43 of the *Constitution Act, 1982*, requires only the consent of Parliament and two or more provinces. It applies to an amendment in relation to any provision that applies to one or more, but not all provinces, such as alterations to provincial boundaries or amendments to a provision relating to the use of the English or French language within a province. It cannot be used for amendments to the division of powers.

d) **The federal unilateral procedure** in section 44 of the *Constitution Act, 1982*, allows Parliament to make amendments related to the federal executive, the House of

Commons and Senate of Canada, that do not affect their powers or the method of selection.

e) **The provincial unilateral procedure** in section 45 of the *Constitution Act, 1982*, permits the legislature of each province to amend the constitution of the province so long as the amendments do not affect provisions that can only be amended pursuant to one of the other amending procedures, such as the office of the lieutenant governor.

2) *The Meech Lake Accord*

The 1987 Meech Lake Accord proposed to expand the unanimity formula set out in section 41 of the *Constitution Act, 1982* to cover changes to federal institutions, such as the powers, composition and method of selection of the House of Commons or Senate, the Supreme Court of Canada (other than the composition of the court) and the creation of new provinces. Currently these changes can be made in accordance with the general procedure for amendment. In addition, the accord would have broadened the right of compensation to a province opting out of a transfer of legislative powers to the federal Parliament. This right would have been extended from "education or other cultural matters" to *"any"* legislative powers. These proposals required the unanimous consent of Parliament and the provinces under section 41, as they included amendments to the amending formula.

• The Proposal of the Government of Canada

In *Shaping Canada's Future Together* the Government of Canada has proposed to proceed with the changes to the amending procedure, if it were found desirable to proceed with any items requiring unanimity in the final package. It suggests expanding the unanimity procedure to cover changes to the powers, composition or method of selection of the House of Commons, Senate or Supreme Court of Canada. The creation of new provinces would stay under the general procedure for amendment, requiring the consent of two-thirds of the provinces representing 50 per cent of the population.

• The Place of Quebec in the Amending Formula

We heard testimony from several witnesses who argued that changes to the amending formula are too difficult because of the requirement for the unanimous consent. Others told us that recognition in the amending formula of the special situation of Quebec as the only province with a French-speaking majority is crucial if the majority of Quebecers are to feel secure in their future in Canada. Our own view is that the question of the amending formula must be resolved if we are to emerge from the current constitutional crisis.

We believe that the accommodation of French-speaking Quebec, with its different language, legal system and culture, requires that fundamental changes to the original 1867 pact should not occur without the consent of the legislative assembly of that province.

It is not necessary or helpful to go into the controversy over the 1982 patriation of the Constitution with an amending formula. Suffice it to say that the amending procedures have never been endorsed by the Quebec National Assembly. In our hearings, we were told that Quebec, the only province in which French-speaking Canadians form a majority, has legitimate fears that amendments can be made without its consent to the powers, composition and method of selection of the House of Commons or the Senate, or to the functions of the Supreme Court of Canada which is charged with the interpretation of the Quebec civil code, an attribute of Quebec's distinctiveness. In our view the representation of Quebec should not be reduced in the Senate without its consent. It is our view that the best way to provide protection for a province with a special identity is to provide protection in federal institutions. Nor should the province, in order to promote and protect the French-speaking character of the province, have to opt out of an amendment transferring legislative power to the federal parliament without compensation in matters other than education and culture.

We recognize the difficulty of achieving consensus on such an important matter as the amending formula. But the Committee is convinced that every effort must be made to reach an agreement among all the provinces and the federal government, if Canada is to be renewed.

There are no magic solutions. Nevertheless, we believe that the answer lies in one of five approaches:

1) One option is the unanimity procedure set out in section 41 of the *Constitution Act, 1982*. It could be expanded to include all the items set out in section 42 which are now subject to the general procedure (with the exception of the establishment of new provinces and the extension of existing provinces into the territories which we discuss in detail below). This would mean that the agreement of all provinces would be needed to make changes to representation in the House of Commons, the powers and method of selection of the Senate, the minimum number of members of a province in the Senate and the Supreme Court of Canada. In addition, section 40 of the *Constitution Act, 1982* would be amended to provide for reasonable compensation to a province for any amendment that transfers provincial legislative powers to Parliament.

2) A second option would be to require the consent of two Atlantic provinces, Ontario, Quebec, and two western provinces representing 50 per cent of the population of that region for any amendment to the principle of representation in the House of Commons, the powers and composition of the Senate and the Supreme Court of Canada; compensation would be available for any province opting out of a transfer of legislative powers to Parliament. This recommendation is similar to other "regional veto" proposals set out in the Victoria Charter (1971) and the Beaudoin-Edwards report (1991). In addition,

compensation would be available for provinces opting out of a transfer of legislative authority to the federal parliament in relation to *"any"* matter.

3) A third option would be to amend section 42 to require that, with the exception of the creation of new provinces or the extension of existing provinces into the territories, Quebec must be among the provinces consenting to any future amendment relating to the matters listed in that section (House of Commons, Senate, Supreme Court of Canada); compensation would be available for provinces in relation to *"any"* matter as in the other options described above.

4) A fourth option would be to leave the general procedure for amending the Constitution as it is, but upon the request of any province or combination of provinces representing the regions of Canada, a referendum would be required for an amendment under that section to enter into force. The referendum would have to be carried nationally and in each region identified in the formula. Implicit in this suggestion is that Quebec constitutes one of the regions of Canada.

5) A fifth option would be to amend the general procedure for amendment, to require that Quebec be among the two-thirds of the provinces for all amendments under that procedure; compensation would be available for provinces in relation to *"any"* matter as in the options described above.

We urge the First Ministers to examine each of these and other approaches. Because of the importance of the amending formula, in particular to the security of those who look to the Constitution for the protection of their rights and distinctiveness, it should be a matter of the highest priority during this round of constitutional negotiations to find an amending formula that meets the needs of Quebec.

• The Effect of New Provinces on the Amending Formula

One of the most controversial elements of the Meech Lake Accord was the proposal to change the existing amending procedure respecting the creation of new provinces. If the Meech Lake proposal had entered into force, the amending formula would have been changed to require unanimous consent among the provinces.

Many Canadians, particularly those residing in the territories, are opposed to any change that will make it more difficult for the territories to become provinces. Nevertheless, we recognize the legitimate concerns of existing provinces over the effect that the creation of new provinces would have on the equilibrium in the federation.

One possibility to avoid diluting the power of any existing province in the current general procedure would be to provide that the new province should not be counted as a province for

the purposes of the amending procedures until the procedures are amended to specifically include the new province. The Beaudoin-Edwards committee endorsed this proposal in the following terms:

> ... that it be recognized that the creation of a new province may change the equilibrium within the federation and may require review of the existing amending procedure. Should the addition of a new province require a change in the amending procedure, such change would be governed by the amending procedure in effect at that time.

When we were in Whitehorse, Premier Penikett told us that he recognized that the "diluting effect on the amending formula" is a legitimate concern. He said:

> We have said to every parliamentary committee that we have addressed on the question that we are quite prepared to contemplate the possibility one day of becoming provinces without being provinces for the purposes of being a member of the amending formula club. We don't know quite how that would be done legally, but it seems to me that is an issue that, as Beaudoin-Edwards said, should be discussed at the time you are dealing with the amending formula.

We believe that Premier Penikett has set out a valid option and one that should be examined.

> **We endorse the recommendations of the Beaudoin/Edwards Committee on the need to review the effect of the creation of new provinces out of the existing territories on the amending procedures.**

PART III

Conclusion

At the end of our extraordinary experience together we have a new sense of hope and optimism for our country. Our contacts with Canadians across the country — through their letters and briefs, or through their participation in our hearings and in five major constitutional conferences — has shown us again the side of the Canadian character which is so much admired outside Canada, though often taken too much for granted at home.

The Canadians we met over the last few months displayed exactly the qualities of civility, tolerance, decency, solidarity, and generosity of spirit that we like to claim as distinctive features of the Canadian character but sometimes do not dare hope to find. Over the months we have been at work, the great good sense of the Canadian people has emerged again to occupy the centre of public life. Their moderation, their love of country, their willingness to reach out to each other across the barriers of language, region or culture impressed us everywhere and filled us with gratitude. It seems to us now that we are renewing more than our country or our Constitution: we are renewing our faith in ourselves.

The Way Ahead

We believe that the proposals offered in our report are an imaginative and coherent response to the two challenges we identified in it: the challenge of *inclusion* and the challenge of *vision*. It now remains to take these recommendations a step further and to begin the discussions between governments, and between Canadians, that will lead to action and bring about the renewal of our country.

The time is short. The Quebec referendum scheduled for October 1992 is one of the urgent deadlines that await us, but it is not the only one. Many Canadians believe, and we agree, that it is essential to take action on the Constitution now so that the country can get on with other things, including the economic and social renewal we included in the challenge of vision. If Canada cannot break the constitutional logjam swiftly, the rest of the world will pass it by.

Because of the pace at which these deadlines are approaching, we believe that intergovernmental discussion should begin as soon as possible after our report is submitted to Parliament. We make no assumption about the precise form such discussion should take, but we believe it is now essential to engage as many governments as possible in the constitutional dialogue in order to arrive at an intergovernmental consensus on the elements of renewal at the earliest possible moment. In order to speed up this process as much as possible, we suggest that our report should serve as the basis for discussion and as the starting point from which an intergovernmental consensus could be built.

As they develop their own consensus we believe that First Ministers would be well advised to think in terms of at least two constitutional packages. It will be essential to avoid putting the country in the position in which a reform package were to fail because one or two elements required a unanimous agreement that was not forthcoming. We suggest therefore that governments should consider developing one set of proposals that require only the approval of two-thirds of the provinces representing at least 50 per cent of the Canadian population, and another set of proposals on which unanimity may be required.

Involving the People in the Constitutional Process

One of the most interesting results of the patriation process that occurred between 1980 and 1982 was the degree of public interest generated in the Constitution of Canada. Since that time, through the work of various parliamentary committees and of the Citizens' Forum, public interest and participation have increased and found many avenues of expression. Thousands of groups and individuals have appeared before federal and provincial committees; people have become involved in constitutional groups which could almost be compared to constitutional assemblies.

Most recently we have had the experience of five constitutional conferences held in various cities across Canada addressing aspects of the Government of Canada's proposals for a renewed Canada. While the number of participants may have been limited, the conferences were televised and widely covered by the media. Out of each conference came a report which we have found helpful in doing our work as a committee.

We believe the process of public consultation and public involvement in the constitutional process should continue in various forms across the country. Canadians have much to offer the constitutional process and mechanisms should be established to allow them to make their views known.

We recommend that a federal law be enacted, if deemed appropriate by the Government of Canada, to enable the federal government, at its discretion, to hold a consultative referendum on a constitutional proposal, either to confirm the existence of a national consensus or to facilitate the adoption of the required amending resolutions.

We recommend that the government ensure the meaningful involvement of all the provinces, territories and aboriginal leaders on the development of the format and substance of the government's response to this report.

A Future Together

At the beginning of our report we remarked that, in moments of doubt, Canadians sometimes seem to think that the Canadian experiment is more fragile or artificial than it really is. Our own experience together and our encounters with Canadians have strengthened our

conviction that the roots of our partnership are much deeper, and its foundations much stronger, than the ups and downs of everyday life reveal. We have sketched a few of the important themes that bind us together, the two main challenges we face as a country in a changing world, and some of the concrete constitutional reforms we must undertake to meet those challenges. Taken together we believe that our portrait of Canada is realistic, our diagnosis accurate, and our remedies practical. We think they give reason for all Canadians to look to the future with confidence, confident that together we can meet all the challenges facing our country, confident that we can look forward to a future together as proud, as envied and as worthy as our past.

APPENDIX A

Draft Constitutional Amendments

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PREAMBLE

We are the people of Canada,
drawn from the four winds of the earth,
a privileged people,
citizens of a sovereign state.

Trustees of a vast northern land,
we celebrate its beauty and grandeur.
Aboriginal peoples, immigrants,
French-speaking, English-speaking,
Canadians all,
we honour our roots and value our
diversity.

We affirm that our country
is founded upon principles that
acknowledge the supremacy of God,
the dignity of each person,
the importance of family,
and the value of community.

We recognize that we remain free
only when freedom is founded on
respect for moral and spiritual values,
and the rule of law
in the service of justice.

We cherish this free and united country,
its place within the family of nations,
and accepting the responsibilities
privileges bring,
we pledge to strengthen this land
as a home of peace, hope and goodwill.

CANADA CLAUSE

The following would be added to the *Constitution Act, 1867* as section 2:

Declaration

2. We, Canadians all, convinced of the nobility of our collective experiment, hereby renew our historic resolve to live together in a federal state;

We acknowledge that we are deeply indebted to our forebears:

the aboriginal peoples, whose inherent rights stem from their being the first inhabitants of our vast territory to govern themselves according to their own laws, customs and traditions for the protection of their diverse languages and cultures;

the French and British settlers, who to this country brought their own unique languages and cultures but together forged political institutions that strengthened our union and enabled Quebec to flourish as a distinct society within Canada; and

the peoples from myriad other nations, scattered the world over, who came to our shores and helped us greatly to fulfil the promise of this fair land;

We reaffirm our profound attachment to the principles and values that have drawn us together, enlightened our national life, and afforded us peace and security, such as our unshakable respect for the institutions of Parliamentary democracy; the special responsibility of Quebec to preserve and promote its distinct society; the right and responsibility of aboriginal peoples to protect and develop their unique cultures, languages and traditions; a profound commitment to the vitality and development of official language minority communities; an abiding obligation to assure the equality of women and men; and the recognition of the irreplaceable value of our multicultural heritage;

We pledge to honourably discharge our responsibility to our children, so that they may do the same for their own, of ensuring their prosperity and the integrity of their environment.

Therefore we, Canadians all, formally adopt this, our Constitution, including the *Canadian Charter of Rights and Freedoms*, as the solemn expression of our national will and hopes.

QUEBEC'S DISTINCT SOCIETY AND CANADA'S LINGUISTIC DUALITY

The *Canadian Charter of Rights and Freedoms* would be amended to include the following section after section 25:

Quebec's distinct society and Canada's linguistic duality

25.1 (1) This Charter shall be interpreted in a manner consistent with

(a) the preservation and promotion of Quebec as a distinct society within Canada; and

(b) the vitality and development of the language and culture of French-speaking and English-speaking minority communities throughout Canada.

(2) For the purposes of subsection (1), "distinct society", in relation to Quebec, includes

(a) a French-speaking majority;

(b) a unique culture; and

(c) a civil law tradition.

ABORIGINAL MATTERS

Subsections 35(3) and (4) of Part II of the *Constitution Act, 1982* would be amended to read as follows:

Inherent right of self-government

(3) For greater certainty, the rights recognized and affirmed by subsection (1) include the inherent right of self-government within Canada.

Treaty rights

(4) For greater certainty, in subsection (1) "treaty rights" includes

(a) rights that now exist by way of land claims agreements or may be so acquired; and

(b) rights of self-government that may be declared to be treaty rights for the purposes of subsection (1) in any treaty, agreement or other arrangement negotiated under section 35.2.

Aboriginal and treaty rights guaranteed equally to both sexes

(5) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in this section are guaranteed equally to male and female persons.

The following sections would be added to Part II of the *Constitution Act, 1982*:

Treaties, agreements and arrangements

35.2 (1) The structure, powers, rights and privileges of aboriginal self-government and the relationship between aboriginal and other governments within Canada shall be elaborated in treaties, agreements or other arrangements relating to self-government entered into, either before or after this section comes into force, by representatives of the aboriginal peoples of Canada and the governments of Canada, the provinces or the territories.

Commitment to negotiate

(2) The government of Canada and the provincial and territorial governments are committed to negotiating the treaties, agreements and other arrangements.

Implementation of treaties, etc.

(3) The treaties, agreements and other arrangements shall be implemented in accordance with their terms, which may

(a) provide for their implementation through amendments to the Constitution of Canada or the laws of Canada, the provinces or the territories; or

(b) declare the rights they recognize to be treaty rights for the purposes of subsection 35(1).

Conferences to be convened by the Prime Minister of Canada

35.3. (1) At least one constitutional conference on matters affecting the aboriginal peoples of Canada shall be convened by the Prime Minister of Canada within two years after this section comes into force.

Idem

(2) The first ministers of the provinces, the leaders of the governments of the territories and representatives of the aboriginal peoples of Canada shall be invited to each conference.

Subject-matter of conferences

(3) In addition to constitutional matters affecting the aboriginal peoples of Canada, the conferences may deal with the negotiation of treaties, agreements or other arrangements relating to aboriginal self-government.

Other conferences

35.4. Representatives of the aboriginal peoples shall be invited to all conferences convened by the Prime Minister of Canada to discuss constitutional matters directly affecting the rights of the aboriginal peoples recognized under section 35.

SUPREME COURT OF CANADA

Two texts are proposed. Each of them would add a number of sections to the *Constitution Act, 1867* immediately after section 101. The first text could be enacted under

the general constitutional amending procedure (7/50). The second text would require unanimity.

First Proposed Text

Names of candidates

101A. (1) Where a vacancy occurs in the Supreme Court of Canada, the Minister of Justice for Canada shall invite the government of each province and territory concerned to submit the names of at least five candidates, each of whom has been admitted to the bar of the province or territory.

Appointment from names submitted

(2) After the Minister has received the names of at least five candidates from each of the governments referred to in subsection (1), or ninety days have elapsed since they were invited to submit the names, the Governor General in Council shall appoint a candidate whose name was submitted and who is acceptable to the Queen's Privy Council for Canada, but this subsection does not apply in relation to the appointment of the Chief Justice of Canada from among the remaining judges of the Supreme Court of Canada.

Interim judges

101B. (1) If none of the candidates whose names are submitted under subsection 101A(1) is acceptable to the Queen's Privy Council for Canada, the Minister of Justice for Canada shall recommence the appointment procedure prescribed by section 101A and the Chief Justice of Canada may in writing request a judge of the Federal Court or a superior court of a province or territory to attend at the sittings of the Supreme Court of Canada as an interim judge for the duration of the vacancy, but before making the request the Chief Justice shall consult the chief judge of the Federal Court or the superior court, as the case may be.

Evidence of appointment

(2) A duplicate of the request of the Chief Justice of Canada shall be filed with the Supreme Court of Canada and is conclusive evidence of the authority of the judge named in the request to act as an interim judge of that Court.

Duties

(3) It is the duty of an interim judge, in priority over the judge's other judicial duties, to attend the sittings of the Supreme Court of Canada at the time and for the period during which

the judge's attendance is required and during this period the judge has the powers and privileges, and shall discharge the duties, of a judge of that Court.

No names submitted

101C. If no names of candidates are submitted to the Minister of Justice within ninety days after their submission is invited under section 101A, the Governor General in Council shall appoint a person who is acceptable to the Queen's Privy Council for Canada.

Second Proposed Text

Continuation of the Court

101A. (1) The Court that exists under the name of the Supreme Court of Canada is continued as a general court of appeal for Canada and as an additional court for the better administration of the laws of Canada, and the court shall continue to have all the powers of a superior court of record.

Composition

(2) The Supreme Court of Canada shall consist of a chief justice, to be called the Chief Justice of Canada, and eight other judges who shall be appointed by the Governor General in Council by letters patent under the Great Seal.

Who may be appointed

101B. (1) Any person may be appointed a judge of the Supreme Court of Canada who has been admitted to the bar of a province or a territory and, for a period of at least ten years, has been a judge of any court in Canada or a member of the bar of any province or territory.

Three judges from Quebec

(2) At least three of the judges shall be appointed from among the persons who have been admitted to the bar of Quebec and, for a period of at least ten years, have been members of the bar of that province or have been judges of any court of Quebec or any other court created by an Act of the Parliament of Canada.

Names of candidates

101C. (1) Where a vacancy occurs in the Supreme Court of Canada, the Minister of Justice for Canada shall invite the government of each province and territory concerned to submit the names of at least five candidates to fill the vacancy, each of whom has been a member of the bar of the province or territory and meets the requirements of section 101B.

Appointment from names submitted

(2) After the Minister has received the names of at least five candidates from each of the governments referred to in subsection (1), or ninety days have elapsed since they were invited to submit the names, the Governor General in Council shall appoint a candidate whose name was submitted and who is acceptable to the Queen's Privy Council for Canada, but this subsection does not apply in relation to the appointment of the Chief Justice of Canada from among the remaining judges of the Supreme Court of Canada.

Appointment from Quebec

(3) With respect to an appointment under subsection 101B(2), the Governor General in Council shall appoint a person whose name is submitted by the Government of Quebec.

Appointment from other provinces or territories

(4) With respect to any other appointment, the Governor General in Council shall appoint a person whose name is submitted by the government of a province, other than Quebec, or a territory.

Interim judges

101D. (1) If none of the candidates whose names are submitted under section 101C(1) is acceptable to the Queen's Privy Council for Canada, the Minister of Justice for Canada shall recommence the appointment procedure prescribed by section 101C and the Chief Justice of Canada may in writing request a judge of the Federal Court or a superior court of a province or territory to attend at the sittings of the Supreme Court of Canada as an interim judge for the duration of the vacancy, but before making the request the Chief Justice shall consult the chief judge of the Federal Court or the superior court, as the case may be.

Evidence of appointment

(2) A duplicate of the request of the Chief Justice of Canada shall be filed with the Supreme Court of Canada and is conclusive evidence of the authority of the judge named in the request to act as an interim judge of that Court.

Duties

(3) It is the duty of an interim judge, in priority over the judge's other judicial duties, to attend the sittings of the Supreme Court of Canada at the time and for the period during which the judge's attendance is required and during this period the judge has the powers and privileges, and shall discharge the duties, of a judge of that Court.

No names submitted

101E. If no names of candidates are submitted to the Minister of Justice within ninety days after the Minister invites their submission under subsection 101C(1), the Governor General in Council shall appoint a person who meets the requirements of section 101B and is acceptable to the Queen's Privy Council for Canada.

Tenure, salaries, etc.

101F. Sections 99 and 100 apply in respect of the judges of the Supreme Court of Canada.

Relationship to section 101

101G. (1) Sections 101A to 101F shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws under section 101, except to the extent that such laws are inconsistent with those sections.

References to the Supreme Court of Canada

(2) For greater certainty, section 101A shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws relating to the reference of questions of law or fact, or any other matters, to the Supreme Court of Canada.

CONCURRENCY

Classes 12 and 21 in section 91 of the *Constitution Act, 1867* would be amended to read as follows:

12. Sea coast fisheries.

21. Corporate bankruptcy and insolvency.

Section 95 of the *Constitution Act, 1867* would be amended to read as follows:

Concurrent powers of legislation

95. In each province, the legislature may make laws in relation to agriculture, inland fisheries and personal bankruptcy and insolvency in the province and to immigration into the province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to agriculture, inland fisheries and personal bankruptcy and insolvency in all or any of the provinces, and to immigration into all or any of the provinces; and any law of the legislature of a province relative to any of these classes of subjects shall have effect in and for the province in so far as it is not repugnant to any Act of the Parliament of Canada.

DELEGATION

The following section would be added to the *Constitution Act, 1867* after section 95:

Legislative Delegation

Legislative delegation

95A. (1) The Parliament of Canada or the legislature of a province may delegate to the other any of its authority to make laws under this Act.

Resolution, public hearings and report

(2) An Act delegating authority under this section shall not be enacted unless

(a) each House of Parliament and the legislative assembly of the province have adopted resolutions giving notice of the proposed delegation;

(b) a committee of either House of Parliament and a committee of the legislative assembly have held public hearings concerning the proposed delegation;

(c) the governments of the other provinces have been permitted to attend and make representations at the public hearings;

(d) each committee has reported on the advisability of the proposed delegation and tabled its report in the house or assembly from which it was formed; and

(e) at least one year has elapsed since the day on which the later of the resolutions was passed under paragraph (a).

Financial compensation

(3) Parliament or a legislature that delegates authority under this section shall provide reasonable compensation to the government that administers legislation enacted under the delegated authority, taking into account the costs of enacting and administering the legislation.

Official language responsibilities

(4) Where the Parliament of Canada delegates authority to the legislature of a province under this section,

(a) laws made under the delegated authority shall be published in both English and French; and

(b) the obligations imposed on institutions of the government of Canada under subsection 20(1) of the *Canadian Charter of Rights and Freedoms* shall be carried out by the institutions of the government of the province in respect of the administration and enforcement of laws made under the delegated authority.

Amendment or repeal

(5) A bill to amend or repeal an Act that delegates authority under this section may not be enacted unless, at least two years before its enactment, a notice of intention to introduce it has been given to

(a) the Prime Minister of Canada, in the case of a delegation of authority to Parliament; and

(b) the first minister of the province to whose legislature authority is delegated, in the case of a delegation of authority to a provincial legislature.

Expiry after five years

(6) An Act delegating authority under this section expires five years after its enactment, but if it is re-enacted before that time without change, subsection (2) does not apply to the re-enactment.

INTERGOVERNMENTAL AGREEMENTS

The following section would be added to the *Constitution Act, 1867* after the proposed section 95A (delegation):

Intergovernmental Agreements, Contracts and Arrangements

No inconsistent laws to be made

95AA. (1) Where the Government of Canada and the government of a province enter into an agreement, contract or other arrangement that is approved as provided in this section, the agreement, contract or arrangement shall prevail over any inconsistent law made, either before or after the approval, by or under the authority of an Act of the Parliament of Canada or the legislature of the province.

Approval

(2) An agreement, contract or other arrangement is approved when

(a) the Parliament of Canada and the legislature of the province have enacted the approval; or

(b) resolutions approving the agreement, contract or arrangement have been adopted by each House of the Parliament of Canada and the legislative assembly of the province.

Resolutions

(3) Where a resolution approving an agreement, contract or other arrangement is laid before a House of Parliament or a legislative assembly, it shall be deemed to be adopted on the twenty-first sitting day of the House or assembly after it is laid, unless, before that time, at least twenty members of the House or assembly move that the resolution be debated.

Revocation and amendment

(4) An agreement, contract or other arrangement approved under this section may not be amended or revoked except in accordance with its terms or by a further agreement, contract or arrangement approved as provided in this section.

Application

(5) This section also applies, with such modifications as the circumstances require, where an agreement, contract or other arrangement is entered into by the Government of Canada and the governments of two or more provinces.

LABOUR MARKET TRAINING

The following section would be added to the *Constitution Act, 1867* after section 93:

Labour market training

93A. In each province, the legislature may by law affirm its exclusive authority to enact laws in relation to labour market training and where a province affirms its authority under this section, the Government of Canada shall negotiate an agreement with the province relating to labour market training in the province.

CULTURE

The following section would be added to the *Constitution Act, 1867* after section 93:

Cultural matters in Quebec

93B. The authority of the Legislature of Quebec exclusively to make laws in relation to cultural matters in Quebec is hereby affirmed.

IMMIGRATION

The *Constitution Act, 1982* would be amended to include the following sections after section 95.

Agreements on Immigration and Aliens

Commitment to negotiate

95B. The Government of Canada shall, at the request of any province, negotiate with the government of that province for the purpose of concluding an agreement relating to immigration or the temporary admission of aliens into that province that is appropriate to the needs and circumstances of that province.

Agreements

95C. (1) Any agreement concluded between Canada and a province in relation to immigration or the temporary admission of aliens into that province has the force of law from the time it is declared to do so in accordance with subsection 95D(1) and shall from that time have effect notwithstanding class 25 of section 91 or section 95.

Limitation

(2) An agreement that has the force of law under subsection (1) shall have effect only so long and so far as it is not repugnant to any provision of an Act of the Parliament of Canada that sets national standards and objectives relating to immigration or aliens, including any provision that establishes general classes of immigrants or relates to levels of immigration for Canada or that prescribes classes of individuals who are inadmissible into Canada.

Application of Charter

(3) The *Canadian Charter of Rights and Freedoms* applies in respect of any agreement that has the force of law under subsection (1) and in respect of anything done by the Parliament or Government of Canada or the legislature or government of a province, pursuant to any such agreement.

Proclamation relating to agreements

95D. (1) A declaration that an agreement referred to in subsection 95C(1) has the force of law may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement.

Amendment of agreements

(2) An amendment to an agreement referred to in subsection 95C(1) may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized

(a) by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement; or

(b) in such other manner as is set out in the agreement.

Application of sections 46 to 48 of the *Constitution Act, 1982*

95E. Sections 46 to 48 of the *Constitution Act, 1982* apply, with such modifications as the circumstances require, in respect of any declaration made pursuant to subsection 95D(1), any amendment to an agreement made pursuant to subsection 95D(2).

FEDERAL SPENDING

The following section would be added to the *Constitution Act, 1867* immediately after section 106:

Shared-cost programs

106A. (1) The Government of Canada shall provide reasonable compensation to the government of a province that chooses not to participate in a Canada-wide shared-cost program that is established by the Government of Canada after the coming into force of this section in an area of exclusive provincial jurisdiction, if the province carries on a program or initiative that meets the objectives of the Canada-wide program.

Legislative power not extended

(2) Nothing in this section extends the legislative powers of the Parliament of Canada or the legislatures of the provinces.

Section 121 of the *Constitution Act, 1867* would be replaced by the following section. A mechanism for resolving disputes concerning the application of this section is also required, but has not been included in this draft.

Free movement of goods, etc.

121. (1) Canada is an economic union within which goods, services, persons and capital may move freely.

Prohibitions or restrictions

(2) The Parliament and Government of Canada, the provincial legislatures and governments and the territorial councils and governments shall not by law or practice impose any prohibition or restriction that is inconsistent with subsection (1) and is based on provincial or territorial boundaries if the prohibition or restriction impedes the efficient functioning of the economic union and constitutes a means of arbitrary discrimination or a disguised restriction of trade across provincial or territorial boundaries.

Saving

(3) Subsection (2) does not invalidate a restriction or prohibition imposed by or under

(a) a federal law enacted to further the principles of equalization or regional development;

(b) a provincial or territorial law enacted to reduce economic disparities between regions wholly within a province or territory; or

(c) a federal, provincial or territorial law enacted for

(i) public protection, safety or health,

(ii) the establishment and functioning of government-owned corporations exercising monopolies in the public interest, or

(iii) the preservation of existing marketing and supply management systems in the national, provincial or territorial interest, subject to Canada's international commitments.

Federal-provincial agreement

(4) The federal, provincial and territorial governments shall seek agreement on equivalent national standards for mutual implementation to enhance the mobility of persons and to further the well-being of Canadians wherever they live or work in Canada.

No derogation from s. 6 of the *Canadian Charter of Rights and Freedoms*

(5) Nothing in this section abrogates or derogates from the mobility rights guaranteed by section 6 of the *Canadian Charter of Rights and Freedoms*.

THE SOCIAL COVENANT AND THE ECONOMIC UNION

The title to Part III of the Constitution Act, 1982 would be amended to read "THE SOCIAL COVENANT AND THE ECONOMIC UNION" and the following sections would be added to Part III:

Social Covenant

36.1 (1) Parliament, the legislatures and the territorial councils, together with the government of Canada and the provincial and territorial governments, are jointly committed to

(a) providing throughout Canada a health care system that is comprehensive, universal, portable, publicly administered, and accessible;

(b) providing adequate social services and benefits to ensure that all Canadians have reasonable access to housing, food and other basic necessities;

(c) providing high quality public primary and secondary education to all persons resident in Canada and ensuring reasonable access to post-secondary education;

(d) protecting the rights of workers to organize and bargain collectively; and

(e) protecting and preserving the integrity of the environment in an economically sustainable manner.

Review agency

(2) The [intergovernmental agency to be established] shall review, assess and report on the performance of the federal, provincial and territorial governments in meeting the goals of the Social Covenant stated in subsection (1).

Economic Union

36.2 (1) Parliament, the legislatures and the territorial councils, together with the government of Canada and the provincial and territorial governments are jointly committed to

(a) working together to strengthen the Canadian economic union;

(b) free movement of persons, goods, services and capital; and

(c) the goal of full employment; and

(d) ensuring that all Canadians have a reasonable standard of living.

Review agency

(2) The [intergovernmental agency to be established] shall review, assess and report on the performance of the federal, provincial and territorial governments in meeting the goals of the Economic Union stated in subsection (1).

Tabling of reports

36.3 The reports of the [agency] under subsection 36.1(2) or 36.2(2) shall be laid before Parliament, the legislatures of the provinces and the councils of the territories.

Legislative authority not altered

36.4 Sections 36.1 to 36.3 do not alter the legislative authority of Parliament, the provincial legislatures or the territorial councils, or the rights of any of them with respect to the exercise of their legislative authority.

THE CONFERENCE OF FIRST MINISTERS

The following section would be added to the *Constitution Act, 1867* after section 147:

XII. CONFERENCE OF THE FIRST MINISTERS

Conference established

148. A Conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year to discuss economic and social matters affecting Canada.

APPENDIX B

Alternative Preambles and Canada Clause Examined by the Committee

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We, Canadians, acknowledging

that the aboriginal peoples were the first inhabitants of this vast territory which is our country,

that modern Canada is rooted in the historic meeting in North America of the Indians, the Inuit, the French, the British, the Metis and other peoples from the world over,

that we are depositaries of diverse social, cultural and natural riches,

that our country has carved a unique place in the commonwealth of nations,

State our will to maintain a Canadian confederation founded on

equality of individuals that respects their differences and the diversity of their cultures;

equality of the provinces that respects their unique characteristics.

We, Canadians,

confident in our future, and

alive to the spirit of equity and justice,

Are resolved to build a country

that respects the dignity of the person, protects our rights and freedoms, both individual and collective, and recognizes in them the foundation for justice and peace;

that recognizes the inseparability of the rights and freedoms of each person from the rights and freedoms of others and the well-being of all;

that recognizes the responsibility entrusted to the aboriginal peoples to protect and develop their culture, languages and traditions;

that recognizes Quebec's responsibility to protect and promote the distinct character of its society, unique in North America;

that fosters the vitality and development of the language and culture of French-speaking and English-speaking minority communities;

that recognizes the contribution to its heritage of citizens speaking languages and bearing cultures from around the world;

that safeguards its natural environment and uses it rationally and responsibly to ensure prosperity for generations to come;

that recognizes the rule of law and subscribes to democratic, parliamentary government.

We, Canadians,

responding to our changing world, and

conscious of the need to assume our rightful place in it and to ensure economic progress and a flourishing society and cultural life,

Are convinced of the need to

strengthen our common market and the Canadian economic union;

reaffirm throughout our country our commitment to social justice and our attachment to the principle of equal opportunity;

renew our governmental institutions that they may be more representative, more sensitive to our needs and more effective to confront the great challenges of the day.

PREAMBLE (II)

Canada is spirit

the spirit of the aboriginal peoples who have revered and nurtured this splendid, bountiful land from time immemorial;

the spirit of the French and British settlers who struggled to make this land their home within the shores of three oceans;

the spirit of all other people who came and continue to come from every continent to enrich this land with their toil and their traditions.

Canada is belief

belief in the strength that springs from the diversity of its people;

belief in the inherent right of its first peoples to govern themselves, and to preserve and enhance their traditions, languages and cultures;

belief in the responsibility of Quebec, as a unique representative of French-speaking people in North America, to preserve and promote its distinct society;

belief in fostering the vitality and development of the two languages of our law and of the official language minority communities throughout this land; and

belief in fostering the cultural riches of our many heritages.

Canada is commitment

commitment to democracy and the rule of law;

commitment to the human rights and freedoms of all people;

commitment to the social and economic well-being of all Canadians.

As citizens of Canada, we are dedicated to living in harmony, preserving, expanding and sharing our spiritual and material wealth, our separate and common legacies, our cultures and our arts;

As citizens of the world, we are dedicated to international peace and the preservation of the earth for future generations.

We proclaim the Constitution of Canada to be the supreme law of our land and declare this to be its preamble.

CANADA CLAUSE

The following would be added to the *Constitution Act, 1867* as section 2:

Declaration

2. As we have pledged to strengthen our land as a home of peace, hope, and goodwill among nations, we declare that:

CANADA IS:

- a country made up of Aboriginal peoples, its first peoples, followed by the French and English speaking peoples and immigrants from the four corners of the world
- a country characterized by a vital and developing linguistic duality
- a constitutional monarchy and a parliamentary democracy whose citizens are guaranteed full access to the electoral process
- a federation whose identity encompasses the characteristics and values of all its communities, provinces, and territories

CANADA RECOGNIZES:

- that Indian, Inuit, and Métis peoples, with many languages, cultures, and traditions, have the inherent right to self-government within Canada
- that the province of Quebec bears a special responsibility to preserve and promote its distinct society
- its commitment to fostering the vitality and development of official language minority communities throughout Canada

- that people from many lands, faiths and cultures strengthen and enrich our life together

CANADA AFFIRMS:

- the principles of compassion, fairness, integrity and respect for life, in the context of openness, mutual respect and responsibility, with all participating fully without discrimination

- the equality of women and men

- its commitment to the dignity and worth of all its people, citizens and communities and to their individual rights and freedoms under the rule and equal application of the law, as the foundation for justice and social harmony

CANADA IS COMMITTED TO:

- the protection of families and children

- the responsible stewardship of its land, water resources and environment

- the achievement of the spiritual, cultural, economic, educational, political and social well-being and health of all its people

- the responsibility to promote peace and justice for all nations and among all peoples

So long as the sun rises, the rivers flow,
and the winds blow,
we proclaim our loyalty to this land called Canada.

APPENDIX C

List of Witnesses

NAME OF WITNESS	ISSUE	DATE
21ST CENTURY CANADA COMMITTEE	54	92/01/27
Jocelyn Adamson		
Dierdre Nicholson		
Laurie Gechke, Spokesman		
Ron Gray		
Dr. Calvin Netterfield		
ACADIAN COMMUNITIES ADVISORY COMMITTEE	6	91/10/10
Robert Arsenault, Chairman		
ACADIAN FEDERATION OF NOVA SCOTIA	44	92/01/16
Paul Comeau, Director General		
Ronald Bourgeois, Coordinator		
ACTION CANADA NETWORK	6	91/10/10
Mary Boyd, Chairperson		
Urban Laughlin, Member		
ACTRA	61	92/02/06
Sandy Crawley, President		
Sonja Smits, Member		
Garry Neil, General Secretary		
ADVISORY COUNCIL ON THE STATUS OF WOMEN	6	91/10/10
Linda Gallant, Chairperson		
ADVISORY COUNCIL ON THE STATUS OF WOMEN OF NEW BRUNSWICK	43	92/01/15
Jeanne d'Arc Gaudet, Chairperson		
Dawn Bremner, Vice-Chair		
AETNA CANADA	10	91/10/28
Rose Marie Earle, Director, Communications and Employee Relations		

NAME OF WITNESS	ISSUE	DATE
AFFORDABLE HOUSING ASSOCIATION OF NOVA SCOTIA Grant Wanzel, Chair	44	92/01/16
AFRO-CANADIAN CAUCUS OF NOVA SCOTIA Davies Bagambiire	44	92/01/16
AIRD, Paul	13	91/10/29
ALBERTA FEDERATION OF LABOUR Don Aitkin, President Audrey M. Bath, Secretary-Treasurer	50	92/01/22
ALBERTA PREMIER'S COUNCIL ON THE STATUS OF PERSONS WITH DISABILITIES Eric Boyd, Executive Director Cliff Bridges, Communications Coordinator	50	92/01/22
ALBERTA SELECT SPECIAL CONSTITUTIONAL REFORM The Honourable James Horsman, MLA, Medicine Hat, Minister of Federal and Intergovernmental Affairs, Chairman The Honourable Ken Rostad, MLA, Attorney General Fred Bradley, MLA Gary Severtson, MLA Jack Ady, MLA Pam Barrett, MLA Bob Hawkesworth, MLA Yolande Gagnon, MLA Stan Schumacher, MLA, Deputy Chairman The Honourable Dennis Anderson, MLA, Minister of Consumer and Corporate Affairs The Honourable Nancy Betkowski, MLA, Minister of Health Pearl Calahasen, MLA Stockwell Day, MLA Barrie Chivers, MLA John McInnis, MLA Sheldon Chumir, MLA	49	92/01/22

NAME OF WITNESS	ISSUE	DATE
ALGONQUIN NATION Grand Chief Jean-Maurice Matchewan David Nahwegahbow, Legal Adviser Russell Diabo, Policy Adviser James Morrison, Historian Richard Falk, Professor of International Law, Princeton University	57	92/02/03
ALLIANCE QUEBEC Robert Keaton, President Casper Bloom, Chairman of Committee Alan Hilton, Committee Member Marjorie Goodfellow, Committee Member	29	91/12/11
ANDERSON, Brian	13	91/10/29
ARCTIC INSTITUTE OF NORTH AMERICA Cynthia Hill, Chairperson Mike Robinson, Executive Director Bob Blair, Director	49	92/01/22
ASSEMBLY OF FIRST NATIONS Ernie Benedict, Elder Myrtle Bush, Co-ordinator Tom Porter, Sub-Chief, Mohawk Nation Traditional Council Mike Mitchell, Grand Chief, Mohawk Council of Akwesasne Tony Hall, Professor of History, University of Lethbridge Leroy Littlebear, Professor of Native Studies University of Lethbridge Moses Okimaw, Legal Adviser	35	92/01/08
ASSEMBLY OF FIRST NATIONS Ovide Mercredi, National Chief Moses Okimaw, Legal Adviser Mary Ellen Turpel, Legal Adviser Leroy Littlebear, Professor of Native Studies Myrtle Bush, Co-ordinator	62	92/02/10

NAME OF WITNESS	ISSUE	DATE
ASSOCIATION CANADIENNE-FRANÇAISE DE L'ALBERTA	50	92/01/22
Denis Tardif, President		
Marc Arnal, Vice-President		
Georges Arès, Executive Director		
ASSOCIATION CANADIENNE-FRANÇAISE DE L'ONTARIO	27	91/12/10
Jean Tanguay, President		
Yves Le Bouthillier, member		
Gilles Le Vasseur, member		
ASSOCIATION CULTURELLE FRANCO-CANADIENNE DE LA SASKATCHEWAN	47	92/01/21
Denis Magnan, President		
Maria Lepage, President, Fédération provinciale des Fransaskoises		
Roger Lepage, Executive Director		
Florent Bilodeau, Counsel		
Marguerite Compagne, Representative, Regional Branches		
ASSOCIATION DES JURISTES D'EXPRESSION FRANÇAISE DU NOUVEAU-BRUNSWICK	43	92/01/15
Louise R. Guerrette		
Zoel Dionne		
ASSOCIATION DES PARENTS FRANCOPHONES DE YELLOWKNIFE	52	91/01/23
Marie Claire Leblanc, President		
Diane Mahoney, President, Fédération franco-ténoise des Territoires		
Bernadette Leblanc-Fortier, Member of the Executive Committee		
Chantale Francoeur, Development Officer		
ASSOCIATION FRANCO-YUKONNAISE	56	92/01/28
Florine Leblanc-Hutchinson		
Pierre Laroche		
Jeanne Beaudoin		

NAME OF WITNESS	ISSUE	DATE
BARKER, Tom	16	91/11/04
B'NAI BRITH CANADA David Matas, Senior Legal Counsel Lyle M. Smordin, Vice-President	16	91/11/04
BCE INC. A. Jean De Granpré, President	32	91/12/17
BLACK UNITED FRONT OF NOVA SCOTIA Reverend Ogueri J. Ohanaka, Executive Director	44	92/01/16
BLAKE CASSELS & GRAYDON Peter W. Hogg, Professor, Osgoode Hall Law School, York University Theodore A. King Mitchell Wigdor Anne Thomas	33	91/12/18
BOARD OF TRADE OF METROPOLITAN TORONTO Donald King, President Gerry Meinzer, Vice-President	60	92/02/04
BOULANGER, Gaston	16	91/11/04
BOWKER, MARJORIE Retired Judge, Provincial Court of Alberta	32	91/12/17
BRANDON CHAMBER OF COMMERCE Gordon Peters, President	17	91/11/06
BRANDON TEACHERS' ASSOCIATION Marion Robinsong, Spokesperson, Equality and Education Committee	18	91/11/06
BRANDON WOMEN'S STUDY GROUP Paula Mallea Mary Annis Donna Everitt	18	91/11/06

NAME OF WITNESS	ISSUE	DATE
BRANDON-SOURIS NDP CONSTITUENCY ASSOCIATION Ian Robson, Spokesperson	18	91/11/06
BRITISH COLUMBIA CHAMBER OF COMMERCE E.A. George, Executive Director Ian MacLeod, First Vice-President	54	92/01/27
BURGES, Bill	18	91/11/06
BUSINESS COUNCIL ON NATIONAL ISSUES Thomas D'Aquino, President William W. Stinson, Chairman and CEO, Canadian Pacific Ltd. Bertin F. Nadeau, Chairman of the Board Provigo Inc.	61	92/02/06
CALGARY CHAMBER OF COMMERCE John Currie, President and Chairman of Unity Task Force Bill Kaufmann, General Manager and Director George Calliou, Member of Unity Task Force Colin MacDonald, Member of Unity Task Force	50	92/01/22
CAMERON, Jamie Professor, Osgoode Hall Law School, York University	29	91/12/11
CAMPBELL, Robert S.W.	13	91/10/29
CANADA FOR ALL COMMITTEE Murad Velshi, Chairman Ishrath Velshi Soma Ray Kikee Malik	13	91/10/29
CANADIAN ADVISORY COUNCIL ON THE STATUS OF WOMEN Linda Gallant, Chairperson	6	91/10/10
CANADIAN ASSOCIATION OF UNIVERSITY TEACHERS	14	91/10/31

NAME OF WITNESS	ISSUE	DATE
Fred Wilson, President Donald Savage, Executive Director Robert Kerr, Past President		
CANADIAN ASSOCIATION OF VISIBLE MINORITIES Reverend Darryl Gray, National Co-Chair	44	92/01/16
CANADIAN BAR ASSOCIATION J.J. Camp Q.C., President Honourable Paule Gauthier, Vice-President Terence Wade, Senior Director Melina Buckley, Associate Director	30	91/12/12
CANADIAN CATHOLIC SCHOOL TRUSTEES ASSOCIATION Mervyn A. Lynch, President Lawrence Dufresne, Vice-President	49	92/01/22
CANADIAN CHAMBER OF COMMERCE Timothy Reid, President Miller A. Ayre, Chairman Philip O'Brien, Vice-Chairman	38	92/01/13
CANADIAN CITIZENSHIP FEDERATION Constance Middleton-Hope, President Diana Togneri Nicholas Zsolnay	14	91/10/31
CANADIAN COMMITTEE FOR A TRIPLE E SENATE Bert Brown, Chairman	21	91/12/02
CANADIAN CONFERENCE OF THE ARTS Keith Kelly, National Director	24	91/12/04
CANADIAN CONSTRUCTION ASSOCIATION John Halliwell, President Michael Atkinson, Senior Director Michael Makin, Director	23	91/12/03
CANADIAN COUNCIL OF CHRISTIANS AND JEWS (ONTARIO REGION)	12	91/10/29

NAME OF WITNESS	ISSUE	DATE
Sheldon Godfrey		
CANADIAN DAY CARE ADVOCACY ASSOCIATION	14	91/10/31
Barbara Kilbride, Executive Director		
Penny Bertrand		
CANADIAN ENVIRONMENTAL LAW ASSOCIATION AND POLLUTION PROBE	32	91/12/17
Barbara Rutheford, Counsel		
Paul Muldoon, Counsel		
CANADIAN ETHNOCULTURAL COUNCIL	14	91/10/31
Lewis T. Chan, President		
Anna Chiappa, Executive Director		
Emillio Binavince, Honorary Legal Counsel		
Andrew Cardozo		
Art Miki, President, National Association of Japanese Canadians		
CANADIAN FEDERATION OF STUDENTS	21	91/12/02
Kelly Lamrock, National Chairman		
Catherine Remus, Government Relations Officer		
CANADIAN FILM & TELEVISION PRODUCTION ASSOCIATION	24	91/12/04
Peter Mortimer, Director		
Stephen Ellis, Treasurer of the Association		
CANADIAN HOME BUILDERS' ASSOCIATION	26	91/12/09
John K. Kenward, Director		
Gary Reardon, President		
Laurier Dechêne, Secretary		
Gord Thompson, Past President		
CANADIAN HOUSING AND RENEWAL ASSOCIATION	34	91/12/18
Sylvia Haines, Executive Director		
David Crenna		
Robert Player, Past President		
Michael Wilson, Member		
CANADIAN HUMAN RIGHTS COMMISSION	34	91/12/18

NAME OF WITNESS	ISSUE	DATE
Maxwell Yalden, Chief Commissioner		
CANADIAN JEWISH CONGRESS	58	92/02/03
Les Scheininger, National President		
Max Bernard, Chairman, National Unity Committee		
CANADIAN LABOUR CONGRESS	59	92/02/04
Shirley G.E. Carr, President		
Nancy Riche, Executive Vice-President		
Dick Martin, Executive Vice-President		
Richard Mercier, Secretary-Treasurer		
Robert White, National President, C.A.W.		
Judy D'Arcy, National President, C.U.P.E.		
Dawn Ventura, Research Director		
Cindy Wiggins, Researcher		
CANADIAN LABOUR FORCE DEVELOPMENT BOARD	27	91/12/10
Laurent Thibault, Co-Chairperson		
Gérard Docquier, Co-Chairperson		
CANADIAN PARENTS FOR FRENCH	30	91/12/12
Josalys Scott, Executive Director		
Pat Brehaut, National President		
CANADIAN PARKS AND WILDERNESS SOCIETY MANITOBA CHAPTER	18	91/11/06
Roger Turenne		
CANADIAN REAL ESTATE ASSOCIATION	21	91/12/02
David Higgins, President-Elect		
Gaylord Watkins, Special Constitutional Counsel		
Patricia Verge, Vice-President		
CANADIAN TEACHER'S FEDERATION	62	92/02/10
Allan McDonald, President,		
Stirling McDowell, Secretary General,		
Harvey Weiner, Deputy Secretary General,		
Dr. Wilf Brown, Director, Economic Services		
CANADIANS FOR EQUALITY OF RIGHTS UNDER		

NAME OF WITNESS	ISSUE	DATE
THE CONSTITUTION Keith Henderson, Chairman Howard Greenfield, Vice-Chairman	32	92/12/17
CARVER, Horace	6	91/10/10
CATHOLIC WOMEN'S LEAGUE OF CANADA Agnes Ebbs, Convener of Resolutions Catherine Gregory	41	92/01/14
CENTRE FOR EQUALITY RIGHTS IN ACCOMMODATION Bruce Porter, Co-ordinator	24	92/12/04
CERTIFIED GENERAL ACCOUNTANTS' ASSOCIATION OF CANADA Marcel Hardy, President Ronald J. Bourke, 1st Vice-President S. Anthony Toth, Director of Public Affairs Wm. Laurence Scott, Government Affairs Adviser	57	92/02/03
CHANAL INC. Keith Walker, Chief Director for Newfoundland and Labrador Daniel Reid, Secretary	41	92/01/14
CITIZENS FOR PUBLIC JUSTICE Tim Schouls, Research Coordinator Gerald Vandezande, Director, National Public Affairs	12	91/10/29
CITY OF CALGARY Al Duerr, Mayor	50	92/01/22
CITY OF VANCOUVER Gordon Campbell, Mayor and First Vice-President of the Union of British Columbia Municipalities	53	92/01/27
CITY OF YELLOWKNIFE R.M. Findlay, Deputy Mayor	52	92/01/23

NAME OF WITNESS	ISSUE	DATE
CLARK, JOE, The Rt. Hon., President of the Privy Council and Minister Responsible for Constitutional Affairs	1	91/09/25
COAST-SALISH PEOPLES Joe Mathias, Chief of the Squamish Nation	54	92/01/27
COMEAULT, Rudy	16	91/11/04
COMMISSION NATIONALE DES PARENTS FRANCOPHONES Raymond Porrier, President Paul Charbonneau, Director General Armand Bédard, Director of Research and Training	22	91/12/03
COMMISSIONER OF OFFICIAL LANGUAGES Victor C. Goldbloom, Commissioner, Marc Thérien, Director General, Policy, Jean-Claude Nadon, Director General, Complaints and Audits Monique Matza, Executive Assistant	61	92/02/06
COMMUNITY SERVICES COUNCIL Frankie O'Flaherty, Vice-President Penelope Rowe, Executive Director	41	92/01/14
CONFERENCE "TOWARDS 2000" John Trent, Chairperson François Rocher Patrice Martin, Co-ordinator	26	91/12/09
CONSEIL DU PATRONAT DU QUÉBEC Ghislain Dufour, President Guy Laflamme, Chairman of the Board Sébastien Allard, Member, Board of Directors	57	92/02/03
CONSTITUENCY CONSTITUTIONAL GROUPS Dr. David H. Bai, Edmonton South East, Alberta Michael Manley-Casimir, Port Moody-	62	92/02/10

NAME OF WITNESS	ISSUE	DATE
Coquitlam, British Columbia		
Ann Cardus, Port Moody-Coquitlam, British Columbia		
Brenda Wahlen, Port Moody-Coquitlam, British Columbia		
Margaret Wanlin, Thunder Bay-Atikokan, Ontario,		
Barb Ellingson, Red Deer, Alberta		
Paul Abbott, Red Deer, Alberta		
Lynn Lemieux, Edmonton East, Alberta		
David Gravelle, Calgary Southwest, Alberta		
Allen Millar, Calgary Southwest, Alberta		
Jean Thompson, Wild Rose, Alberta		
Joe Elliott, York-Simcoe, Ontario,	63	92/02/10
Niki Rauzon-Wright, York-Simcoe, Ontario		
Trevor Wilson, York-Simcoe, Ontario		
Joe Gordon, York-Simcoe, Ontario		
Wilfred Posehn, Calgary North, Alberta		
Marc Kealy, Ontario Riding, Ontario		
Steven Rae, Ontario Riding, Ontario		
Brian Shedden, Ontario Riding, Ontario		
Ashok Bhatia, Ontario Riding, Ontario		
Keith MacGregor, Ontario Riding, Ontario		
Laura Nigro, Ontario Riding, Ontario		
Janet Greene-Potomski, Windsor-Lake St Clair, Ontario		
Patrick Rafferty, Wellington-Grey-Dufferin-Simcoe, Ontario		
George Schreyer, Selkirk, Manitoba		
John Gleeson, Selkirk, Manitoba		
Preston Cook, Thunder Bay-Nipigon, Ontario		
Greta Baron, Thunder Bay-Nipigon, Ontario		
Hylda Howes, Haldimand-Norfolk, Ontario		
Mary Edmonds, Haldimand-Norfolk, Ontario		
Catherine Paradoski, Beaver River, Alberta		
Dr. John Gerrard, Saint-Boniface, Manitoba		
Dr. Jean-Pierre Després, Saint-Boniface, Manitoba		
Mark Sutor, Sarnia-Lambton, Ontario		
Shirley Latham, Sarnia-Lambton, Ontario		
Peter Westfall, Sarnia-Lambton, Ontario		
Diane Cork, Ottawa Centre, Ontario		
Nini Pal, Mount Royal, Quebec		

NAME OF WITNESS	ISSUE	DATE
Allan Levine, Mount Royal, Quebec Roxanne Roy, Mount Royal, Quebec		
CO-OPERATIVE HOUSING FEDERATION OF CANADA Marcel Lefebvre, President Laird Hunter, Adviser Danielle Cécile, Director of Cooperative Development Alexandra Wilson, Executive Director	30	91/12/12
COUNCIL FOR CANADIAN UNITY The Honourable James M. Lee, Provincial President for Prince Edward Island and Member of the Executive Committee	6	91/10/10
Pierre J. Jeanniot, Chairman Thomas R. Denton, President Jocelyn Beaudoin, Executive Vice-President Pierre Tremblay, National Vice-President Margo Brousseau, Representative, Friends of Canada	58	92/02/03
COUNCIL OF CANADIANS Maude Barlow, President Ken Wardroper, Board Member, Policy Co-Chair	33	91/12/18
COUNCIL FOR YUKON INDIANS Judy Gingell, Chair Albert James, Vice-Chair Victor Mitander, Chief Negotiator Steve Welsh, Legal Counsel	56	92/01/28
COURCHÊNE, Thomas Professor, School of Policy Study, Queen's University	33	91/12/18
CRISTAL, Eleanor	18	91/11/06
DELLER, Terri	18	91/11/06
DE MESTRAL, Armand Professor, Faculty of Law,	26	91/12/09

NAME OF WITNESS	ISSUE	DATE
McGill University		
DENE NATION Bill Erasmus, National Chief	52	92/01/23
DENTON, Kady	18	91/11/06
DEPARTMENT OF FINANCE Fred Gorbet, Deputy Minister	3 & 9	91/10/01 91/10/24
DEPARTMENT OF JUSTICE John Tait, Deputy Minister	1,3,7,8 & 9 8 & 9	91/09/25 91/09/25 91/10/01 91/10/22 91/10/23
DION, Léon Professor, Department of Political Science, Laval University	28	91/12/10
DOMOKOS, Alex	16	91/11/04
DOULL, James Professor, Dalhousie University	41	92/01/14
DOWSETT, Thomas	18	91/11/06
DROVER, Martin	13	91/10/29
ECONOMIC COUNCIL OF CANADA Judith Maxwell, Chairman Caroline Pestieau, Deputy Chairman Harvey Lazar, Deputy Chairman	34	91/12/18
EDMONTON CHAMBER OF COMMERCE TASK FORCE ON CONSTITUTIONAL REFORM John P.J. Rossal, Chairman of the Chamber's Constitutional Reform Task Force John Knebel, Chairman of the Board Fred Windwick, President of the Chamber	49	92/01/22

NAME OF WITNESS	ISSUE	DATE
Gerald Chipeur, Member of the Task Force		
EDMONTON FRIENDS OF THE NORTH ENVIRONMENTAL SOCIETY	50	92/01/22
Lorraine Vetsch, Co-Chair		
Dave Parker, Treasurer		
Harry Garfinkle, Member		
ETHNO-CULTURAL ASSOCIATION OF NEWFOUNDLAND AND LABRADOR	41	92/01/14
Dr. Chung Won Cho, President		
EVANGELICAL FELLOWSHIP OF CANADA	27	91/12/10
Reverend Brian C. Stiller, Executive Director		
Dr. Donald Page, Vice President		
Janet Epp Buckingham, Executive Director Eastern Region		
Reverend Ross Maracle, President, National Native Bible College		
EVANGELICAL LUTHERAN CHURCH IN CANADA	24	91/12/04
Carl Rausch, Member, Synod of Alberta and the Territories		
Roy Pudrycki, Pastor		
EQUALITY PARTY	58	92/02/03
Robert Libman, Leader		
FANCY, Dr. Khursheed	13	91/10/29
FEDERATION OF CANADIAN MUNICIPALITIES	33	92/12/18
Doreen Quirk, President		
Ron Hayter, Second Vice-President		
Ray O'Neill, Past President		
James W. Knight, Executive Director		
FEDERATION OF SASKATCHEWAN INDIAN NATIONS	48	92/01/21
Chief Roland Crowe		
Vice-Chief Roy Bird		
Vikas Khaladkar, General Counsel		
Felix Musqua, Constitutional Consultant		

NAME OF WITNESS	ISSUE	DATE
FÉDÉRATION DES COMMUNAUTÉS FRANCOPHONES ET ACADIENNES François Dumaine, Counsel Raymond Bisson, President Marc Godbout, Director General Sylvio Morin, Director of Communications	31	91/12/17
FÉDÉRATION DES FRANCO-COLOMBIENS Marie Bourgeois, President Yseult Friolet, Director General	54	92/01/27
FÉDÉRATION DES FRANCOPHONES DE TERRE-NEUVE ET DU LABRADOR Conrad Titley, Executive Director Robert Cormier, President	41	92/01/14
FÉDÉRATION DES JEUNES CANADIENS FRANÇAIS INC. Gino Leblanc, President Paul LePierre, Director General	28	91/12/10
FRASER VALLEY REAL ESTATE BOARD Ruth Boulton, Chairman Ken MacKenzie, Executive Officer Mary Wade Anderson, Legislative and Public Affairs Committee	53	92/01/27
FRIEND OF THE VALLEY Gerry McKinney, Chairperson	18	91/11/06
GAASENBEEK, Johannus	13	91/10/29
GARANT, Patrice Professor, Laval University	57	92/02/03
GARNEAU, Raymond	58	92/02/03
GERAETS, Théodore Professor, Philosophy Department, University of Ottawa	22	91/12/03

NAME OF WITNESS	ISSUE	DATE
GERMAN CANADIAN CONGRESS Gerry Meinzer, President Alexander Sennecke, President-elect Alexander Münter, Vice-President	26	91/12/09
GOVERNMENT OF BRITISH COLUMBIA The Honourable Moe Sihota, Minister of Constitutional Affairs	54	92/01/27
GOVERNMENT OF MANITOBA The Honourable Gary Filmon, Premier Clayton Manness, Minister of Finance Jim McCrae, Minister of Justice	64	92/02/11
GOVERNMENT OF NEW BRUNSWICK The Honourable Frank McKenna, Premier	42	92/01/15
GOVERNMENT OF NEWFOUNDLAND The Honourable Clyde Wells, Premier	40	92/01/14
GOVERNMENT OF NOVA SCOTIA The Honourable Donald Cameron, Premier	45	92/01/16
GOVERNMENT OF ONTARIO The Honourable Bob Rae, Premier	38	92/01/13
GOVERNMENT OF PRINCE EDWARD ISLAND The Honourable Joseph Ghiz, Premier	4	91/10/09
GOVERNMENT OF SASKATCHEWAN The Honourable Roy Romanow, Premier The Honourable Robert Mitchell, Minister of Justice and Attorney General George Peacock, Consultant to Government of Saskatchewan on Constitutional Matters	47	92/01/21
GOVERNMENT OF YUKON The Honourable Tony Penikett, Premier William E. Byers, Constitutional Counsel Rino Ouellet, Director, Bureau des services en français	55	92/01/28

NAME OF WITNESS	ISSUE	DATE
GREEN, John	18	91/11/06
GRIFFITH, Edward	13	91/10/29
GROUP OF 22	25	91/12/05
Honourable Maurice Sauvé		
Honourable Allan E. Blakeney		
Honourable William G. Davis		
Harrison McCain		
Susan Sherk		
Kathleen Mahoney		
HALIFAX BOARD OF TRADE	44	92/01/16
Andrew M. Horgan, Chairman		
HANLY, Dr. Ken	18	91/11/06
HARRIS, Richard	28	91/12/10
Professor, Department of Economics		
Simon Fraser University		
HEALTH ACTION LOBBY	60	92/02/04
Sharon Sholzberg-Gray, Executive Director		
Dr. Luc Granger		
Judith Oulton		
Kevin Doucette		
HEENEY, Dennis	18	91/11/06
HELLYER, The Honourable Paul T.	12	91/10/29
HELLENIC CANADIAN CONGRESS	58	92/02/03
Harry Tsimberis, Vice-President, Quebec		
André Gerolymotos, Secretary		
HERITAGE CANADA	23	91/12/03
Mary Elizabeth Bayer, Chair		
Douglas Franklin, Director		
Jacques Dalibard, Executive Director		
HODGES, Gregory J.	13	91/10/29

NAME OF WITNESS	ISSUE	DATE
HOGG, Peter Professor, Osgoode Hall Law School, York University	33	91/12/18
HOUSING CO-OP COUNCIL OF MANITOBA Rudy H. Comeault, Representative	16	91/11/04
HOWE, T.A.	48	92/01/21
HYNES, William	13	91/10/29
IMPERIAL ORDER OF THE DAUGHTERS OF THE EMPIRE Jean Throop, President, National Chapter Sandra Connery	28	91/12/10
INDEPENDENT ALLIANCE Allan Nordling, Leader	55	91/01/28
INDIGENOUS BAR ASSOCIATION IN CANADA Donald E. Worme, President Marion Buller, Vice President Mary Ellen Turpel, Board Member Moses Okimaw, Board Member Roger Jones, Secretary/Treasurer	34	91/12/18
INDIGENOUS WOMEN'S COLLECTIVE OF MANITOBA INC. Winnie Grisbrecht	15	91/11/04
INUIT TAPIRISAT OF CANADA Rosemarie Kuptana, President Jose Kusugak, Member, Inuit Committee on Constitutional Issues Susan Aglukark, Executive Assistant to the President John Amagoalik, Constitutional Adviser, Tungavik Federation of Nunavut Joe Otokiak, National Spokesperson John Merrit, Counsel, Tungavik Federation of Nunavut Wendy Moss, Coordinator of Constitutional Affairs	37	92/01/09

NAME OF WITNESS	ISSUE	DATE
Rosemarie Kuptana, President John Amagoalik, Member Constitutional Committee Wendy Moss, Coordinator, Constitutional Issues Committee	64	92/02/11
ITALIAN CANADIAN CONGRESS Antonio Sciascia, former National President Giusseppe Manno, President, Quebec Section	58	92/02/03
JOHNSON, A.W. Professor, Department of Political Science, University of Toronto	33	91/12/18
KEDDIE, Dorothy	18	91/11/06
KEEN, Carolyn	13	91/10/29
KERR, Edward	13	91/10/29
KING, Ted A.	33	91/12/18
LA CHAMBRE DE COMMERCE DU MONTRÉAL MÉTROPOLITAIN Jean Guibault, President, Nycol Pageau-Goyette, Chairman of the Board	60	92/02/04
LA CHAMBRE DE COMMERCE DU QUÉBEC John H. Dinsmore, President, Forum Entreprises-Universities Claude Descoteaux, Executive Vice-President Pierre Fortier, Vice-President Jacques Plante, Vice-President Pierre Martin, Chairman of the Board	57	91/02/03
LA CHAMBRE DE COMMERCE FRANCOPHONE DE SAINT-BONIFACE Germain Perron, President Richard Chartier, Legal Counsel	16	91/11/04

NAME OF WITNESS	ISSUE	DATE
LA FÉDÉRATION PROVINCIALE DES COMITÉS DE PARENTS FRANCOPHONES DU MANITOBA Gérard Lécuyer, Director General Gilbert Savard, President	16	91/11/04
LEARNING DISABILITIES ASSOCIATION OF CANADA Beulah Phillpot, Director	52	92/01/23
LIBERAL PARTY OF ALBERTA Lawrence Decore, Leader	50	92/01/22
LIBERAL PARTY OF BRITISH COLUMBIA Gordon Wilson, Leader	53	92/01/27
LIBERAL PARTY OF MANITOBA Sharon Carstairs, Leader	15 & 39	91/11/04 92/01/13
LIBERAL PARTY OF NOVA SCOTIA Vincent J. MacLean, Leader	45	92/01/16
LIBERAL PARTY OF SASKATCHEWAN Lynda Haverstock, Leader	47	92/01/21
MACKLING, Al	16	91/11/04
MACLEAN'S GROUP Rick Miller Sheila Simpson Charles Dupuis Carol Geddes Karen Collings	39	92/01/13
MACQUARRIE, Bob	52	92/01/23
MAINSE, David	13	91/10/29
MALCOLMSON, PATRICK Professor of Political Science, St. Thomas University	43	92/01/15
MANITOBA ACTION COMMITTEE ON THE STATUS		

NAME OF WITNESS	ISSUE	DATE
OF WOMEN Jenny Robinson	16	91/11/04
MANITOBA COMMITTEE FOR A TRIPLE E SENATE Jerry Fullerton, Vice President	17	91/11/06
MANITOBA CONSTITUTIONAL TASK FORCE Professor W. N. Fox-Decent, Chairperson Jean Friesen Oscar Lathlin Shirley Carstairs Darren Praznick Shirley Render Jim McCrae	15	91/11/04
MANITOBA FARM WOMEN'S CONFERENCE Elaine Froese, Spokesperson	18	91/11/06
MANITOBA LEAGUE OF THE PHYSICALLY HANDICAPPED INC. Donald Halechko, Chairperson David Martin, Provincial Coordinator	15	91/11/04
MANITOBA MÉTIS FEDERATION Fortunat Guiboche, Senator Holly Ferguson, Member Dorothy Rokovetsky, Member	18	91/11/06
MANITOBA WOMEN'S INSTITUTE Joyce Johnson, President	18	91/11/06
MANITOBA WRITERS' GUILD INC. Neil Besner, President Terry Lulashnyk, Lobbying Chair	16	91/11/04
MARANATHA GOOD NEWS CENTRE Roger Armbuster, Minister	17	91/11/06
MCCULLOUGH, Helen	16	91/11/04
MCDONNELL, Patrick	16	91/11/04

NAME OF WITNESS	ISSUE	DATE
Vice-President, Manitoba Government Employees Association		
MCWHINNEY, Edward Professor, Simon Fraser University	21	91/12/02
MEMBERS OF THE ORDER OF CANADA Peter J.G. Bentley Peter C. Newman Professor Erich W. Vogt	54	92/01/27
MENDES, ERROL P. Professor, Faculty of Law, University of Western Ontario	10, 26	91/10/28
METIS NATIONAL COUNCIL Yvon Dumont, Spokesperson Ron Rivard, Executive Director, Metis National Council	14	91/10/31
Yvon Dumont, President, Manitoba Metis Federation, Ron Rivard, Executive Director, Metis National Council Olaf Bjornaa, President, Ontario Metis and Aboriginal Association Harry Daniels, Chief Constitutional Negotiator, Ontario Metis and Aboriginal Association Norman Evans, Pacific Metis Federation, Bernice Hammersmith, Commissioner, Metis Society of Saskatchewan Gary Bohnet, Metis Nation of Northwest Territories, Jimmy Durocher, President, Metis Society of Saskatchewan Clem Chartier, Chairman, Metis Commission on the Canadian Constitution Caje Shand, Constitutional Adviser, Manitoba Metis Federation Fortunat Guiboche, Senator, Manitoba Metis Federation Larry Desmeules, President, Metis Nation of Alberta	36	92/01/09

Sheila Hays, President, Alberta Metis Women's Association, Metis Association of Alberta
Tony Belcourt, Board Member, Ontario Metis and Aboriginal Association
Marielee Nault, Constitutional Adviser, Manitoba Metis Federation
Norm Evans, Spokesperson, Pacific Metis Federation
Yvon Dumont, President
Tony Belcourt, Board Member, Ontario Metis Aboriginal Association,
Larry Desmeules, President, Metis Nation of Alberta,
Gary Bohnet, President, Metis Nation of Northwest Territories — 65 — 92/02/11

MINISTER OF SASKATCHEWAN — 47 — 92/01/21
Hon. Roy Romanow, Premier

MONAHAN, Patrick — 12 — 91/10/29
Professor, Osgoode Hall, York University

MONTREAL BOARD OF TRADE — 60 — 92/02/04
Luigi Liberatore, Chairman of the Board
David Powell, Vice-Chairman

NAIDU, Dr. M.V. — 18 — 91/11/06

NATIONAL ACTION COMMITTEE ON THE STATUS OF WOMEN — 10 — 91/10/28
Judy Rebick, President
Salome Loucas, Member of the Executive
Janet Maher, Ontario Women's Action Coalition
Thelma McGillivray, Ontario Regional Representative

NATIONAL ANTI-POVERTY ORGANIZATION — 24 — 91/12/04
Lise Corbeil, Executive Director

NATIONAL ASSOCIATION OF JAPANESE CANADIANS — 16 — 91/11/04

NAME OF WITNESS	ISSUE	DATE
Art Miki, President	29	91/12/11
Sachiko Okuda, Executive Committee Member		
NATIONAL BLACK COALITION OF CANADA	16	91/11/04
Wade Williams		
NATIONAL CONSORTIUM OF SCIENTIFIC & EDUCATIONAL SOCIETIES	31	91/12/17
Dr. Caroline Andrew, Chairperson		
Dr. Clément Gauthier, Representative		
Robert Léger, Representative		
Dr. Pierre Ritchie, Representative		
NATIONAL INTERFAITH AD HOC WORKING GROUP ON CANADA'S FUTURE	13	91/10/29
Archbishop E.W. Scott, Chair		
Manohar Singh Bal		
Ernest Benedict		
Dr. Karen Mock		
Rev. Father Alexander Taché		
Sister Eva Solomon		
Gerald Vandezande		
NATIONAL UNION OF PROVINCIAL GOVERNMENT EMPLOYEES	30	91/12/12
James Clancy, President		
NATIVE COUNCIL OF CANADA	35	92/01/08
Patrick Brascoupe		
Martin Dunn		
Rosalee Tizya		
Sue Heron-Herbert		
Claude Aubin		
Chris Reid		
Jane Gottfreidson		
Carl Lariviere		
William Beaver		
Sam Gull		
Terry Doxtator		
Ron George, President	64	92/02/11
Phil Fraser, Vice-President		

Martin Dunn, Co-Chair, Constitutional Review Commission
Yves Assiniwi, Special Adviser
Dwight Dorey, Chair, Constitutional Task Force
Brad Morse, Constitutional Adviser

NATIVE WOMEN'S ASSOCIATION OF CANADA 61 92/02/06
Gail Stacey Moore, President
Teressa Nakanee, Constitutional Coordinator
Virginia Meness, Executive Assistant
Margo Nightingale, Assistant Constitutional Coordinator
Marge Friedel, Treasurer, National Métis Women of Canada
Dianne Soroka, Counsel
Winnie Giesbrecht, Executive Council Member
Sarah Fiddes, Executive Council Member

NEW BRUNSWICK COMMISSION ON CANADIAN FEDERALISM 42 92/01/15
Marie-Marthe Aldéa Landry, Q.C., Co-Chair
James Lockyer, Co-Chair
James Downey
Pierrette Ringuette-Maltais, MLA
Erminie Cohen
Yvon Fontaine
Albert Levi
Ronald LeBreton

NEW BRUNSWICK FEDERATION OF LABOUR 43 92/01/15
Maurice Clavette, Secretary-Treasurer

NEW DEMOCRATIC PARTY OF MANITOBA 39 92/01/13
Gary Doer, Leader

NEW DEMOCRATIC PARTY OF NOVA SCOTIA 45 92/01/16
Alexa McDonough, Leader

NEW DEMOCRATIC PARTY OF PRINCE EDWARD ISLAND 6 91/10/10

NAME OF WITNESS	ISSUE	DATE
Larry Duchesne, Leader		
NEWFOUNDLAND AND LABRADOR COMMITTEE ON THE CONSTITUTION	40	91/01/14
Ed Roberts, Chairman		
Doug May, Professor of Economics, Memorial University		
Peter Boswell, Professor of Political Science, Memorial University		
Aubrey Gover, Vice-Chairman		
Jack Harris		
Dorothy Inglis		
Melvin Penney		
Art Reid		
Alec Snow		
Grace Sparkes		
Lynn Verge		
Jim Walsh		
Beatrice Watts		
NEW VISION CANADA	28	91/12/10
Wes Spencer, President		
José Aggrey, Chairman		
Lindsay Blackett		
NORTHWEST TERRITORIES FEDERATION OF LABOUR	52	92/01/23
James M. Evoy, President		
Peter Atamanenko		
NORTHWEST TERRITORIES SPECIAL COMMITTEE ON CONSTITUTIONAL REFORM	51	92/01/23
The Honourable Stephen Kakfwi		
Ernie Bernhardt		
Sam Gargan		
Brian Lewis		
The Honourable Dennis Patterson		
NORTHWEST TERRITORIES STATUS OF WOMEN COUNCIL	52	92/01/23
Lynn Brooks, Executive Director		
Winnie Fraser-McKay		

NAME OF WITNESS	ISSUE	DATE
NOVA SCOTIA WORKING COMMITTEE ON THE CONSTITUTION The Honouar Eric Kierans, Chairman Junior Bernard Wanda Thomas Bernard Dr. Donald Campbell Rev. Jim Chang Yvon Deveau Rick Laird Marilyn Peers Darlah Purdy Laraine Singler Myrna Slater Dr. Brian Crowley	46	92/01/17
NUU-CHAH-NULTH TRIBAL COUNCIL George Watts, President	54	92/01/27
OFFICE OF THE PRIVACY COMMISSIONER OF CANADA Bruce Phillips, Privacy Commissioner of Canada David Flaherty, Professor, University of Western Ontario Edward Ratushny, Professor, University of Ottawa	26	91/12/09
O'NEIL, Diane	16	91/11/04
ONTARIO CONFERENCE OF CATHOLIC BISHOPS Bishop O'Mara Archbishop Marcel Gervais Peter Lauwers, Counsel	39	92/01/13
ONTARIO REGION OF THE CANADIAN COUNCIL OF CHRISTIANS AND JEWS Sheldon J. Godfrey, Barrister & Solicitor	12	91/10/29
ONTARIO SELECT COMMITTEE ON ONTARIO IN CONFEDERATION Dennis P. Drainville, Chair Gilles Bisson, Vice-Chair Jenny Carter Alvin Curling Ernie Eves	11	91/10/28

NAME OF WITNESS	ISSUE	DATE
Charles Harnick Margaret Harrington Gary Malkowski Irene Mathyssen Steven Offer Yvonne O'Neill David Winninger		
PACKER, Marc	13	91/10/29
PASCAL, Marguerite	18	91/11/06
PELLETIER, Réjean Professor, Department of Political Science, Laval University	28	91/12/10
POIRIER, Armand	18	91/11/06
PRINCE EDWARD ISLAND COUNCIL OF THE ARTS Dr. Richard Lemm, Chair of the Department of English, University of Prince Edward Island	6	91/10/10
PRINCE EDWARD ISLAND MULTICULTURAL COUNCIL Jacob Mal, Member of the Policy Committee George Steiger, Member of the Policy Committee	6	91/10/10
PRINCE EDWARD ISLAND SPECIAL COMMITTEE ON THE CONSTITUTION OF CANADA Walter McEwen, Chairman Honourable Barry Hicken Marion Murphy Honourable Leone Bagnall Walter Bradley Albert Fogarty Alan Buchanan	5	91/10/10
PRIVY COUNCIL, FEDERAL		

NAME OF WITNESS	ISSUE	DATE
PROVINCIAL RELATIONS	1,3,7	91/09/25
Jocelyne Bourgon, Associate Secretary to the Cabinet	8 & 9	91/10/01
		91/10/22
		91/10/23
		91/10/24
Ron Watts, Assistant Secretary, Constitutional Development	3,8	91/10/01
Scott Serson, Deputy Secretary to the Cabinet	8	91/10/23
Nicholas d'Ombrain, Deputy Secretary to the Cabinet, (Machinery of Government and Senior Personnel)		
PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA	31	91/12/17
Iris Craig, President		
Sally Diehl, Head of Research		
Pierre Choquette, Research Officer		
PROGRESSIVE CONSERVATIVE PARTY OF PRINCE EDWARD ISLAND	6	91/10/10
Pat Mella, Leader		
PROGRESSIVE CONSERVATIVE PARTY OF SASKATCHEWAN	47	92/01/21
D. Grant Devine, Leader		
PUBLIC SERVICE ALLIANCE OF CANADA	30	91/12/12
Daryl T. Bean, President		
QUEBEC FEDERATION OF HOME AND SCHOOL ASSOCIATIONS	34	91/12/18
Barbara Milne-Smith		
RAY, Dr. Ratna.	13	91/10/29
REGROUPEMENT ECONOMIE ET CONSTITUTION	30	91/12/12
Claude Beauchamp, President		
Guy St-Pierre, Vice-President		
Ivanhoé Beaulieu, Communications		
RESNICK, Philip	22	91/12/03

NAME OF WITNESS	ISSUE	DATE
Professor, Department of Political Science, University of British Columbia		
RILEY, Anthony	18	91/11/06
ROBERTSON, Gordon Former Clerk of the Privy Council and Secretary to the Cabinet	31	91/12/17
SASKATCHEWAN ARTS BOARD Valerie Creighton-Wells, Executive Director John Griffiths, Vice-Chairman	48	92/01/21
SASKATCHEWAN ORGANIZATION FOR HERITAGE LANGUAGES Dr. Tonis Harras, Member of the Board Pamela J. Wilson, Executive Director Yars Lozochuk, Committee member	48	92/01/21
SASKATCHEWAN WHEAT POOL Garf Stevenson, President Glen McGlaughlin, Executive Director of Policy and Member's Services Dr. John Beke, General Counsel Nial Kuyek, Executive Assistant Darryl Kristjanson, Policy Analyst	48	92/01/21
SCHINDLER, Edward	13	91/10/29
SHUGARMAN, David Professor, Department of Political Science, York University	31	91/12/17
SIMEON, Richard Professor, Department of Political Science, University of Toronto	29	91/12/11
SMITH, Jennifer Professor, Dalhousie University	27	91/12/10
SOCIAL ASSISTANCE COALITION OF MANITOBA	16	91/11/04

NAME OF WITNESS	ISSUE	DATE
Harold McQueen		
SOCIÉTÉ DES ACADIENS ET ACADIENNES DU NOUVEAU-BRUNSWICK	43	92/01/15
Réal Gervais, President		
Norbert Roy, Director General		
Michel Doucet, Counsel		
SOCIÉTÉ FRANCO-MANITOBAINE	16	91/11/04
Georges Druwé, President		
Cécile Bédard, General Director		
STANDING COMMITTEE ON CULTURE AND COMMUNCIATIONS	61	92/02/06
Bud Bird, M.P., Chairman		
Sheila Finestone, M.P., Vice-Chairman		
Jean-Pierre Hogue, M.P., Vice-Chairman		
STANDING COMMITTEE ON THE ENVIRONMENT	61	92/02/06
David MacDonald, M.P., Chairman		
Paul Martin, M.P.		
Jim Fulton, M.P.		
Yvon Côté, M.P., Vice-Chairman		
ST. THOMAS AQUINAS SOCIETY	6	91/10/10
Father Éloi Arsenault, President		
Jean-Paul Arsenault, Member		
Aubrey Cormier, Executive Director		
STANDING COMMITTEE ON COMMUNICATIONS AND CULTURE	61	92/02/06
Bud Bird, M.P.		
Sheila Finestone, M.P.		
Jean-Pierre Hogue, M.P.		
STANDING COMMITTEE ON ENVIRONMENT	61	92/02/06
Hon. David MacDonald, M.P.		
Paul Martin, M.P.		
Jim Fulton, M.P.		
Yvon Côté, M.P.		

NAME OF WITNESS	ISSUE	DATE
STRUCK, George	16	91/11/04
SWINTON, Katherine Professor, Faculty of Law, University of Toronto	10	91/10/28
SYED, Hasanat Ahmad Editor/Publisher of New Canada	13	91/10/29
TASK FORCE ON CANADIAN FEDERALISM Julius Grey, President Monty Berger, Director Roger Comtois, Vice-President	57	92/02/03
TAYLOR, MCCAFFREY, CHAPMAN AND SIGURDSON G. Patrick S. Riley	15	91/11/04
THÉRIAULT, Ben	13	91/10/29
TOWNSHIPPER'S ASSOCIATION Myrna MacAulay, President Marjorie Goodfellow, Chair, Constitutional Issues Committee Michael Fox, Director Susan Mastine, Executive Director	58	92/02/03
TREASURY BOARD Ian Clark, Secretary	9	91/10/24
TURNLEY, Pat	18	91/11/06
UNION OF NOVA SCOTIA INDIANS Daniel Christmas, Executive Director Professor Bruce Wildsmith, Legal Adviser	44	92/01/16
UNIVERSITY OF ALBERTA STUDENTS' UNION Randy Boissonnault, Vice-President Martin Kennedy, Speaker, Student's Council	50	92/01/22
VANCOUVER BOARD OF TRADE Dr. Owen Anderson	54	92/02/27

Marguirite Ford, Member, Board of Directors
Sandra Montour, Member, Community Affairs Committee
John Hansen, Chief Economist

WALLIE, William — 17 — 91/11/06

WEINRIB, Lorraine — 32 — 92/12/17
Professor, Faculty of Law,
University of Toronto

WEST COAST ENVIRONMENTAL LAW ASSOCIATION — 53 — 92/01/27
William J. Andrews, Executive Director

WESTMAN COALITION FOR EQUALITY RIGHTS — 17 — 91/11/06
Sheila Doig
Gwen Trip
Gladys Worthington

WHYTE, John D. — 34 — 91/12/18
Dean of Law

WILDLIFE HABITAT CANADA — 44 — 92/01/16
David J. Neave, Executive Director
Agathe Savard, Director General, Linnean Society of Quebec
Wayne Roddick, Director, Fundraising and Marketing

WILLCOCK, Elizabeth — 23 — 91/12/03
Senior Citizenship Judge for Canada

WILLIAMS, Bryan — 53 — 92/01/27

WINNIPEG CHAMBER OF COMMERCE — 16 — 91/11/04
Buddy Brownstone, Chairman
Constitutional Task Force

WOEHRLING, José, — 32 — 91/12/17
Professor, University of Montreal

NAME OF WITNESS	ISSUE	DATE
WOMEN ON WINGS	56	92/01/28
Judi Kwa Molas Johnny		
YUKON PARTY	55	91/01/28
John Ostashek, Leader		
The Honourable Dan Lang		
YUKON STATUS OF WOMEN COUNCIL	56	92/01/28
Lynn Gaudet		
Lois Pope		
Jon Leah Hopkins		
ZUCAWICH, Gerald	16	91/11/04

APPENDIX D

List of Submissions

A. B. Cash Investment
Abbott, George
Abbott, Richard B.
Abitbol, Isaac Jacques
Aboriginal Rights Coalition
Aboriginal Women's Unity Coalition
Ackerman, Don
Action Canada Network
Action Life
ACTRA
Ad Hoc Community Committee
Adainac, Jonathan B.
Adam, Arthur G.
Adam, Barry D.
Adam, Paul
Adamkovics, J.I.
Adams, Carol
Adams, D.S.
Adkin, Dennis W.
Advisory Council on the Status of Women
Advisory Group on Race Relations in Halifax
Aebtemicluk, Breat
Affordable Housing Association of Nova Scotia
Afro-Canadian Caucus of Nova Scotia
Afro-Canadian Congress
Agoto, Ed
Ahmadiyya Movement In Islam
Ahmed, S. D.
Ahtahkakoop Reserve No. 104
Aids Committee of Ottawa
Aird, Paul
Akler, N.
Alberta Association of Registered Nurses
Alberta Federation of Labour
Alberta Premier's Council on the Status of Persons with Disabilities and Alberta Select Special Committee on Constitutional Reform
Albertans for Property Rights Association
Alcock, Tom
Alder, Rob
Alexander, Chiara
Alexander, David
Alexandria, Anne Gloria
Algonquin Nation
Allaire, Armand, J.
Allen, Berna M.
Allergy Information Association
Alliance of Canadian Cinema, Television and Radio Artists
Alliance Quebec
Allix, Hereward
Allward, Brian
Altenhof, Laura
Alvarez, Francisco
Amirault, Dorothy
Amirault, Thérèse
Ammann, Raymond
Amos, Elizabeth
Anderson, Bruce W.
Anderson, Doris
Anderson, Edna (M.P.)
Anderson, Elizabeth
Anderson, Marjorie
Anderson, Muriel A. & Jas. H.
Anderson, R.C.
Anderson, S.M.
Andras, Tony
Andrews, Charlie
Andrews, D.G.
Andrews, George
Andrews, Harry W.
Andy, K.
Angebrandt, Matt F.
Angelson, Kenneth

Angle, R.P. Randy
Angus Reid Group
Anjo, William R.
Anstey, Mark
Anstruther, Alex
Antonovitch, Dennis
Appleton, John M.
Archambault, Ghislain
Archibald, Russell W.
Archives Council of Prince Edward Island
Arctic Institute of North America
Ardiel, Laura
Argue, Lois
Argue, Thelma I.
Armstrong, Irwin R.
Armstrong, Joe C.W.
Armstrong, John L.
Arnold, T.
Arnott, Casey
Aronson, Beacha
Aronson, Doron
Aronson, Gordon R.
Arsenault, Claude
Arsenault, K.J.
Arseneault, Guy H. (M.P.)
Artindale & Partners
Artistic Futures
AS-Arinah
Asch, Michael
Ashton, Art
Assad, T.A.
Assels, Margaret
Asselstine, Dean E.
Assembly of British Columbia Arts Councils
Assembly of First Nations
Association canadienne de la radio et de la télévision de langue française
Association canadienne-française de l'Alberta
Association canadienne-française de l'Ontario
Association culturelle franco-canadienne de la Saskatchewan
Association culturelle de Bellevue inc.
Association des enseignantes et des enseignants riens
Association des juristes d'expression française de l'Ontario
Association des juristes d'expression française du Nouveau-Brunswick
Association des juristes catholiques du Québec
Association des parents francophones de Yellowknife
Association des parents du Québec
Association franco-yukonnaise
Association minière du Québec inc.
Association of Canadian Clubs
Association of Manitoba Archivists
Association of Municipalities of Ontario
Association of Universities and Colleges of Canada
Astral Communications
Atamanenko, Alex T.
Atkinson, Don
Atlantic Episcopal Assembly
Augey, Yan
Austin, Neville
Australian National University
Ayden, Edward
Ayoub, Anna
Azoulay, Robert J.
B.C. Coalition of Head Taxpayers, Spouses and Descendants
B.C. Film
B.C. Youth Council
B'Nai Brith Canada
Babiak, E.
Bacsalmasi, Stephen P.
Bage, Sheri
Bailey, E.T.W.
Bailey, Nan
Baillie, Judy
Bain, Dave B.
Bain, William F.C.
Baines, Bob R.W.
Baines, T.F.
Baird, Rebekah
Baire, Gail
Baiton, Grace L.
Baker, Adrien
Baker, Geraldine

Baker, Jack
Bakker, J.J.
Balaban, Alana
Balassone, Gabriel
Balic, Mirko
Ball, Ed
Balm, Mitch B.
Bandy, Dave W.
Banerjee, Chin
Banister, Harold B.
Banks, Margaret A.
Banks, Ted
Banks, William
Barbely, Fredrick
Barclay, F.W.
Barker, Frances & Stanley
Barns, G. Melville
Barnsley, Reginald C.
Barr, Anne
Barratt, Greg
Barraud, E.V.
Barron, Mansell I.
Barter, Rhonda
Bartlett, Jean
Barton, Bernard & Carrie
Baskerville, Grace
Basuk, Jack
Batchelor, John
Bateman, H.E.G.
Batho, John
Battersby, Roy
Battrum, Phyllis L.
Baugh, David J.
Baxter, Barbara
Bayne, Andrea
BCE Inc.
Beakes, Herbert
Bearcroft, Norma
Beard, Holly C.
Beattie-Morison, James
Beatty, Perrin (M.P.)
Beaubien, Paul
Beauchamp, Grégoire
Beauchamp, René C.
Beaudin, Lucien
Beaule, Paul
Beaule, Valerie
Beck, Gerry K.J.
Beck, L. Grant
Beer, Ronald J.
Behr, Carol Joan
Belcher, Jessie M.
Belgrave, Kevin
Bell City Auto Center Inc.
Bell, Ronald G.
Bellan, Ruben C.
Belliveau, Peter
Belliveau, William E.
Bender, J.F.
Benjaminson, M.
Benn, P.J.
Bennett, Jacqueline
Bennett, Richard A.F.
Benson, Carolyn R.
Bentley, C. Fred
Benton, S.B.
Berg, Kenneth L.
Berger, Adrien
Berger, David (M.P.)
Bernier, Alain
Berrigan, G. J.
Berry, A.J.
Berthiaume, Wilfred R.
Bertrand, Antonio
Bertrand, Chantal
Bertrand, Gabrielle (M.P.)
Bertrand, Geo. A.
Berze, Joseph
Betts, Glenn
Bielski, Witoed J.
Biesinger, Larry
Bigas, Jim D.
Billard, Allan
Billowes, Colin
Binnie, Victor
Birch, David J.
Bird, Arthur
Bird, Charles
Birtch, James
Bischof, Leslie J.

Bishop, Anne
Bishop, Collin
Bishop, John M.
Bjornson, David (M.P.)
Black United Front of Nova Scotia
Blackmore, Ewart W.
Blair, Gary L.
Blair, Jean E.
Blake, Cassels & Graydon
Blanchet, Pauline
Blanchette, Alain
Blattberg, Charles
Blecker, Mathias
Bleuer, Otto
Blitzer, Steve
Bloc Québécois
Block, Isaac
Blondeleau, Robert
Bloodworth, E.L.T.
Board of Directors of the Edmonton Northwest Progressive Conservative Board of Trade of Metropolitan Toronto
Bobee, Jay
Boddy, Dale
Boehm, R. WM.
Bogdanovic, Zarko
Boisvert, Michel A.
Boisvert, R.F.
Boivin, Georges
Boivin, Sonia
Boldrini, D^{r} P.
Bolton, Ben
Bongelli, Steve
Bonnett, Diane
Booiman, S.H.
Borbely, A.G.
Borle, Hector
Bosch, Arnold
Bosecker, D.F.
Boser, Walter
Bosveld, B.J.
Bouchard, Roch
Bouchette, Jane & Murray
Boudria, Don (M.P.)
Boudrot, Jason D.L.
Boulter, Joe
Bourget, Gabriel
Bowers, Rachel
Bowes, Mark A.
Bowker, Marjorie
Bowley, R.E.
Boxen, Gloria
Boyarzin, Greg
Boyer, Jean-Guy
Boyle, Nuala M.
Braaten, Larry
Bradford, Henry M.
Bradshaw, David
Bradshaw, Valerie
Brandell, D.L.
Brandl, A.R.
Brandon Women's Study Group
Braukmann, Ralf B.
Bray, Arthur
Brazeau, Maurice
Breakwell, Laurence K.
Brewin, John (M.P.)
Brill, Rudy
Brillinger, R. H.
Brind, Joyce R.
Bripon, A.
Brisco, Howard C.
British Columbia Chamber of Commerce
British Columbia Public Interest Advocacy Centre
Brix-Kugler, Paul
Brock, Herb E.
Brock, Kathy L.
Brode, Patrick
Brooker, Michael
Brooks, Lloyd
Brooks, Lorne K. & Georgina
Broughton, R.W.
Brown, A.E.
Brown, Eileen
Brown, Garfield
Brown, Glenn R.
Brown, Ian
Brown, Michael J.
Brown, Philip

Brown, Walter & Dorothy
Brownhill, Diane
Browning, Dale A.
Brownsdon, Dave
Brownsett, A.
Brull, Howard
Brum, S.M.
Brunelle, Jacques M.
Brunet, Jean-Pierre
Brunet, Jeanne
Bryan, Ernie
Buchanan, Lorne
Bucket, Thunder
Buckley, Adele
Buell, Milton
Buffi, Lenora
Buist, Maisie K.
Bullen, Dennis
Bunn, Jean E.
Bunnister, Donna
Bunting, Mark
Burch, R.J.
Burke, Roger J.
Burkinshaw, Orville V.
Burnaby Art Gallery
Burns, George E.
Burns, R.M.
Bursey, Leonard G.
Burstall, Victor F.
Busch, Gerald S.
Bushell, Beverley
Business Council on National Issues
Butcher, Hubert M.
Buxcey, Jesse
Byess, Karen Schad
Bytown Research Group
Cabrera, Karlo P.
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Canada For All Committee
Canada Life
Canada Trust
Canadian Art Museums
Canadian Association of Broadcasters
Canadian Association of University Teachers
Canadian Association of Visible Minorities
Canadian Bar Association
Canadian Cancer Society
Canadian Catholic School Trustees Association
Canadian Chamber of Commerce
Canadian Citizenship Federation
Canadian Co-operative Association
Canadian Coalition for the Rights of Children
Canadian Committee for a Triple E Senate
Canadian Conference of the Arts
Canadian Construction Association
Canadian Council of Churches
Canadian Council on Social Development
Canadian Criminal Justice
Canadian Day Care Advocacy Association
Canadian Environmental Law Association
Canadian Ethnocultural Council
Canadian Federation of Agriculture
Canadian Federation of Biological Societies
Canadian Federation of Students

Canadian Film & Television Production Association
Canadian Friends Service Committee
Canadian Gas Association
Canadian Home Builders' Association
Canadian Housing and Renewal Association
Canadian Human Rights Commission
Canadian Insolvency Association
Canadian Institute of Traffic and Transportation
Canadian Jewish Congress
Canadian Labour Congress
Canadian Labour Force Development Board
Canadian Manufacturers Association
Canadian Maritime Law Association
Canadian Museums Association
Canadian Parents for French
Canadian Parents for French, Newfoundland and Labrador
Canadian Parks and Wilderness Society
Canadian Parks/Recreation Association
Canadian Pensioners Concerned
Canadian Petroleum Association
Canadian Polish Congress
Canadian Pork Council
Canadian Quebecers for a United and Prosperous anada
Canadian Real Estate Association
Canadian School Boards Association
Canadian Teacher's Federation
Canadian Training and Development Group Inc.
Canadian Union of Public Employees
Canadians for Constitutional Money
Canadians for Equality of Rights Under the Constitution
Canadore College
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Carleton Group of Seven
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Centre for Equality Rights in Accommodation
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Coalition Concerned Canadian Catholics
Coalition for Equality of Newfoundland and Labrador
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Committee for A Rational Canada
Committee of Citizens with Disabilities
Common Agenda Alliance for the Arts
Commonwealth Historic Resource Management Limited
Communicom
Community Services Council
Compu-Clone Computer Solutions Inc.
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Concept Group
Confederation of Regions Manitoba Party
Conference Towards 2000
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Conseil du patronat du Québec
Conseil jeunesse provinciale inc. (Manitoba)
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Cork, Ronald S.
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Cormier, Jean-François
Cormier, L.J.P.
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Corporation of the Town of Prescott
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Dove, Ann
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Drolet, A. Gilbert
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Dwyer, Isabel & Terence
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Equality Eve
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Federation of Prince Edward Island Municipalities
Federation of Saskatchewan Indian Nations
Fédération acadienne de la Nouvelle-Écosse
Fédération culturelle canadienne-française
Fédération des communautés francophones et acadiennes
Fédération des femmes canadiennes-françaises de l'Ontario
Fédération des Franco-Colombiens
Fédération des francophones de Terre-Neuve et du Labrador
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Fédération des jeunes canadiens français inc.
Fédération provinciale des comités de parents inc.
Fédération provinciale des Fransaskoises
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Manitoba Arts Council
Manitoba Black Coalition of Canada
Manitoba Committee for a Triple E Senate
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National Association of Japanese Canadians

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Saskatchewan Human Rights Commission
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Saunders, John M.
Sauriol, André
Sauvé, Robert
Savage, Flo
Saville, Frances
Sawyer, Elizabeth
Sayeau, Mary L.
Sayers, Russell
Scarcella, G.
Schaan, Barbara J.
Schaen, Andrew
Schagen, Lorraine
Scharf, Earl
Scharff, Alan F.
Scheininger, Stephanie
Schell, Florence

Schermerhorn, H.R.
Schioler, John
Schlaht, Troy
Schmalz, Donald J.
Schmidt, D.
Schmidt, Eldon
Schmuland, Allan
Scholz, Peter Samuel Sandler
Schoub, Doreen
Schueler, Sherry
Schultohen, Jane
Schultz, Juergen P.
Schultz, Mathew
Schumacher, E.S.
Science Council of Canada
Scott, Arnold
Scott, Cecil J.
Scott, Craig
Scott, Dawn
Scott, Douglas G.
Scott, Evelyn
Scott, H.
Scott, H.A.D.
Scott, J.W.
Scott, K.H.
Scott, Len
Scott, Norman Patrick
Scott, Patrick F.
Scruton, R.E.
Seafood Producers Association of Nova Scotia
Sealey, Gary
Sebastyan, G.Y. (Stephen)
Seedhouse, T.G.
Seeley, Leroy E.
Selinger, Frank H.
Seller, David M.
Seminiuk, Glen
Sereda, Peter John
Serr, J.
Seto, David
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Seward, L.B.
Seymour, Ian R.
Seymour, M.
Shand, Caje
Shapero, Gerald D.
Shapiro Cohen Andrews Finlayson
Sharpe, Frank
Shatner, Conrad
Shaw, Beverly
Shaw, George
Shaw, Helen
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Shea, Jacqueline
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Shelley, Richard
Shelswell, Craig
Sheng, Robert
Shepherd, Rodney
Shepherd, Sherry
Shibley, Brian
Shill, N.R.
Shirkey, Ray
Shirley, J.L.
Shirley, R.
Shivas, John
Shopland, Harold J.
Shore, Martin
Shortreed, R.
Shufflebotham, D.L.
Shugarman, David
Sibley, George
Side, Sam
Siewert, Dan A.
Sigsworth, John W.
Sigurdson, Fred H.
Silvano, Maturi
Silver, Earl
Sim, Susan
SIM Canada
Simard, Jacques L.
Simard P.
Simcoe North Progressive Conservative Association
Simek, Frank
Simeon, Richard
Siminoski, James E.
Simkin, Kenneth H.R.
Simmons, Douglas
Simon Fraser University Faculty Association

Simpkins, Alex
Simpson, J.
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Sinclair, Verna J.
Sinclair, W.L.
Singerling, Dirk A.
Sivaramalingam, Siva
Slater, David W.
Sloane, W.
Slobodzian, S.
Sloman, Robert
Slote, Murray L.
Small, George W.
Smart, R. Philip
Smith, Agnes
Smith, Diane
Smith, Donald E.
Smith, Doris M.
Smith, Edgar A.
Smith, George Wm.
Smith, Gordon G.
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Smith, Jennifer
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Smith, Marjorie L.
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Smith, Norman V.
Smith, Peter R.
Smith, R. Guy C.
Smith, Rhea
Smith, Ron
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Smith, William E.
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Snewchuk, Ivan
Snihur, H.A.
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Snow, Wanda
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Social Planning Council of Ottawa-Carleton
Société des Acadiens et Acadiennes du Nouveau-Brunswick
Société franco-manitobaine
Société nationale des Québécois, secteur Val d'Or
Sokoloff, S.
Solonynko, Card
Sonderland, E.V.P.
Sorensen, Poul
Sotomayor, Cirilo J.
Southward, K.S.
Soward, Stuart E.
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Speller, Bob (M.P.)
Spence, Tom
Spencer, Joan E.
Spencer, Miles E.
Spinney, Robert E.
Sport Federation
Sproule, Robert S.
Spurr, Carol A.
Squamish Nation
St-George, Michael
St-Jean, Jeanne
St-Louis, Stéphane
St. Marie, Joseph
Stabins, Andy
Stabler, Eric
Stackhouse, John
Stafford, Carl D.
Stagey, Gail
Stagg, Fred A.
Standing Committee on Communications and Culture
Standing Committee on Environment
Standing Committee on Human Rights and the Status of Disabled Persons
Stapleton, Jim
Stasiuk, Dan
States of Mind
Ste-Croix, Yvonne
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Steeves, Daniel R.
Steeves, W.M.
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Stepien, Gary J.
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Stevenson, Gordon
Stevenson, J.T.
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Stewart, Diane
Stewart, J.J.
Stewart, Keith G.
Stewart-Muldoon, Ann Kathleen
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Stewart, Robert C.
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Stewart, William L.
Stewart, Wm. M.
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Stirling, Robert W.
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Storey, Monica
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Strathcona Constitution Committee
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Sullivan, Harry M.
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Sumter-Freitag, Addena
Sunatori, Go Simon
Sundance Housing Co-operative
Sundararaj, Subramaniam
Sunderland, E.V.P.
Surrey Chamber of Commerce
Surrey Museum, B.C.
Sutherland, Shawn
Suthren, Joseph W.
Sutor, Diane
Sutor, Scott
Sutor, Stan
Sutowiffe, H.F.
Sutton District High School
Svensson, Ulf
Swarbrick, Glenn
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Switzer, Bruce
Switzer, Gary
Sword, Karen
Synod of Alberta and the Territories,
Evangelical Lutheran Church in Canada
Szekat, Linda & Egon
Szpiro, Daniel A.
Taddeo, Nelson S.
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Tapley, L.E.
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Task Force on Canadian Federalism
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Taylor, Gladys
Taylor, Gord J.R.

Taylor, J.M.
Taylor, James W.
Taylor, John Ross
Taylor, McCaffrey, Chapman and Sigurdson
Taylor, Robert B.
Taylor, Ron
Team Zebre
Ted Regan Productions
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Telfer, David G.
Telfser, Henry
Terrell, David S.
Territorial Committee
Thachuk, Rick
Tham, Angeline
Thériault, Fernando
Thérien, Roger
Thiesenhausen, Olive
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Thiessen, Irmgard
Thiessen, Raphael
Thomas, Barbara
Thomas, Bev
Thomas, David
Thomas, J.R.
Thomas, Michael Sr.
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Thompson, Melvin F.
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Thompson, Patrick R.
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Thomson, J.M.
Thomson, James John
Thomson, William
Thorn, Sybil
Thornley, Barbara
Thornton, E & M
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Thurley, Michael
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Tigg, Raymond J.
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Tilston, Luck
Timberg, Marion
Timmermans, John
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Tkatch, John Willard
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Toporoski, Richard M.
Toronto Plastics Limited
Toth, Frank & Marion
Tourigny, Bruno
Towers, R.M.
Town of Neepawa
Townshippers' Association
Trabold, Karl J.
Trafford, John J.
Tran, Ann
Travell, R.
Travers, E.G.
Tremblay, Arthur (Senator)
Tremblay, Denis
Tremblay, Renelle
Tretise, E.J.
Trevitt, Dr. Frank E.
Trotter, Sheila
Truijen, Eric & Lorrie
Turcotte, Jim & Dorothy
Turner, David J.
Turner, Garth, M.P.
Turner-Gyorgy, Robyn
Turner, John
Turner, John C.
Turner, John M.P.
Turner, M.
Turpel, Mary Ellen E.
Tushaus, Jeannie
21st Century Canada Committee
Twigge, David
Tyas, Philip Eldon
Tylucki, Ted
Umbach, Ronald H.
Union of Manitoba Municipalities
Union of Nova Scotia Indians

United Church of Canada
United Nurses of Alberta
Unity
Unity Group of Kingsville
University of Alberta
University of Alberta Students' Union
University of B.C.
University of Saskatchewan
University of Toronto
University of Western Ontario
Unrau, Henry B.
Upchan, Marie (Trudy)
Uridge, Michael K.
Vadnais, Yvan
Valade, George
Valcin, Yvon
Valentine, Harry C.
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Van De Walle, Walter (M.P.)
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Van Heerden, Pieter
Van Orden, Maynard
Vanclief, Lyle
Vancouver Foundation
Vancouver Port Corporation
Vancouver Symphony Orchestra
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Vanderhorst, Geo.
Vandor, Tom
Vandurme, Ray
Vankoughnet, Bill (M.P.)
Varga, Chev. Geza
Varin, Pierre
Venables, Nev L.
Verdegem, Medard L.
Verner, Robert
Vick, Danny
Viens, Gary
Vinay, Jean-Paul
Vincent, Jean Robert
Virage - Famille - Santé - Loisirs
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Von Boetticher, Pete
Vooro, Matt
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Wade, John C.L.
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Walcier, Y.
Walde, C.M.
Walford, J.N.
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Walker, Eileen
Walker, Kathleen
Walker, R. Garth
Walla, J.
Wallace, Elisabeth
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Wallace, Philip R.
Wallie, William
Wallis, Ian D.
Walmesley, R.
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Walsh, Brian
Walsh, F.R.
Walsh, John Kenneth
Walton, Kathleen
Wanigaratne, Susiri C.
Wankel, W.J.
Ward, Alban
Ward, B.
Ward, Christine
Ward, Ronald
Wardrop, Brenda
Ware, Dennis W.
Warner, Mrs.
Warren, Florence A.C.
Wasson, Dean
Wasteneys, Geoffrey
Waterland, Thomas M.
Watkins, Peter B.
Watson, Albert
Watson, Flora A.
Watson, Margaret & John
Watson, Muriel
Watson, Robert Kelley
Watson, William S.
Watson, Winnifred

Watton, Daphne
Watts, Christopher
Watts, Fred
Watts, K.H.
Watts, Marjorie
Wayne, Donna
Weadon, Bryn M.
Weaver, G.E.
Weaver, Norton & Lillian
Webb, M.F.
Webb, Peter
Webber, Peter
Webster, Christopher
Webster, George
Wedgerfield, Heide
Weinberger, Alisa
Weinrib, Lorraine
Weir, Arthur
Weiss, George R.
Welfare, David
Weller, Norman S.
Wells, Grace M.
Wells, Phillip H.
Wendorf, Ruth
Werezak, Dave
Werner, Colin
West Coast Environmental Law Association
West, John M.
West, S.G.
Westall, Alma
Westerbert, Arnold R.
Western Coalition for Equality Rights
Westervelt, Myrle
Westman Coalition for Equality Rights
Weyrich, F. Jr.
Wheeler, John M.
Whelan, Ben
Whelan, Susan
Wherry, Lillian
Whinoup, Greg
Whistler, Barbara K.
Whitaker, Ian
Whitbourn, Fred
White, Agnes
White, Roger R.
White, Sean
Whitehead, Lois
Whyte, John D.
Wiebe, Armin
Wiedenfeld, Liselotte
Wierzchowski, Mina
Wigle, Robert M.
Wilbee, S.
Wild, Shelley
Wildlife Habitat Canada
Wildsmith, Bruce H.
Wilkins, D.
Wilkins, J.
Willard, Dorothy J.
Willcock, Elizabeth
William, Byene
Williams, Brock
Williams, Bryan
Williams, C.D.
Williams, Clifford J.
Williams, Colin J.
Williams, G.
Williams, Marc
Williams, Marge
Williams, R.D.
Williams, Sue P.
Willits, Edith M.
Willits, Gerald G.
Wilson, Connie
Wilson, David N.
Wilson, Douglas G.
Wilson, E.C. Grant
Wilson, Geoff (M.P.)
Wilson, Gordon
Wilson, J.A.
Wilson, Murray
Wilson, Neil
Wilson, S.E.
Wilson, W.W.
Wilstead, Nadine
Windsor & District Chamber of Commerce
Windsor-Essex Skills Training Advisory Committee
Windsor Homeless Coalition
Windsor Islamic Association

Winkworth, A.
Winnipeg Chamber of Commerce
Winter, Ann
Winter, Paul
Winterbon, Bruce
Wipprecht, John
Wise, Leonard
Wittenberg, Gerritolina G.
Wodehouse, Herbert
Woehrling, José
Wohl, Jon
Wolff, Clark
Wolff, Earl
Wolff, Kathryn
Wolff Von Wulfing, W.J.
Women Alive
Women on Wings
Wood, Charmaine
Wood, Gary
Woodard, A.T.
Woods, B.
Woods, Bradley D.
Woods, Robert Matthew
Woolverton, Bill
World Federalists of Canada
Wotta, Joe
Wright, Bruce F.
Wright, Eric N.
Wright, Moiya
Wright, Ronn
Wrightman, Audrey
Writers Union of Canada
WRS Associates
Wurm, Hans
Wyatt, A.R.C. and Muriel
Wylie, H.
Wyss, Jennifer
Yakimov, Andrei
Yanko, Paula
Yaraskavitch, James
Yaremchuk, Ken
Yates, James
Yates, Ruth E.
Yazbeck, James T.
Yeo, Harvey M.
Yorick, V. Jeanne
York University
Youck, V. Jeanne
Young, Aurele
Young, Dennis
Young, Douglas
Young, John B.
Young, K.
Young Liberals of Canada
Young, Murray
Young, R.H.
Yue, Chi Lap
Yukon Human Rights Commission
Yukon Independent Alliance
Yukon Party
Yukon Status of Women Council
Zarand, Noreen
Zarubiah, Peter
Zuercher, Werner
Zuger, E.
Zyri, Adam

A copy of the relevant Minutes of Proceedings and Evidence of the Special Joint Committee on a Renewed Canada *(Issues Nos. 1 to 65 of the Third Session of the Thirty-Fourth Parliament and Issue No. 66, which includes this Report)* is tabled.

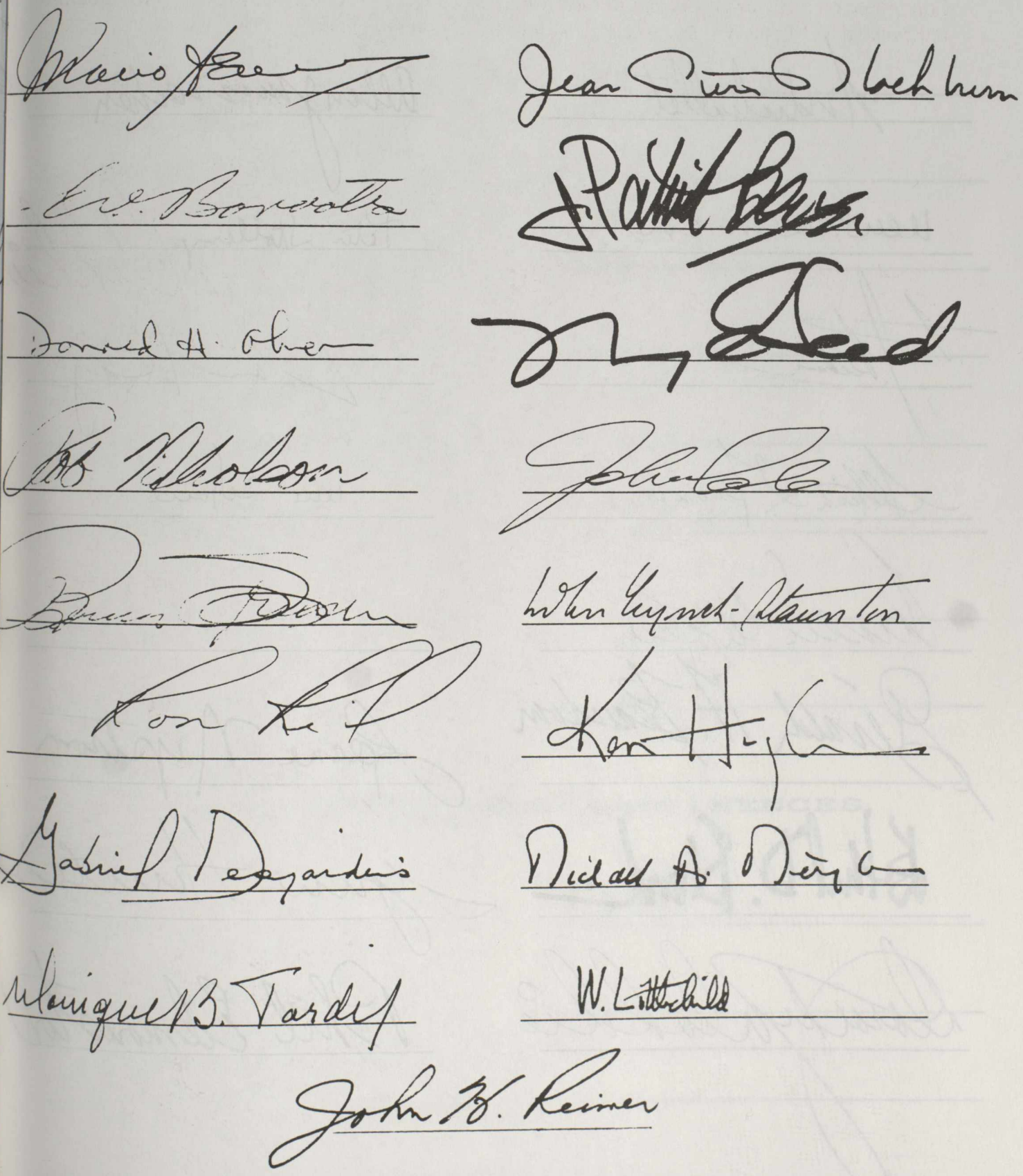
Respectfully submitted,

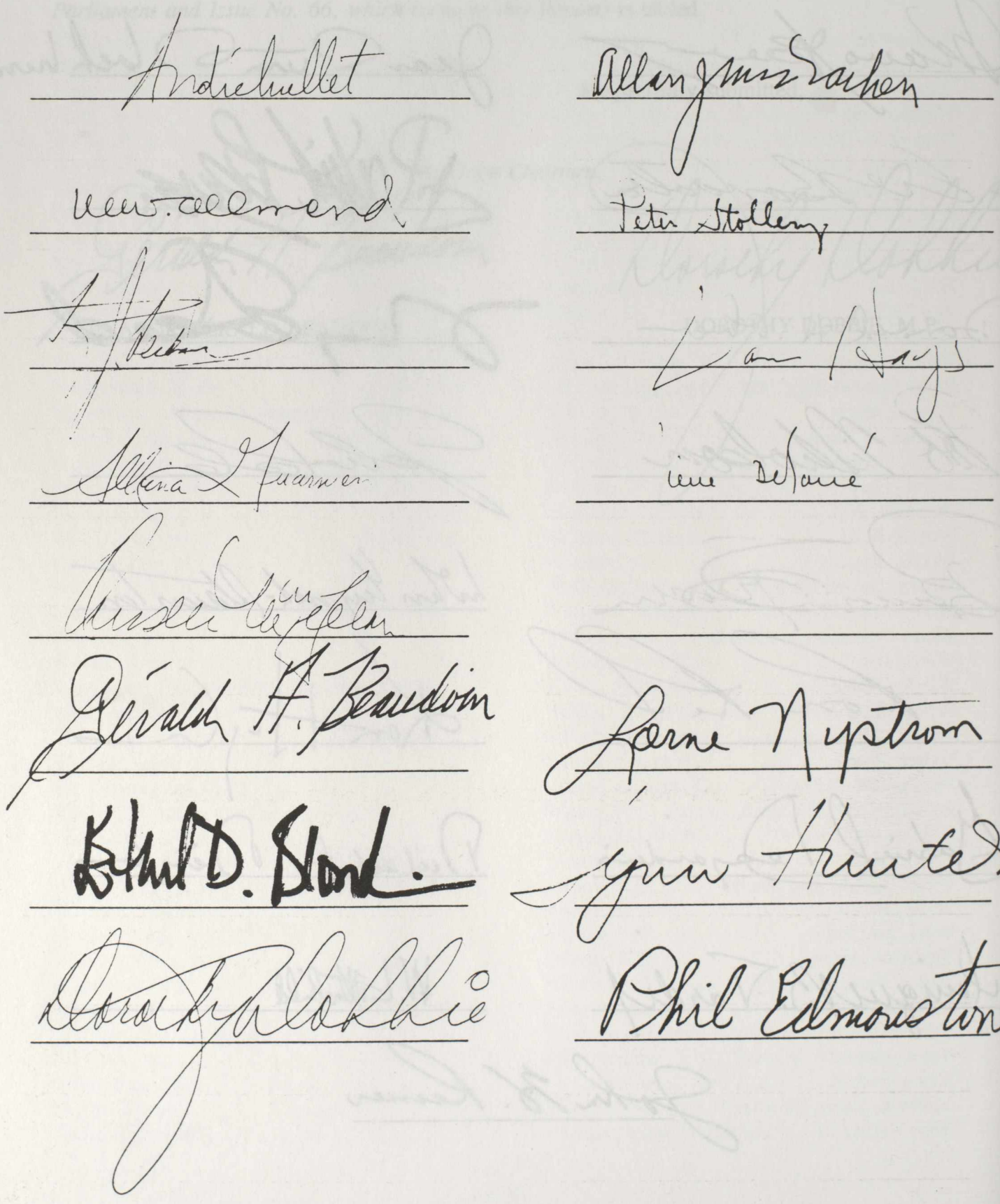
The Joint Chairmen,

SENATOR GÉRALD BEAUDOIN

DOROTHY DOBBIE, M.P.

FOR/POUR





AGAINST/CONTRE

ABSTENTATIONS/ABSTINENCES

ABSTENTATIONS/ABSENTIONS

MINUTES OF PROCEEDINGS

THURSDAY, FEBRUARY 27, 1992
(71)

[Text]

The Special Joint Committee on a Renewed Canada met *in camera* at 8:20 o'clock p.m. this day, in Room 200 of the West Block, the Joint Chairmen, the Honourable Senator Gérald Beaudoin and Dorothy Dobbie, presiding.

Members of the Committee present:

Representing the Senate: The Honourable Senators E.W. Barootes, Gérald Beaudoin, Mario Beaulieu, Pierre De Bané, Daniel Hays, John Lynch-Staunton, Allan J. MacEachen, Michael Meighen, Donald Oliver and Peter Stollery.

Representing the House of Commons: Jean-Pierre Blackburn, Ethel Blondin, Gabriel Desjardins, Dorothy Dobbie, Ronald Duhamel, Benno Friesen, Albina Guarnieri, Ken Hughes, Lynn Hunter, Wilton Littlechild, Russell MacLellan, Rob Nicholson, Lorne Nystrom, André Ouellet, Ross Reid, John Reimer, Monique B. Tardif and Ian Waddell.

Other members present: Phillip Edmonston, Howard McCurdy and Nelson Riis.

In attendance: David Broadbent, Executive Director and Roger Tassé, Constitutional Adviser.

Pursuant to its Orders of Reference dated Wednesday, June 19, 1991 and Friday, June 21, 1991, the Committee resumed its study of the Government's proposals for a Renewed Canada *(see Minutes of Proceedings, Wednesday, September 25, 1991, Issue No. 1).*

The Committee proceeded to consider its draft Report.

At 8:32 o'clock p.m., the Committee adjourned to the call of the Chair.

FRIDAY, FEBRUARY 28, 1992
(72)

The Special Joint Committee on a Renewed Canada met *in camera* at 10:30 o'clock a.m. this day, in Room 200 of the West Block, the Joint Chairmen, the Honourable Senator Gérald Beaudoin and Dorothy Dobbie, presiding.

Members of the Committee present:

Representing the Senate: The Honourable Senators Gérald Beaudoin, Mario Beaulieu, John Lynch-Staunton, Michael Meighen, Donald Oliver and Nancy Teed.

Representing the House of Commons: Jean-Pierre Blackburn, Patrick Boyer, John Cole, Gabriel Desjardins, Dorothy Dobbie, Phillip Edmonston, Albina Guarnieri, Ken Hughes, Lynn Hunter, Wilton Littlechild, Rob Nicholson, Lorne Nystrom, André Ouellet, Ross Reid, John Reimer and Monique B. Tardif.

Other members present: Iain Angus, Howard McCurdy, Marcel Prud'homme and Ian Waddell.

In attendance: David Broadbent, Executive Director and Roger Tassé, Constitutional Adviser.

Pursuant to its Orders of Reference dated Wednesday, June 19, 1991 and Friday, June 21, 1991, the Committee resumed its study of the Government's proposals for a Renewed Canada *(see Minutes of Proceedings, Wednesday, September 25, 1991, Issue No. 1).*

The Committee resumed consideration of its draft Report.

On motion of Jean-Pierre Blackburn (seconded by André Ouellet and Lorne Nystrom), it was agreed, — That the draft Report be adopted as the Committee's Report to Parliament and that the Committee staff and party legal advisers be authorized to correct any technical, typographical, stylistic or translation errors contained in the Report and that the Report with any changes be deposited with the Clerks of both Houses before midnight tonight.

On motion of Monique B. Tardif, it was agreed, — That the Committee authorize the printing of 10,000 copies of Issue No. 66 which includes the Report of the Committee.

On motion of Ken Hughes, it was agreed, — That the Committee authorise the production of audio-cassette versions of its Report in both official languages.

On motion of Albina Guarnieri it was agreed, — That the Principal Clerk of Committees of the House of Commons be authorized to reprint copies of the Committee's Report.

At 11:05 o'clock p.m., the Committee adjourned to the call of the Chair.

Richard Rumas
Charles Robert

Joint Clerks of the Committee

ACKNOWLEDGEMENTS

The members of the Special Joint Committee gratefully acknowledge the dedication and hard work of the staff in the preparation and production of this report, and in the work of the Committee.

Executive Director:

David Broadbent

Joint Clerks:

Charles Robert
Richard Rumas

Other Committee Clerks:

Carol Chafe
Bernard Fournier
Lise Laramée
François Prégent
Richard Dupuis
Line Gravel
Eugene Morawski

Principal Constitutional Advisor:

Roger Tassé

Associate Constitutional Advisor:

Ralph Heintzman

Researchers and Constitutional Advisors Group:

Robert A. Archambault
Ross Hornby
Patrice Muller
Jack Stilborn
Daniel Dupras
John Mark Keyes
Rod Quiney

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Gilles Touchette
Richard Danis
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David Gates
Michael A. O'Neill
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Brian Doody
Lawrence Euteneier
Pierre Marquis

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Nancy Rochon
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Margaret Brown
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Nancy Coelho
Diane Dorion
Francine Flérangile
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Eric Maldoff, Lib.
Guy Pratte, Lib.
Pierre Thibault, P.C.

Parliamentary Interns:

Tony Concil
Karen Keyes
Martha Nelems
Jennifer Woodside
David Howarth
Peter Mabee
Jessica Rouleau

In addition, appreciation and thanks are extended to the many other individuals who contributed their time and effort. Special mention is made to the services of the House of Commons and the translation and interpretation services of the Secretary of State.

Notes

SÉNAT

CHAMBRE DES COMMUNES

Fascicule N° 66

Le jeudi 27 février 1992
Le vendredi 28 février 1992

Coprésidents :
L'hon. Gérald Beaudoin, sénateur
Dorothy Dobbie, députée

SENATE

HOUSE OF COMMONS

Issue No. 66

Thursday, February 27, 1992
Friday, February 28, 1992

Joint Chairmen:
Hon. Gérald Beaudoin, Senator
Dorothy Dobbie, M.P.

Procès-verbaux et témoignages du Comité mixte spécial du Sénat et de la Chambre des communes sur le

Renouvellement du Canada

Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on a

Renewed Canada

CONCERNANT :

Les propositions du gouvernement du Canada relatives au renouvellement du Canada.

Y COMPRIS :

Le Rapport au Sénat et à la Chambre des communes

RESPECTING:

The Government of Canada's proposals for a renewed Canada.

INCLUDING:

The Report to the Senate and to the House of Commons

Troisième session de la trente-quatrième législature, 1991-1992

Third Session of the Thirty-fourth Parliament, 1991-92

COMITÉ MIXTE SPÉCIAL DU SÉNAT ET DE LA CHAMBRE DES COMMUNES SUR LE RENOUVELLEMENT DU CANADA

Coprésidents :

L'hon. Gérald Beaudoin, sénateur
Dorothy Dobbie, députée

Représentant le Sénat :

Les honorables sénateurs

E.W. Barootes
Gérald Beaudoin
Mario Beaulieu
Pierre De Bané
Daniel Hays
Allan J. MacEachen
Michael Meighen
Donald Oliver
Peter Stollery
Nancy Teed — (10)

Représentant la Chambre des communes :

Députés

Warren Allmand
Jean-Pierre Blackburn
Ethel Blondin
Gabriel Desjardins
Dorothy Dobbie
Ronald Duhamel
Phillip Edmonston
Benno Friesen
Albina Guarnieri
Ken Hughes
Lynn Hunter
Wilton Littlechild
David MacDonald
Russell MacLellan
Rob Nicholson
Lorne Nystrom
André Ouellet
Ross Reid
John Reimer
Monique B. Tardif — (20)

SPECIAL JOINT COMMITTEE OF THE SENATE AND THE HOUSE OF COMMONS ON A RENEWED CANADA

Joint Chairmen:

The Hon. Gérald Beaudoin, Senator
Dorothy Dobbie, M.P.

Representing the Senate:

The Honourable Senators

E.W. Barootes
Gérald Beaudoin
Mario Beaulieu
Pierre De Bané
Daniel Hays
Allan J. MacEachen
Michael Meighen
Donald Oliver
Peter Stollery
Nancy Teed — (10)

Representing the House of Commons:

Members

Warren Allmand
Jean-Pierre Blackburn
Ethel Blondin
Gabriel Desjardins
Dorothy Dobbie
Ronald Duhamel
Phillip Edmonston
Benno Friesen
Albina Guarnieri
Ken Hughes
Lynn Hunter
Wilton Littlechild
David MacDonald
Russell MacLellan
Rob Nicholson
Lorne Nystrom
André Ouellet
Ross Reid
John Reimer
Monique B. Tardif — (20)

(Quorum 13)

Les cogreffiers du Comité

Charles Robert

Richard Rumas

Autres sénateurs qui ont participé aux travaux du Comité :

Willie Adams
Eric Berntson
Lorne Bonnell
Pat Carney
Claude Castonguay
Solange Chaput-Rolland
Paul David
Mabel Deware
Consiglio Di Nino
William Doody
Joyce Fairbairn
Michael Forrestall
Royce Frith
Philippe Gigantès
Normand Grimard
Stanley Haidasz
Jacques Hébert
Janis Johnson
Noel Kinsella
Michael Kirby
John Lynch-Staunton
Finlay MacDonald
Heath Macquarrie
Gildas Molgat
Joan Neiman
Bud Olson
Maurice Riel
John Stewart
John Sylvain
Arthur Tremblay
Walter Twinn

Autres députés qui ont participé aux travaux du Comité :

Jack Anawak
Ken Atkinson
Lloyd Axworthy
David Berger
Gabrielle Bertrand
Maurizio Bevilacqua
Bud Bird
David Bjornson

(Quorum 13)

Charles Robert

Richard Rumas

Joint Clerks of the Committee

Other Senators who served on the Committee:

Willie Adams
Eric Berntson
Lorne Bonnell
Pat Carney
Claude Castonguay
Solange Chaput-Rolland
Paul David
Mabel Deware
Consiglio Di Nino
William Doody
Joyce Fairbairn
Michael Forrestall
Royce Frith
Philippe Gigantès
Normand Grimard
Stanley Haidasz
Jacques Hébert
Janis Johnson
Noel Kinsella
Michael Kirby
John Lynch-Staunton
Finlay MacDonald
Heath Macquarrie
Gildas Molgat
Joan Neiman
Bud Olson
Maurice Riel
John Stewart
John Sylvain
Arthur Tremblay
Walter Twinn

Other Members of Parliament who served on the Committee:

Jack Anawak
Ken Atkinson
Lloyd Axworthy
David Berger
Gabrielle Bertrand
Maurizio Bevilacqua
Bud Bird
David Bjornson

William Blaikie
Patrick Boyer
Catherine Callbeck
Coline Campbell
Michel Champagne
Lee Clark
John Cole
Doug Fee
Jean-Robert Gauthier
Ross Harvey
Bob Hicks
David Kilgour
Shirley Maheu
Paul Martin
Howard McCurdy *
Joe McGuire
Rod Murphy
Rey Pagtakhan
George Proud
Jean-Marc Robitaille
Larry Schneider
René Soetens
Barbara Sparrow
Marcel Tremblay
Walter Van De Walle
Ian Waddell *
David Walker
Dave Worthy

* Participants assidus aux travaux du Comité

William Blaikie
Patrick Boyer
Catherine Callbeck
Coline Campbell
Michel Champagne
Lee Clark
John Cole
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Barbara Sparrow
Marcel Tremblay
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David Walker
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* Regular participants of the Committee

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ORDRES DE RENVOI DE LA CHAMBRE DES COMMUNES

Extrait des Procès-verbaux de la Chambre des communes du mercredi 19 juin 1991:

M. Clark (Yellowhead), appuyé par Mme Vézina, propose, - Que soit constitué un Comité mixte spécial du Sénat et de la Chambre des communes qui sera chargé d'examiner, en vue de présenter des recommandations au Parlement, les propositions relatives au renouvellement du Canada contenues dans les documents dont pourra le saisir le gouvernement;

Que le Comité mixte spécial soit constitué de quinze députés et de dix sénateurs, et que les députés membres du Comité soient désignés lorsque le Comité permanent de la gestion de la Chambre fera rapport, lequel rapport sera réputé avoir été adopté au moment de son dépôt ou, si la Chambre ne siège pas au moment du rapport du Comité permanent de la gestion de la Chambre ledit rapport sera jugé en accord quand il sera déposé auprès du Greffier de la Chambre des communes;

Que le Comité soit autorisé à créer, parmi ses membres, les sous-comités qu'il peut juger bon de créer et à leur déléguer la totalité ou une partie de ses pouvoirs, sauf celui de faire rapport directement à la Chambre;

Que le Comité soit autorisé à siéger pendant les séances de la Chambre des communes et les périodes d'ajournement;

Que le Comité, ou l'un de ses sous-comités, soit autorisé à se déplacer au Canada et à tenir des audiences publiques;

Que le Comité donne l'occasion aux Canadiens de participer pleinement à l'élaboration du plan d'action du gouvernement canadien pour le renouvellemnet du Canada;

Que le Comité soit autorisé à tenir des séances conjointes avec des comités ou des députés d'assemblées législatves provinciales ou territoriales;

Que le Comité mette au point des mécanismes qui permettront aux peuples autochtones de participer pleinement à l'élaboration du plan d'action du gouvernement canadien pour le renouvellement du Canada, et, en particulier en ce qui concerne les questions qui les intéressent particulièrement;

Que le Comité soit autorisé à convoquer des personnes, à exiger la production de documents et dossiers, à interroger des témoins et à faire imprimer au jour le jour les documents et témoignages dont il peut ordonner l'impression;

Que le Comité soit autorisé à mettre en place des mécanismes dans le but d'encourager et de faciliter la participation des individus et des groupes de Canadiens;

Que le Comité soit habilité à autoriser, s'il le juge opportun, la radiodiffusion et la télédiffusion de la totalité ou d'une partie des ses délibérations et de celles de ses sous-comités, conformément aux principes et pratiques qui régissent la diffusion des délibérations de la Chambre des communes;

Que des allocations soient accordées au Comité afin de lui permettre de retenir les services d'experts;

Que le Comité soit autorisé à retenir les services d'employés professionnels, de bureau et en sténographie que les coprésidents jugeront à propos;

Que le Comité présente son rapport au plus tard le 28 février 1992. Toutefois, si la Chambre ne siège pas, le rapport sera réputé avoir été présenté le jour où il sera déposé auprès du Greffier de la Chambre des communes et du Greffier du Sénat;

Que les changements dans la liste des membres du Comité s'appliquent immédiatement après que le député qui agit comme whip en chef de tout parti reconnu en a déposé avis sous sa signature auprès du greffier du Comité;

Que le quorum soit fixé à treize membres du Comité lorsque celui-ci doit voter, se prononcer sur une résolution ou prendre une décision, à condition que les deux Chambres soient représentées, et que les coprésidents soient autorisés à tenir des séances, à entendre des témoignages et à en autoriser l'impression lorsque neuf membres du Comité sont présents, à condition que les deux Chambres soient représentées; et

Qu'un message soit envoyé au Sénat le priant de se joindre à la Chambre pour les fins susmentionnées et de choisir, s'il le juge opportun, dix sénateurs pour la représenter audit Comité mixte spécial.

ATTESTÉ

Le Greffier de la Chambre des communes

ROBERT MARLEAU

ORDRES DE RENVOI DU SÉNAT

Le vendredi 21 juin 1991

ORDONNÉ : Qu'un message soit transmis à la Chambre des communes pour l'informer que le Sénat se joint à la Chambre des communes pour former un comité mixte spécial afin d'examiner les propositions du gouvernement pour le renouvellement de la Confédération canadienne contenues dans des documents devant être renvoyés audit comité et de faire des recommandations à leur sujet au Parlement;

Que le comité mixte spécial soit composé de dix sénateurs et de vingt députés.

Que le quorum du comité mixte soit de treize membres chaque fois qu'un vote, une résolution ou toute autre décision est pris, pourvu que les deux Chambres soient représentées, et que les coprésidents soient autorisés à tenir des audiences ainsi qu'à recevoir des témoignages et à en autoriser l'impression lorsque neuf membres sont présents pourvu que les deux Chambres soient représentées;

Que les sénateurs dont les noms suivent soient désignés pour représenter le Sénat au sein dudit comité mixte : les honorables sénateurs Atkins, Balfour, Barootes, Beaudoin, Beaulieu, Bélisle, Frith, Gigantès, MacEachen et Molgat;

Que le comité mixte soit mandaté pour permettre aux Canadiens de participer pleinement à l'élaboration du plan de renouvellement du gouvernement du Canada;

Que le comité mixte soit mandaté pour mettre en place des mécanismes propres à encourager et à faciliter la participation de particuliers et de groupes;

Que le comité mixte soit mandaté pour élaborer des procédures qui permettent aux peuples autochtones de participer pleinement à l'élaboration du plan de renouvellement du gouvernement du Canada, et, en particulier, sur des questions les intéressant spécialement;

Que le comité mixte soit mandaté pour présenter son rapport final au plus tard le 28 février 1992;

Que, dans l'éventualité où le Sénat ou la Chambre des communes ne siégerait pas le jour du dépôt du rapport auprès du greffier du Sénat et du greffier de la Chambre des communes, le rapport soit réputé avoir été déposé;

Que le comité mixte soit autorisé à constituer, parmi ses membres, les sous-comités qu'il estime nécessaires et à leur déléguer n'importe lequel de ses pouvoirs sauf celui de faire rapport au Sénat;

Que le comité mixte ou ses sous-comités soient autorisés à se déplacer et à tenir des audiences publiques partout à travers le Canada;

Que le comité mixte soit autorisé à siéger pendant les séances et ajournements du Sénat;

Que le comité mixte soit autorisé à tenir des audiences conjointement avec des comités ou des membres des assemblées provinciales et territoriales;

Que le comité mixte soit autorisé à convoquer des personnes et à exiger la production de documents et dossiers, à interroger des témoins et à faire imprimer au jour le jour les documents et témoignages dont il peut ordonner l'impression;

Que le comité mixte soit autorisé à autoriser, quand il le juge à propos, la radiotélédiffusion de tout ou d'une partie de ses délibérations ou des délibérations de ses sous-comités sous réserve des principes et des usages régissant la radiotélédiffusion des délibérations de la Chambre des communes;

Que les partis représentés au sein du comité mixte reçoivent une allocation pour obtenir l'aide d'experts dans l'accomplissement des travaux du comité en proportion de leur représentation à la Chambre des communes; et

Que le comité mixte soit autorisé à engager les spécialistes, les commis et les sténographes jugés nécessaires par les coprésidents.

ATTESTÉ

Le Greffier du Sénat

GORDON BARNHART

SOMMAIRE

Au bout de notre extraordinaire entreprise, nous reprenons espoir pour le Canada et nous sommes optimistes. Les Canadiens qui ont communiqué avec nous — par lettre, mémoire ou de vive voix lors de nos audiences et des cinq conférences constitutionnelles — nous ont rappelé des traits de notre caractère national tant admirés à l'étranger et que nous considérons trop souvent comme allant de soi.

Ils ont fait preuve de courtoisie, de tolérance, de savoir-vivre, de solidarité et de générosité, toutes qualités que nous aimons à considérer comme des traits distinctifs chez nous, mais que nous craignons parfois perdues. Au cours des derniers mois, le bon sens des Canadiens a repris place dans la vie publique. Leur modération, leur amour du pays, leur désir de jeter des ponts par-dessus les obstacles de la langue, de la région ou de la culture nous ont partout frappés et nous ont remplis de gratitude. Il nous semble que nous sommes en train de renouveler non pas seulement notre pays ou notre Constitution, mais notre foi en nous-mêmes.

Comment nous avons procédé

Le Comité mixte spécial sur le renouvellement du Canada a été établi par un ordre de la Chambre des communes en date du 19 juin 1991 et par un ordre du Sénat en date du 21 juin 1991. Les deux Chambres nous ont chargé d'enquêter et de faire rapport au Parlement sur les propositions de renouvellement du Canada présentées par le gouvernement fédéral. Nous avons reçu 3 000 mémoires — un record dans les annales parlementaires —, tenu 78 séances d'une durée totale de 227 heures, et entendu 700 témoins.

Le Comité s'est rendu dans chaque province et territoire et a participé à cinq conférences constitutionnelles nationales organisées par cinq grands instituts de recherche du pays dans le but d'examiner tous les tenants et aboutissants des propositions fédérales. La bonne volonté et l'intérêt sincère de tous les groupes et particuliers qui se sont donné la peine de rédiger des mémoires ou de témoigner ou qui ont participé aux conférences constitutionnelles nous ont fortement impressionnés. La détermination de ces derniers à comprendre le point de vue des autres et à dégager le meilleur consensus possible pour le pays nous a montré une fois de plus ce que le Canada a de si authentiquement admirable et pourquoi il lui faut demeurer uni.

Les assises de l'avenir

Dans les moments de doute, les Canadiens semblent penser que l'expérience canadienne est plus fragile ou artificielle qu'elle ne l'est en réalité. C'est compréhensible, mais cela démontre un manque de vision. Le Canada d'aujourd'hui a des racines beaucoup plus profondes et anciennes qu'on ne le croit. La vie des Canadiens est riche de thèmes ou d'idéaux qui

constituent les assises de notre pays et de notre Constitution et qui devraient nous donner foi en l'avenir : notre quête d'une identité fondée sur des relations justes entre les Canadiens et entre les groupes ethniques, l'établissement d'un espace économique pour assurer un degré élevé de bien-être à la société, une tradition parlementaire à l'origine d'une culture politique caractérisée par le civisme, le respect mutuel et une liberté toujours plus grande dans la paix, l'ordre et le bon gouvernement, et enfin, une préférence marquée pour l'évolution plutôt que pour le changement radical ou révolutionnaire.

Nous croyons que le fédéralisme est un régime particulièrement bien adapté aux deux grandes exigences et tendances du monde contemporain : le besoin d'autonomie à l'échelle provinciale ou locale, et le besoin simultané de faire partie de regroupements politiques et économiques capables de relever le défi mondial et de résoudre les problèmes d'un monde de plus en plus petit. L'un des grands thèmes de notre rapport est que l'interdépendance est de plus en plus une réalité dans notre univers contemporain. La tâche qui s'impose partout, aux gouvernements et aux peuples, est celle de *gérer l'interdépendance*. Ce qui fait la force du fédéralisme, c'est qu'il permet justement de gérer notre interdépendance inévitable dans l'intérêt de tous les Canadiens sans négliger le caractère distinct et les besoins spécifiques de nos multiples collectivités.

Les éléments du renouveau

Dans le cadre du renouvellement de leur Constitution et de leur pays, les Canadiens doivent avant tout s'acquitter d'une double mission, une mission d'*intégration* et une mission de *redéfinition*, dont chacune comporte quatre volets.

La mission de redéfinition

Elle consiste à nous redéfinir en fonction d'une nouvelle vocation et à nous donner les moyens d'atteindre nos objectifs.

1) À cette fin, nous devons d'abord ajouter à la Constitution une disposition, parfois appelée clause Canada, qui nous dira, ainsi qu'au monde entier, qui nous sommes et ce que nous aspirons à devenir comme entité politique. Nous avons, à cet égard, recommandé un préambule et une clause Canada.

2) Le deuxième volet devrait consister à établir entre les Canadiens et entre les partenaires politiques de la fédération un nouveau contrat social que nous appelons Pacte social canadien. Le présent rapport en comporte une ébauche que les Canadiens auront tout loisir d'étudier.

3) A notre avis, la Constitution devrait aussi comporter une déclaration par laquelle les Canadiens et leurs gouvernements s'engageraient à se vouer à l'atteinte des importants objectifs économiques de notre pays. Nous avons appelé cet élément du renouvellement Déclaration de l'union économique. La Déclaration et le Pacte se complètent et se

renforcent mutuellement. En effet, le nouveau contrat social sera un élément important du renouveau économique, et une économie compétitive est une condition du bien-être de la société.

4) Aucune de ces réalisations ne nous mènera bien loin, cependant, si nous ne nous dotons pas aussi des instruments politiques qui leur sont essentiels. Les définitions et les engagements constituent un premier pas indispensable, mais il faut aussi passer de la parole aux actes. Nous devons nous donner les moyens de trouver la cohésion et l'orientation politiques seules capables de changer le rêve en réalité. Nous pensons que la formule canadienne traditionnelle des conférences des premiers ministres a un rôle important à jouer.

Comme nous croyons qu'il faut instaurer un nouvel esprit de coopération et de gestion conjointe entre les divers paliers des pouvoirs publics, nous faisons aussi un ensemble de propositions sur les relations intergouvernementales et le recours par le gouvernement fédéral à son pouvoir de dépenser. Nous recommandons, par exemple, d'ajouter à la Constitution une disposition importante prévoyant la protection des ententes conclues entre gouvernements afin de les mettre à l'abri de toute tentative de modification inopinée par l'un des deux ordres de gouvernement. Cette proposition revêt une importance toute particulière à la lumière d'une autre recommandation proposant la conclusion d'ententes fédérales-provinciales sur la gestion des secteurs à compétence partagée dans lesquels les provinces ont un intérêt prépondérant, ententes qui indiqueraient comment le gouvernement fédéral pourrait recourir à son pouvoir de dépenser et qui jouiraient d'une protection constitutionnelle, en vertu de la proposition précédente. La présente proposition pourrait viser les domaines du *tourisme*, de la *foresterie*, des *mines*, des *loisirs*, du *logement*, des *affaires municipales*, du *développement régional* et de la *famille*. Nous proposons en outre une nouvelle disposition constitutionnelle qui permettrait aux gouvernements fédéral et provinciaux de se déléguer des pouvoirs législatifs dans le cadre d'un processus ouvert et public.

Nous recommandons aussi d'établir deux nouvelles compétences concurrentes (*pêches de l'intérieur et faillites personnelles*) et de permettre aux provinces qui le souhaitent d'assumer la compétence exclusive en matière de *formation de la main-d'oeuvre*. Nous recommandons enfin que la Constitution reconnaisse aux provinces le droit de refuser tout nouveau programme national à frais partagés ou de subventions conditionnelles et de toucher une compensation si elle atteint les objectifs du programme pancanadien. La Constitution empêcherait tout remaniement unilatéral des modalités de financement pendant une période convenue.

Dans l'ensemble, croyons-nous, ces recommandations nous aideront à orienter nos efforts et à susciter l'esprit de coopération et de partage de la gestion de notre interdépendance sans lequel le Canada ne pourra demeurer ce qu'il est, et encore moins aller de l'avant, dans le climat farouchement concurrentiel d'aujourd'hui. Mais pour mener à bien la mission de la redéfinition, il nous faudra avoir déjà fait des progrès considérables dans l'accomplissement de l'autre mission, la *mission de l'intégration*.

La mission d'intégration

Cette mission consiste à faire en sorte que chaque Canadien et chaque collectivité canadienne puisse accéder et participer aussi pleinement qu'ils le veulent à notre vie et à nos institutions collectives, qu'ils se sentent respectés et que la contribution de chacun soit appréciée à sa juste valeur et soit accueillie avec plaisir. Elle comporte aussi quatre priorités.

1) La première consiste à faire en sorte que le Québec regagne et de plein gré la famille constitutionnelle canadienne. Si nous échouons dans cette mission, il nous sera très difficile de faire face aux tâches importantes qui attendent notre pays, dont celles que nous avons énoncées dans l'exposé de la mission de redéfinition. Nous croyons que nos propositions offrent au Québec nombre de rajustements importants qui sauront répondre de façon adéquate et cohérente à des besoins réels. Elles portent sur la définition et la protection de la société distincte du Québec, la formule de modification de la Constitution, les institutions fédérales, le partage des pouvoirs, les relations intergouvernementales et l'exercice du pouvoir fédéral de dépenser.

   Nos recommandations reconnaissent entre autres le caractère distinct de la société québécoise tant dans la *charte* des droits que dans la clause Canada ou le préambule que nous proposons. Quant aux institutions fédérales, nous proposons que la Constitution garantisse au Québec trois juges en droit civil du Québec (sur neuf) à la Cour suprême -- ce qui assurera au gouvernement du Québec un rôle (semblable à celui des autres provinces) dans la nomination des juges de la Cour suprême émanant du Québec -- et l'application de la règle de la double majorité lors des votes sur des affaires relatives à la langue et à la culture dans un Sénat réformé. Nous proposons deux changements à la formule de modification : l'un qui exigerait le consentement du Québec à tout changement constitutionnel aux institutions centrales de la fédération (la Chambre des communes, le Sénat et la Cour suprême du Canada), et l'autre, qui permettrait au Québec (et aux autres provinces) d'échapper à toute modification transférant des pouvoirs provinciaux au gouvernement fédéral et de toucher une compensation raisonnable. Au sujet du partage des pouvoirs, nous recommandons que la compétence législative exclusive du Québec en matière de *culture* soit confirmée. Nous n'excluons pas la possibilité que d'autres provinces souhaitent un jour faire confirmer elles aussi leur pouvoir en matière culturelle dans la Constitution. Nous suggérons aussi que les premiers ministres pourraient examiner si une répartition différente des pouvoirs et responsabilités dans les secteurs du *mariage et divorce* ne permettrait pas de mieux répondre aux besoins spéciaux du Québec, tout en assurant la libre circulation des personnes et l'applicabilité des jugements et des ordonnances de cour. Bien sûr, le Québec bénéficierait lui aussi de la mise en oeuvre de nos recommandations relatives aux accords intergouvernementaux, au pouvoir fédéral de dépenser, à la délégation législative, aux pouvoirs concurrents, à la formation de la main-d'oeuvre et aux programmes à frais partagés que nous avons déjà mentionnés.

   Dans l'ensemble, et compte tenu d'autres recommandations relatives aux relations intergouvernementales et au pouvoir de dépenser mentionnées ci-après, nous croyons que ces recommandations répondent aux principales préoccupations du Québec - et à celles de beaucoup d'autres provinces - de façon à la fois juste et honorable pour le Québec et

équitable pour toutes les provinces, car elles tiennent compte du caractère et des besoins distincts du Québec sans créer d'injustice ni favoriser une province au détriment d'une autre et sans réduire de quelque façon que ce soit le rôle du gouvernement fédéral et sa capacité de répondre aux besoins du pays.

2) Le deuxième volet de cette mission concerne les peuples autochtones. Eux aussi doivent faire partie du Canada en tant que partenaires égaux. Nous croyons que nos propositions peuvent aider les Canadiens à progresser dans cette voie.

Nous recommandons d'abord et avant tout de reconnaître dans la Constitution le droit inhérent des peuples autochtones à l'autonomie politique au Canada. En ce qui concerne la réalisation de l'autonomie politique, nous recommandons de recourir à des groupes de travail chargés d'aider aux négociations, de prévoir dans la Constitution un processus de transition et de créer un mécanisme (notamment un tribunal indépendant) chargé d'aider dans l'application de l'autonomie. Nous recommandons aussi de continuer de protéger intégralement les droits fondamentaux de tous les Canadiens des deux sexes dans la Constitution. Nous proposons notamment qu'à l'avenir, les modifications constitutionnelles ayant des répercussions sur les droits des autochtones ne soient adoptées qu'avec leur consentement, que les représentants des autochtones soient invités à toutes les conférences constitutionnelles, qu'une telle conférence soit convoquée dans les deux années suivant l'entrée en vigueur du droit inhérent des peuples autochtones à l'autonomie politique, que les peuples autochtones soient représentés dans un Sénat réformé selon des modalités à négocier avec eux, et que le gouvernement fédéral donne suite aux demandes d'octroi de terres et de ressources des Métis.

Nous ne croyons pas que le présent rapport mette ou doive mettre un point final à la question de la place que les peuples autochtones devraient occuper dans le nouvel ordre constitutionnel canadien. Il y a beaucoup d'autres étapes à franchir, dont le rapport de la Commission royale d'enquête sur les affaires autochtones. Nous avons tenté d'apporter une contribution utile à ce processus permanent, de le faire progresser de façon constructive, et nous espérons que nous avons réussi. Mais nous sommes conscients que beaucoup d'autres Canadiens doivent maintenant participer au processus décisionnel, y compris les autochtones eux-mêmes.

3) La troisième partie de la mission d'intégration concerne les provinces de l'Ouest et le Canada atlantique. Les Canadiens des régions excentriques se sentent depuis trop longtemps écartés de la prise des décisions nationales parce qu'en raison de leur population beaucoup plus nombreuse, les provinces du centre ont une voix beaucoup plus forte au sein des institutions nationales. Ni les Canadiens de l'Ouest, ni ceux de l'Est ne veulent quitter le Canada. Les uns comme les autres tiennent à y rester. Nous devons donc nous doter des instruments du fédéralisme que d'autres fédérations utilisent avec bonheur pour donner aux Canadiens des régions excentriques une vraie voix dans la vie politique du pays et une influence réelle sur elle afin de contrebalancer par des moyens justes et pertinents le poids démographique dont les Canadiens du centre jouissent en raison de la représentation que leur assure leur population.

C'est pourquoi nous recommandons un Sénat élu où les provinces moins populeuses détiendraient une plus grande part des sièges, un Sénat doté de vrais pouvoirs sur l'ensemble de la législation fédérale et du pouvoir d'examiner et d'approuver les nominations aux postes de direction des grandes agences fédérales dont les politiques et les décisions ont des répercussions considérables sur toutes les régions du pays. Nous ne croyons pas qu'un Sénat réformé et élu soit la solution miracle. Il ne pourra guérir tous les maux. Mais nous pensons qu'en donnant plus de poids aux préoccupations et perspectives des Canadiens de l'Ouest et de l'Atlantique lors de la prise des décisions touchant l'ensemble du pays, le Sénat pourra grandement contribuer à unir le pays et à légitimer et à renforcer davantage nos objectifs et nos institutions.

4) La quatrième partie de la mission d'intégration consiste à tenir compte davantage de l'équilibre démographique entre les deux sexes et de l'authentique diversité de la société canadienne. Nous y sommes parvenus de diverses manières. Par exemple, le texte du préambule et de la clause Canada que nous proposons vise à fournir de notre pays une définition et un portrait qui permettent à tous les Canadiens de se reconnaître et de sentir qu'ils font partie de la famille canadienne.

La proposition la plus importante que nous ayons faite à ce propos est peut-être celle d'une élection au scrutin proportionnel des membres du Sénat réformé. La conférence constitutionnelle de Calgary a fait ressortir que beaucoup de groupes dans la société canadienne voient dans la réforme du système de nomination au Sénat un moyen de mieux refléter l'équilibre entre les représentants des deux sexes et la diversité de la société canadienne dans notre vie politique nationale. Nous estimons que la réforme du Sénat que nous proposons peut nous aider à atteindre cet objectif. La disposition proposant que les partis politiques présentent des listes de candidats dans les circonscriptions plurinominales leur fournira l'occasion de présenter des listes représentatives de la diversité canadienne et de jouir de la faveur de l'électorat pour l'avoir fait. De cette manière, nous favoriserons l'intégration qui permettra de faire participer l'ensemble de la société canadienne à la vie politique de notre pays.

Le chemin à parcourir

Selon nous, les recommandations que nous formulons constituent une solution créative et cohérente qui nous permettront de nous acquitter des nos deux grandes missions : la mission d'*intégration* et la mission de *redéfinition*. Il faut maintenant que les gouvernements et les Canadiens fassent un pas en avant et engagent les discussions nécessaires pour donner suite à nos recommandations et opérer le renouvellement du pays.

Le temps presse. Le référendum québécois prévu pour octobre 1992 est un des délais impératifs que nous devons respecter, mais il n'est pas le seul. Beaucoup de Canadiens croient comme nous qu'il est essentiel de régler au plus vite le dossier constitutionnel de manière que le pays puisse passer à d'autres tâches, comme celle du renouveau économique et social qui fait partie, selon nous, de notre mission de redéfinition. Si le Canada ne parvient pas à dénouer rapidement l'impasse constitutionnelle, le reste du monde va le laisser pour compte.

Comme ces délais approchent à grands pas, nous croyons que les négociations intergouvernementales doivent s'amorcer aussitôt que possible après le dépôt de notre rapport au Parlement. Quelles que soient les modalités de ces discussions, il est essentiel d'inclure le plus de gouvernements possible dans le dialogue constitutionnel afin de dégager au plus vite un consensus sur les éléments de renouveau. Pour accélérer le processus le plus possible, nous proposons que notre rapport serve de base de discussion à partir de laquelley un consensus intergouvernemental puisse être réalisé.

En dégageant leur consensus, les premiers ministres feront bien d'envisager au moins deux séries de modifications constitutionnelles. Il faut absolument éviter d'acheminer le pays vers l'impasse simplement par défaut de consentement unanime à un ou deux éléments du projet qui l'exigeraient. Nous proposons donc que les gouvernements envisagent une série de réformes exigeant simplement l'approbation de deux tiers des provinces réunissant au moins 50 p. 100 de la population et une autre série de réformes assujetties à la règle de l'unanimité.

La participation des Canadiens au débat constitutionnel

Le processus de rapatriement de la Constitution du début des années 1980 a eu pour effet de susciter l'intérêt du public pour les questions constitutionnelles. Depuis, grâce aux travaux de divers comités parlementaires et du Forum des citoyens, cet intérêt s'est accru et s'est manifesté de bien des façons. Des milliers de groupes et de particuliers ont témoigné devant des comités fédéraux et provinciaux; des groupes constitutionnels se sont formés qu'on pourrait presque comparer à des assemblées constituantes.

Plus récemment, diverses villes canadiennes ont accueilli les cinq grandes conférences sur les propositions de renouvellement du Canada mises de l'avant par le gouvernement fédéral. Les conférences ont été télévisées et abondamment couvertes par les médias. Chacune a débouché sur un rapport qui nous a été utile dans nos travaux.

Nous croyons que le processus constitutionnel de consultation et de participation du public doit se poursuivre sous diverses formes partout au pays. Comme les Canadiens ont beaucoup à offrir, il importe de mettre en place les mécanismes qui leur permettent d'avoir voix au chapitre.

Nous recommandons que les gouvernements fédéral, provinciaux et territoriaux consultent le public et l'associent de multiples façons aux discussions constitutionnelles. Nous recommandons qu'une loi fédérale soit adoptée pour permettre au gouvernement fédéral de créer, à sa discrétion, un processus de consultation populaire en vue de confirmer l'existence d'un consensus national ou de faciliter l'adoption des modifications constitutionnelles nécessaires. Nous recommandons que le gouvernement fasse en sorte que les dix provinces, les deux territoires et les dirigeants autochtones participent effectivement à l'élaboration de la forme et du fond de la réponse du gouvernement à notre rapport.

Un avenir ensemble

Au début de notre rapport, nous faisions remarquer que, dans les moments de doute, les Canadiens semblent penser que l'expérience canadienne est plus fragile ou artificielle qu'elle ne l'est en réalité. Notre propre expérience et nos contacts avec les Canadiens nous ont confirmé que notre association est beaucoup plus profonde et ses fondements beaucoup plus solides que les vicissitudes de la vie quotidienne ne le donnent à penser. Nous avons évoqué quelques-uns des thèmes qui nous unissent ainsi que les deux grandes tâches qui nous attendent dans ce monde en mutation et quelques-unes des réformes constitutionnelles que nous devons entreprendre pour mener ces tâches à bien. Dans l'ensemble, nous croyons que le portrait que nous brossons du Canada est réaliste, que notre diagnostic est juste et que les solutions que nous proposons sont pratiques. Nous croyons pouvoir envisager l'avenir avec confiance, avec la conviction que nous saurons remplir nos deux missions et amorcer un avenir aussi grandiose, riche et enviable que notre passé.

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PARTIE I

Introduction

CHAPITRE I

Notre mandat et nos travaux

Le Comité mixte spécial sur le renouvellement du Canada a été établi par un ordre de la Chambre des communes en date du 19 juin 1991 et par un ordre du Sénat en date du 21 juin 1991. Les deux chambres nous chargeaient d'enquêter et de faire rapport au Parlement sur les propositions de renouvellement du Canada présentées par le gouvernement fédéral. Ces propositions ont été rendues publiques le 24 septembre 1991 dans un document intitulé « Bâtir ensemble l'avenir du Canada ». Dès le lendemain 25 septembre 1991, nous commencions nos travaux et tenions notre première réunion publique.

• Comment nous avons procédé

Notre première mission était de donner au public la chance d'enrichir les propositions du gouvernement pour le renouvellement du Canada. Nous avons donc entrepris de recueillir le plus grand nombre d'opinions possible.

Les audiences publiques, organisées dans les dix provinces et les deux territoires du Canada, ont occupé une bonne partie de nos travaux. Nous avons tenu 78 réunions d'une durée totale de 227 heures et entendu plus de 700 témoins représentant un grand nombre de Canadiens. Nos voyages ont été épuisants, mais nous ne regrettons pas de les avoir faits. Ils nous ont permis de connaître de première main les sentiments et les opinions des Canadiens, ce qui n'aurait pas été le cas si nous étions restés à Ottawa.

Nous avons aussi invité le public à nous présenter des mémoires. La réponse a été étonnante. Nous en avons reçu près de 3 000.

Notre participation aux cinq conférences nationales sur la réforme constitutionnelle nous a aussi été très profitable. Les conférences, commanditées par le gouvernement fédéral et organisées par d'importants instituts canadiens de recherche sociale, ont eu lieu dans différentes villes du pays en janvier et en février. Les quatre premières conférences ont porté sur des sujets touchant directement nos travaux : la répartition des pouvoirs (Halifax), la réforme de nos institutions démocratiques (Calgary), le renouvellement de l'union économique canadienne (Montréal), et les droits et valeurs communs à l'ensemble des Canadiens (Toronto). La conférence de synthèse (Vancouver) a passé les résultats des quatre premières en revue et donné aux participants une dernière chance de faire part de leurs opinions. Les conférences ont donné lieu à des débats musclés et pénétrants qui nous ont grandement éclairés.

Nous sommes profondément reconnaissants au public d'avoir participé à nos travaux avec une telle ardeur. Sans son concours, nous n'aurions pu mener ce rapport à bien.

• Ce que nous avons appris

Il ressort clairement de nos visites aux quatre coins du pays que la majorité de nos concitoyens est profondément attachée au Canada et souhaite qu'il reste uni. Il peut y avoir divergence d'opinions sur des points particuliers du projet de renouvellement, mais la majorité des Canadiens ont pour leur pays une affection profonde.

Malheureusement, les sentiments de frustration et de désespoir qu'inspire l'impasse constitutionnelle attiédissent cette passion. Les Canadiens en ont assez des interminables querelles de clocher sur la Constitution. Ils s'inquiètent en outre des autres malaises qui affligent le pays. L'état de l'économie et l'aptitude du Canada à survivre à la mondialisation des marchés sont des sujets qui sont revenus dans plusieurs des exposés oraux et écrits adressés au Comité. L'état des finances publiques et la capacité de nos gouvernements de soutenir le système de sécurité sociale qui fait la renommée du Canada ont aussi été des thèmes fréquents partout au pays. Enfin, l'état de l'environnement et le danger de léguer aux générations futures une planète dévastée par nos excès ne laissent pas de préoccuper la population.

Nous comprenons ces craintes. Le monde continue de tourner à un rythme implacable. Nous croyons qu'il faut se garder de déprécier le débat constitutionnel. La constitution est le fondement juridique et politique d'un pays. Elle établit les mécanismes et les procédures qui permettent aux citoyens de surmonter les difficultés du présent et de tirer parti des occasions de l'avenir. Le Canada ne pourra pas relever les défis du « nouvel ordre mondial » s'il ne remet pas d'abord ses affaires intérieures en ordre.

Nous sommes à un tournant de notre histoire. Ou nous continuons sur la voie de l'unité, celle d'un Canada fort et confiant dans son avenir et dans son peuple, ou nous nous engageons sur une nouvelle voie, truffée d'embûches et d'incertitudes. Ce rapport représente notre contribution à l'édification d'un Canada robuste et nouveau.

CHAPITRE II

Les sources de l'avenir

Les tâches qui nous attendent sont si énormes et nos émotions si vives qu'il est quelquefois difficile d'imaginer que nous saurons répondre simultanément à nos besoins intérieurs et extérieurs. Dans les circonstances, nous sommes enclins à exagérer nos ennuis, à dédaigner les trésors de notre caractère et de notre expérience, et à nous rabattre sur des projets sans profondeur et sans horizon.

Nous ne partageons pas ce sentiment. Il est loin de rendre justice aux très grandes réalisations des dernières décennies qui valent au Canada le respect et l'envie du reste du monde. Il ne rend pas justice non plus aux convictions sincères et profondes des Canadiens, celles qu'ils nourrissent dans leur for intérieur.

Notre expérience des derniers mois — nos voyages, nos échanges avec le public, notre participation à la remarquable série de conférences constitutionnelles — nous a persuadé que les Canadiens conservent d'immenses réserves d'énergie, de bonne volonté, de talent, et d'espoir dans leur pays.

Les Canadiens ont quelquefois l'air de penser que l'expérience canadienne est beaucoup plus précaire et artificielle qu'elle ne l'est vraiment. Mais cette impression ne tient pas compte des racines de la société canadienne, beaucoup plus anciennes et profondes que sont portés à le penser bien des Canadiens. Elle ne témoigne pas du long itinéraire que les Canadiens ont parcouru en quête d'un idéal de société — itinéraire noble et de grande valeur aux yeux du reste du monde.

La Constitution ne fait qu'énoncer les valeurs et les principes qui sont à la base de notre vie nationale. Il vaut donc la peine d'évoquer brièvement les origines de ces valeurs et de ces principes.

• La quête de l'identité canadienne

Les Canadiens ne sont ni meilleurs ni pires que les autres humains et ils sont tout aussi susceptibles de commettre et de tolérer l'injustice. Néanmoins, des conditions auxquelles nous ne pouvions pas échapper, et un concours de circonstances ou d'influences, nous ont dicté des choix qui nous ont lancés sur la voie où nous sommes. La logique de cette démarche, reformulée de génération en génération, nous a amenés à découvrir — parfois avec douleur et souvent avec un retard de plusieurs générations — les impératifs de la justice dans le contexte canadien.

La Proclamation royale de 1763 et l'Acte de Québec de 1774 sont les deux premiers textes constitutionnels de l'histoire du Canada. Ils ont planté les jalons de ce qu'allait être la vie canadienne. Le premier document engageait les gouvernements en place au Canada à respecter l'autonomie des peuples autochtones; le second promettait un acte juridique reconnaissant au Québec une société distincte avec des institutions, des lois et une culture passablement différentes de celles des sociétés anglophones voisines. La portée de ces décisions était absolument imprévue, et nous cherchons encore aujourd'hui à en dégager le sens.

L'une des conséquences inattendues de ces décisions, c'est que le Canada n'allait jamais pouvoir vraiment embrasser la notion de ce qu'on a appelé plus tard aux États-Unis le « melting-pot ». Les Canadiens ont choisi d'appuyer la diversité linguistique et culturelle. Il y aurait donc deux grandes collectivités linguistiques, avec ce que cela implique pour les institutions, les réseaux de communication, les structures sociales et les pouvoirs publics dans une société moderne.

Ces premiers engagements, dont le sens n'est apparu que petit à petit et péniblement, nous ont amenés à découvrir d'autres critères de justice pour les individus, les collectivités, les régions et les cultures qui composent la grande famille canadienne. C'est ainsi que le tissu social du Canada est maintenant renforcé par des programmes de sécurité du revenu, d'assurances sociales, de pensions de retraite et de sécurité de la vieillesse, de péréquation, de développement régional, toutes mesures que nous envie le reste du monde et qui ont fini par définir pour beaucoup l'identité canadienne.

• L'espace économique

Un autre grand trait de notre histoire, c'est la quête d'une union assez large pour soutenir notre idéal social.

Très tôt, le commerce de la fourrure a rayonné vers l'ouest à partir du Saint-Laurent et de la baie d'Hudson pour embrasser tout le continent et esquisser le visage futur du Canada. En 1864, à Charlottetown, les ministres canadiens ont un peu forcé la porte des dirigeants des Maritimes, réunis pour explorer les avantages de l'union de leurs provinces. L'avènement de la Confédération en 1867, l'achat de la terre de Rupert, l'entrée de la Colombie-Britannique, la création des provinces des prairies, l'épopée du chemin de fer transcontinental sont autant d'étapes vers la constitution d'un territoire propre à supporter une économie de calibre mondial. Lorsque les Terre-Neuviens se sont joints au Canada en 1949, ils l'ont fait dans l'espoir d'élever leur niveau de vie économique et social en adhérant au grand espace canadien.

Dans le monde hautement compétitif d'aujourd'hui, il importe plus que jamais de maintenir une solide performance économique. Mais la tâche ne se borne pas à préserver notre espace économique. Il faut trouver les moyens de faire de notre économie l'une des plus efficientes et des plus productives du monde.

• Une tradition parlementaire

Le bicentenaire des institutions parlementaires, que nous célébrons cette année en Ontario et au Québec, nous rappelle que nous avons une tradition parlementaire bien enracinée.

Les institutions parlementaires originales que nous possédons, les Canadiens de langue anglaise et de langue française les ont forgées en commun. Elles ne sont pas tombées du ciel. Les principes du gouvernement responsable n'étaient pas encore très bien définis en Grande-Bretagne lorsque le régime parlementaire a été implanté au Canada. Les Canadiens ont été des pionniers de la responsabilité parlementaire. L'alliance de Louis-Hippolyte Lafontaine et de Robert Baldwin à l'origine du gouvernement responsable dans la province du Canada est l'une des grandes épopées de notre histoire et un symbole durable de l'association des peuples anglophone et francophone au Canada. Le rôle analogue de Joseph Howe en Nouvelle-Écosse a aussi été marquant dans l'histoire mondiale de la démocratie parlementaire. Le Canada a servi de phare et de modèle à une foule de pays qui se sont joints après lui à la communauté des nations.

Les Canadiens sont aussi parmi les premiers à avoir marié les institutions parlementaires au fédéralisme. Avant qu'ils en fassent la preuve, on doutait de la possibilité d'associer les deux concepts. L'expérience canadienne a indiqué la voie à l'Australie, à l'Inde et à d'autres fédérations.

Les Canadiens affectionnent aussi la culture et les valeurs politiques entretenues par leur tradition parlementaire. Ils sont fiers du fait que l'histoire canadienne est moins entachée de violence et de désordre que celle d'autres pays. Ils sont fiers d'avoir privilégié la voie de la modération, du compromis, de la compréhension et du respect de leurs semblables. « La paix, l'ordre et le bon gouvernement » n'est pas qu'un cliché constitutionnel, mais l'expression des valeurs et des principes canadiens. C'est la preuve que nous avons édifié en Amérique du Nord une démocratie parlementaire imprégnée de notions particulières de civisme, de communauté, de solidarité et de liberté ordonnée qui transcendent les langues et les régions et nous distinguent du reste du continent.

• La voie de l'évolution

Les institutions parlementaires sont essentiellement évolutives. Fondées sur le droit coutumier, elles sont issues d'une monarchie européenne autocratique pour devenir une démocratie fédérale nord-américaine, sans jamais rompre avec le passé. Elles continuent d'évoluer, déléguant de plus en plus de pouvoirs aux personnes et aux collectivités.

Le modèle s'est enraciné dans notre tempérament. Souvent dans leur histoire, les Canadiens ont été invités à s'en écarter, à rompre avec le passé, à suivre d'autres voies et à se séparer. Infailliblement, le peuple a décidé de respecter la tradition et les liens qu'elle avait noués entre ses communautés.

La voie canadienne, c'est la voie de la progressivité, de la flexibilité, de la liberté.

• Les trois voies

Le Canada est aujourd'hui à un carrefour. Il lui faut choisir entre trois voies : l'immobilisme, la réforme radicale, et le changement progressif. Beaucoup sont sans doute satisfaits de l'état actuel des choses, ce n'est pas le cas du Comité.

Allons-nous continuer sur la voie de l'évolution ou en prendre une radicalement nouvelle ? Des voix nous conjurent de rompre brutalement avec le passé. D'autres proposent de modeler nos institutions politiques sur celles des Américains ou des Européens. Aucun de ces modèles pourtant n'est pertinent au Canada, qui possède ses propres traditions, ses particularités, son expérience et ses besoins.

Il nous semble évident que le choix réaliste et courageux, c'est de cultiver notre jardin, de poursuivre sur la voie de la tolérance, de la liberté et de l'ordre dans un cadre parlementaire. Nous sommes convaincus que nous pouvons faire avancer sensiblement la cause de la justice sociale aujourd'hui et demain : justice pour les anglophones et les francophones partout au Canada, justice pour le Québec, justice pour le Canada de l'Atlantique, le Canada de l'Ouest et le Canada du Pacifique, justice pour les peuples du Nord et les peuples autochtones, justice pour les néo-Canadiens et justice pour ceux qui n'ont pas pu participer pleinement à la vie de la société canadienne.

• L'intérêt général et le bien commun

Nous serons associés dans cette entreprise par nos valeurs et nos idéaux, mais aussi par intérêt, dans le sens le plus noble du terme. Combinant nos talents, nos énergies, nos capitaux et notre territoire, nous avons bâti l'une des sociétés les plus prospères qui soient et nous avons profité de notre bonne fortune pour créer l'égalité des chances entre nos collectivités et nos régions et poursuivre notre rêve de justice sociale.

Les intérêts économiques :

L'union canadienne nous a permis d'édifier l'une des économies les plus solides du monde et d'atteindre un niveau de vie à l'avenant.

Le succès de l'économie canadienne ne se résume pas à l'espace physique. Il tient aussi aux instruments que les Canadiens se sont donné pour gérer cet espace et à l'influence que leur force économique leur donne dans le monde. De ce point de vue, l'éventuelle fragmentation de l'État canadien est particulièrement troublante.

La mondialisation et l'augmentation de la concurrence internationale donnent plus d'importance que jamais à l'union économique canadienne. Il faut la sauvegarder et l'améliorer.

Les intérêts sociaux :

L'union canadienne, nous le répétons, nous a permis d'établir un filet de sécurité sociale admirable et admiré, qui fait l'envie du reste du monde. Notre réseau de programmes sociaux est l'un des éléments les plus marquants de notre identité. C'est un avantage de la citoyenneté canadienne auquel tiennent tous les Canadiens, y compris les Québécois.

Les intérêts culturels :

La fédération nous a permis de réunir un ensemble prodigieux de réalisations, de créations et d'institutions culturelles. En mettant nos ressources en commun, nous avons poussé la création artistique à un niveau d'excellence que l'on reconnaît souvent à l'étranger. Le Conseil des Arts, Radio-Canada/CBC, l'Office national du film, les Musées nationaux, le Conseil de recherches en sciences humaines et autres institutions semblables ont joué un rôle dominant dans la renaissance et le développement culturels du Canada dans l'après-guerre. C'est aussi vrai au Québec qu'ailleurs au Canada, et c'est une des réalisations dont nous pouvons nous vanter.

La préservation de cet héritage culturel et les moyens de son épanouissement dans les années à venir sont des objectifs qu'il faut poursuivre dans le cadre du renouveau constitutionnel.

• Valeurs et identité

Une nouveauté de nature à nous rassurer sur notre capacité de collaborer, c'est la convergence notable de nos valeurs fondamentales. Il subsiste entre nous des nuances de goût et de comportement, comme dans toute nation du reste, mais nous avons atteint un remarquable degré d'harmonie sur l'essentiel. Le récent rapport du comité constitutionnel du Parti libéral du Québec (rapport Allaire) l'a noté : « Les Québécois partagent des valeurs fondamentales du peuple canadien, dont le respect pour les droits de la personne, la liberté d'expression, l'unité et l'harmonie entre les citoyens et le droit de chaque personne à la satisfaction de ses besoins fondamentaux. Ces valeurs ont gagné aux Canadiens le respect de l'ensemble de la communauté internationale. »

Les Canadiens ne veulent pas avoir des vies, des cultures et des croyances identiques. Mais il n'y a pas forcément contradiction entre de fortes identités locales, provinciales ou culturelles et l'identité nationale ou pancanadienne. La recherche démontre au contraire qu'elles sont souvent complémentaires et se renforcent mutuellement. Les groupes dont l'identité est la plus marquée sont souvent ceux qui s'identifient le plus au Canada et, à l'inverse, une faible identité nationale peut se traduire par une faible identité locale ou provinciale.

Tant qu'existera le Canada, il y aura place pour une forte identité nationale — elle sera même requise — non pas pour concurrencer ni nier d'autres identités, mais pour les soutenir et les compléter, faire la somme des parties. C'est le rôle des gouvernements d'exprimer et de promouvoir ces identités, aussi bien l'identité canadienne que les identités provinciales, culturelles ou autres qu'elle embrasse et nourrit.

• Fédéralisme : la gestion de l'interdépendance

Le génie du fédéralisme, c'est de pouvoir répondre simultanément au besoin d'autonomie et de diversité des collectivités provinciales, régionales, locales et culturelles et au besoin d'association à des groupes politiques et économiques plus larges, capables de régler les problèmes interrégionaux et mondiaux de demain.

Les artisans du fédéralisme canadien ont vu loin. Ils ont jeté les bases du développement des collectivités locales et provinciales. Ils ont reconnu les principes de la diversité et de la dualité et créé le cadre de développement de la collectivité de langue française au Québec et ailleurs, au prix de beaucoup d'efforts et de luttes. Le régime fédéral nous a aussi donné la possibilité de prendre des décisions à l'échelle du pays, d'imprimer une direction à l'économie, de partager nos ressources et d'assurer l'égalité des chances par l'entremise d'un gouvernement central efficace.

Les auteurs de la Constitution ont distribué les responsabilités des assemblées fédérale et provinciales d'une manière qui, dans l'ensemble, a résisté à l'épreuve du temps. Le partage a évolué au gré des besoins et des circonstances. En général, les tribunaux ont interprété la Constitution avec ingéniosité, dans le sens de ce qu'on appelle aujourd'hui (surtout dans le contexte européen) le principe de la « subsidiarité », les affaires étant en général attribuées au pouvoir le plus apte à les traiter. Nos remarquables réalisations économiques, sociales et culturelles témoignent de la sagesse des auteurs de la Constitution de 1867.

Naturellement, les Pères de la Confédération ne pouvaient pas prévoir tous les besoins que susciterait un monde en mutation. Après 125 ans, il est admis qu'il faut adapter nos institutions aux besoins d'aujourd'hui. Il faut en particulier remédier à une lacune évidente : une chambre haute efficace représentant équitablement les régions ou les provinces peu peuplées et leur donnant un plus grand pouvoir d'intervention au Parlement fédéral.

Dans la réforme de notre fédéralisme et de ses institutions, il faudra prendre garde d'être aveuglés par quelques-uns des mythes du fédéralisme. Outre le partage de pouvoirs entre deux ordres de gouvernement, responsables devant la même population pour des objets différents, le fédéralisme n'a pas de principes absolus. Chaque fédération a son histoire, son caractère et ses besoins, et le concept doit être adapté aux conditions particulières du temps et du lieu. La beauté du fédéralisme tient justement à sa flexibilité et à son adaptabilité, à son aptitude non seulement à répondre aux besoins de collectivités différentes et à concilier les intérêts locaux et les intérêts nationaux, mais à le faire différemment selon le lieu et l'époque.

Il n'est pas vrai, par exemple, que l'« égalité » des États fédérés soit un principe sacré du fédéralisme. Seules deux fédérations ont opté pour l'« égalité » de représentation des États membres à la chambre haute. Les autres ont opté pour l'« inégalité ». Le Canada pourrait certes décréter l'égalité au Sénat ou ailleurs, mais il faudrait le justifier autrement que par l'intégrité du principe fédéral parce que celui-ci ne l'impose pas.

Autre mythe qui pourrait faire échouer la tentative d'adapter notre fédération aux besoins actuels, c'est que le fédéralisme marche mieux et plus équitablement si les pouvoirs sont

tranchés au scalpel et sont exercés à l'intérieur de ce qu'on appelait autrefois des « cloisons étanches ». Ce mythe connaît une nouvelle vogue tandis que les réformateurs du fédéralisme cherchent à démêler l'écheveau des activités et des rôles des deux ordres de gouvernement. Sans doute y a-t-il beaucoup à faire de ce côté pour éviter le double emploi et les chevauchements inutiles et coûteux. Mais la mondialisation abolit les frontières entre le local, le national et l'international, tous le reconnaissent.

La réalité de l'univers, le fait majeur dont il faut tenir compte dans la conception du fédéralisme et l'avenir des nations, ce n'est pas l'indépendance, mais l'interdépendance. La complexité et l'ampleur des problèmes que traitent les gouvernements contemporains ne permettent plus — si tant est qu'il ait jamais existé — un partage absolu des pouvoirs. Pour opérer la réforme de notre système fédéral et nous tailler une place dans le monde, il faudra *gérer l'interdépendance* des gouvernements de la fédération canadienne. C'est à cette tâche que nous devons nous appliquer dès maintenant si nous voulons nous tailler une place à notre mesure dans le nouveau monde. La beauté du régime fédéral, c'est justement qu'il nous donne les moyens de gérer l'interdépendance pour le bien général.

• La Constitution : son importance et ses limites

Comme le fédéralisme comporte un partage de pouvoirs entre au moins deux ordres de gouvernement, la Constitution doit en définir les modalités et servir de référence pour le règlement des différends.

La Constitution écrite est importante comme source et gardienne de droits et de principes fondamentaux. Ces droits comptent pour tout le monde, mais ils sont particulièrement importants pour les minorités car ils les protègent des abus de pouvoir d'une majorité qui peut écarter leurs justes revendications, consciemment ou par égarement et négligence.

Les trois conditions s'appliquent au Canada. Le Canada est un pays fédéral pourvu d'une *charte* des droits qui est un important rempart contre les atteintes aux libertés fondamentales. Il est la patrie d'importantes minorités, qui réclament à juste titre des garanties constitutionnelles. Pour le Québec et les minorités linguistiques partout au pays, la Constitution est un gage de sécurité, la garantie de leur place et de leur rôle dans la nation. La Constitution protège les minorités et autres groupes contre les sautes d'humeur de la majorité.

C'est parce que la Constitution revêt une importance capitale dans un pays fédéral et bilingue comme le Canada que nous y avons consacré autant d'énergie depuis quelques années. Mais la Constitution a aussi ses limites. Elle n'est pas une panacée. Nous ne pouvons et ne devons pas chercher à y refléter la totalité de notre pays et de sa vie politique. Nous ne pouvons pas tout y mettre dans l'espoir qu'elle suppléera à nos lacunes. C'est à nous qu'il incombe d'y remédier. La Constitution canadienne a la sagesse de laisser les citoyens décider eux-mêmes, par l'intermédiaire de leurs institutions politiques ordinaires plutôt que par les tribunaux, de l'essentiel de leur vie. La Constitution ne peut pas tout prévoir ni tout régler. Elle n'est pas un mécanisme de règlement des différends en matière de politique publique.

Ce que la Constitution peut faire, c'est poser les règles du jeu, le cadre, les objectifs et l'esprit dans lequel nous nous attellerons à ces tâches. C'est déjà beaucoup.

La réforme qui nous conduira au vingt et unième siècle doit tenir compte de deux priorités. Nous devons nous doter d'institutions fédérales efficaces qui nous permettent de prendre et de mettre à exécution les décisions qui s'imposent pour rendre notre économie et notre société compétitives dans un monde interdépendant. Et nous devons le faire d'une manière que toutes les régions et les cultures jugent juste et légitime, d'une manière qui cadre raisonnablement avec leurs propres valeurs, aspirations et préoccupations. Il faut pour cela nous doter d'institutions, de mécanismes et d'arrangements que les Canadiens jugeront équitables et représentatifs, grâce auxquels les Canadiens se sentiront consultés et mis à contribution, grâce auxquels les diverses sociétés provinciales pourront collaborer pour le plus grand bien de la société canadienne tout entière.

• Conclusion

Dans les affaires constitutionnelles comme dans la vie, la perfection peut être l'ennemie du bien. Le plus gros obstacle au progrès constitutionnel à ce stade de notre histoire, ce serait une crise de perfectionnisme constitutionnel. La perfection n'est pas de ce monde. Dans l'élaboration d'une constitution, il y a toujours un risque parce que les choses ne sont jamais parfaitement claires, ni les intentions ni les mots, et que l'avenir est inconnu. La Constitution évolue au gré du développement du pays dans un processus continu.

La question n'est pas de savoir si nous pouvons rédiger la Constitution idéale, mais si nous pouvons opérer les ajustements qui nous permettront de continuer à cheminer ensemble dans le respect de nos traditions, et trouver moyen d'étendre peu à peu à tous nos citoyens et à toutes nos collectivités notre rêve de justice et de prospérité.

PARTIE II

Vers le renouveau

Dans le renouvellement de la Constitution et du Canada, nous devons nous acquitter d'une double mission : une mission d'intégration et une mission de *redéfinition*.

1. La mission d'intégration

Notre *mission d'intégration* comporte quatre volets. Le premier est l'intégration du Québec. Il faut de toute urgence que le Québec regagne de plein gré la famille constitutionnelle canadienne. En droit, le Québec n'a jamais cessé d'en faire partie, c'est-à-dire que la Constitution s'applique aussi bien au Québec qu'ailleurs. Mais faute d'obtenir l'assentiment de la législature ou du gouvernement du Québec au rapatriement de la Constitution en 1982, l'opinion s'est répandue, particulièrement au Québec, que le processus de renouvellement constitutionnel entrepris avec le rapatriement n'était pas terminé. Nous devons donc nous employer en priorité à intégrer le Québec dans le giron constitutionnel.

Le deuxième volet de notre mission d'intégration vise les peuples autochtones. Le Canada s'engage à faire des premières nations des associées à part entière et à nouer avec elles des relations d'équité et de justice dignes de leur statut de premier peuple du Canada. Le temps est venu de tenir cet engagement, longtemps négligé ou à moitié respecté.

Le troisième volet de notre mission d'intégration touche les provinces de l'Ouest et le Canada de l'Atlantique. Les Canadiens qui y vivent se sentent depuis trop longtemps exclus du centre de décision parce que la population beaucoup plus dense des provinces du centre donne à ces derniers une voix prépondérante dans nos institutions nationales. Nous avons tous entendu les récriminations de nos concitoyens de l'Ouest et de l'Est qui, les soirs d'élections et entre les élections, ont le sentiment que leur vote est déprécié par celui de l'Ontario et du Québec. Le temps est venu de s'attaquer à ce problème. Sinon, le sentiment d'aliénation de la population de l'Est et de l'Ouest risque de s'aggraver et de tourner à la destruction. Les Canadiens de l'Est et de l'Ouest ne veulent pas se retirer du Canada. Ils veulent s'y intégrer. Il est primordial de répondre avec chaleur à leurs aspirations certes légitimes. Nous devons équiper le fédéralisme canadien des instruments qu'utilisent avec bonheur presque toutes les fédérations stables. Ils permettront à la population des régions excentriques d'exercer — et d'avoir le sentiment d'exercer — une influence réelle sur la vie politique de la nation et de faire contrepoids, équitablement et adéquatement, au pouvoir que vaut aux Canadiens du centre le régime de représentation selon la population.

Nous pensons que le correctif que nous proposons aux Canadiens de l'Est et de l'Ouest peut aussi répondre au quatrième objectif de notre mission d'intégration : amener nos institutions à mieux représenter les deux sexes et l'authentique diversité de la société canadienne. La vie publique au Canada reste en grande partie la chasse gardée des élites traditionnelles et ne rend

pas toujours très bien compte de la composition et du visage nouveau de notre société. Nos institutions politiques ne reflètent pas le fait que les femmes constituent plus de la moitié de la population, et encore moins la diversité de besoins particuliers et de perspectives culturelles de la réalité canadienne. Nous croyons que pour dégager un consensus social et politique, il faut entamer dès maintenant le processus d'intégration de tous les éléments de la société canadienne à la vie politique. Nous croyons que la réforme du régime électoral et des institutions destinée à intégrer les Canadiens de l'Ouest et de l'Est au centre de décision peut aussi servir de point de départ vers cet objectif.

2. La mission de redéfinition

Le succès de notre mission d'intégration nous aidera à affermir les fondements de la société canadienne et la légitimité de nos institutions politiques. Mais pourquoi et dans quel but ?

La question n'est pas vaine. Y répondre est un élément important du renouveau du Canada. Le monde n'est plus aussi rassurant ni indulgent qu'il pouvait l'être encore récemment pour le Canada. Il est dur et compétitif, comme l'ont constaté tant de Canadiens de toutes conditions sociales et de toutes les régions depuis quelques années. Si nous n'arrivons pas à nous redéfinir en fonction d'un but commun, une nouvelle perception de notre identité et de nos objectifs, en nous donnant les moyens de les atteindre, nous ne pourrons pas conserver les programmes sociaux auxquels nous tenons tant, et encore moins éviter d'être dépassés par les événements ailleurs dans le monde.

Nous croyons que notre *mission de redéfinition* peut prendre au moins quatre formes. D'abord, il faut qu'une disposition de la Constitution définisse le peuple canadien et ses plus hautes valeurs politiques. Elle annoncerait au monde qui nous sommes et ce que nous aspirons à devenir comme communauté politique.

Deuxièmement, la Constitution devrait établir un nouveau pacte social entre les Canadiens et entre les partenaires politiques de la fédération. Elle devrait énoncer nos grands objectifs sociaux : les mesures sociales que nous voulons conserver et protéger, les objectifs sociaux que nous envisageons pour l'avenir, et les valeurs et les principes sociaux que nous voulons consacrer pour les générations futures.

Nous croyons que la Constitution devrait aussi comporter une déclaration engageant les Canadiens et leurs gouvernements à poursuivre nos grands objectifs économiques, sans lesquels nous ne saurions préserver ni rehausser la qualité de vie sociale, civile et privée dont nous sommes si fiers et que nous tenons pour l'essence même du Canada. Les deux thèmes se complètent et se renforcent mutuellement. Le nouveau pacte social est un élément important du renouveau économique, et la vitalité économique est la condition essentielle du bien-être de la société.

Enfin et au même titre, nous croyons qu'il est indispensable que les Canadiens se donnent les outils politiques et administratifs qui leur permettront de réaliser ces valeurs et objectifs. Le Canada n'a jamais été à court de bonnes idées, mais les moyens d'arriver au consensus politique et les instruments de cohésion politique permettant d'en récolter les fruits lui ont souvent fait

défaut. Les définitions et les engagements sont un premier pas essentiel, mais il faut aussi passer de la parole aux actes. Aussi croyons-nous le temps venu de faire un pas de plus sur la voie de la maturité politique. Nous devons nous donner les moyens d'atteindre la cohésion et la direction politiques qui assureront la force et le bien-être de nos enfants dans le monde de demain.

CHAPITRE III

Les citoyens et les collectivités

La Constitution a joué un rôle primordial dans l'évolution du Canada. Elle nous a fourni le plan à l'aide duquel nous avons bâti notre pays; elle a établi le cadre dans lequel nous allions nous gouverner et elle a jeté les bases de notre sens de la justice et du respect d'autrui. La Constitution nous a permis d'atteindre un degré d'harmonie et de prospérité qui fait l'envie du monde moderne. Pour que durent ces bienfaits, la Constitution doit continuer de répondre aux besoins et aux aspirations profondes des Canadiens.

Le Canada, c'est avant tout des citoyens, des gens d'origines très diverses. Mais il n'est pas nécessaire que nos particularités soient source de tension, ce qui est peut-être trop souvent le cas. Nous sommes unis par nos points communs. L'un d'eux, et peut-être le plus important, c'est le respect que nous avons pour les différences qui caractérisent les individus et les collectivités. Nos particularités nous distinguent, elles sont la raison d'être de nos libertés; nous ne devons pas permettre qu'elles nous divisent.

Dans la présente section du rapport, nous examinons plusieurs des propositions du gouvernement fédéral qui touchent les individus et les collectivités. Ce sont les propositions relatives à la clause Canada, à la société distincte du Québec, aux collectivités anglophones et francophones, aux peuples autochtones, au droit de propriété et à la clause de dérogation. Toutes ces propositions influent sur l'identité de nos citoyens et de nos collectivités, et sur les relations qui existent entre eux.

A. L'AFFIRMATION DE NOTRE IDENTITÉ ET DE NOS VALEURS

Une chose ressort clairement du débat constitutionnel actuel : la Constitution n'est plus la chasse gardée des spécialistes. Le public canadien s'y intéresse profondément. La Constitution appartient à *tout le monde*, malgré son libellé et les sujets complexes qu'elle aborde. C'est pourquoi nous croyons nécessaire d'y définir ce que nous sommes et ce que nous aspirons à devenir.

Nous avons reçu beaucoup de suggestions sur la façon d'exprimer notre identité et nos aspirations. Nous croyons que les Canadiens s'entendent sur deux choses : le texte doit être mémorable et global. Il ne doit pas se borner à débiter les lieux communs du glossaire constitutionnel. Il doit être poétique. Comme on l'a dit à la conférence « Identité, droits et valeurs », il doit être comme un drapeau qui flotterait dans nos coeurs et nos esprits. Il doit nous rattacher à l'histoire et aux valeurs que nous partageons. Il doit refléter l'histoire et les valeurs

que nous avons en commun et sans chercher simplement à plaire à tout le monde, exprimer ce qui nous tient tous à coeur.

Il n'est pas facile de rédiger un texte mémorable et global. Mais nous pouvons commencer par penser à ce qui nous définit comme pays.

D'abord, notre histoire, celle de peuples qui, bien que de cultures et de langues différentes, ont fait de cette terre, tout aussi bigarrée, leur patrie. Notre histoire commence avec les peuples autochtones. Puis sont venus les colons français et britanniques. Arrivent encore aujourd'hui des gens des quatre coins de la planète. Notre histoire s'écrit chaque jour.

De cette histoire découle le respect que nous avons l'un pour l'autre, respect qui trouve son expression dans nos institutions démocratiques et judiciaires, et nos droits et libertés, individuels et collectifs. Notre histoire nous a légué une riche mosaïque de groupes culturels et linguistiques qui s'épanouissent ensemble, nourrissant et partageant leurs identités respectives.

La diversité est une voie à double sens. Nous respectons les particularités des autres pour qu'ils respectent les nôtres. Nous sauvegardons nos caractéristiques et les enrichissons de celles des autres. Surtout, nous reconnaissons le caractère distinct du Québec et la vitalité de nos deux langues officielles. Nous reconnaissons aussi les peuples autochtones et leurs droits inhérents, fondement de leurs langues, de leurs cultures et de leurs valeurs.

Nous sommes finalement définis par l'environnement et l'espace qu'occupe notre pays. Sans eux nous ne sommes rien. Ce sont des éléments constituants au sens le plus propre du terme. Nous devons affirmer notre engagement à la protection de l'environnement, pour nous et, mieux encore, pour les générations futures.

Une fois qu'il est convenu d'affirmer dans la Constitution notre identité et nos valeurs, reste à savoir où situer cette déclaration dans le texte. Les suggestions ne manquent pas. Le gouvernement fédéral propose de la faire figurer à l'article 2 de la *Loi constitutionnelle de 1867*. D'autres proposent d'en faire le préambule de la loi de 1867, d'une nouvelle loi constitutionnelle ou de la Constitution proprement dite. D'autres enfin proposent à la fois un préambule et une « clause Canada » qui porteraient l'un et l'autre sur différents aspects de notre identité et de nos valeurs. Le premier serait un texte plutôt poétique faisant appel au coeur et traduisant notre amour pour le pays et ses habitants. La seconde énumérerait ce que nous sommes et ce que nous chérissons.

Le projet que la Writers' Union of Canada a présenté à la Conférence « Identité, droits et valeurs », à Toronto, a reçu un accueil favorable tant pour son contenu que parce qu'il s'agissait d'un texte complet, par opposition aux éléments fort valables mais isolés qu'ont présentés les particuliers et les rapporteurs d'ateliers.

Le Comité a examiné les nombreuses listes de valeurs et de caractéristiques qui nous ont été présentées lors de ses audiences et des cinq conférences constitutionnelles. Elles ont grandement contribué à éclairer nos délibérations.

Nous recommandons de mettre en évidence dans la Constitution un texte exposant l'identité et les valeurs canadiennes. Nous recommandons le texte suivant pour le préambule :

PRÉAMBULE

Nous, Canadiens,
Issus des quatre vents de la terre,
Sommes les citoyens privilégiés
d'un État souverain.

Héritiers d'un grand pays nordique,
nous en célébrons la beauté et la grandeur.
Peuples autochtones, immigrants,
francophones, anglophones,
mais Canadiens toujours,
nous sommes fiers de nos racines et de notre diversité.

Nous proclamons que notre pays
repose sur des principes qui reconnaissent
la suprématie de Dieu,
la dignité de la personne,
l'importance de la famille
et celle de la collectivité.

Nous reconnaissons que nous sommes libres
dans la mesure où la liberté s'inspire
du respect des valeurs morales et spirituelles
et du règne du droit
mis au service de la justice.

Nous chérissons ce pays libre et uni
qui figure au rang des grandes nations et,
conscients des responsabilités liées
aux privilèges dont nous jouissons,
nous prenons l'engagement d'en faire
un foyer de paix, d'espoir et de bonne volonté.

Nous recommandons d'autre part d'inclure une clause Canada dans l'article 2 de la *Loi constitutionnelle de 1867* qui, de ce fait, pourra avoir un effet sur l'interprétation de la Constitution.

La clause Canada qui suit est celle que nous recommandons :

CLAUSE CANADA

Déclaration

2. Nous, Canadiens, convaincus de la noblesse de notre projet collectif, réitérons par la présente notre décision historique de vivre ensemble dans un État fédéral;

Nous reconnaissons être profondément redevables à nos ancêtres :

les peuples autochtones, premiers habitants de notre vaste territoire et qui, de ce fait, ont le droit inhérent de se gouverner selon leurs propres lois, coutumes et traditions afin de protéger leurs langues et cultures diverses;

les colons français et britanniques, qui nous ont légué leurs propre langues et cultures, en plus de forger des institutions politiques qui ont renforcé notre union et permis au Québec de s'épanouir comme société distincte au sein du Canada; et

les gens de multiples autres nations et de toutes les parties du monde, qui se sont joints à nous et ont grandement contribué à réaliser la promesse de ce magnifique pays;

Nous réaffirmons notre attachement indéfectible aux principes et valeurs qui nous ont rassemblés, ont guidé notre vie nationale et nous ont assuré paix et sécurité, notamment, notre profond respect pour les institutions de la démocratie parlementaire; la responsabilité particulière du Québec de préserver et de promouvoir sa société distincte; le droit et la responsabilité des peuples autochtones de protéger et de développer leurs cultures, langues et traditions uniques; notre engagement ferme envers l'épanouissement et le développement des communautés minoritaires de langue officielle; l'impératif de réaliser l'égalité des femmes et des hommes; et notre reconnaissance de la valeur irremplaçable de notre patrimoine multiculturel;

Et nous prenons l'engagement de nous acquitter honorablement du devoir d'assurer à nos enfants leur prospérité et l'intégrité de leur environnement, afin qu'ils puissent faire de même pour leurs propres descendants.

Par conséquent, nous, Canadiens, adoptons officiellement cette Constitution, y compris la *Charte canadienne des droits et libertés*, comme l'expression solennelle de notre volonté et de nos aspirations nationales.

Le Comité a examiné d'autres libellés de cette clause qui se trouvent à l'Annexe B.

B. LA SOCIÉTÉ DISTINCTE DU QUÉBEC ET LA DUALITÉ LINGUISTIQUE DU CANADA

L'un des traits marquants et des atouts précieux de la société canadienne est qu'elle est composée non pas d'un, mais de deux grands groupes linguistiques, les francophones et les anglophones, et que les premiers sont concentrés dans l'une des provinces les plus peuplées du pays, où ils forment la seule collectivité politique à majorité francophone en Amérique du Nord.

Reconnaître le Québec comme société distincte, c'est énoncer un fait juridique, sociologique et démographique dont font état diverses lois britanniques relatives à l'Amérique du Nord britannique adoptées bien avant la Confédération. Par exemple, l'*Acte de Québec* de 1774 répondait aux exigences formulées par le Canada français qui tenait à préserver ses lois et ses coutumes. La *Loi constitutionnelle de 1791* divisait le Québec en deux parties correspondant au clivage linguistique et culturel de ses habitants. Ces deux lois reconnaissaient l'existence au Québec d'une société distincte, dotée d'institutions, de lois et d'une culture très différentes de celles des autres entités politiques d'Amérique du Nord, et elles établissaient un cadre politique qui lui était propre. Les artisans de la Confédération de 1867 ont reconnu le caractère distinct de la société québécoise et reconfirmé son statut de collectivité politique autonome, tout en embrassant le principe de la dualité linguistique des institutions politiques de ce nouveau pays qui allait un beau jour s'étendre sur tout un continent.

Au cours des années 60, la révolution tranquille du Québec a fait faire au peuple canadien un autre grand pas en avant. En effet, les anglophones ont redécouvert la véritable nature du Canada, tandis que les francophones du Québec et des autres provinces se sont penchés sur leurs perspectives d'avenir et sur les besoins des collectivités francophones modernes d'Amérique du Nord. À Ottawa et dans les provinces à majorité anglophone, les droits des francophones ont été confirmés et mieux protégés, notamment dans la *Loi sur les langues officielles* de 1969. À l'extérieur du Québec, des collectivités francophones modernes et vigoureuses se développaient en de nombreux endroits du pays, plus particulièrement au Nouveau-Brunswick et en Ontario, tandis que la société francophone du Québec traversait non pas une, mais deux révolutions sociales qui lui permirent de maîtriser d'abord tous les instruments d'un gouvernement moderne, puis de se placer en tête des milieux économiques de la province. En même temps, elle s'interrogeait sur sa relation avec les Canadiens anglais du Québec et de l'ensemble du pays et elle se lançait à ce sujet dans un débat qui dure toujours.

Le rapatriement de la Constitution, en 1982, a constitué à la fois un progrès et un recul dans le processus de stabilisation graduelle des assises de la société canadienne. En effet, la Constitution reconnaissait plus clairement et protégeait avec plus de fermeté que jamais ces étapes importantes étaient franchies la dualité linguistique dans les institutions politiques du pays tout en faisant avancer les droits linguistiques des minorités partout au Canada. Cependant, ces étapes importantes étaient franchies sans l'approbation officielle du gouvernement du Québec, seule institution politique majoritairement contrôlée par des francophones.

Les propositions du gouvernement visent à donner au Québec, aux Canadiens d'expression française et à toutes les minorités linguistiques de nouvelles assurances à la fois symboliques et concrètes quant à la place qu'ils sont appelés à tenir dans la vie du pays, et enfin à asseoir la

vie canadienne sur de nouvelles bases morales. Elles ont un double but. Premièrement, reconnaître dans la Constitution un fait indéniable, à savoir que le Québec forme une société distincte en Amérique du Nord, où sa majorité francophone a notamment conservé une culture unique et une tradition de droit civil qui lui est propre, et garantir que l'interprétation de la *Charte canadienne des droits et libertés* en tiendra compte. Deuxièmement, reconnaître de la même manière l'existence de Canadiens d'expression française, majoritaires au Québec mais présents aussi dans le reste du pays, et de Canadiens d'expression anglaise, majoritaires dans le reste du pays mais présents aussi au Québec, et garantir que l'interprétation de la *charte* tiendra également compte de ces deux réalités. Cette proposition est parfaitement compatible avec les dispositions de la *charte* qui reconnaissent déjà expressément les droits des peuples autochtones et le patrimoine multiculturel du Canada.

Une clause interprétative relative à la dualité linguistique ajoutée à la *Charte canadienne des droits et libertés* permettrait de reconnaître la présence de minorités de langue officielle au Québec et dans tout le Canada.

Pour la plupart des témoins que nous avons entendus, la reconnaissance du caractère distinct de la société québécoise et de la dualité linguistique du pays s'impose. Les participants aux conférences constitutionnelles de Toronto et de Vancouver ont majoritairement et clairement souscrit à la reconnaissance dans la Constitution de ces deux particularités fondamentales du Canada. Nous croyons qu'après plusieurs années de difficultés et d'incompréhension mutuelle, les Canadiens des deux langues ont beaucoup appris et qu'ils sont maintenant prêts à faire un autre grand pas vers la consolidation des assises morales du Canada de demain. En conséquence, nous faisons la recommandation suivante :

La *Charte canadienne des droits et libertés* devrait être modifiée afin d'inclure l'article qui suit après l'article 25 :

Société distincte et dualité linguistique

25.1 (1) Toute interprétation de la présente *charte* doit concorder avec :

a) la protection et la promotion du caractère de société distincte du Québec au sein du Canada;

b) l'épanouissement et le développement linguistiques et culturels des collectivités minoritaires de langue française ou anglaise partout au Canada.

Société distincte

(2) Pour l'application du paragraphe (1), une société distincte comprend notamment, en ce qui concerne le Québec :

a) une majorité d'expression française;

b) une culture unique;

c) une tradition de droit civil.

C. QUESTIONS AUTOCHTONES

1. Nous croyons au Canada

D'un bout à l'autre du pays, aux confins de trois océans, on veut voir changer radicalement les rapports qu'entretiennent nos gouvernements et les peuples autochtones. Cet appel provient de gens de tous les milieux et bénéficie de l'appui des Canadiens. Seul un renouvellement en profondeur peut engendrer un pays fort et uni, dont tous les habitants seront heureux de faire partie.

L'édification de relations — entre les peuples autochtones et les autres collectivités — est la condition *sine qua non* d'un tel renouvellement. Il nous faut d'abord redéfinir la relation entre les peuples autochtones et le gouvernement du Canada, en commençant par une reconnaissance mutuelle. Il faut abandonner les vieilles méthodes et institutions coloniales et paternalistes et asseoir les nouvelles institutions sur la reconnaissance des droits inhérents.

Le Canada renouvelé ne pourra s'édifier que dans la mesure où tous ses habitants voudront s'y associer à part entière. Ce partenariat implique l'acceptation des valeurs fondamentales que sont la mise en commun, l'honnêteté et la générosité.

Par-dessus tout, nous devons faire preuve de respect mutuel.

Nos recommandations touchant les affaires autochtones ne sont qu'un élément d'un processus de renouvellement plus vaste. Les communautés autochtones ont également mis sur pied leur propre processus constitutionnel et la Commission royale sur les peuples autochtones poursuit son travail.

Tandis que le Canada subit une métamorphose à l'occasion de son 125e anniversaire, nous espérons que nos recommandations aideront les peuples autochtones à se sentir membres de la famille canadienne.

Nous croyons au Canada. Nous invitons les peuples autochtones et tous les autres à prendre part à l'édification du nouveau Canada. Ce n'est qu'en unissant nos efforts à titre de partenaires que nous pourrons concrétiser ce projet.

2. Le travail du Comité

Le Comité a entendu des autochtones de toutes les parties du Canada et a passé trois journées à Ottawa à consulter les quatre organisations nationales. Il a aussi entendu l'Association des femmes autochtones du Canada. Le Comité de liaison composé de six membres s'est réuni avec des représentants autochtones de partout au pays, passant toute une journée avec le

Ralliement national des Métis à Edmonton, l'Assemblée des premières nations à Vancouver, le Conseil des autochtones du Canada à Yellowknife et l'Inuit Tapirisat du Canada à Iqaluit. Le Comité a entendu les chefs des Indiens de la Nouvelle-Écosse, du Québec, de la Colombie-Britannique, du Yukon et des Territoires du Nord-Ouest, des Métis au Manitoba, des Indiens inscrits de la Saskatchewan, et des Inuit des Territoires du Nord-Ouest.

Nous avons été impressionnés de voir que les peuples autochtones veulent un Canada uni. Mme Sheila Lumsden, coordonnatrice de la jeunesse pour l'Inuit Tapirisat du Canada, nous a dit à Iqaluit que « les jeunes Inuit envisagent l'avenir du Canada avec optimisme». Le chef Roland Crow, de la Fédération des nations indiennes de la Saskatchewan, a fait remarquer : « Nous sommes heureux d'être ici afin d'exposer nos points de vue sur la façon dont ce pays, ce beau pays qu'on appelle le Canada, peut rester uni ».

Comme l'a indiqué M. Jim Durocher, du Ralliement national des Métis :

> *Nous ne réclamons pas la souveraineté à l'extérieur du pays. Nous sommes convaincus de la nécessité de l'unité canadienne et nous demandons simplement une nouvelle version du fédéralisme canadien. Nous croyons qu'il y a de la place pour nous tous dans ce grand pays. C'est notre pays. Nous avons toujours été prêts à le partager, mais nous ne sommes pas prêts pour autant à nous laisser léser dans nos droits. Il y a de la place pour tout le monde. Chacun peut gagner quelque chose sans que ce soit aux dépens des autres.*

Le Comité a remarqué l'esprit d'ouverture et de générosité avec lequel les Canadiens sont maintenant disposés à aborder ces questions. L'honorable Moe Sihota, ministre responsable des Affaires constitutionnelles pour la Colombie-Britannique, nous a dit :

> *La Colombie-Britannique tient à ce que cette série de négociations et de réformes traitent des questions autochtones d'une façon qui satisfasse aux aspirations légitimes des premières nations.*

Les propositions du gouvernement fédéral, *Bâtir ensemble l'avenir du Canada*, font explicitement mention des peuples autochtones dans quatre propositions et dans le libellé proposé pour la clause Canada. Nous voulons examiner différents moyens d'assurer la participation des autochtones au processus constitutionnel actuel et futur. Nous voulons également examiner les droits à inclure dans la Constitution et les pouvoirs que les gouvernements autochtones exerceraient. Enfin, nous nous penchons sur la représentation des autochtones au Sénat et sur leur reconnaissance dans la disposition Canada.

3. L'autonomie des autochtones

Les peuples autochtones nous ont répété que, des milliers d'années avant l'arrivée des Européens, ils disposaient de systèmes de gouvernement efficaces. Les Métis ont rappelé avoir formé un gouvernement provisoire dans ce qui est aujourd'hui le Manitoba. Au moment de la Confédération en 1867, les peuples autochtones n'étaient pas reconnus comme des égaux. Après 125 ans, nous a-t-on dit, le temps est venu d'intégrer les peuples autochtones dans la Constitution sur une base d'égalité et de respect.

On s'entend généralement pour décrire le droit à l'autonomie comme un droit « inhérent ». Bon nombre ont souligné que ce mot ne fait que décrire la réalité : le droit découle du statut et de l'histoire des peuples autochtones, il ne leur est pas conféré par la Constitution.

Les chefs autochtones ont déclaré qu'ils n'avaient pas l'intention d'invoquer le « droit inhérent » pour affirmer une souveraineté internationale telle que l'exercent les États-nations. Ils utilisent l'expression « nation à nation » pour décrire des rapports internes — exprimés pour beaucoup dans les anciens traités avec la Couronne — et non comme base de création d'une nation indépendante.

Le processus de définition des pouvoirs qu'exerceront les gouvernements autochtones devrait être constitutionnalisé. Le processus entraînera des négociations entre les gouvernements fédéral et provinciaux et les peuples autochtones. Il doit autoriser la pleine participation et le consentement éclairé des peuples autochtones, acquittant le gouvernement de sa promesse d'intégrer les autochtones au débat constitutionnel actuel. L'autonomie prendra différentes formes selon le groupe; par exemple, les Métis, qui vivent en milieu urbain, voudront peut-être avoir autorité sur le logement et les écoles.

À un niveau plus technique, on a dit au Comité que le droit inhérent à l'autonomie gouvernementale était peut-être déjà prévu par l'article 35 de la *Loi constitutionnelle de 1982*. La plupart des témoins ont soutenu que ce droit devrait être justiciable dès sa constitutionnalisation, et nous ne voyons pas pourquoi il n'en serait pas ainsi. Aucun témoignage n'a permis de déterminer si la constitutionnalisation du droit aurait un effet quelconque sur les revendications territoriales. Nous estimons que cette question importante doit être examinée plus à fond.

Le Comité a également bénéficié de l'analyse réfléchie de la Commission royale sur les peuples autochtones, qui a publié son commentaire le 13 février 1992. Nous appuyons les six critères relatifs à la constitutionnalisation du droit des autochtones à l'autonomie :

> *[...] toute nouvelle disposition relative au droit des autochtones à l'autonomie gouvernementale [...] doit indiquer que le droit est inhérent de nature, circonscrit en portée et souverain dans sa sphère. La disposition doit être adoptée avec le consentement des peuples autochtones, et tenir compte de l'idée que l'article 35 reconnaît peut-être déjà le droit à l'autonomie gouvernementale. Enfin, le droit doit tout de suite être invocable devant les tribunaux.*

Il convient de noter qu'en recommandant la constitutionnalisation immédiate de l'autonomie, nous nous prononçons contre le délai proposé.

Le Comité recommande l'inscription à l'article 35 de la *Loi constitutionnelle de 1982* du droit inhérent des peuples autochtones à l'autonomie gouvernementale au sein du Canada[1].

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[1] Voir les projets de modifications constitutionnelles à l'Annexe A, page 106.

a. Autonomie gouvernementale : pouvoirs et mise en oeuvre

Comme leur situation n'est pas la même, les Indiens inscrits et non inscrits, à l'intérieur ou en dehors des réserves, les Métis et les Inuit n'ont pas le même intérêt immédiat pour les négociations sur l'autonomie. Ainsi, la plupart des Indiens qui habitent dans une réserve pourraient rapidement prendre en main leurs terres et leurs ressources. Le processus de mise en oeuvre doit tenir compte de ces différents intérêts.

Beaucoup de gens ont demandé au Comité quels droits comporterait l'autonomie. Au cours des audiences, les dirigeants autochtones eux-mêmes ont produit plusieurs listes de responsabilités éventuelles. Elles incluaient les responsabilités énumérées dans les propositions du gouvernement du Canada.

On prévoit que des compétences relèveront exclusivement des gouvernements autochtones; d'autres continueront de relever du gouvernement fédéral ou des provinces; certaines seront partagées; enfin, certains pouvoirs pourront ne pas être exercés par les autochtones. Le Comité prévoit qu'il y aura une multitude d'accords pour répondre aux divers besoins des collectivités du pays. Le mélange de compétences exclusives et de compétences concurrentes qui en résultera sera naturellement assez semblable à ce qui existe déjà dans le régime fédéral canadien actuel. La reconnaissance constitutionnelle de l'autonomie autochtone ne peut que contribuer à l'unité nationale.

La mise en oeuvre de l'autonomie gouvernementale nécessitera des négociations entre les peuples autochtones et les gouvernements fédéral, provinciaux et territoriaux, en vue d'établir leurs compétences respectives et leurs relations mutuelles.

Une bonne façon de procéder consisterait peut-être à commencer par conclure un petit nombre de grands accords d'application générale aux termes desquels les collectivités négocieraient des accords individuels à leur propre rythme. Ces accords pourraient prendre la forme de traités ou de modifications de traités en vigueur, lesquels seraient protégés par la Constitution. Le Comité aimerait que le processus marche rondement. Le plus simple serait peut-être que les quatre organismes autochtones nationaux négocient un accord de ce genre, mais, dans certains cas, il sera sans doute indiqué de mener les négociations à l'échelle régionale. Les Indiens inscrits des Prairies, par exemple, ne sont pas dans la même situation que les Indiens de la Colombie-Britannique. Il faudra associer les gouvernements provinciaux à ces négociations à cause de leurs pouvoirs constitutionnels concurrents. Les mécanismes, notamment les groupes de travail, les tribunaux et les instances de règlement des différends, qui ont servi aux négociations avec la Fédération Tungavik du Nunavut, peuvent servir de modèle et ils devraient être examinés attentivement comme aide aux négociations.

Les parties à des négociations se trouvent parfois dans une impasse malgré leurs bonnes intentions. Le recours aux tribunaux prend du temps, coûte cher et donne souvent des résultats incertains. Le Comité croit qu'il faut un autre mécanisme pour faciliter la mise en oeuvre de l'autonomie et pour régler les différends. Il existe toutes sortes de tribunaux d'experts qui pourraient servir de modèle. Un mécanisme comme un tribunal indépendant pourrait être utile, ce qui n'exclurait pas la possibilité de recourir à une cour de justice.

L'application contemporaine de l'autonomie entraînera des négociations sur les compétences qu'exerceront les collectivités autochtones autonomes. Nous recommandons la constitutionnalisation d'un processus de transition afin de déterminer les responsabilités qu'exerceront les gouvernements autochtones et leurs rapports avec les gouvernements fédéral, provinciaux et territoriaux[2].

b. La Charte canadienne des droits et libertés

La *Charte canadienne des droits et libertés* est une expression proprement canadienne de l'équilibre entre les droits individuels et les droits collectifs. Certains témoins nous ont dit que le droit coutumier autochtone, qui est une composante de l'autonomie gouvernementale, pourrait entrer en conflit avec les valeurs libérales et démocratiques d'inspiration européenne qu'incarne la *charte*. Plusieurs organismes autochtones ont affirmé qu'ils songeaient à élaborer ou étaient en train d'élaborer leur propre charte, dans laquelle l'équilibre entre les droits collectifs et les droits individuels serait plus conforme à leurs propres traditions. Les quatre processus constitutionnels parallèles des autochtones sont en cours, et la position définitive des organismes sur cette importante question reste à définir.

La *Charte canadienne des droits et libertés* stipule, à l'article 25, que « le fait que la présente *charte* garantit certains droits et libertés ne porte pas atteinte aux droits ou libertés — ancestraux, issus des traités ou autres — des peuples autochtones du Canada ». La *charte* a pour but de protéger les individus contre les actions arbitraires des gouvernements. Le Comité a entendu l'Association des femmes autochtones du Canada, qui appuie fermement le maintien en vigueur de la *charte canadienne*. Elle propose par ailleurs que l'autonomie gouvernementale des autochtones soit constitutionnalisée de manière qu'elle s'applique également aux hommes et aux femmes.

Le Comité recommande que les libertés et les droits fondamentaux de tous les Canadiens, y compris l'égalité en droit des hommes et des femmes, soient complètement protégés par la *Constitution*[3].

c. Les responsabilités fédérales en vertu de l'article 91(24)

En 1867, le gouvernement fédéral est devenu responsable des Indiens et des terres réservées aux Indiens en vertu de l'article 91(24) de *la Loi constitutionnelle de 1867*. Le Parlement est responsable des Inuit par suite d'une décision rendue par les tribunaux en 1939, mais il n'a jamais été responsable des Métis. Les Métis ont déclaré au Comité que le gouvernement fédéral devrait maintenant prendre en charge les Métis aux termes de l'article 91(24).

Nous recommandons que le gouvernement fédéral réponde aux démarches des Métis en vue d'obtenir des terres et des ressources.

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[2] Voir les projets de modifications constitutionnelles à l'Annexe A, page 106.

[3] Voir les projets de modifications constitutionnelles à l'Annexe A, page 106.

Pour les premières nations, l'inscription du droit à l'autonomie dans la Constitution aura pour effet de transférer aux peuples autochtones eux-mêmes la compétence qu'exerce le gouvernement fédéral sur « les Indiens et les terres réservées aux Indiens » en vertu de l'article 91(24). Après quoi, cet article pourra être abrogé. Ce qui importe davantage, toutefois, c'est que la *Loi sur les Indiens* deviendra de moins en moins nécessaire, jusqu'à ce que, à toutes fins utiles, elle n'ait plus aucun bien-fondé. Le transfert des pouvoirs du ministre des Affaires indiennes aux collectivités indiennes autonomes exigera aussi que la relation fiduciaire avec les Indiens soit clarifiée. Sous le régime de l'autonomie, les relations entre le gouvernement fédéral et les gouvernements autochtones ressembleront aux relations entre le gouvernement fédéral et les gouvernements provinciaux.

Nous recommandons que les obligations fédérales issues de traités, les responsabilités fiduciaires et les transferts financiers qui demeureront en vigueur après l'établissement de l'autonomie gouvernementale par divers groupes autochtones soient administrés par un petit bureau géré conjointement par le gouvernement fédéral et des représentants autochtones.

4. Le processus constitutionnel autochtone

Dans le rapport qu'il a déposé au printemps de 1991, le Comité mixte spécial sur le processus de modification de la Constitution du Canada a recommandé, après en avoir discuté, certains changements destinés à apaiser les préoccupations des peuples autochtones. Le Comité est d'accord avec l'analyse qui sous-tend ces recommandations et avec l'objet de ces dernières, mais il croit qu'une conférence constitutionnelle en bonne et due forme ne réussira que dans la mesure où les groupes de travail proposés feront de solides progrès sur le plan de l'autonomie. Bien que le Comité mixte spécial sur le processus de modification de la Constitution du Canada ait recommandé un échéancier pour les conférences constitutionnelles, le Comité croit que, par suite du recours au système des groupes de travail, ces conférences seraient plus utiles si leur échéancier était plus souple.

Nous recommandons :

i) **afin de protéger les droits ancestraux et les droits issus des traités que la Constitution canadienne garantit aux peuples autochtones du Canada, qu'aucune modification à la Constitution du Canada qui concernerait directement les peuples autochtones ne se fasse sans que le consentement desdits peuples autochtones du Canada n'ait été obtenu avant sa mise en application**[4]**;**

ii) **que les représentants des peuples autochtones du Canada soient invités à participer aux conférences constitutionnelles futures portant sur les questions qui font l'objet de l'alinéa (i);**

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[4] Ces questions sont prévues à la catégorie 24 de l'article 91 de la *Loi constitutionnelle de 1867* et aux articles 25 et 35 de la *Loi constitutionnelle de 1982*.

iii) **que la Constitution du Canada prévoie la convocation d'une conférence constitutionnelle dans les deux ans suivant l'entrée en vigueur de la modification relative au droit inhérent à l'autonomie gouvernementale des peuples autochtones du Canada[5].**

5. La représentation des peuples autochtones au Sénat

Le gouvernement du Canada propose de garantir la représentation des populations autochtones dans un Sénat réformé. Cette inclusion dans les institutions politiques canadiennes est généralement bien accueillie, et le Comité en appuie le principe.

Les discussions à ce sujet ont eu lieu avant que la Commission royale sur la réforme électorale et le financement des partis ait déposé son rapport complet sur la représentation à la Chambre des communes. Le mécanisme proposé pour l'élection de députés autochtones est plus complexe qu'une simple garantie, mais il pourrait s'appliquer aussi bien à un Sénat élu. Ce mécanisme a été mis au point après mûre réflexion et beaucoup de consultations.

D'après ce que propose la Commission royale, les électeurs autochtones auraient le choix de se faire inscrire sur une liste d'électeurs autochtones ou sur la liste générale. Des circonscriptions autochtones seraient créées dès qu'un nombre suffisant d'électeurs choisiraient de s'inscrire. Ces circonscriptions seraient en tous points semblables aux autres, sauf qu'elles seraient nécessairement beaucoup plus étendues géographiquement. Ce mécanisme garantirait l'égalité d'accès au processus électoral, mais ne garantirait pas un nombre fixe de sièges.

Après avoir procédé à une vaste consultation sur sa proposition, la Commission a constaté que l'idée de créer des circonscriptions autochtones était bien accueillie en général, la plupart des gens estimant qu'elle allait dans le sens de l'autonomie. Le Comité est d'avis que cette démarche mérite d'être examinée pour un Sénat réformé.

Nous recommandons qu'on garantisse aux peuples autochtones, s'ils le désirent, d'être représentés au nouveau Sénat, selon le mécanisme et les options proposés par la Commission royale sur la réforme électorale et le financement des partis.

6. Disposition Canada : Mention des peuples autochtones

La mention des peuples autochtones s'impose dans trois domaines.

D'abord, une déclaration comme quoi le Canada se compose d'Indiens et d'Inuit, les premiers habitants, suivis beaucoup plus tard par les peuples d'expression anglaise et française, les Métis qui sont issus de ces peuples, et des gens de plusieurs autres pays des cinq continents.

Il serait bon aussi d'incorporer la notion centrale du droit inhérent des peuples autochtones à l'autonomie au sein du Canada.

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[5] Voir les projets de modifications constitutionnelles à l'Annexe A, page 106.

Les peuples autochtones souhaitent ardemment que la Constitution protège leurs cultures, leurs langues et leurs traditions uniques. Le Comité croit que c'est là, de la part des premiers habitants du Canada, une aspiration légitime qui nous enrichira tous.

Nous recommandons que le rôle que jouent les Indiens, les Inuits et les Métis dans le développement du Canada de même que leurs droits inhérents en tant que premières nations soient reconnus dans la disposition Canada proposée. En outre, la disposition devrait reconnaître le droit et la responsabilité qu'ont les peuples autochtones de protéger et de développer leurs cultures, leurs langues et leurs traditions uniques.

7. Conclusions

Il existe plusieurs autres domaines où les propositions constitutionnelles risquent d'avoir des répercussions sur les peuples autochtones comme sur beaucoup d'autres Canadiens. Certains témoins se sont dits préoccupés par les effets d'un transfert de pouvoirs fédéraux aux provinces qui s'effectuerait avant le transfert de pouvoirs aux gouvernements autochtones ainsi que de l'union économique. Le Comité croit que les gouvernements en cause doivent faire le nécessaire pour consulter tous les intéressés et tenir compte de leur opinion.

Comme le chef Peter Chiese l'a rappelé dans la prière qui a précédé les discussions constitutionnelles de l'Assemblée des premières nations : « Nous devons tous nous épauler. »

D. AUTRES QUESTIONS RELATIVES À LA *CHARTE*

1. Inclusion du droit de propriété

Dans sa proposition réaffirmant les droits et libertés des citoyens, le gouvernement du Canada propose de modifier la *Charte canadienne des droits et libertés* de manière à y garantir le droit de propriété.

Par cette proposition, le gouvernement reconnaît que le droit de propriété constitue un aspect important de notre société, une caractéristique que protègent déjà la *Déclaration canadienne des droits* et l'*Alberta Bill of Rights*. Depuis 1982, deux assemblées législatives provinciales, celles de la Colombie-Britannique et de l'Ontario, se sont prononcées en faveur de l'inclusion du droit de propriété dans la *charte*, et la Chambre des communes les a imitées en 1988. Par ailleurs, le Canada a reconnu le droit de propriété comme un droit fondamental en signant la Déclaration universelle des droits de la personne en 1947.

Nombre d'intervenants se sont opposés à la proposition au cours de nos audiences. Ils redoutaient par exemple son incidence sur les revendications territoriales des autochtones, les droits de la femme, les lois provinciales sur le patrimoine matrimonial et les lois de protection de l'environnement. Certains ont insisté sur la situation particulière de l'Île-du-Prince-Édouard, où l'absence des propriétaires met le littoral et les terres agricoles en péril.

Malheureusement, le gouvernement fédéral s'est montré avare d'explications sur les raisons de sa proposition et, surtout, sur ses raisons d'inclure le droit de propriété dans la *charte*. Nous prenons acte des arguments des adversaires de la proposition, mais nous jugeons important de souligner les propos de M. John Tait, sous-ministre de la Justice. Celui-ci a rappelé qu'aucun des droits garantis par la *charte* n'est absolu. Tous sont assujettis à l'article 1, qui stipule que les droits et libertés inscrits dans la *charte* sont garantis sous réserve des limites raisonnables, et justifiables dans une société libre et démocratique, prescrites par les lois. Il a ajouté que les droits sont aussi limités par l'article 25, relatif aux peuples autochtones, et l'article 28, qui garantit l'égalité des sexes.

Les membres du Comité qui sont du parti ministériel appuient la proposition fédérale d'inscrire dans la *Charte canadienne des droits et libertés* le droit de jouir d'une propriété et de ne pas en être dépossédé sans recours ni juste réparation. Ceux de l'opposition rejettent cette proposition.

2. La disposition dérogatoire

La disposition dérogatoire, communément appelée « clause nonobstant », se trouve à l'article 33 de la *Charte canadienne des droits et libertés*. Elle habilite le Parlement ou une assemblée législative provinciale à adopter des lois qui dérogent aux articles 2 (libertés fondamentales), 7 à 14 (garanties juridiques) et 15 (droits à l'égalité) de la *charte*.

Le gouvernement fédéral propose le maintien de l'article 33 et rend son utilisation plus difficile. Il ne pourrait être invoqué qu'avec l'approbation de soixante pour cent des membres d'une assemblée législative. Dans le régime actuel, l'assentiment de la majorité des députés présents au moment de l'adoption du projet de loi suffit pour qu'il prévoie une dérogation à la *charte*.

La présence de la disposition dérogatoire dans la *charte* ne fait pas l'unanimité. Au cours des audiences de Halifax, Ottawa, Winnipeg et Toronto, des participants ont réclamé une modification plus profonde que l'actuelle proposition fédérale. Il nous ont demandé de songer à empêcher le recours à la disposition dérogatoire pour passer outre au droit à l'égalité prévu à l'article 15 de la *charte*. Cet article garantit l'égalité de tous devant la loi indépendamment de toute discrimination fondée notamment sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.

D'autres nous ont dit que la disposition dérogatoire est une solution toute canadienne aux tensions naturelles entre la suprématie du Parlement et le pouvoir des tribunaux. Nous ne sommes pas sûrs d'arriver un jour à clore ce débat, et encore moins d'y parvenir dans le cadre des discussions constitutionnelles en cours.

Certains nous ont demandé de recommander d'ajouter à la *charte* une disposition précisant que les Canadiens, quelles que soient leur race, leur couleur ou leur origine nationale ou ethnique, jouissent également des droits et libertés qu'elle garantit ou de modifier l'article 27 de la *charte*, relatif au patrimoine multiculturel du Canada, de sorte que la *charte* soit interprétée de manière à respecter l'égalité des races et des ethnies. Nous pensons que les suggestions

méritent d'être approfondies, mais nous craignons que le programme de la ronde en cours ne nous laisse pas le temps de résoudre les problèmes épineux qu'elle suscite.

Étant donné la complexité des problèmes que cela soulève, nous croyons qu'il y aurait lieu de reporter à une autre ronde de discussions constitutionnelles l'étude de la proposition du gouvernement fédéral tendant à rendre plus difficile le recours à la disposition dérogatoire.

- **Dissidence du Nouveau parti démocratique**

Les Néo-démocrates considèrent qu'on n'a pas suffisamment fait état des objections que soulève la clause de dérogation. Selon un certain nombre de témoins, elle dénature la *Charte canadienne des droits et libertés*. Les groupes minoritaires, en particulier, soutiennent qu'il faudrait au moins soustraire à son application le paragraphe 15(1) de la *charte*. Comme la dérogation se fait par l'adoption d'une loi à la majorité simple, les minorités ne sont pas, selon eux, mieux protégées contre les atteintes à leurs droits que s'il n'y avait pas de *charte*.

Les membres néo-démocrates du Comité recommandent donc que le paragraphe 15(1) de la *Charte canadienne des droits et libertés* soit soustrait à l'application de l'article 33.

Pendant les audiences à Toronto, à Halifax, à Ottawa et à Winnipeg de nombreux organismes nationaux et régionaux représentant des minorités ethniques et raciales ont demandé que les droits et les libertés garantis par la *charte* soient garantis à tous de façon égale, sans distinction de race, de couleur ou d'origine nationale ou ethnique.

L'article qu'ils ont proposé se modèlerait sur l'article 28, qui prévoit que les personnes des deux sexes jouissent de droits égaux. Nous croyons que cette proposition mérite elle aussi plus ample examen de la part des premiers ministres, mais nous craignons de ne pas avoir eu le temps d'examiner les questions apparemment complexes en cause.

Cela dit, nous affirmons que le Canada doit son caractère en grande partie aux gens de diverses origines ethniques et raciales qui sont venus s'y établir non seulement pour repartir à neuf, mais pour participer pleinement au débat public et à la citoyenneté. L'un des thèmes de cette ronde constitutionnelle s'appelle l'inclusion, inclusion pour le Québec, pour les minorités anglophone et francophone, pour les autochtones, pour les régions. Nous croyons donc que tous les habitants du Canada doivent se voir dans la Constitution comme des citoyens à part entière. Notre loi fondamentale doit refléter la diversité de notre pays.

C'est pourquoi nous préconisons la proposition de la Ligue anti-diffamation de la B'nai B'rith : qu'on modifie l'article 27 de la *charte*, celui qui traite du patrimoine multiculturel du Canada, pour exiger que la *charte* soit interprétée d'une manière compatible avec l'égalité raciale et ethnique. Ceci élargirait une disposition de la *charte* qui jouit d'un appui considérable et que les tribunaux ont commencé à invoquer pour interpréter la *charte* en fonction de la diversité raciale et ethnique du Canada.

Les membres néo-démocrates du Comité recommandent qu'on modifie l'article 27 de la *Charte canadienne des droits et libertés* pour exiger que la *charte* soit interprétée d'une manière compatible avec le maintien et la valorisation du patrimoine multiculturel des Canadiens et le maintien et la promotion de l'égalité raciale et ethnique.

3. Le droit à la vie privée

Comme le rappelle la proposition fédérale, l'insertion de la *Charte canadienne des droits et libertés* dans la Constitution a marqué un jalon important dans la protection des droits fondamentaux des Canadiens. Nulle part, cependant, la *charte* ne garantit le droit à la vie privée. Les témoignages que nous avons entendus confirment que ce droit est au coeur des valeurs chères aux Canadiens. Dans une société où la surveillance s'intensifie, le droit à la vie privée devient d'autant plus important.

C'est là une des conclusions auxquelles le Comité de la justice et du Solliciteur général de la Chambre des communes est parvenu dans son rapport unanime de 1987 sur la révision de la Loi sur la protection des renseignements personnels. Ce Comité demandait qu'on envisage sérieusement de constitutionnaliser le droit à la vie privée, en ajoutant que « l'absence de droit à la protection de la vie privée en *common law* ou dans la *charte* canadienne est un obstacle important à la protection des droits individuels ».

Plusieurs membres du Comité du parti ministériel croient que la *Charte canadienne des droits et libertés* devrait être modifiée pour y inclure le droit à la vie privée. Ceux de l'opposition ne partagent pas cet avis.

CHAPITRE IV

Les institutions fédérales au service du renouvellement du Canada

INTRODUCTION

Les propositions présentées en septembre par le gouvernement énoncent une série de changements à deux de nos grandes institutions centrales : le Parlement et la Cour suprême du Canada. Ces propositions sont importantes puisque ces institutions ont une profonde influence sur notre mode de vie. Le Parlement est le fondement de notre démocratie. Il est le représentant du peuple dans le processus législatif et c'est à lui que le gouvernement répond de ses décisions. La Cour suprême, gardienne de la règle du droit, est l'instance suprême pour l'interprétation des lois et de la Constitution.

Certains des changements que propose le gouvernement n'obligent pas à modifier la Constitution, mais nous avons cru bon de les examiner avec les autres parce qu'ils auront un effet cumulatif sur nos institutions. Nous avons étudié les changements séparément et nous nous sommes demandé si l'ensemble allait dans le bon sens et assez loin.

Nos recommandations s'inspirent de deux principes. D'abord, les régions périphériques doivent être mieux représentées dans les institutions centrales et toutes les régions doivent être mieux en mesure d'exprimer les questions qui les préoccupent. Nous recommendons que la Chambre des communes revoit ses procédures et pratiques. Nous faisons aussi des recommandations qui auront pour conséquence d'accroître la légitimité des sénateurs comme représentants des régions. Enfin, nous avons des recommandations qui donneront une plus grande voix aux provinces et aux territoires dans la nomination des juges de la Cour suprême.

Le deuxième principe est un complément du premier. Nos recommandations auront globalement pour effet d'enlever subtilement des pouvoirs à l'exécutif pour les confier à ceux qui représentent directement les besoins et les préoccupations de la population en dehors de la capitale.

Nous croyons que nos recommandations, jointes aux propositions du gouvernement qu'elles sont destinées à enrichir, feront une part plus grande au consensus dans notre vie sociale et politique. Le gouvernement aura affaire à une opposition plus musclée s'il projette des mesures vivement contestées par les régions ou généralement impopulaires. L'avantage est qu'il aura intérêt à rechercher un consensus avant d'introduire des changements qui auront des répercussions sur la population.

Les changements que nous proposons répondent à des demandes faites aux gouvernements par le public. Nos recommandations devraient aider nos grandes institutions à contribuer pleinement au renouveau du Canada et à la qualité de vie des Canadiens.

A. LA CHAMBRE DES COMMUNES

Dans la proposition 8, le gouvernement s'engage à poursuivre la réforme de la procédure et des usages de la Chambre des communes. Cette proposition n'entraîne aucun changement à la Constitution. Le gouvernement reconnaît qu'il ne peut seul modifier la procédure parlementaire, l'usage voulant que celle-ci soit modifiée par consensus des principaux partis politiques. Les réformes proposées par le gouvernement sont l'extension des réformes parlementaires entreprises depuis le début des années 80.

La légitimité des institutions législatives de notre régime parlementaire démocratique est une composante indispensable du renouvellement du Canada. Nous croyons qu'il faut examiner toutes les possibilités de réforme de la Chambre des communes afin que tous les Canadiens et Canadiennes puissent être fiers d'y voir une véritable représentation de leurs aspirations et qu'ils ressentent pour leur Chambre des communes le respect absolu qu'ils désirent manifestement avoir.

Nous recommandons donc ce qui suit :

a) **Puisque la réforme de la procédure, des usages et de la représentativité de la Chambre des communes ne nécessite pas de modification constitutionnelle, il n'y a pas lieu d'inclure dans la présente série de réformes la proposition faite à ce sujet par le gouvernement fédéral;**

b) **que ce soit la Chambre des communes qui décide d'entreprendre ou non un examen en profondeur de la procédure et des usages en vigueur à la Chambre des communes.**

B. LA RÉFORME DU SÉNAT

1. La nécessité d'une réforme

Dans ses propositions de septembre 1991, le gouvernement reconnaît que, dans un Canada renouvelé, les institutions centrales doivent être plus attentives aux besoins des régions de l'Est et de l'Ouest et faire place au développement de la société distincte du Québec. La réforme du Sénat est présentée comme un élément majeur de la réponse à ces revendications. La proposition soutient qu'un Sénat élu et efficace, plus équitable et plus légitime, contribuera puissamment à accroître la participation des régions au sein du Parlement fédéral.

Avec cet argument, la proposition gouvernementale fait écho aux conclusions des études menées depuis le milieu des années 80, notamment celles du Comité mixte spécial de la réforme du Sénat (Molgat-Cosgrove) en 1984, de l'Alberta Select Special Committee on Upper House Reform en 1985, et de la Commission royale d'enquête sur l'union économique et les perspectives de développement la même année. Les trois commissions ont noté que la population des provinces de l'Ouest et de l'Est est de plus en plus aigrie par l'insensibilité des gouvernements du centre à son égard. Elles ont ajouté qu'un Sénat efficace serait un bon remède et que l'élection des sénateurs au suffrage populaire était la condition préalable de leur efficacité.

Nos audiences ont confirmé la nécessité d'une représentation adéquate des régions éloignées et d'une plus grande sollicitude du gouvernement à leur endroit. Beaucoup de Canadiens de l'Ouest et de l'Est ont l'impression que leur volonté est systématiquement contredite par les décisions du gouvernement central. Leur sentiment d'injustice entraîne parfois une méfiance générale pour le centre et une résistance opiniâtre aux demandes légitimes émanant en particulier du Québec.

Nous ne renouvellerons pas le Canada en étant justes envers seulement quelques-uns. Nous devons chercher à être justes envers tous. Pour bien des Canadiens, la réforme du Sénat est un aspect critique du renouveau du Canada.

L'ampleur du mouvement de réforme du Sénat et l'importance qu'il revêt hors du Canada central sont clairement apparues à la conférence de Calgary sur les institutions centrales. Le rapport de la Conférence notait :

> *Les participants sont unanimes à rejeter le* statu quo; *pour toutes sortes de raisons, ils trouvent que le Sénat existant est inadéquat et ils estiment qu'il faut le réformer.*

Nous croyons que nous sommes près d'un consensus au Canada sur l'idée de sensibiliser les institutions centrales aux besoins des régions, en particulier par l'entremise d'un nouveau Sénat. Reste à voir quel type de chambre haute pourrait remplir cette fonction.

La proposition gouvernementale expose quelques-unes des caractéristiques éventuelles du nouveau Sénat. Elle n'en précise pas le mode d'élection et la répartition des sièges, laissant au Comité le soin d'y réfléchir.

2. Les rôles et les fonctions d'un Sénat réformé

a. Les rôles

L'histoire des chambres hautes du Canada et d'ailleurs nous enseigne qu'un Sénat réformé pourrait jouer quantité de rôles dans notre régime. Il pourrait représenter, par exemple, les minorités culturelles et linguistiques; la diversité du pays, en faisant une place particulière aux femmes, aux autochtones et aux minorités ethniques; les provinces et leur gouvernement; ou encore les régions peu peuplées pour faire contrepoids à l'influence des provinces du centre, favorisées par le régime de représentation selon la population à la Chambre des communes.

Le choix entre ces options n'est pas arbitraire. Dans la réforme du Sénat, nous devons mettre le doigt sur les vrais problèmes et y répondre par des remèdes institutionnels appropriés.

Le consensus qui se dégage actuellement, et qui est étayé par les conclusions des comités parlementaires et d'autres études récentes, c'est que la représentation au Sénat devrait être essentiellement régionale. Le nouveau Sénat doit répondre à ce besoin, sinon il n'aura plus sa raison d'être.

- La représentation régionale : Les gouvernements ou la population ? Les régions ou les provinces ?

Les propositions les plus récentes, dont celle du gouvernement du Canada, favorisent une représentation régionale émanant de la population plutôt que des gouvernements. C'est une distinction majeure.

L'idée que les gouvernements provinciaux ou territoriaux soient représentés au Sénat (peut-être en y désignant des sénateurs) a suscité beaucoup d'intérêt dans les années 70. Elle a refait surface, sous réserve et comme mesure provisoire, avec l'Accord du lac Meech et elle a toujours ses partisans. Plusieurs se sont présentés à nos audiences.

Tout en assurant une forme de représentation provinciale ou territoriale, la formule soulève une objection de taille. Les gouvernements provinciaux et territoriaux émanent d'élections provinciales et territoriales qui gravitent autour de questions provinciales et territoriales. Ils ne représentent pas nécessairement les vues ni le parti politique de premier choix des électeurs provinciaux ou territoriaux sur les questions d'intérêt national. S'ils peuvent légitimement s'intéresser aux aspects des décisions nationales qui touchent leurs pouvoirs et leurs responsabilités, ils n'ont pas vraiment mandat de s'occuper des questions d'intérêt national.

Pour ces raisons, nous en sommes venus à la conclusion que le nouveau Sénat doit représenter la population — plutôt que les gouvernements — des provinces ou des territoires.

Dans sa proposition, le gouvernement soutient que la réalité de la politique canadienne contemporaine est telle que les gens s'identifient d'abord à leur province ou à leur territoire plutôt qu'à leur région. Le Sénat devrait par conséquent représenter les gens sur une base provinciale/territoriale plutôt que sur une base régionale.

Nous croyons que cet argument a du bon même si bien des gens se décrivent comme « des gens de l'Ouest », « des gens du Nord » ou « des gens des Maritimes ». L'évolution des diverses régions depuis la Confédération a mis en lumière plusieurs différences entre les provinces de l'Ouest et de l'Atlantique, comme entre ces provinces et le Nord. Si le terme « représentation régionale » offrait le moyen de passer outre à ces différences entre les provinces et les territoires, il mettrait la réforme des institutions centrales sur une très mauvaise voie.

Nous arrivons donc à la conclusion que la représentation régionale doit être conçue comme la représentation des habitants des provinces et des territoires. Il faut reconnaître aussi que, pour les habitants des provinces centrales, la représentation régionale est déjà assurée par la

représentation en fonction de la population adoptée à la Chambre des communes. Ce sont surtout les habitants des provinces de l'Atlantique et de l'Ouest et des territoires qui ont besoin d'être mieux représentés. Voilà le sens précis de la représentation régionale que doit assurer un Sénat réformé.

b. Les fonctions

Il est utile de distinguer entre la mission principale d'une institution et ses diverses activités. La plupart des institutions ont une mission centrale, mais s'acquittent de plusieurs fonctions, dont certaines découlent directement de la mission tandis que d'autres s'y rapportent plus ou moins. L'une des tâches de la réforme des institutions consiste à faire en sorte que les fonctions secondaires ne nuisent pas à la réalisation de la mission fondamentale et à déterminer les répercussions qu'une modification de la mission de base aurait sur les fonctions secondaires.

- L'examen des projets de loi

L'examen des projets de loi fédéraux devrait manifestement demeurer la fonction principale d'un Sénat réformé. Dans le cas contraire, l'aptitude du Sénat à représenter les besoins et les préoccupations des régions serait sérieusement compromise. C'était l'opinion de pratiquement tous les témoins entendus par le Comité.

- Les études

Plusieurs de nos témoins ont fait état des réalisations du Sénat actuel dans l'étude des grandes questions de l'heure. Il en est aussi question dans la proposition du gouvernement, qui fait valoir l'importance du travail des comités sénatoriaux dans l'étude des grands dossiers. À notre avis, cette fonction, comme celle de l'examen des projets de loi, se rattache directement à la mission fondamentale du Sénat. Les enquêtes des comités des deux chambres sont un moyen indispensable de cerner et de faire valoir les préoccupations des Canadiens.

- Le reflet de la dualité canadienne

Les témoins ont noté que, à la Confédération, le Québec a reçu un nombre un peu plus grand de sièges sénatoriaux étant donné les besoins que suscite son rôle de foyer institutionnel d'une société francophone distincte vivant en Amérique du Nord. Ces besoins continuent d'exister, et il faut en tenir compte de manière générale dans les institutions et les pratiques fédérales, ainsi que dans toute redistribution des sièges au Sénat.

La présence de communautés francophones éparpillées dans tout le Canada, et d'une communauté anglophone au Québec, donne une deuxième dimension à la dualité canadienne. Nous croyons qu'il faudrait faire du reflet de cette réalité l'une des fonctions importantes d'un Sénat réformé et en tenir compte, par exemple, dans le tracé des circonscriptions.

- Le reflet de la diversité

Plusieurs témoins ont soutenu que le Sénat devrait se faire davantage le miroir de notre diversité. Cette question a été étudiée de façon spéciale à la conférence de Calgary, où des groupes actuellement sous-représentés ont revendiqué avec force l'égalité des sexes et exigé de pouvoir participer davantage au processus politique. Nous croyons qu'un Sénat réformé peut contribuer utilement à refléter la diversité canadienne et que son rôle à cet égard sera encore plus grand si l'on porte une attention particulière aux détails de cette réforme.

- La représentation des autochtones

Dans ses propositions 6 et 9, le gouvernement du Canada préconise de garantir la représentation des autochtones dans un Sénat réformé. Cette idée a été favorablement accueillie par bon nombre des témoins.

c. Résumé

En résumé, nous croyons que la réforme du Sénat est devenue tout à fait essentielle pour donner aux Canadiens une chambre haute représentant directement les populations des régions et en particulier des régions ou provinces les moins populeuses. Nous croyons également que le Sénat devrait représenter les provinces et les territoires et que celui-ci devrait pour ce faire remplir toute une gamme de fonctions, mais avant tout s'occuper de l'étude des projets de loi.

3. La sélection des sénateurs

a. Un principe de répartition

Comme on l'a vu plus haut, les partisans de la réforme du Sénat depuis le début des années 80 préconisent d'abord et avant tout l'élection directe du Sénat. Il en a été de même chez nos témoins, qui n'ont guère accordé d'attention aux solutions de rechange que constituent la nomination ou l'élection indirecte (c'est-à-dire par d'autres assemblées législatives).

Nous croyons nous aussi que le temps est venu pour le Canada d'élire directement ses sénateurs. Les raisons qui ont poussé les divers comités et autres groupes d'enquête du début des années 80 à favoriser l'élection directe restent tout à fait valables à notre avis. Si nous voulons une institution forte et efficace pour rendre le gouvernement central sensible aux besoins des régions, il faut lui donner la légitimité que lui assure l'élection directe.

Nous recommandons :

Que les sénateurs soient élus directement par les Canadiens.

b. Un système électoral pour un Sénat réformé

Un des modes d'élection envisageables pour un Sénat réformé serait d'établir des circonscriptions représentées par un seul sénateur élu à la pluralité des voix. C'est le système

uninominal à un tour qui a cours actuellement à la Chambre des communes. Il présente l'avantage d'être bien connu des Canadiens, et de montrer clairement pourquoi un candidat est déclaré élu. Il est aussi facile à administrer, ce qui minimise les risques d'abus. Les circonscriptions relativement petites représentées par une seule personne rapprochent enfin les candidats des électeurs. Le système actuel favorise donc l'établissement de liens entre eux.

Parmi nos témoins et à la conférence de Calgary, ce système a toutefois trouvé peu de partisans, bien que chacun en reconnaisse les vertus. Pour la plupart de ses adversaires, son principal défaut est de produire des résultats qui ne traduisent pas le degré de soutien que les divers partis politiques reçoivent des électeurs. En plus d'entraîner une sous-représentation des petits partis, il transforme habituellement de relativement faibles pluralités du vote populaire en de belles majorités à l'assemblée.

Les témoins ont été très nombreux à préconiser une forme ou une autre de représentation proportionnelle. Beaucoup d'entre eux jugeaient ce système souhaitable parce que, entre autres avantages, il permettrait de distinguer nettement la composition du Sénat de celle de la Chambre et contribuerait ainsi à éviter le risque qu'un Sénat élu ne reproduise simplement les tendances du vote constatées à la Chambre des communes.

Les témoins ont également reconnu que la représentation proportionnelle permettrait de tenir davantage compte de la préférence des électeurs de chaque région à l'égard des partis et d'éviter la tendance du système actuel à traduire ces préférences en groupes relativement monolithiques de représentants d'un même parti élus dans les diverses régions.

Enfin, en soutenant que la représentation proportionnelle assurerait une meilleure représentation des femmes et autres groupes actuellement sous-représentés, un certain nombre de témoins ont pressenti un thème qui a fait surface à la conférence de Calgary.

Plusieurs témoins ont reconnu la tendance des systèmes de représentation proportionnelle à n'accorder qu'une minorité de sièges même aux grands partis politiques et (dans certains cas) à favoriser le développement de petits partis voués à une cause particulière, mais n'y ont pas vu un problème insurmontable. Ils considéraient même que la probabilité que le parti au pouvoir à la Chambre ne détienne qu'une minorité des sièges au Sénat contribuerait certainement à conférer à ce dernier un rôle distinctif.

Nous en sommes venus à partager la conviction des nombreux Canadiens qui croient qu'un système électoral fondé sur la représentation proportionnelle ajouterait grandement à la légitimité et à l'efficacité d'un Sénat renouvelé.

Nous recommandons :

Que les sénateurs soient élus à la représentation proportionnelle.

La décision d'adopter un système de représentation proportionnelle entraîne d'importants choix car ce système présente de grandes variantes. Le fonctionnement de chaque système est fonction, en réalité, de la conjugaison d'une multitude de particularités qui peuvent parfois, par

leur interaction, aller à l'encontre de ce qui devrait être ses caractéristiques fondamentales. Pour donner un exemple, le système utilisé pour élire les sénateurs australiens est censé atténuer l'importance des affiliations politiques et centrer l'attention des électeurs sur les candidats. En pratique toutefois, les partis diffusent une masse de fiches indiquant pour qui voter et les électeurs s'en servent souvent pour appuyer la liste du parti.

Pour s'assurer que ces divers éléments s'appuient mutuellement pour atteindre le résultat désiré, il faut prêter attention, dans la conception d'un système électoral, à toute la gamme des composantes possibles. À moins de régler absolument tous les détails, la réalisation des effets globaux souhaités risque d'être entravée par la recherche d'une caractéristique particulière. C'est pourquoi nous avons préféré énoncer un certain nombre d'objectifs que le système électoral d'un Sénat réformé devrait permettre d'atteindre plutôt que de détailler les caractéristiques du système.

En plus d'assurer la représentation proportionnelle des divers partis politiques au Sénat, le système électoral adopté pour un Sénat réformé devrait présenter les caractéristiques suivantes :

a) les partis devraient présenter des listes de candidats dans les circonscriptions représentées par plusieurs élus;

b) les candidats indépendants devraient pouvoir se présenter aux élections;

c) les partis devraient profiter de l'occasion qu'offrent les nominations multiples pour promouvoir l'égalité des sexes et la représentation de la diversité sociale et culturelle du Canada dans le processus politique; et

d) les électeurs devraient pouvoir exercer un choix démocratique entre les candidats qui figurent sur l'une ou l'autre liste des candidats présentés par les partis politiques.

Le système que nous favorisons respecte bien tous ces principes. Ainsi, les provinces seraient divisées en districts qui éliraient chacun trois ou quatre sénateurs. Les électeurs pourraient classer les candidats par ordre de préférence et les trois ou quatre qui auraient obtenu le plus de votes seraient élus. Cette méthode allie les meilleures caractéristiques de la représentation proportionnelle et du système uninominal à un tour. Elle laisse les électeurs libres de choisir les candidats de leur choix, elle encourage les petits partis et elle élimine le fastidieux et déroutant vote unique transférable associé à certaines formes de représentation proportionnelle.

c. La taille des circonscriptions et du Sénat

Avant de faire une proposition concrète à l'égard de la répartition des sièges au Sénat, il faut d'abord établir la taille des circonscriptions (ce qui veut dire leur nombre et, par voie de conséquence, le nombre de sièges au Sénat) ainsi que le principe général qui présidera à la répartition.

Un certain nombre de choses entrent en ligne de compte dans l'établissement de la taille et du nombre des circonscriptions. Il faut d'abord veiller à ce que leur taille et le système électoral soient compatibles. Le système de représentation proportionnelle que nous recommandons exige au moins quatre représentants par circonscription.

Il faut également reconnaître que les grandes circonscriptions présentent des inconvénients. La distance contribue à éloigner les candidats des électeurs, et ces derniers ont davantage tendance à arrêter leur choix en fonction de l'affiliation politique des candidats. De plus, les candidats doivent compter davantage sur l'aide de leur parti pour organiser et financer leur campagne, et la distance favorise les vedettes des partis au moment de la nomination. Ces facteurs compliquent particulièrement les choses aux candidats indépendants qui songeraient à se présenter.

Vu ces considérations, nous pensons que les circonscriptions ne devraient pas être plus grandes que ne l'exige le bon fonctionnement de la proportionnelle.

Pour cela, il faut d'abord attribuer au moins quatre sièges à chaque province ou territoire, ou admettre que le système ne produira qu'une représentation très approximative dans les territoires et peut-être les provinces peu peuplées.

Deuxièmement, le principe des circonscriptions « juste assez grandes » nous oblige à faire en sorte que le nombre de sièges octroyés aux provinces soit divisible entre plus d'une circonscription, et dans le cas des grandes provinces, entre plusieurs circonscriptions, pouvant normalement élire au plus quatre sénateurs chacune.

Nous recommandons :

Que, dans la mesure du possible, les circonscriptions du nouveau Sénat soient représentées, en règle générale, par au moins quatre sénateurs.

d. La tenue des élections et la durée des mandats

Il reste à déterminer, à l'égard du système électoral, à quel moment les élections devraient se tenir et la durée du mandat des élus. Nous avons entendu divers points de vue à ce sujet, certains témoins recommandant l'une ou l'autre des trois grandes options suivantes : tenir les élections au Sénat en même temps qu'à la Chambre, tenir les élections au Sénat en même temps que les élections provinciales et territoriales, enfin, tenir les élections sénatoriales à intervalles déterminés par des mandats d'une durée fixe.

À notre avis, des principales options, la seconde — la simultanéité des élections sénatoriales, provinciales et territoriales — est la moins bonne, même si nous avons remarqué qu'elle avait des partisans convaincus, surtout dans les provinces de l'Ouest. Cette formule entraînerait des interruptions fréquentes des travaux du Parlement, chaque fois que les diverses délégations provinciales et territoriales chercheraient à se faire réélire. De plus, elle mêlerait les sénateurs à des campagnes électorales axées sur des questions d'intérêt provincial ou territorial au lieu d'attirer l'attention sur la perception provinciale et territoriale des questions

d'intérêt national que les sénateurs auront pour rôle de représenter. Comme la distinction entre les responsabilités fédérales et provinciales s'en trouverait aussi estompée, il serait plus difficile par ailleurs pour les électeurs de tenir l'un ou l'autre palier de gouvernement responsable de ses actions.

Dans sa proposition, le gouvernement penche pour la tenue d'élections simultanées au Sénat et à la Chambre des communes en expliquant que cela ferait davantage ressortir le caractère fédéral du Sénat et montrerait que le Sénat et la Chambre des communes ont un programme législatif commun. Ces deux arguments sont valables. Nous craignons toutefois que le Sénat réformé ne soit associé trop étroitement à la Chambre des communes si les élections se tenaient simultanément, et que cela n'empêche un style de campagne moins partisan et plus personnel de voir le jour.

Certains de nos témoins réclamaient des mandats fixes et des élections qui ne correspondraient à celles ni de la Chambre des communes ni des assemblées législatives provinciales. Les participants à la conférence constitutionnelle de Calgary s'étaient également montrés très favorables à cette formule. Ils estimaient que le fait de tenir des élections sénatoriales distinctes, en plus de les rendre moins partisanes, contribuerait à dissocier le Sénat de la Chambre et augmenterait les chances qu'une fois élus les sénateurs représentent les intérêts des régions plutôt que la position de leur parti.

Il nous semble que nos témoins ont mis le doigt sur le noeud du problème; la question est de savoir quelle formule contribuera le plus à assurer la représentation régionale. Pour les raisons données par les témoins, nous croyons que des mandats fixes offrent la meilleure solution.

Les diverses modalités qui nous ont été proposées ou qui ont été formulées ces dernières années divergent grandement quant à la durée idéale du mandat sénatorial. Elles varient d'une période relativement longue, jusqu'à neuf ans, à des mandats de quatre ans ou moins. Les propositions diffèrent aussi quant à savoir s'il serait préférable d'élire tous les sénateurs en même temps, ou d'avoir des mandats échelonnés de sorte que la moitié peut-être des sénateurs seraient élus à chaque élection.

Nos discussions nous ont amenés à conclure qu'il faudrait éviter les mandats échelonnés. Un système électoral fondé sur la représentation proportionnelle donne de meilleurs résultats lorsqu'il y a un nombre relativement élevé de candidats, alors que chaque élection ne viserait à combler qu'une fraction des sièges au Sénat si les mandats étaient échelonnés. Nous croyons aussi que de longs mandats contribueraient à isoler les sénateurs de leurs électeurs et à réduire leur crédibilité.

Nous recommandons donc ce qui suit :

Que dans un Sénat réformé, le mandat des sénateurs soit d'une durée fixe d'au plus six ans.

4. La répartition des sièges

La répartition des sièges a suscité des débats très animés à l'époque de la Confédération. Les vues des témoins que nous avons entendus et des participants à la conférence constitutionnelle de Calgary montrent clairement que la question reste épineuse et, pour certains Canadiens, hautement symbolique.

a. Un principe de répartition

À notre avis, il importe de reconnaître qu'il n'y a pas de grandes différences, en pratique, entre les nombreuses propositions à l'étude concernant la répartition des sièges au Sénat. Aucune de celles que nous avons examinées ne donnerait à une province ou à un territoire assez de sièges au Sénat pour lui permettre de bloquer des projets de loi contestés par ses citoyens, ni, partant, pour assurer l'adoption des mesures souhaitées par eux. Le sort de tous les projets de loi dépendrait de coalitions de sénateurs de plusieurs provinces et territoires, et l'influence des sénateurs de chaque province ou territoire dépendrait beaucoup plus de leur aptitude à créer des alliances que de leur nombre.

Pour les raisons que nous avons énoncées lorsque nous avons traité de la représentation régionale, nous croyons que la répartition des sièges d'un Sénat réformé doit se faire sur une base provinciale ou territoriale plutôt que régionale. À cet égard, nous appuyons la proposition du gouvernement de même que les conclusions de plusieurs études et propositions antérieures.

L'idée de la répartition provinciale et territoriale plutôt que régionale des sièges au Sénat ouvre deux grandes possibilités : celle d'octroyer un nombre égal de sièges à toutes les provinces, et celle de leur en donner un nombre « équitable », mais pas rigoureusement égal, afin de tenir compte des écarts démographiques qu'il y a entre elles.

C'est surtout une question de justice. L'Île-du-Prince-Édouard, qui compte environ 0,5 p. 100 de la population du pays, devrait-elle avoir autant de sièges au Sénat que l'Ontario ou le Québec, qui représentent respectivement 36,6 p. 100 et 25,5 p. 100 de la population nationale? Étant donné ces écarts démographiques, nous croyons qu'en optant pour l'égalité stricte des sièges, la justice envers les Canadiens serait sacrifiée à la justice envers les provinces et les territoires eux-mêmes. Les provinces et territoires seraient sur un pied d'égalité, mais leurs populations respectives seraient très inégalement représentées, alors que l'objet d'un Sénat directement élu est justement de représenter la population des provinces et des territoires, et non les provinces et les territoires eux-mêmes ou leurs gouvernements.

L'on pourrait peut-être se dispenser de ces considérations si la représentation égale des provinces à la Chambre haute était l'expression d'un principe fondamental du fédéralisme, mais rien ne prouve que ce soit le cas. Sous ce rapport, l'inégalité n'a pas troublé les Pères de la Confédération lorsqu'ils ont créé le Sénat actuel. Elle n'a pas inquiété non plus les fondateurs de la République fédérale d'Allemagne, pays où les divisions territoriales ne sont pas également représentées à la Chambre haute. Et d'après les écrits de théoriciens classiques du fédéralisme, tels que *The Federalist* ou l'oeuvre d'Alexis de Tocqueville, il n'est pas nécessaire que les

régions aient une représentation égale à la Chambre haute. Nous en concluons que l'égalité n'est pas une obligation qui découle du principe fédéral.

Enfin, nous croyons que, dans un Sénat réformé, les Canadiens des territoires devraient être représentés au même titre que ceux des provinces. Si le nouveau Sénat devait représenter les gouvernements, il conviendrait que sa composition tienne compte des différences de statut entre les provinces et les territoires. Mais la population des territoires a le même statut que celle des provinces. Ce sont des citoyens canadiens. Si les provinces ont droit au même nombre de sénateurs, indépendamment de leur population, les territoires ont le droit d'en avoir autant que les provinces, et pour les mêmes raisons.

Toutefois, les Canadiens peuvent renoncer à la représentation égale au profit de la représentation équitable. À notre avis, en vertu de ce principe, les provinces peu populeuses (et les territoires) se verraient octroyer un nombre de sièges suffisant pour permettre au Sénat de jouer son rôle et de faire contrepoids à la représentation selon la population, qui est l'apanage de la Chambre basse. L'égalité stricte n'est pas nécessaire.

En conséquence, nous recommandons ce qui suit :

La répartition des sièges dans le Sénat réformé du Canada devrait être équitable, c'est-à-dire qu'elle devrait traduire la nécessité pour les provinces peu populeuses et les territoires de détenir à la Chambre haute un nombre de sièges plus grand que ne le justifie leur population.

b. La répartition proposée

Bien que le principe de la représentation équitable soit le fondement indispensable de la répartition des sièges du Sénat, nos discussions nous ont convaincus que ce serait abuser de ce principe que d'essayer d'en tirer des directives numériques précises. Point de départ sur lequel asseoir des jugements, il exige que ces jugements tiennent compte d'une multitude de facteurs. Une répartition équitable des sièges du Sénat doit, par exemple, reconnaître la nécessité globale d'avoir un Sénat qui fera contrepoids, sans le subjuguer, au principe de la représentation selon la population. Elle doit aussi respecter les protections régionales traditionnelles, tout en tenant compte du fait que les tendances démographiques ont fortement changé la répartition nationale de la population depuis 1867. La majorité des Canadiens doivent aussi la considérer juste. Le renouvellement du Canada vise à rétablir le consensus national sur lequel repose nos institutions; on ne saurait y parvenir par des formules où certains y gagnent et d'autres y perdent.

La répartition des sièges doit aussi tenir compte de l'article 51A de la *Loi constitutionnelle de 1867*, lequel prévoit que le nombre de députés d'une province ne doit pas être inférieur au nombre de sénateurs de cette même province. Si le nombre de sénateurs est trop minime, certaines provinces risquent d'être sous-représentées à la Chambre des communes; en revanche, si le nombre de sénateurs est trop élevé, il faudra peut-être accroître la représentation de certaines provinces aux Communes. Guidés par des considérations techniques de cette nature, et après de longues discussions sur les équilibres touchés par la répartition des sièges sénatoriaux

entre les provinces, les territoires et (éventuellement) les gouvernements autochtones, nous avons cerné deux options que nous soumettons ici à des fins d'études ultérieures.

Les sièges du Sénat réformé pourraient être répartis de la façon suivante :

Colombie-Britannique	18	12
Alberta	18	12
Saskatchewan	12	8
Manitoba	12	8
Ontario	30	20
Québec	30	20
Nouveau-Brunswick	10	8
Nouvelle-Écosse	10	8
Île-du-Prince-Édouard	4	4
Terre-Neuve	7	6
Territoires du Nord-Ouest	2	2
Yukon	1	1
TOTAL	**154**	**109**

- **Dissidence du Parti libéral**

Les Libéraux au sein du Comité rejettent les deux possibilités recommandées par la mojorité relativement à la répartition des sièges au Sénat. Ils sont d'avis que les Canadiens n'ont pas besoin d'un Sénat encore plus grand, comme la majorité le souhaite, mais, qu'au contraire un plus petit nombre de sièges dans un Sénat réformé contribuera davantage à son efficacité. Par conséquent, les Libéraux recommandent la répartition suivante :

Yukon	1
Territoires du Nord-Ouest	1
Colombie-Britannique	9
Alberta	9
Saskatchewan	8
Manitoba	8
Ontario	18
Québec	18
Nouveau-Brunswick	8
Nouvelle-Écosse	8
Terre-Neuve	8
Ile-du-Prince-Édouard	4
TOTAL	**100**

c. La représentation des autochtones

Dans notre analyse, ailleurs dans ce rapport, de la proposition du gouvernement visant à garantir la représentation des autochtones au Sénat, nous reconnaissons que les gouvernements autochtones constitueront un nouvel ordre de gouvernement au Canada. Puisque le but du Sénat

est de représenter les populations des divisions territoriales (provinces et territoires), il serait tout à fait logique que les populations autochtones y soient représentées.

Étant donné que les autochtones ne bénéficient pas encore, sauf exceptions, de l'autonomie gouvernementale, nous croyons qu'il serait prématuré de recommander la forme précise de leur représentation immédiate au Sénat.

Nous formulons toutefois la recommandation suivante :

La garantie de la représentation des autochtones au Sénat canadien constituera le prolongement logique de l'autonomie gouvernementale des autochtones; les détails de cette représentation devraient être négociés avec les populations autochtones en tenant compte du coefficient démographique utilisé pour répartir les sièges du Sénat entre les provinces et territoires.

5. Les pouvoirs du Sénat

L'efficacité avec laquelle le Sénat réformé assumera son rôle, et sa légitimité aux yeux des provinces, territoires et régions du Canada, dépendront principalement de ses pouvoirs. Cette question ne peut toutefois pas être étudiée séparément des autres caractéristiques du Sénat réformé et en particulier de la répartition des sièges. Ces deux facteurs ne cesseront de s'influencer réciproquement. Ainsi, si les provinces et les territoires y sont également représentés, les plus importants seraient bien moins disposés à lui accorder de vastes pouvoirs, et une chambre disposant de très faibles pouvoirs serait peu susceptible d'être très crédible aux yeux des Canadiens ou d'attirer des candidats valables. De plus, un Sénat élu et très puissant risquerait aussi de s'opposer à la Chambre des communes et d'entraîner des impasses parlementaires. Il faut donc étudier ensemble toutes les caractéristiques du Sénat réformé et évaluer minutieusement leur effet cumulatif.

a. L'étude des projets de loi ordinaires

Dans *Bâtir ensemble l'avenir du Canada*, le gouvernement propose un Sénat disposant de pouvoirs relativement grands, mais soigneusement limités. Dans l'ensemble, le gouvernement recommande de ne rien changer au processus général d'adoption des lois. Ainsi, le Sénat pourrait non seulement retenir des projets de loi adoptés à la Chambre, mais aussi les rejeter.

La proposition prévoit toutefois deux exceptions importantes. Pour certaines questions d'importance nationale, comme la défense nationale et les relations internationales, le Sénat disposerait d'un veto suspensif de six mois, après quoi le projet de loi pourrait être adopté définitivement par la Chambre des communes sans autre vote au Sénat. Une autre exception est proposée pour les « projets de loi de crédits et les mesures de financement, y compris les pouvoirs d'emprunt ». Pour ces questions, le Sénat ne remplirait aucun rôle législatif.

Les participants à la conférence de Calgary ont étudié ces propositions et appuyé l'idée que les projets de loi ordinaires doivent normalement être approuvés par le Sénat, mais ils n'ont pas entériné les exceptions susmentionnées.

Notre conclusion est semblable, mais va un peu plus loin. Nous croyons nous aussi que tous les projets de loi ordinaires devraient normalement continuer à être adoptés par la Chambre et le Sénat, mais nous ne pensons pas qu'il faudrait faire exception pour les questions d'importance nationale comme la défense nationale et les relations internationales. Ces mesures sont peu nombreuses et ne revêtent pas toujours une grande importance puisqu'il s'agit souvent de questions administratives comme les conventions fiscales. Parmi les autres questions plus importantes, bon nombre intéresseraient vivement les régions comme ce fut le cas pour l'Accord de libre-échange par exemple. Nous ne voyons vraiment pas pourquoi le Sénat ne devrait pas pouvoir étudier ces mesures. Nous recommandons par conséquent que ces projets de loi soient eux aussi approuvés par le Sénat et les Communes.

Nous recommandons donc ce qui suit :

Les pouvoirs du Sénat réformé devraient être égaux à ceux de la Chambre des communes pour tous les projets de loi, à l'exception des projets de loi de crédits, comme il est expliqué ci-dessous. Tous les projets de loi ordinaires devraient être approuvés par le Sénat. Aucune exception ne devrait s'appliquer pour les questions d'« importance nationale » comme la défense nationale et les questions internationales.

D'un autre côté, nous croyons que les pouvoirs relatifs des deux chambres méritent un examen attentif. Il est important que le Sénat dispose des pouvoirs voulus pour étudier les mesures législatives, représenter efficacement les régions et avoir une plus grande légitimité aux yeux de celles-ci, mais il faut aussi préserver l'équilibre du système parlementaire et les principes du gouvernement responsable. Le gouvernement est d'avis que le Sénat ne devrait pas devenir une chambre habilitée à prendre des votes de confiance et nous sommes d'accord. La confiance ne se limite toutefois pas aux motions de défiance. Elle concerne aussi la capacité de la majorité démocratiquement élue de réaliser les grandes lignes de son programme législatif et de rendre des comptes à l'électorat. Nous pensons qu'il convient tout à fait de modifier certains aspects de la notion de gouvernement responsable afin de mieux représenter les intérêts des régions grâce à un Sénat élu et de représenter plus efficacement la population aux Communes, mais nous ne voulons pas créer de cul-de-sac parlementaire où une chambre se contente de s'opposer à la volonté de l'autre.

Nous croyons qu'il est donc très important d'étudier attentivement les mécanismes de règlement des impasses qui devraient être adoptés afin d'arbitrer les principaux différends entre le Sénat et les Communes. C'est d'autant plus important qu'avec le système électoral que nous avons proposé pour un Sénat réformé, les gouvernements auraient rarement, voire jamais, une majorité au Sénat. La plupart des ateliers tenus à la conférence de Calgary ont aussi étudié cette question et certains ont proposé l'attribution d'un pouvoir de dérogation aux Communes, comme de nombreux autres projets de réforme du Sénat antérieurs. Ainsi, le comité spécial de l'Alberta sur la réforme du Sénat a proposé en 1985 que la Chambre des communes puisse contourner les décisions du Sénat en obtenant un pourcentage des voix plus élevé que celui obtenu au Sénat afin de modifier ou de rejeter la mesure à l'étude. Dans le même esprit, un rapport de la Canada West Foundation proposait en 1990 que les Communes puissent l'emporter sur le Sénat par un vote à la majorité des deux tiers. D'autres ont proposé un vote à majorité simple ou le

règlement des impasses au moyen d'une « commission mixte » composée de représentants du Sénat et des Communes.

Nous ne rejetons pas l'idée d'une conférence des deux chambres pour régler les différends importants (comme le prévoient déjà le Règlement du Sénat et celui de la Chambre), mais nous pensons que cette mesure ne devrait constituer qu'une première étape et qu'il faudrait disposer d'autres moyens de mettre fin aux impasses dans le cas des questions que la Chambre juge cruciales pour le pays. Nous favorisons donc l'attribution d'un pouvoir de dérogation à la Chambre des communes dans des circonstances extraordinaires. Nous ne croyons pas qu'il faille décider à ce moment-ci des exigences que la Chambre devrait remplir pour pouvoir invoquer ce pouvoir de dérogation (majorité des deux tiers recommandée par la Fondation, pourcentage supérieur des voix recommandé par le comité spécial de l'Alberta, ou autre formule), mais ce mécanisme de règlement des impasses devrait selon nous faire partie de tout projet de réforme du Sénat. Notre conclusion est conforme au consensus de la conférence de Calgary.

Nous recommandons donc ce qui suit :

Lorsqu'il y a impasse concernant l'adoption d'un projet de loi ordinaire, la Chambre des communes devrait pouvoir annuler un vote du Sénat.

Certains membres du Comité pensent que l'annulation ne devrait avoir lieu qu'avec une majorité de 60 p. 100 à la Chambre des communes.

Si le Sénat dispose d'un temps illimité pour étudier les projets de loi, il pourrait contrecarrer les plans de la Chambre des communes indépendamment de ses pouvoirs officiels ou du mécanisme de règlement des différends inclus dans la Constitution. S'il se peut que les gouvernements ne puissent jamais disposer d'une majorité dans le Sénat réformé, nous croyons qu'il serait particulièrement important que la Constitution prévoie une progression normale des travaux législatifs au Sénat. Nous entérinons donc une autre recommandation du comité spécial de l'Alberta, soit que le Sénat dispose d'un maximum de 180 jours pour étudier les projets de loi ordinaires à compter du moment où ils lui sont transmis par la Chambre.

Le Sénat devrait être tenu d'adopter les projets de loi ordinaires au plus tard 180 jours après qu'il les a reçus de la Chambre des communes.

- **Dissidence du Parti libéral**

Les membres libéraux du Comité sont d'avis que l'objectif principal de la réforme du Sénat est de permettre un contrôle plus efficace de l'exécutif.

Les membres libéraux du Comité rejettent la recommandation relative aux pouvoirs du Sénat parce qu'elle prévoit d'accorder à la Chambre des communes le pouvoir d'annuler un vote du Sénat. Le Parti libéral croit qu'un tel pouvoir d'annulation nuira à l'efficacité d'un Sénat réformé.

Par conséquent, les libéraux au sein du Comité recommandent de garantir à un Sénat réformé un droit de veto absolu sur tous les projets de loi, à l'exception des projets de loi de crédit, où le Sénat jouirait d'un véto suspensif de 30 jours et de 180 jours pour le budget, après quoi ils pourraient être adoptés par la Chambre avec une majorité simple.

b. Les projets de loi de crédits

Le gouvernement du Canada propose aussi que le Sénat n'ait aucun rôle législatif à jouer concernant les « projets de loi de crédits et les mesures de financement, y compris les pouvoirs d'emprunt ».

Cette question comporte deux aspects : la définition des projets de loi de crédits et le rôle du Sénat dans ce domaine.

Nous croyons qu'il est très important que les projets de loi de crédits soient définis d'une manière très étroite. Certains ont soutenu que la proposition visait tous les projets de loi de finances. Les représentants du gouvernement qui se sont présentés devant nous et ont aussi participé aux conférences constitutionnelles nous ont assuré que les propositions s'appuyaient sur une définition beaucoup plus étroite qui ne comprendrait que les principaux projets de loi de crédits et des mesures fiscales ordinaires. Toutes les autres mesures importantes devraient être étudiées par le Sénat. Même cette définition peut sembler trop large. Un porte-parole gouvernemental a ainsi déclaré que la prolongation ou la modification des taux d'imposition ne relèveraient pas de l'autorité du Sénat même si la fiscalité peut avoir une incidence importante sur les régions. Selon nous, il faudrait qu'il soit clair que cette catégorie de projets de loi ne vise que les mesures nécessaires pour les services habituels et essentiels du gouvernement.

Si les projets de loi de crédits sont définis ainsi, nous convenons que le Sénat ne devrait pas disposer de pouvoirs égaux à ceux de la Chambre. Il ne devrait pas pouvoir bloquer des crédits et enrayer la machine gouvernementale simplement parce qu'il n'est pas d'accord avec la Chambre ou le gouvernement. Il est essentiel que le gouvernement puisse continuer à s'acquitter de ses tâches habituelles pendant que les débats législatifs se poursuivent. Le gouvernement doit être en mesure de gouverner. Nous reconnaissons donc que les pouvoirs du Sénat devraient être limités dans ce domaine.

La proposition du gouvernement va cependant trop loin. Si elle était acceptée, le Sénat ne pourrait même pas débattre les projets de loi de crédits. Nous ne voyons pas pourquoi le Sénat ne pourrait s'exprimer sur ces mesures, même s'il ne peut bloquer les crédits. Nous proposons donc que le Sénat étudie ces projets de loi, définis de façon étroite, mais qu'il tienne un vote sur les projets de loi de crédits dans les trente jours suivant leur transmission par la Chambre des communes. En cas de désaccord, la Chambre serait tenue d'adopter de nouveau la mesure; celle-ci ne prendrait pas automatiquement force de loi à la fin de la période de veto.

Dans le cas des projets de loi de crédits, le Sénat devrait être tenu de mettre la mesure aux voix dans les trente jours suivant sa réception de la Chambre des communes. Après quoi la Chambre devrait adopter de nouveau la mesure par une simple majorité si le projet de loi a été amendé ou rejeté par le Sénat.

Si ces propositions sont adoptées, il faudra déterminer les mesures qui entrent dans la catégorie étroite déjà définie. Nous proposons de confier cette responsabilité au Président de la Chambre. Le Sénat devrait pouvoir modifier ces décisions prises par le Président de la Chambre des communes si 80 p. 100 des sénateurs y consentent, mais il ne devrait pas être possible de les contester devant la Chambre ou les tribunaux. Afin d'empêcher un gouvernement d'inclure dans un projet de loi de crédits ordinaire des mesures qui ont des conséquences importantes pour les régions ou qui devraient normalement être étudiées par le Sénat, le Président devrait pouvoir diviser les projets de loi et déterminer que des parties de ceux-ci doivent être soumises au Sénat.

Le Président de la Chambre des communes devrait déterminer les projets de loi qui constituent des projets de loi de crédits nécessaires au fonctionnement normal du gouvernement.

c. La double majorité

Le gouvernement propose que le Sénat adopte la règle de la double majorité pour les votes portant sur des questions relatives à la langue et à la culture. Des propositions semblables ont déjà été formulées par le comité spécial de l'Alberta, le gouvernement de Terre-Neuve (1989), la Commission Macdonald (1985), le Comité mixte spécial sur la réforme du Sénat (1984) et dans de nombreux autres rapports et études. Le gouvernement de Terre-Neuve et du Labrador a proposé que cette règle soit aussi suivie pour les modifications constitutionnelles visant les droits linguistiques ou culturels ou le droit civil. Cette proposition a été approuvée par un grand nombre de participants à la conférence de Calgary; aucun atelier ne s'y est opposé.

Nous sommes d'accord avec cette proposition. Pour être approuvées par le Sénat, les mesures relatives à la langue et à la culture des collectivités francophones devraient être appuyées par la majorité des sénateurs et par la majorité des sénateurs francophones. Étant donné que cette règle vise à protéger les minorités, une disposition semblable pour les sénateurs anglophones n'est pas nécessaire.

Les mesures relatives à la langue ou à la culture des collectivités francophones devraient être approuvées par la majorité des sénateurs et par la majorité des sénateurs francophones.

Comme pour les projets de loi de crédits, il faudra déterminer les mesures qui doivent être assujetties à la règle de la double majorité. Nous proposons que cette responsabilité soit confiée au Président du Sénat à la condition que celui-ci soit dorénavant élu, non nommé par le gouvernement comme actuellement, et qu'il consulte le Commissaire aux langues officielles dans l'exercice de cette responsabilité.

S'il faut prévoir un mécanisme d'appel, ces appels devraient être tranchés par l'ensemble du Sénat, en appliquant la règle de la double majorité, mais non par les tribunaux. Si l'appel vise à s'objecter à l'inclusion d'une mesure dans cette catégorie spéciale, il faudrait obtenir l'appui des deux tiers des sénateurs et de la majorité des sénateurs francophones. Si l'appel vise à s'objecter à la non-inclusion d'une mesure dans cette catégorie spéciale, il ne faudrait obtenir

l'appui que de la majorité des sénateurs et que de la majorité des sénateurs francophones. Cette différence est tout simplement attribuable à l'objectif même de la règle de la double majorité. Afin de protéger la minorité, il faut qu'il soit plus difficile pour la majorité de renverser une décision du Président à ce sujet.

Le Président du Sénat devrait déterminer les projets de loi qui constituent des mesures relatives à la langue et à la culture des collectivités francophones et qui doivent être soumis à la règle de la double majorité. Il ne devrait pas être possible d'en appeler devant les tribunaux de la décision du Président.

d. La ratification des nominations

Le gouvernement propose que le Sénat réformé soit habilité à ratifier les nominations des dirigeants d'un certain nombre d'organismes fédéraux (dont le gouverneur de la Banque du Canada), d'institutions culturelles nationales (comme la Société Radio-Canada, l'Office national du film, la Bibliothèque et les Archives nationales, les musées nationaux, Téléfilm Canada, le Conseil des arts du Canada et le Centre national des arts), et d'organismes de réglementation (comme l'Office national de l'énergie, l'Office national des transports, le Conseil de la radiodiffusion et des télécommunications canadiennes, la Commission de l'immigration et du statut de réfugié et l'Agence canadienne d'évaluation environnementale proposée).

Nous sommes d'accord avec cette recommandation (proposition 11). Puisque ces organismes peuvent avoir un impact important sur la vie des Canadiens de toutes les régions du pays, il convient que le Sénat puisse juger de la compétence des candidats.

Selon nous, cette liste d'organismes ne se veut pas exhaustive. D'autres organisations pourraient s'y ajouter, notamment les conseils de recherche fédéraux qui ont une incidence importante sur l'enseignement supérieur et la culture partout au pays.

Le Sénat devrait avoir le mandat de ratifier la nomination du gouverneur de la Banque du Canada ainsi que des dirigeants des institutions culturelles nationales et des organismes de réglementation.

C. LA COUR SUPRÊME DU CANADA

Instituée en 1875 par une loi du Parlement fédéral comme cour générale d'appel pour le Canada, la Cour suprême du Canada a assumé son véritable rôle de tribunal de dernière instance à compter de 1949, année de l'abolition des appels des jugements des cours canadiennes au comité judiciaire du Conseil privé de Grande-Bretagne. Depuis l'entrée en vigueur de la *Charte canadienne des droits et libertés* en 1982, la Cour suprême est appelée à exercer une plus grande influence. À son rôle d'arbitre constitutionnel, notamment de la répartition des compétences entre le Parlement et les législatures provinciales, s'ajoute celui de déterminer si les lois fédérales ou provinciales violent ou non les droits et libertés individuels reconnus par la *Charte*. La cour étant devenue un pilier de la vie publique canadienne, sa composition et son fonctionnement sont d'une importance primordiale. Le temps est venu de poursuivre la démarche

entamée par la promulgation des articles 41 et 42 de la *Loi constitutionnelle de 1982*. L'objectif de ces articles, combiné avec celui du présent processus de modification, est d'empêcher que les caractéristiques fondamentales de la cour soient modifiées unilatéralement par une loi du Parlement fédéral qui pourrait être adoptée sans que les autres partenaires de la fédération ne soient consultés.

Le gouvernement propose de modifier la *Loi constitutionnelle de 1982* de façon que les juges de la Cour suprême soient nommés à partir de listes soumises par les gouvernements provinciaux et territoriaux. Cette modification pourrait être adoptée selon la formule d'amendement du paragraphe 38(1) de la *Loi constitutionnelle de 1982*, soit avec l'assentiment du gouvernement fédéral et de sept provinces réunissant cinquante pour cent de la population (formule 7/50).

Le gouvernement se dit prêt à aller de l'avant avec une proposition de plus grande portée prévoyant l'enchâssement dans la Constitution de l'existence même de la Cour suprême du Canada et de sa composition actuelle comprenant au total neuf juges, dont trois en provenance de la province de Québec ayant une formation en droit civil. Cette garantie a une importance vitale pour le Québec, car elle constitue un élément de protection de la société distincte et particulièrement du Code civil. Les divers intervenants dans le présent débat semblent s'accorder sur l'opportunité de procéder à une modification qui réalise tous les objectifs d'une telle réforme. Nous notons cependant que l'alinéa 41(d) de la *Loi constitutionnelle de 1982* exige l'assentiment unanime des gouvernements fédéral et provinciaux pour sa mise en oeuvre.

Parmi ceux qui se sont présentés devant nous et qui ont participé au débat sur la Cour suprême, personne n'a contesté la nécessité d'enchâsser cette dernière dans la Constitution. Cependant, les avis sont partagés sur le processus de nomination des juges.

Certains ont recommandé la création de conseils de nomination afin de permettre au milieu juridique, tant au niveau fédéral que provincial, de se prononcer sur un choix que le gouvernement fédéral exercerait seul en fin de compte. D'autres ont proposé la création d'un collège arbitral pour résoudre les impasses dans les consultations intergouvernementales. Sans rejeter d'emblée ces propositions, nous estimons que l'élément essentiel de la réforme est la participation des provinces et des territoires. Les décisions de la cour portent sur les questions politiques fondamentales du pays. Nous considérons que les gouvernements doivent s'entendre sur le choix des candidats aux postes de juges. La Constitution ne peut qu'établir le cadre dans lequel se déroule ce processus. Il ne convient pas, à notre avis, que la Constitution confie à un organisme non politique la responsabilité de trancher le débat.

Nous sommes d'accord avec la proposition gouvernementale de modifier la *Loi constitutionnelle de 1982* de façon que les juges de la Cour suprême soient nommés à partir de listes soumises par les gouvernements provinciaux et territoriaux. Afin d'éviter que les travaux de la Cour suprême soient paralysés par un long débat sur le choix d'un candidat, nous proposons en outre la constitutionnalisation d'une version simplifiée du mécanisme prévu à l'article 30 de la *Loi sur la Cour suprême*. Celui-ci stipule que le juge en chef de la Cour suprême est habilité à nommer à titre temporaire un juge suppléant parmi les

juges de la Cour fédérale ou ceux d'une cour supérieure provinciale. Une telle nomination n'interviendrait qu'en cas d'impasse entre les pouvoirs politiques et permettrait à la cour de fonctionner normalement en attendant un accord sur le choix d'un candidat[6]. Ces modifications pourraient être adoptées en ayant recours à la formule 7/50.

Nous recommandons aussi que la proposition du gouvernement, dans sa version plus complète, reçoive l'appui de tous les gouvernements. En vertu de cette proposition, seraient enchassées dans la Constitution l'existence même de la Cour suprême du Canada et sa composition actuelle soit un total de neuf juges, dont trois en provenance de la province de Québec ayant une formation en droit civil.

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[6] Voir les projets de modifications constitutionnelles à l'Annexe A, page 108.

CHAPITRE V

Responsabilités et avantages partagés

INTRODUCTION

Au moment où nous nous apprêtons à célébrer le 125e anniversaire de la fédération canadienne, de nouveaux défis internes et externes nous obligent à revoir une nouvelle fois les modalités de partage des compétences entre les deux ordres de gouvernement et à chercher des moyens d'améliorer la gestion des affaires économiques et sociales. La tâche peut sembler particulièrement complexe et ardue dans le contexte constitutionnel actuel, mais le mieux, croyons-nous, est d'y voir une nouvelle étape d'un processus normal et continu d'ajustement et d'adaptation à l'évolution des circonstances et des besoins.

Sur le plan interne, le gouvernement du Québec, insatisfait du partage actuel des responsabilités entre les gouvernements fédéral et provinciaux, croit qu'un réaménagement s'impose pour lui permettre de mieux servir les intérêts des Québécois. Si les provinces ne sont pas unanimes à rechercher plus de pouvoirs dans divers domaines, elles sont nombreuses à croire que nous pourrions améliorer sensiblement la façon dont les gouvernements gèrent leurs responsabilités partagées. L'interdépendance et la façon d'améliorer notre régime fédéral pour en permettre une meilleure gestion tout en respectant l'essence même du fédéralisme, à savoir le partage clair des compétences législatives entre les deux ordres de gouvernement, sont au coeur du problème.

Sur le plan externe, la mondialisation de l'économie et l'intensification de la concurrence nous forcent à faire en sorte que notre économie fonctionne le mieux possible si nous voulons assurer notre avenir et celui de nos enfants. L'évolution de la situation mondiale apportera des changements, quoi que nous fassions. La question est de savoir si nous voulons être en mesure d'influer sur le cours des événements ou bien demeurer passifs et les laisser modeler notre avenir, sans rien faire pour protéger et hausser notre niveau de vie. L'enjeu, ce n'est pas la prospérité personnelle, mais les racines mêmes de notre esprit de bienveillance et de partage, qui suscite l'admiration et l'envie du reste du monde. Seule une économie prospère nous permettra de perpétuer les valeurs sociales auxquelles nous tenons tant. La nécessité de préserver notre bien-être économique et social est communément admise; c'est la façon d'y parvenir qui suscite la controverse. Quand, dans la ronde actuelle de discussions constitutionnelles, on pèse le pour et le contre des diverses propositions, il importe de ne jamais perdre de vue l'objectif ultime, c'est-à-dire le bien-être de tous les Canadiens.

A. GÉRER L'INTERDÉPENDANCE DANS NOTRE SYSTÈME FÉDÉRAL

1. Introduction

a. La Constitution de 1867 : un mécanisme souple qui répond aux besoins du Canada

Lorsque les Pères de la Confédération se sont réunis en 1867 pour jeter les bases du fédéralisme canadien, les gouvernements jouaient un rôle beaucoup plus limité qu'aujourd'hui. Leurs grandes responsabilités étaient de fournir le cadre juridique permettant à la société de régler ses affaires quotidiennes, d'offrir un nombre limité de services concernant l'application des lois, la défense nationale, les routes et les ponts, et d'appuyer de grands travaux comme les canaux et les chemins de fer. Les dépenses publiques étaient minimes et n'avaient, comme instrument politique, que peu de poids. Le monde a beaucoup changé depuis la Confédération. Les problèmes et les défis auxquels sont confrontés le Canada et ses citoyens sont plus complexes. Les Canadiens en sont venus à attendre de leurs gouvernements qu'ils assument plus de responsabilités économiques, sociales et culturelles qu'au XIXe siècle.

La répartition des responsabilités et des pouvoirs entre les deux ordres de gouvernement est un élément clé de la constitution en régime fédéral. Les auteurs de la Constitution de 1867 ont concentré leur attention sur la division des pouvoirs législatifs, ce qui témoigne de la valeur des lois comme moyens d'établir les politiques à l'époque. Ils ont appliqué deux grands principes au partage des pouvoirs législatifs établi par les articles 91 à 95 de la *Loi constitutionnelle de 1867*. Suivant le premier, les matières qui sont d'envergure interprovinciale ou internationale relèvent du parlement fédéral; les matières qui sont d'envergure essentiellement provinciale ou locale ou qu'il vaut mieux réglementer par des lois adaptées à la collectivité provinciale relèvent des assemblées provinciales. Quant au second principe, il consiste à distinguer en gros entre, d'une part, les éléments qui sont ancrés dans les différences collectives et culturelles et à l'égard desquels les diverses collectivités provinciales éprouveront vraisemblablement des besoins fort différents et, d'autre part, les choses qui transcendent les différences culturelles ou sociales et sont susceptibles d'intéresser tous les citoyens du pays.

Non seulement la Constitution habilite le parlement fédéral et les provinces à adopter des lois sur des questions précises; elle les autorise aussi, explicitement ou implicitement, à lever des impôts, à dépenser et à fournir des services. Ces quatre pouvoirs réunis permettent aux gouvernements de réaliser leurs objectifs politiques.

b. L'adaptation des responsabilités et des pouvoirs des gouvernements à la nouvelle conjoncture politique, sociale et économique

Les nouvelles sphères d'activité nées des innovations techniques, économiques et sociales du XXe siècle ont nécessité une clarification des responsabilités législatives de chaque ordre de gouvernement. Les tribunaux ont contribué à ce processus. Ils ont clarifié et étendu l'autorité législative du gouvernement fédéral en appliquant aux nouvelles activités le partage des pouvoirs établi par la Constitution. Les décisions des tribunaux n'ont pas toutes élargi la portée des

pouvoirs fédéraux cependant. Dans bien des cas, les tribunaux ont protégé et clarifié les pouvoirs des provinces en restreignant la portée des pouvoirs fédéraux.

Les gouvernements ont également élargi la portée des trois autres pouvoirs, celui de dépenser en particulier, à la suite de l'évolution économique et sociale qu'a connue le pays, surtout à partir des années trente.

Ainsi, le cloisonnement relativement rigide des sphères d'intervention en vigueur de la Confédération jusqu'à la Première Guerre mondiale a commencé à s'effondrer durant la Dépression et la Deuxième Guerre mondiale. Cela venait de ce que les gouvernements, surtout le fédéral, étendaient leur champ d'action pour embrasser notamment le domaine social. Ils faisaient souvent appel pour ce faire, non pas à leurs pouvoirs législatifs, mais aux autres pouvoirs ou instruments à leur disposition.

Bien que la Constitution ne mentionne pas explicitement le pouvoir de dépenser, les dépenses publiques exercent de nos jours une influence capitale sur presque tous les aspects de la société.

c. L'émergence du pouvoir fédéral de dépenser

En réponse à la demande générale de réformes économiques et sociales après la Deuxième Guerre mondiale, le gouvernement fédéral a pris une série d'initiatives qui s'appuyaient sur le pouvoir de dépenser. Contrairement à la plupart des programmes fédéraux d'avant-guerre, ceux d'après-guerre visaient souvent des sphères de compétence législative exclusivement provinciale. On nous a dit que, pour l'exercice 1991-1992, environ 35 p. 100 des dépenses fédérales visent des domaines de compétence législative provinciale.

Tandis que le fédéral étendait ainsi son champ d'action, les provinces aussi se sont activées, particulièrement à partir des années soixante. En fait, les dépenses totales du secteur provincial-local-hospitalier (PLH) dépassent actuellement de près de 40 p. 100 celles du gouvernement fédéral alors qu'en 1960, elles se situaient à peu près au même niveau.

Si le pouvoir de dépenser est devenu un puissant facteur de changement, c'est en grande partie à cause de la complexité du monde moderne, qui brouille les distinctions purement juridiques dans le partage des pouvoirs législatifs. Les problèmes de la société moderne ont souvent une dimension provinciale et une dimension nationale ou internationale. Il s'ensuit que les deux ordres de gouvernement s'intéressent souvent à un même domaine d'activité et y interviennent en utilisant la totalité de leurs pouvoirs.

d. Les réactions des provinces et autres intervenants au pouvoir de dépenser du fédéral

Le pouvoir de dépenser du fédéral est parfois perçu comme un moyen brutal d'imposer des programmes fédéraux aux provinces. Le recours à ce pouvoir peut avoir une incidence négative sur les politiques financières des provinces en favorisant des programmes et des affectations de crédits qui ne conviennent peut-être pas au contexte local. Certains gouvernements provinciaux, au Québec en particulier, se sont souvent inquiétés de l'ingérence du gouvernement fédéral dans

leurs sphères de compétence législative exclusive en vertu de son pouvoir de dépenser. D'autres ont fait ressortir les problèmes de planification budgétaire que leur causent les programmes à frais partagés dans leurs domaines de compétence du fait que le fédéral peut en modifier les modalités unilatéralement. Selon bon nombre des mémoires présentés au Comité, l'expansion des programmes fédéraux dans les domaines de compétence provinciale a conduit à une prestation inefficace des services ainsi qu'à des chevauchements et un double emploi coûteux là où les deux ordres de gouvernement offrent des programmes semblables à peu près aux mêmes populations.

Le cloisonnement strict des pouvoirs législatifs était peut-être indiqué pour répondre aux exigences des Canadiens à la fin du XIXe siècle, mais de nos jours, de nouveaux défis nous obligent une fois de plus à faire preuve de dynamisme et d'imagination dans la conception du système par lequel nous nous gouvernons. Le partage des pouvoirs législatifs n'est qu'un aspect d'une structure de gouvernement efficace. Si nous nous bornons à cette seule question, nous passerons à côté de l'essentiel du débat sur le partage des pouvoirs entre le Québec et le gouvernement fédéral. L'exercice du pouvoir de dépenser du fédéral dans des domaines du ressort exclusif des provinces est une autre source de tension dans la Confédération.

Pour répondre à ces préoccupations, nous envisagerons, dans le cadre de nos recommandations sur la répartition des compétences, la possibilité d'imposer certaines contraintes au pouvoir de dépenser du fédéral au moyen d'accords intergouvernementaux.

Un besoin de coordination et de coopération intergouvernementales se fait clairement sentir lorsque le fédéral exerce son pouvoir de dépenser dans des domaines qui relèvent de la compétence exclusive des provinces. Nous faisons ces affirmations tout en reconnaissant, bien sûr, l'importance du pouvoir fédéral de dépenser, surtout à l'égard des provinces plus petites et moins populeuses.

Nous ne croyons pas que le retrait du gouvernement fédéral soit une solution qui convienne à toutes les provinces. Nous croyons possible de donner aux provinces qui le désirent la possibilité d'être maîtres d'oeuvre dans les domaines de leur ressort exclusif. On ne saurait non plus améliorer la gestion des ressources publiques restreintes ni définir plus clairement les rôles ou responsabilités mutuellement complémentaires sans une plus grande coopération. Cela n'empêchera pas l'innovation et ne compromettra pas le principe fédéral. Le Canada n'est pas seul à devoir composer avec une nouvelle réalité : la nécessité d'accroître la coopération intergouvernementale et de mieux coordonner les politiques se manifeste dans le monde entier.

Beaucoup témoignent, par exemple, d'un profond attachement aux normes nationales, qu'ils tiennent pour un élément essentiel de la citoyenneté canadienne. Pour d'autres, les normes nationales sont des règles que le fédéral impose aux provinces sans tenir compte de la diversité des besoins et des aspirations. Les deux points de vue ont beau paraître inconciliables, nous estimons qu'un fédéralisme coopératif et harmonieux ferait beaucoup pour établir des ponts entre eux. Il faudrait que les normes soient arrêtées conjointement par les deux ordres de gouvernement, avec la participation de la population canadienne.

La nature des normes nationales peut varier sensiblement d'un domaine à l'autre. Dans certains domaines, comme la santé et les autres programmes sociaux, le Comité juge important d'observer des normes identiques d'une province à l'autre. Mais dans les domaines d'intervention plus récente, il y a lieu d'être souple. Faut-il, par exemple, que les normes en matière de formation professionnelle soient identiques? Ou suffirait-il d'établir, de concert, des normes minimales que chaque province serait libre de bonifier? Ne pourrait-on pas envisager la reconnaissance réciproque des normes provinciales? Il ne nous appartient pas ici de dire quelles normes il faudrait établir dans ce domaine. Nous voulons simplement faire comprendre que la coopération entre gouvernements et la participation du public sont indispensables pour établir de nouvelles normes et qu'il faut faire preuve de souplesse et d'imagination puisque plus d'une voie s'offre souvent à nous.

Après avoir examiné comment on pourrait améliorer le fonctionnement de la structure fédérale canadienne et mieux l'adapter aux différents besoins des régions, nous en sommes arrivés à la conclusion que, en plus d'une clarification du rôle des deux ordres de gouvernement dans plusieurs domaines, il nous fallait aussi une plus grande panoplie d'instruments ou d'arrangements pour régler la question des responsabilités partagées.

2. Moyens de gérer notre régime fédéral et de promouvoir la coopération intergouvernementale

a. Les pouvoirs concurrents

Lors de la répartition originale des pouvoirs législatifs, les Pères de la Confédération ont estimé que le gouvernement fédéral et les gouvernements provinciaux devaient chacun avoir des pouvoirs législatifs dans certains domaines où les deux ordres de gouvernement avaient des intérêts légitimes. C'est ainsi que, dès le départ, les deux ordres de gouvernement ont été investis de pouvoirs dits « concurrents » en matière d'agriculture et d'immigration, c'est-à-dire que, dans ces domaines, ils sont habilités tous les deux à légiférer. Pour éviter les conflits et pour empêcher que les citoyens ne soient soumis à des lois contradictoires, la Constitution prévoit que, lorsque les lois fédérales et les lois provinciales entrent en conflit dans ces domaines, les premières l'emportent. C'est pourquoi on dit alors que le pouvoir provincial et le pouvoir fédéral sont concurrents, mais que ce dernier a la primauté.

Dans l'après-guerre, deux nouveaux pouvoirs concurrents ont été inscrits dans la Constitution. Les deux ordres de gouvernement ont été habilités, en 1951 et en 1964, à légiférer en matière de pensions de vieillesse et de prestations supplémentaires, puis, en 1982, en matière d'exportation des ressources naturelles et de l'électricité. Dans ce dernier cas, le pouvoir fédéral a la primauté. Mais, dans le cas des pensions, chose inédite, la primauté appartient au pouvoir provincial.

Ces cas de pouvoirs concurrents et le grand usage qu'on en fait dans d'autres constitutions fédérales ont poussé bien des Canadiens à se demander si le recours accru à cette formule ne réglerait pas le débat dont fait l'objet depuis longtemps le partage des pouvoirs législatifs.

Dans nos délibérations, nous avons identifié quelques domaines qui s'y prêteraient. Dans deux d'entre eux, les *pêches de l'intérieur* et la *faillite personnelle*, le fédéral aurait la primauté, les deux ordres de gouvernement s'entendant sur les modalités d'exercice des pouvoirs et de coordination des politiques et des activités dans le cadre d'accords semblables à ceux qui sont en place ou envisagés en matière d'immigration.

À cause de son droit civil différent, le Québec risque d'avoir des besoins spéciaux dans le domaine du *mariage* et du *divorce*. Nous recommandons que les premiers ministres cherchent à déterminer si d'autres formes de partage des pouvoirs et responsabilités permettraient au Québec de mieux répondre à ses besoins propres, tout en assurant la mobilité des personnes et l'application des jugements et des ordonnances.

Nombre de témoins ont traité de l'importance de l'*environnement* et de ce que les gouvernements peuvent faire pour le défendre. La Constitution ne renferme rien à cet égard pour l'instant. Les gouvernements fédéral et provinciaux se partagent, à divers titres, la responsabilité de l'environnement. Cette situation nous paraît bonne et nous ne voyons pas de raison de modifier la Constitution sur ce plan.

Nous recommandons que les *pêches de l'intérieur* et la *faillite personnelle* fassent l'objet de pouvoirs concurrents en donnant la primauté au Parlement fédéral[7].

b. La rationalisation des programmes et services

Parce qu'un régime fédéral met en cause deux ordres de gouvernement, il arrive que les programmes et les services se chevauchent et fassent double emploi.

Plusieurs de ceux qui se sont présentés devant nous estiment que nos gouvernements pourraient être plus scrupuleux des intérêts du public et éviter de répondre deux fois aux mêmes besoins. En plus de réformer la constitution, ont-ils dit, les gouvernements devraient s'engager à corriger le fonctionnement du système actuel. Nous sommes d'accord.

Nous sommes donc en faveur de rationaliser l'administration. Nous exhortons les gouvernements à tenir le public au courant de leurs négociations et à s'assurer que les ententes de rationalisation éventuelles n'entravent pas la capacité du gouvernement fédéral de faire respecter des normes nationales ou internationales.

Le projet de rationalisation du gouvernement du Canada (proposition 26) nous semble raisonnable. Le but est de maximiser l'efficacité des services au moyen d'ententes administratives entre les deux ordres de gouvernement. Par exemple, avec le consentement de la province, le gouvernement fédéral pourrait donner à contrat l'exploitation d'un service de traversier moyennant rémunération. Il va sans dire qu'en pareil cas, la province devra respecter les normes et règlements fédéraux.

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[7] Voir les projets de modifications constitutionnelles à l'Annexe A, page 112.

La rationalisation des services n'entraîne pas de changement à la Constitution. Elle est simplement affaire de collaboration et d'entente entre gouvernements. La proposition fédérale renferme une liste de domaines où un effort de rationalisation s'impose. Nous ne croyons pas utile de formuler des commentaires sur les secteurs en cause. Puisqu'il n'est pas nécessaire de modifier la Constitution, les gouvernements sont mieux placés que le Comité pour décider des activités à rationaliser et pour régler les détails administratifs et financiers de toute entente de rationalisation. Aucune entente de rationalisation des programmes ne devrait modifier les compétences du Parlement et des législatures provinciales.

Nous recommandons que les gouvernements fédéral et provinciaux envisagent des moyens d'éliminer les chevauchements et le double emploi pour faire un meilleur usage des fonds publics.

c. *La délégation de pouvoirs législatifs*

La délégation de pouvoirs législatifs du Parlement à une assemblée législative provinciale, ou inversement, n'est pas autorisée. Le gouvernement fédéral propose que la Constitution soit modifiée pour permettre cette forme de délégation.

Elle permettrait au Parlement et aux assemblées législatives provinciales de mieux tenir compte des besoins particuliers des provinces. Elle leur permettrait aussi de mieux coordonner l'exercice de leurs pouvoirs respectifs, de resserrer leur collaboration et d'harmoniser leurs lois. La délégation de pouvoirs législatifs serait un outil précieux pour rationaliser les règlements et les services gouvernementaux, améliorer le fonctionnement de la fédération et répondre aux besoins particuliers des provinces dans l'intérêt de l'ensemble des Canadiens.

Malgré ces avantages, la délégation de pouvoirs législatifs occasionne une certaine inquiétude chez les témoins qui ont comparu devant nous. Cette inquiétude s'explique par le fait que les propositions fédérales ne précisent pas comment ni dans quelles circonstances la délégation de pouvoirs législatifs serait autorisée. Dans le passé, les arrangements fédéraux-provinciaux ont plutôt été négociés en secret, sans participation du public ou presque. Si la délégation de pouvoirs devait se faire de la même façon, elle serait durement critiquée. On craint également qu'elle serve à remanier le partage des pouvoirs et des responsabilités entre le fédéral et les provinces, sans que le public soit consulté au préalable.

Nous croyons qu'il faut apaiser ces craintes avant de donner le feu vert à la délégation de pouvoirs législatifs et suggérons de l'assortir de certaines restrictions.

Premièrement, il ne devrait y avoir délégation de pouvoirs que par une loi et après consultation du public et débat du projet au Parlement et dans les assemblées législatives des provinces. La procédure doit être ouverte et publique, le nouveau Sénat veillant à sauvegarder l'équilibre des pouvoirs et des responsabilités entre le fédéral et les provinces. Dans le cadre de cette consultation, les gouvernements engagés dans la délégation de pouvoirs et les autres gouvernements devraient tenir compte des répercussions de celle-ci sur l'ensemble de la fédération. Si on prévoit que l'effet de la délégation proposée débordera les frontières de la

province en cause, peut-être alors devrait-elle être soumise pour examen à une Conférence des premiers ministres.

Deuxièmement, le Parlement ou l'assemblée provinciale devrait pouvoir définir l'étendue des pouvoirs délégués et arrêter les conditions de leur exercice. Ainsi, le Parlement et les assemblées pourront s'assurer que l'application des pouvoirs délégués coïncide avec les objectifs de la délégation.

Troisièmement, la délégation devrait être assortie d'une compensation des frais d'administration des lois promulguées en vertu des pouvoirs délégués, et cette compensation devrait être établie en respectant l'esprit de l'article 36 de la *Loi constitutionnelle de 1982*.

Quatrièmement, lorsqu'un pouvoir est délégué à une assemblée provinciale, le gouvernement de la province assumera, à l'égard de l'administration des lois adoptées par cette assemblée, les responsabilités du gouvernement fédéral en matière de langues officielles.

Cinquièmement, chaque délégation de pouvoirs devrait être renouvelée aux cinq ans, pour qu'on puisse déterminer si elle est toujours justifiée. Les circonstances changent au fil des ans et il faudrait un mécanisme pour vérifier que le pouvoir est toujours requis par le délégataire et s'assurer que les conditions de la délégation reflètent ce besoin.

Enfin, le Parlement ou l'assemblée provinciale devrait pouvoir abroger ou modifier la loi de la délégation si la délégation n'est plus nécessaire ou s'il faut en modifier les conditions. Ainsi, l'instance délégante serait toujours responsable en dernière analyse. Pour que le changement s'opère en douceur cependant, il doit y avoir préavis raisonnable d'abrogation ou de modification.

Nous recommandons l'adoption de la proposition sur la délégation de pouvoirs législatifs entre le Parlement et les assemblées législatives provinciales, sous réserve de dispositions constitutionnelles répondant aux préoccupations qu'elle soulève[8].

d. Les accords intergouvernementaux

Les accords intergouvernementaux sont des instruments très utiles pour coordonner les activités des gouvernements fédéral et provinciaux. Il en existe dans une foule de domaines, qui touchent l'exercice de pouvoirs, les dépenses, la fourniture de services et l'administration et l'application des lois.

Les accords intergouvernementaux se distinguent des ententes entre particuliers au moins sur un point. Étant donné la règle constitutionnelle de la suprématie parlementaire, ils peuvent être annulés par des lois du Parlement ou des législatures. Il en résulte de l'incertitude et parfois

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[8] Voir les projets de modifications constitutionnelles à l'Annexe A, page 113.

de vives disputes entre les gouvernements, comme ce fut le cas récemment avec le *Régime d'assistance publique du Canada*.

Deux des propositions du gouvernement fédéral reconnaissent ce problème. Le gouvernement a offert de négocier et de constitutionnaliser les accords sur l'immigration et la culture. Le Comité considère toutefois qu'il faut envisager une solution plus globale. Les propositions du gouvernement sur les programmes à frais partagés (proposition 27) indiquent par exemple un autre secteur où il y aurait peut-être lieu de constitutionnaliser les accords intergouvernementaux.

Il y a plusieurs façons de protéger les accords intergouvernementaux. La plus sûre serait de les intégrer à la Constitution par voie de modification. Mais c'est une solution impraticable dans la plupart des cas à cause de la complexité de la procédure de modification de la Constitution. Il serait difficile non seulement de constitutionnaliser les accords, mais aussi de les modifier ou de les abroger au besoin.

Pour assurer la stabilité des accords intergouvernementaux et les protéger contre les modifications unilatérales, il vaudrait mieux prévoir un mécanisme d'approbation dans la Constitution. Les accords ne feraient pas partie de la Constitution, mais la *Charte canadienne des droits et libertés* s'appliquerait à eux. La procédure d'approbation serait conçue de façon à permettre au public d'étudier et de débattre les accords.

Nous proposons une procédure qui permettrait de faire ratifier l'accord par des lois ou des résolutions du Parlement et de l'assemblée de chaque province signataire. Il faudrait que la modification ou l'abrogation d'un accord approuvé soit elle aussi approuvée à moins que l'accord ne prévoie une autre procédure de modification ou d'abrogation. Cette procédure assurerait la stabilité des accords intergouvernementaux et garantirait que le Parlement et les législatures débattent publiquement de leurs avantages et de leurs inconvénients.

Nous recommandons de modifier la *Loi constitutionnelle de 1867* pour y incorporer un mécanisme garantissant que les accords intergouvernementaux passeront par le processus d'examen public et qu'ils seront protégés contre des modifications unilatérales[9].

3. Propositions pour mieux gérer certains domaines

a. La formation

La formation de la main-d'oeuvre ne figure pas explicitement dans la liste des pouvoirs de la *Loi constitutionnelle de 1867*, mais elle est considérée comme un prolongement naturel de l'éducation, secteur qui relève exclusivement des provinces en vertu de l'article 93 de la *Loi constitutionnelle de 1867*. Le gouvernement fédéral s'est engagé dans cette sphère en vertu de sa compétence en matière d'assurance-chômage et de son pouvoir de dépenser.

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[9] Voir les projets de modifications constitutionnelles à l'Annexe A, page 114.

L'intervention fédérale dans la formation est cependant critiquée à l'occasion, plus particulièrement au Québec. Il est difficile, dit-on, d'intégrer harmonieusement les programmes fédéraux de formation de la main-d'oeuvre avec les programmes provinciaux de formation et d'éducation, de services sociaux, de développement régional et industriel. Les secteurs public et privé, surtout au Québec, s'inquiètent par ailleurs des chevauchements et du double emploi et des frais excessifs qu'ils entraînent pour les gouvernements et les entreprises.

L'accroissement de la compétence provinciale en matière de programmes de formation de la main-d'oeuvre offre un bon moyen de tenir compte de la diversité du pays. À cause de la langue, les Québécois sont moins portés que les autres Canadiens à chercher du travail en dehors de leur province. Les besoins du Québec en formation de la main-d'oeuvre diffèrent de ceux des autres régions. À notre avis, la présente ronde constitutionnelle est une bonne occasion de voir s'il n'y aurait pas de meilleure manière pour le gouvernement fédéral et les provinces, et surtout le gouvernement du Québec, de cohabiter dans ce domaine.

En matière de partage des pouvoirs, le gouvernement fédéral propose (proposition 18) :

> *la modification de l'article 92 de la Loi constitutionnelle de 1867 pour que la formation de la main-d'oeuvre soit reconnue explicitement comme étant un domaine de compétence provinciale exclusive.*

Selon nous, le gouvernement fédéral devrait respecter la compétence exclusive des provinces en matière de formation de la main-d'oeuvre. Les provinces ne voudront pas toutes prendre en main les programmes fédéraux existants. En fait, nous reconnaissons l'importance de ces programmes pour certaines des provinces plus petites et nous nous attendons à ce que le gouvernement fédéral continue de fournir de nombreux services dans ces provinces. Il faudrait néanmoins donner aux provinces le choix d'assumer cette responsabilité.

Il faudrait envisager une compensation financière lorsque le gouvernement fédéral, d'accord avec une province, se retire de la formation de la main-d'oeuvre. Tout en pensant que les deux ordres de gouvernement doivent négocier les détails de cet arrangement financier, nous recommandons que deux grands principes soient respectés.

D'abord, nous croyons que la compensation devrait être accordée sous réserve que les fonds soient appliqués à la formation. Cette condition générale devrait être acceptable aux deux parties puisqu'elle donne au Parlement l'assurance que les fonds fédéraux servent aux fins déclarées et qu'elle ne gêne pas les provinces dans leurs activités. De plus, pour respecter l'esprit de la *Loi sur les langues officielles*, la compensation ne sera accordée que si la province s'engage à prendre en compte les besoins de sa minorité de langue officielle. Puisque l'accord proposé donnerait aux provinces toute latitude de concevoir et d'implanter leurs programmes de formation, nous pensons que ces conditions n'empiéteront pas sur leurs priorités.

Ensuite, comme la formation revêt tant d'importance pour la croissance économique, nous croyons que l'allocation aux provinces de crédits fédéraux de formation devrait se faire dans l'esprit de l'article 36 de la *Loi constitutionnelle de 1982*, qui engage le gouvernement à favoriser le développement économique pour réduire l'inégalité des chances.

Nos recommandations n'altèrent pas le pouvoir du Parlement du Canada de légiférer en matière de formation de la main-d'oeuvre dans ses sphères de compétence exclusive, l'assurance-chômage par exemple.

Nous recommandons :

i) **que la *Loi constitutionnelle de 1867* soit modifiée afin de stipuler que toute province peut légiférer pour confirmer sa compétence exclusive en matière de formation de la main-d'oeuvre[10].**

ii) **que le gouvernement fédéral signe un accord intergouvernemental avec toute province qui s'engage dans cette voie afin de définir les responsabilités de chaque ordre de gouvernement et de fixer les limites du pouvoir de dépenser du gouvernement fédéral en matière de main-d'oeuvre. Les gouvernements fédéral et provinciaux devront s'entendre sur des normes relatives aux programmes au moyen d'accords intergouvernementaux qui pourraient être protégés par la Constitution, comme nous l'avons vu aux pages 66 et 67.**

iii) **que la compensation financière soit assujettie à la condition que les fonds soient effectivement affectés à la formation.**

iv) **que, vu l'importance de la formation pour le développement économique, la part des fonds fédéraux consacrés à la formation de la main-d'oeuvre qui est allouée à une province ayant signé un accord intergouvernemental cadre avec l'esprit de l'article 36 de la *Loi constitutionnelle de 1982*, c'est-à-dire que cette part ne soit pas simplement basée sur une simple mesure de l'importance relative d'une province dans l'économie canadienne, comme la population, l'emploi ou la production, mais qu'elle témoigne de ses besoins relatifs.**

v) **que les obligations du fédéral en matière de formation des autochtones soient maintenues et respectées, et que l'accord intergouvernemental renferme des dispositions concernant ses obligations en matière de langues officielles.**

vi) **que la capacité du gouvernement fédéral de légiférer en matière de formation de la main-d'oeuvre ne soit pas diminuée dans ses domaines de compétence exclusive, qu'il s'agisse d'assurance-chômage ou de tout autre pouvoir.**

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[10] Voir les projets de modifications constitutionnelles à l'Annexe A, page 115.

Le gouvernement fédéral propose aussi, conjointement avec les gouvernements provinciaux, d'établir des normes en matière de formation et que le secteur privé joue un rôle accru en matière de formation et de normes.

Le Comité est d'accord avec cette proposition.

Nous croyons utile de reconnaître que le secteur privé, c'est-à-dire les travailleurs, les entreprises et les milieux de l'enseignement, ont une importante contribution à faire dans ce secteur.

La question des normes est brûlante et controversée au Canada. Nous sommes d'accord qu'il y a lieu d'améliorer les normes de formation, mais nous ne pensons pas que le gouvernement fédéral doit imposer ses vues aux provinces et au secteur privé. Nous appuyons la proposition du gouvernement qui vise à une stratégie de collaboration mettant à contribution tous les intervenants dans la définition de normes nationales universellement acceptables.

Les accords intergouvernementaux en matière de formation de la main-d'oeuvre sont, selon nous, un bon moyen d'atteindre cet objectif. Ils devraient établir des mécanismes officiels engageant les deux ordres de gouvernement et le secteur privé dans la définition des normes.

Pour répondre aux besoins particuliers des provinces, les gouvernements devraient considérer la possibilité de tolérer une certaine diversité dans les normes. On devrait tenir compte du fait que certaines provinces peuvent s'entendre sur des normes tandis que d'autres n'ont nulle envie d'exercer ce pouvoir. Il faudrait, par ailleurs, que les normes soient élaborées de manière à favoriser la mobilité de la main-d'oeuvre.

b. La reconnaissance des sphères de compétence provinciale : le tourisme, la foresterie, les mines, les loisirs, le logement et les affaires municipales et urbaines

La proposition 24 dit que le gouvernement fédéral est *« disposé à reconnaître la compétence exclusive des provinces et à discuter avec elles de la meilleure façon d'exercer son rôle dans les domaines suivants : le tourisme, la foresterie, les mines, les loisirs, le logement, les affaires municipales ou urbaines »*. Elle dit aussi que le gouvernement fédéral *« est déterminé à assurer le maintien de la capacité canadienne actuelle de recherche et de développement et à s'acquitter de ses obligations constitutionnelles à l'égard des relations internationales et des affaires autochtones »*.

Actuellement, la Constitution reconnaît, explicitement ou implicitement, la compétence exclusive des provinces dans ces domaines. Les articles 92 et 92A stipulent que les mines, les forêts et les institutions municipales sont de leur ressort exclusif. Le tourisme, les loisirs et le logement ne sont pas explicitement mentionnés, mais on considère qu'ils relèvent exclusivement des provinces en vertu de leur pouvoir de légiférer sur la gestion des terres publiques, la propriété et les droits civils, et les questions de nature locale ou privée.

Le gouvernement fédéral intervient aussi dans ces domaines, grâce surtout à son pouvoir de dépenser, mais également en vertu de sa compétence sur le commerce international, la

recherche et le développement et les affaires autochtones. Il propose de conserver sa responsabilité dans ces domaines tout en respectant la compétence reconnue aux provinces sous les rubriques explicites et implicites des articles 92 et 92A.

Le gouvernement fédéral a jusqu'à maintenant usé de son pouvoir de dépenser de deux façons : d'une part, en créant des programmes unilatéraux, notamment dans le domaine de la recherche et du développement, et, d'autre part, dans le cadre d'ententes bilatérales de partage des coûts, notamment dans le domaine du tourisme, en vertu desquelles il offre de financer en partie des programmes fédéraux établis dans le territoire des provinces à la condition expresse que les provinces y affectent des sommes égales.

Certains de ces programmes, plus particulièrement les programmes à frais partagés, ont souvent été à l'origine de frictions entre les deux ordres de gouvernement. Ils peuvent en effet obliger les gouvernements provinciaux à dépenser à seule fin d'avoir accès aux fonds fédéraux, même si les programmes ne sont pas pour eux prioritaires. Les chevauchements et le double emploi de l'administration et des dépenses sont des sources de gaspillage. De plus, ils sèment la confusion dans l'esprit des contribuables et encouragent entre les gouvernements une concurrence qui rend l'administration du pays plus onéreuse.

Il est proposé que les fonds habituellement dépensés par le fédéral dans ces domaines soient remis à la province sans condition après signature d'un accord afin qu'elle les y affectent. Le fédéral ne pourrait continuer d'exercer son pouvoir de dépenser dans ces domaines qu'avec l'approbation de la province.

Pour le Québec, dont les priorités peuvent être affectées considérablement en raison de la langue et d'autres particularités, la perspective de gérer ces programmes selon ses propres impératifs est naturellement attrayante.

Par contre, d'autres provinces sont satisfaites et même heureuses de l'état actuel des choses et s'opposeraient à ce que le gouvernement fédéral se retire de ces programmes. En fait, à la lumière des témoignages que nous avons entendus, nous ne sommes pas convaincus que toutes les provinces tiennent à ce que le gouvernement fédéral leur abandonne ces champs de compétence, ni qu'il puisse ou doive le faire.

Bref, il nous semble irréaliste de penser qu'on puisse mettre un secteur quelconque totalement à l'abri de l'influence fédérale, non seulement à cause des obligations du fédéral en matière internationale et autochtone et en matière de recherche et de développement au Canada, mais aussi à cause de l'impact de sa politique fiscale et budgétaire sur les divers secteurs énumérés dans la proposition. Cette politique a souvent des répercussions directes et indirectes sur eux, même lorsqu'elle ne les vise pas spécifiquement. La question est de savoir gérer cette influence partagée. Nous croyons que le gouvernement fédéral et les provinces doivent faire preuve de souplesse et tenir compte de la diversité des besoins.

Nous recommandons que, dans les domaines du *tourisme*, des *forêts*, des *mines*, des *loisirs*, du *logement* ainsi que des *affaires municipales et urbaines*, le gouvernement fédéral offre de négocier des accords bilatéraux avec toute

province désireuse de le faire, afin de mieux définir les rôles de chaque gouvernement et d'harmoniser leurs politiques.

De tels accords reconnaîtraient explicitement le rôle de maître d'oeuvre de la province dans le domaine en question et son pouvoir de contrôler complètement la mise en route, la conception et l'administration des programmes. Ces accords jouiraient d'une protection constitutionnelle grâce à la procédure d'approbation des accords intergouvernementaux examinée aux pages 66 et 67.

Nous croyons que les gouvernements fédéral et provinciaux pourraient élargir la démarche décrite au paragraphe précédent à d'autres domaines de compétence provinciale exclusive ou de compétence actuellement partagée. À notre avis, le *développement régional* et la *politique familiale* seraient d'excellents candidats pour l'application de cette technique, dans la mesure où ils relèvent de la compétence provinciale.

Le pouvoir de dépenser pourrait être encadré de la même façon dans le domaine de l'*énergie*.

Bien que les dépenses fédérales dans certains domaines énumérés ci-dessus soient actuellement assez modeste, le fait de clarifier maintenant les responsabilités de chaque ordre de gouvernement contribuera à éviter les tensions et les affrontements futurs, dans l'éventualité où le gouvernement fédéral déciderait un jour d'intervenir plus activement dans ces domaines de compétence provincial exclusive.

Nous reconnaissons que la *santé*, *l'éducation* et les *services sociaux* relèvent de la compétence des provinces. Le gouvernement fédéral a instauré des programmes pancanadiens dans certains de ces secteurs et nous croyons qu'il devrait continuer à les exécuter.

- **Dissidence du Parti libéral**

Les membres libéraux du Comité sont en désaccord avec les conclusions de la majorité au sujet du développement régional, de l'énergie et de la santé. Nous croyons qu'il existe une meilleure façon de relever les défis de l'interdépendance auxquels nous avons fait allusion plus haut dans ce rapport.

Le développement régional est important pour tout le Canada, mais particulièrement pour la région Atlantique, plusieurs parties du Québec, l'Ouest et le Nord. Le rôle du gouvernement fédéral dans le domaine du développement régional a toujours été essentiel et il faut le préserver.

L'article 36 de la *Loi constitutionnelle de 1982* dispose que « le Parlement et les législatures, ainsi que les gouvernements fédéral et provinciaux s'engagent à (...) favoriser le développement économique pour réduire l'inégalité des chances ».

Pour donner à cet engagement un effet concret, les membres libéraux recommandent la création d'un nouveau pouvoir concurrent avec prépondérance provinciale, intitulé *Développement régional*, qui permettrait aux deux ordres de gouvernement de collaborer pour établir des priorités compatibles.

Ce pouvoir législatif concurrent serait encore beaucoup plus avantageux pour le Québec que de devoir compter sur la négociation d'un accord qui aurait besoin d'être entériné non seulement par l'Assemblée nationale mais également par le Sénat et la Chambre des communes.

Les membres libéraux n'ont jamais reçu d'explication du gouvernement quant à l'inclusion du domaine de l'énergie dans cette section. Les membres libéraux sont d'avis que d'éventuels accords dans le domaine de l'énergie devront au moins respecter les besoins d'énergie nationaux, les impératifs liés à l'environnement et les droits des peuples autochtones.

Dans le domaine de l'énergie, comme dans tous les domaines, les membres libéraux croient que toute restriction au pouvoir fédéral de dépenser doit être le résultat d'accords négociés.

Les membres libéraux croient que la protection du régime de l'assurance-maladie est tellement essentielle pour les Canadiens qu'elle mérite une recommandation qui aurait pour effet d'enchâsser dans la Constitution non seulement l'engagement mais aussi l'obligation des gouvernements de fournir à tous les Canadiens des soins de santé et hospitaliers complets et universels à même les fonds publics.

c. La culture et la radiodiffusion

1) Introduction

La culture offre aux Canadiens un moyen de mieux se comprendre les uns les autres. Elle est un facteur d'unité et un élément de civilisation qui fait ressortir ce que nous avons en commun, indépendamment de la langue, de la couleur, de la religion ou des croyances.

Les gouvernements ont pour mission d'assurer le soutien juridique, financier et matériel qui permette à la culture et aux arts de fleurir. Bien entendu, ils ne peuvent pas réglementer tous les aspects de l'expression culturelle. Et c'est tant mieux, car il n'y a pas, après tout, de culture officielle au Canada. Mais il existe une foule de politiques et de lois qui influent directement sur notre vie culturelle. Passons aux rôles respectifs des gouvernements fédéral et provinciaux et aux propositions de réforme constitutionnelle du gouvernement du Canada.

2) Le besoin de maintenir une présence fédérale

Dans notre analyse du partage des pouvoirs, nous expliquons pourquoi il faut regarder au delà de la stricte répartition des pouvoirs législatifs pour évaluer, dans un domaine donné, les répercussions du pouvoir d'un gouvernement d'engager des dépenses, de lever des impôts et de fournir des services par le truchement d'institutions, d'organismes ou de sociétés d'État.

Le gouvernement fédéral intervient dans la sphère culturelle en invoquant un ou plusieurs de ces pouvoirs. Il fait des lois grâce à sa compétence en matière de droit d'auteur et de radiodiffusion; il engage des dépenses sous forme de subventions directes à des particuliers, à des organismes et à des collectivités de langue minoritaire; il crée des organismes comme l'Office national du film et les Musées nationaux. Enfin, par ses politiques fiscales, il encourage la sauvegarde de notre patrimoine culturel et vient en aide directement à tous les arts.

Il ne fait aucun doute, à nos yeux, que le gouvernement fédéral doit continuer de s'occuper des arts. Il est clair que la vie artistique et culturelle présente bien des aspects qu'on ne peut régler qu'au niveau fédéral. Par exemple, c'est au gouvernement fédéral qu'il incombe de s'assurer que les *accords commerciaux* du Canada permettent aux institutions culturelles vulnérables de survivre. Les *institutions fédérales* comme la Bibliothèque nationale, le Conseil des Arts ou le Centre national des Arts sont des trésors culturels qui favorisent le développement de l'identité canadienne et sont source de fierté pour tous les Canadiens. Comme la plupart des Canadiens, nous voulons les conserver.

De même, le gouvernement fédéral devrait pouvoir continuer de soutenir, parle biais de son *pouvoir d'imposition*, les arts par des mesures comme la déduction pour amortissement pour la production cinématographique ou la déductibilité des dons aux institutions culturelles.

Il ne fait aucun doute non plus que le gouvernement fédéral doit conserver ses pouvoirs législatifs en matière de *droit d'auteur et de radiodiffusion*. Ce sont là des domaines qui, dans toute fédération, doivent relever du pouvoir central pour éviter le chaos inhérent à des revendications et à des politiques contradictoires.

3) Le rôle légitime des provinces

Le maintien d'une présence fédérale dans la sphère culturelle n'exclut ni ne rabaisse le rôle légitime des provinces. En fait, en vertu de la Constitution, les provinces ont le rôle législatif prépondérant à l'égard des questions culturelles en général. Bien que la Constitution ne fasse pas relever explicitement la culture des provinces, les activités culturelles se rattachent directement aux compétences des provinces en ce qui a trait à l'éducation, à la propriété et aux droits civils ainsi qu'aux questions d'une nature purement locale ou privée.

Les dépenses et les mesures fiscales des provinces revêtent tout autant d'importance que celles du gouvernement fédéral pour bon nombre des arts du spectacle, les musées, les bibliothèques et d'autres institutions et activités artistiques.

4) Les propositions du gouvernement du Canada

Dans *Bâtir ensemble l'avenir du Canada*, le gouvernement fédéral formule deux propositions étroitement liées. D'abord, il se dit prêt à négocier avec n'importe quelle province qui en fait la demande un accord qui définit clairement le rôle de chaque ordre de gouvernement en matière culturelle (proposition 20). Il propose, s'il y a lieu, de constitutionnaliser ces accords.

Quant à la radiodiffusion, le gouvernement fédéral propose de consulter les provinces au sujet de l'octroi de nouvelles licences, de permettre aux entreprises de radiodiffusion provinciales de devenir des entreprises de radiodiffusion publiques à part entière, de régionaliser les activités du CRTC et de permettre aux provinces de participer à la nomination de commissaires régionaux du CRTC.

La grande difficulté que posent les propositions fédérales, c'est que bien des gens craignent qu'elles permettent au gouvernement fédéral de se retirer entièrement du domaine culturel. Selon nous, les accords auraient pour but d'adapter le soutien de l'État aux besoins de chaque province. Ils ne devraient pas servir de prétexte au gouvernement fédéral pour cesser de subventionner les arts. Les dépenses fédérales sont essentielles au maintien d'activités culturelles vitales dans toutes les régions du pays. Nous sommes d'accord avec les propos suivants du Conseil des arts de l'Île-du-Prince-Édouard :

> Les programmes nationaux de financement sont essentiels à la santé, au bien-être et au développement du secteur culturel et des arts du pays, et absolument indispensables à l'unité nationale et à la survie du Canada en tant que nation.

Nous ne croyons pas cependant que la proposition fédérale entraînera une réduction sensible du soutien fédéral aux arts, mais nous convenons que les artistes et les industries culturelles éprouvent de vives inquiétudes.

Nous croyons que le projet fédéral de négocier des accords culturels avec toutes les provinces exige plus ample examen. Plus particulièrement, les gouvernements devraient consulter les communautés artistiques et culturelles touchées avant de prendre cette initiative.

5) Les besoins particuliers du Québec

On nous a dit à maintes reprises, lors de nos audiences et aux conférences constitutionnelles, que les besoins particuliers du Québec au titre de la protection d'une société majoritairement d'expression française en Amérique du Nord devaient être reconnus à l'occasion de la présente réforme constitutionnelle.

La Conférence d'Halifax sur le partage des pouvoirs a jugé les propositions fédérales en matière de culture souhaitables pour le Québec étant donné les problèmes particuliers auxquels est confronté le gouvernement du Québec en tant que principal responsable de la protection et de la promotion de la spécificité québécoise, mais elle a mis en question la nécessité de conclure des accords culturels avec les autres provinces. Plusieurs témoins, dont Keith Kelly, directeur national du Conseil des Arts du Canada, nous ont dit qu'il fallait « créer une relation spéciale » entre le gouvernement fédéral et le gouvernement du Québec, mais ils se sont inquiétés des répercussions que pourrait avoir sur l'ensemble des provinces un remaniement des compétences en matière culturelle entre les deux ordres de gouvernement.

- *Affirmer les pouvoirs législatifs du Québec*

Nous avons déjà dit que le gouvernement devait maintenir une présence dans le domaine culturel en exerçant ses pouvoirs législatifs en matière de droit d'auteur et de radiodiffusion. Nous avons reconnu l'importance que revêtent pour notre vie nationale les dépenses fédérales dans le domaine des arts et la contribution d'institutions comme le Conseil des Arts du Canada, l'Office national du film et Radio-Canada. Et nous constatons avec fierté la contribution d'organismes fédéraux comme Radio-Canada à la vitalité de la langue française en Amérique du Nord.

Étant donné qu'on admet en général la situation particulière du Québec, nous croyons indiqué d'affirmer le *pouvoir législatif* du gouvernement du Québec pour ce qui est des affaires culturelles, ce gouvernement étant le seul à régir un territoire à majorité francophone en Amérique du Nord.

Bien que toutes les provinces aient autorité sur la culture, cette compétence n'est pas explicitement mentionnée dans la Constitution.

Nous recommandons d'affirmer explicitement le pouvoir législatif du Québec en matière culturelle en modifiant la *Loi constitutionnelle de 1867*[11] si le Québec le demande.

Nous n'excluons pas la possibilité que d'autres provinces souhaitent un jour faire affirmer elles aussi leur pouvoir législatif en matière culturelle dans la Constitution.

- *Rationalisation des dépenses fédérales-provinciales au Québec et de l'exercice des pouvoirs*

En plus de cette affirmation du pouvoir *législatif* prépondérant de la législature du Québec en matière culturelle, il serait nécessaire, croyons-nous, que le gouvernement fédéral négocie avec le gouvernement du Québec un accord intergouvernemental qui définirait clairement le rôle des deux parties dans le domaine culturel. Un tel accord offrirait un bon moyen de coordonner les activités des gouvernements fédéral et provinciaux. Il pourrait se modeler sur l'accord Canada-Québec en matière d'immigration, domaine où la compétence partagée est explicitement reconnue par la Constitution.

Nous croyons qu'un accord en matière culturelle doit déterminer les domaines où les paiements directs aux particuliers et aux organismes culturels privés relèveraient exclusivement de la province. Le Québec recevrait sa part des programmes de dépense fédéraux dont la province pourrait disposer selon ses propres priorités. Le gouvernement fédéral conserverait une présence dans des programmes qui répondent à des objectifs nationaux fondamentaux (tels que les échanges culturels internationaux ou interprovinciaux).

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[11] Voir les projets de modifications constitutionnelles à l'Annexe A, page 116.

Dans le domaine de la radiodiffusion, l'accord définirait les grands objectifs relatifs à l'octroi de nouvelles licences dans la province; établirait des critères de contenu linguistique; et assurerait un équilibre entre les radiodiffuseurs privés, publics, spécialisés et communautaires. L'organe de réglementation fédéral, le CRTC, serait lié par l'accord.

Un accord de cette nature permettrait aux gouvernements de mieux définir leurs rôles et leurs activités. Il donnerait au Québec plus de latitude pour continuer à jouer un rôle de premier plan dans la promotion de sa culture distincte. Mais avant tout, un tel accord montrerait aux Québécois que leur culture est en sécurité au Canada et mettrait en relief la capacité d'adaptation du fédéralisme.

Quant au projet du gouvernement fédéral de constitutionnaliser les accords intergouvernementaux sur la culture, nous préférons notre proposition concernant les accords intergouvernementaux en général, c'est-à-dire qu'on les protège contre les modifications unilatérales. (Voir p.?).

Nous recommandons que le gouvernement du Canada négocie avec le gouvernement du Québec un accord établissant des mécanismes de coopération dans le domaine culturel. Un tel accord déterminerait le rôle respectif des gouvernements fédéral et provinciaux dans le financement des activités, et les fonds qui doivent être transférés à la province, tel qu'expliqué plus haut. L'exercice du pouvoir fédéral de dépenser ne se poursuivrait qu'avec l'approbation de la province, sous réserve de la capacité du gouvernement fédéral de maintenir les programmes clairement motivés par des objectifs nationaux.

Dans le domaine de la radiodiffusion, un accord devrait être conclu pour améliorer la participation du Québec à la réglementation fédérale de la radiodiffusion. D'autres provinces pourraient être intéressées à accroître leur participation à la réglementation fédérale de la radiodiffusion et il devrait leur être loisible de négocier des ententes.

- **Dissidence du Parti libéral**

Les Libéraux au sein du Comité croient que le gouvernement du Québec doit être le maître d'oeuvre dans les domaines culturels, mais qu'il faut y garder une place pour le gouvernement fédéral.

Par conséquent, les Libéraux recommandent qu'un nouveau pouvoir législatif soit reconnu dans la Constitution accordant au Parlement et aux législatures provinciales la compétence d'édicter des lois relativement à la culture. Les lois provinciales auraient la primauté, sous réserve du pouvoir fédéral sur les institutions culturelles nationales et le pouvoir fédéral de faire des paiements directement aux particuliers et aux organismes.

Les Libéraux recommandent également que le gouvernement fédéral ne fasse pas de dépenses en capital dans les domaines culturels sans le consentement de la province concernée,

à moins que le gouvernement fédéral ne s'engage à payer les coûts d'opération et d'entretien qui y sont reliés.

Quant à la radiodiffusion, les membres libéraux réaffirment qu'il existe une compétence fédérale exclusive dans ce domaine. À cet égard, aucune entente intergouvernementale ne devrait pouvoir lier le C.R.T.C.

d. L'immigration

Le gouvernement fédéral propose de négocier avec les provinces des ententes particulières sur l'immigration et de leur donner un caractère constitutionnel. Il reconnaît que l'immigration est une sphère de compétence partagée entre le fédéral et les provinces. L'immigration a aussi de fortes incidences sur d'autres sphères de compétence provinciale. La coopération intergouvernementale s'impose pour éviter la confusion et les chevauchements dans la réglementation. Les ententes intervenues au fil des ans entre le fédéral et le gouvernement du Québec — la dernière est entrée en vigueur le 1er avril 1991 — montrent à la fois l'utilité de ces ententes et la possibilité d'en négocier.

Les ententes sur l'immigration sont aussi justifiées par les particularités économiques, linguistiques et démographiques. Elles peuvent amener les provinces à traiter différemment certains aspects de l'immigration. Elles peuvent, par exemple, juger nécessaires de prendre différentes mesures pour faciliter l'insertion des immigrants dans leur collectivité d'adoption, suivant les caractéristiques et les besoins de la collectivité. C'est particulièrement vrai au Québec, qui a pour mission de préserver et de promouvoir son caractère linguistique et culturel distinct.

La proposition du gouvernement fédéral a d'abord pour but de consolider les ententes sur l'immigration, c'est-à-dire d'éviter qu'elles soient modifiées ou révoquées sans l'accord des gouvernements signataires. Nous jugeons cet objectif louable.

La proposition du gouvernement ne dit pas comment l'objectif sera atteint. Il a été question de modifications incorporant les ententes sur l'immigration à la Constitution. Le Comité estime cependant que cette solution n'est ni pratique ni nécessaire. De telles modifications exigent le consentement du Sénat, de la Chambre des communes et des législatures d'au moins sept provinces réunissant au moins 50 p. 100 de la population. Il faudrait suivre la même règle pour modifier les ententes. Dans le cas d'ententes qui ne touchent qu'une ou deux provinces, il paraît superflu d'impliquer les autres provinces.

Il y aurait deux façons plus simples de protéger les ententes sur l'immigration. Premièrement, on pourrait incorporer à la constitution un mécanisme donnant force de loi aux ententes sur l'immigration et interdisant de les modifier ou de les révoquer unilatéralement. Il suffirait de résolutions du Sénat, de la Chambre des communes et de l'assemblée législative de la province concernée. Il faudrait s'assurer que les ententes soient assujetties à la *Charte canadienne des droits et libertés* et reconnaître clairement la responsabilité du gouvernement fédéral d'établir les normes et objectifs nationaux concernant l'immigration et les étrangers.

La deuxième façon de protéger les ententes sur l'immigration se trouve dans notre proposition sur la consolidation des accords fédéraux-provinciaux en général. Cette proposition n'engage aussi que les gouvernements signataires des accords. Il en est question aux pages 66 et 67.

Nous appuyons la proposition du gouvernement de négocier avec les provinces qui le souhaitent des ententes sur l'immigration et d'asseoir sur des bases plus solides le processus d'élaboration des politiques dans ce domaine. Nous recommandons que la Constitution mette ces ententes à l'abri de modifications unilatérales.

e. Les programmes à frais partagés : l'exercice du pouvoir fédéral de dépenser dans les domaines de compétence provinciale exclusive

L'usage du pouvoir fédéral de dépenser dans des domaines de compétence provinciale exclusive est source de conflit depuis des années, en particulier dans le cas des programmes nationaux à frais partagés. Nous reconnaissons que cette question cause de vives disputes entre gouvernements et qu'une collaboration plus formelle permettrait d'aplanir, voire d'éliminer les difficultés. Nous ne croyons toutefois pas devoir restreindre globalement le pouvoir de dépenser. Nous pensons que l'intérêt du public canadien serait mieux servi par un arrangement souple favorisant la collaboration et l'harmonie.

Selon nous, il vaudrait mieux régler la question des programmes à frais partagés en examinant séparément les problèmes que posent les programmes actuels et ceux que peuvent occasionner les programmes futurs.

- Les programmes à frais partagés actuels

Nous avons entendu beaucoup de bien des programmes actuels, comme le *Régime d'assistance publique du Canada*, qui ont permis aux Canadiens de profiter, indépendamment de leur province de résidence, du système national de sécurité sociale. On les considère maintenant comme des éléments importants de l'identité canadienne.

Un certain nombre d'intervenants ont déploré que le gouvernement fédéral puisse modifier unilatéralement les conditions des programmes, mettant parfois les provinces dans l'embarras financier. Puisque le gouvernement fédéral finance les programmes, nous croyons fermement que le Parlement doit rester maître de leurs conditions. Nous reconnaissons en même temps que les gouvernements provinciaux ont des raisons légitimes d'exiger des garanties pour assurer la bonne marche des programmes.

Nous recommandons que le gouvernement fédéral et les provinces se concertent afin d'établir une procédure de modification des conditions des programmes à frais partagés actuels. Nous croyons par exemple qu'on pourrait envisager de fixer les conditions des programmes aux termes d'un accord intergouvernmental exécutoire pour une période de quatre à cinq ans. Selon nous, cette formule ne

diminuerait pas les pouvoirs du Parlement et dissiperait bon nombre des inquiétudes des provinces.

- **Les nouveaux programmes à frais partagés**

La question des nouveaux programmes à frais partagés est complexe. Il faudra trouver un compromis entre les revendications légitimes des provinces et du gouvernement fédéral.

Pour éviter de nouveaux conflits, le gouvernement fédéral a proposé de s'engager *« à n'entreprendre aucun nouveau programme à frais partagés .... dans les domaines de compétence exclusivement provinciale sans l'approbation d'au moins sept provinces représentant 50 p. 100 de la population »* et de prévoir *« une compensation juste pour les provinces non participantes qui établiraient leurs propres programmes atteignant les objectifs du nouveau programme national. »* (proposition 27)

La proposition a suscité beaucoup de réactions lors des audiences. Certains craignaient qu'elle mine le tissu social du pays. D'autres souhaitaient restreindre encore davantage le pouvoir fédéral de dépenser.

Nous croyons qu'il est possible de réconcilier les deux points de vue, pourtant diamétralement opposés. Nous pensons qu'un arrangement comportant les éléments suivants constituerait un compromis acceptable : souplesse, participation des provinces à la conception des programmes, et droit de retrait avec compensation pourvu que la province introduise un programme similaire. Il est important que les provinces ne sentent pas qu'on les force à participer. Il faut privilégier la participation de plein gré, et non la liberté de retrait. Pour justifier la compensation, croyons-nous, il faudrait que le sens ou l'objectif du programme provincial coïncide avec celui du programme fédéral. On devrait tolérer une certaine diversité dans la prestation des programmes.

C'est bien d'être plus attentif aux appréhensions et aux besoins des provinces, mais nous pensons que de soumettre l'introduction des programmes à la règle des 7/50 contraindrait inutilement le gouvernement fédéral. Il faut être plus flexible. Il nous semble souhaitable d'accorder un droit de retrait avec compensation conditionnelle au lieu d'assujettir les nouveaux programmes fédéraux à l'approbation des provinces. La formule a le mérite de laisser le gouvernement fédéral et les provinces beaucoup plus libres d'innover. Elle offre aussi des possibilités d'émulation et d'invention dans la prestation des programmes. Plus de provinces pourraient choisir de se charger de leurs propres programmes conformément à l'esprit et aux objectifs du programme national.

Pour ce qui est des conditions de la compensation, nous sommes en faveur du libellé plus précis de la proposition fédérale (*« programmes [provinciaux] atteignant les objectifs du nouveau programme national »*).

Enfin, nous croyons qu'il faudrait garantir aux provinces qu'on ne changera pas soudainement les conditions des nouveaux programmes pancanadiens à frais partagés.

Nous recommandons :

a) **que la *Loi constitutionnelle de 1867* soit modifiée en ajoutant un article établissant que le gouvernement du Canada versera une compensation raisonnable au gouvernement d'une province qui décide de ne pas participer à un nouveau programme pancanadien à frais partagés dans un domaine de compétence exclusivement provinciale après l'entrée en vigueur du présent article si la province introduit un programme ou une mesure atteignant les objectifs du nouveau programme pancanadien.**[12]

b) **que la Constitution interdise tout changement unilatéral aux modalités de nouveaux programmes pancanadiens à frais partagés pour une période mutuellement convenue, selon le régime d'approbation des accords intergouvernementaux (voir pages 66 et 67).**

4. Le pouvoir résiduel

Dans une constitution fédérale, le pouvoir résiduel comprend l'ensemble des pouvoirs législatifs qui ne sont pas explicitement attribués à un ordre de gouvernement. Au Canada, le pouvoir législatif résiduel du gouvernement fédéral découle du paragraphe introductif de l'article 91 de la *Loi constitutionnelle de 1867*, qui autorise le Parlement à faire des lois pour « la paix, l'ordre et le bon gouvernement ».

Les tribunaux font du pouvoir résiduel fédéral une interprétation très étroite, dit-on. Ils en limitent généralement la portée aux questions 1) d'intérêt national ou 2) d'urgence nationale.

Il y en a qui croient que « la paix, l'ordre et le bon gouvernement » comporte une troisième composante : « l'espace législatif vacant » ou les pouvoirs « purement résiduels ». On y a eu recours moins souvent qu'aux autres. Les provinces disposent aussi, au paragraphe 92(16), d'une sorte d'espace législatif vacant, qui donne à leur assemblée le pouvoir exclusif de faire des lois sur « toutes les matières d'une nature purement locale ou privée dans la province ».

Le gouvernement fédéral propose de reconnaître le pouvoir des assemblées législatives provinciales de légiférer sur les questions qui ne sont pas de portée nationale et qui ne sont pas spécifiquement attribuées au Parlement par la Constitution. Le Parlement conserverait le pouvoir de légiférer sur les questions d'intérêt national ou d'urgence nationale. Autrement dit, le gouvernement propose de ne transférer aux provinces que le troisième volet purement résiduel.

Nous estimons que la proposition du gouvernement ne modifie en rien la Constitution. C'est une tentative d'inscrire dans la Constitution l'interprétation juridique courante des pouvoirs résiduels du fédéral et des provinces. Des intervenants ont demandé qu'on retranche du pouvoir résiduel les questions « d'intérêt national », mais la majorité est d'avis que le Parlement fédéral doit pouvoir légiférer sur les questions qui sont vraiment d'intérêt national, pour standardiser

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[12] Voir les projets de modifications constitutionnelles à l'Annexe A, page 117.

le droit au besoin, ou encore quand le problème dépasse les capacités des provinces, même si elles agissaient de concert. Personne n'a demandé de supprimer le pouvoir résiduel fédéral en cas « d'urgence nationale ».

Le Comité croit qu'il faut maintenir l'autorité du Parlement sur les questions « d'intérêt national » et « d'urgence nationale ». Il a confiance que les tribunaux seront aussi prudents que dans le passé pour ne pas compromettre l'équilibre des pouvoirs fédéraux et provinciaux établi par la Constitution.

Quant au transfert aux provinces de « l'espace vacant » du pouvoir législatif fédéral, nous n'en voyons pas très bien l'utilité vu la portée limitée des questions fédérales « purement résiduelles » qui ne sont pas d'intérêt national. En changeant l'expression « la paix, l'ordre et le bon gouvernement » au paragraphe introductif de l'article 91, nous craignons d'infléchir par inadvertance les volets du pouvoir résiduel fédéral que sont « l'intérêt national » et « l'urgence nationale » .

Nous recommandons de ne pas modifier le pouvoir résiduel.

5. Le pouvoir déclaratoire

Aux termes de l'alinéa 92(10)(c) de la *Loi constitutionnelle de 1867*, le Parlement peut déclarer que des travaux sont « pour l'avantage général du Canada ». Telle déclaration établit la compétence du Parlement sur les travaux. La clause, appelée « pouvoir déclaratoire », a été invoquée au moins 470 fois depuis la Confédération, surtout au XIXe siècle et au début du XXe, pour établir l'autorité du Parlement sur de grands travaux comme les chemins de fer, les canaux et les ponts. Depuis 1960, elle n'a été invoquée que cinq fois. Quantité de déclarations sont cependant toujours en vigueur.

Le gouvernement propose de retrancher le pouvoir déclaratoire de la Constitution. La proposition fait suite à plusieurs rapports proposant que le pouvoir déclaratoire soit supprimé ou ne soit exercé qu'avec l'approbation des provinces.

La proposition du gouvernement fédéral a été chaudement accueillie par ceux qui ont pris part à nos audiences. Elle est un pas vers une plus grande harmonie entre les deux ordres de gouvernement, a-t-on dit. Plusieurs ont cependant fait part de leur appréhension à propos de l'incidence du changement, notamment sur les élévateurs à grain que le Parlement réglemente actuellement en vertu de ce pouvoir. De plus, le Comité permanent de l'environnement de la Chambre des communes dit craindre que la mesure prive le Parlement d'un pouvoir essentiel au règlement des questions environnementales.

Nous convenons qu'avant d'abolir le pouvoir déclaratoire, il faudra d'abord régler ces questions. Il faudra peut-être maintenir l'autorité fédérale sur les travaux qui ont fait l'objet du pouvoir déclaratoire jusqu'à ce que les parties conviennent qu'ils doivent être rendus aux provinces.

Beaucoup de ces travaux sont réglementés par le gouvernement fédéral depuis si longtemps qu'il n'est peut-être plus possible de revenir en arrière. En outre, certaines déclarations de pouvoir dissipent le doute sur l'ordre de gouvernement qui devrait être responsable des travaux. Il conviendrait peut-être de les maintenir pour ne pas faire renaître d'ambiguïté.

Les membres du Comité qui sont du parti ministériel appuient la proposition d'abroger le pouvoir déclaratoire fédéral sous réserve d'une disposition transitoire concernant les travaux qui en font déjà l'objet. Les députés de l'opposition qui sont membres du Comité rejettent cette recommandation visant à abroger le pouvoir déclaratoire fédéral.

B. ASSURER LE BIEN-ÊTRE DES CANADIENS ET GÉRER L'INTERDÉPENDANCE

Le Comité estime que la ronde actuelle de négociations constitutionnelles offre une occasion unique de faire une mise au point de la Constitution pour assurer à la fois la création et la répartition de la richesse, mais aussi l'intégrité politique et sociale du Canada.

Le Canada n'est pas seulement une union politique composée de provinces et de territoires, mais un marché commun où les biens circulent librement et qui favorise la création des conditions grâce auxquelles les gens peuvent prospérer partout au pays. Il est plus encore : une union sociale où les gouvernements sont censés promouvoir l'égalité des chances, faciliter l'accès aux services sociaux essentiels et assurer la santé et la sécurité de la population. Mais la Constitution du Canada et les institutions de la fédération ne reflètent pas convenablement cette double réalité. C'est pourquoi nous croyons qu'il faut réviser la Constitution. Les principaux objets de nos recommandations d'ordre économique et social sont : le marché commun, le pacte social, la déclaration de l'union économique et la réforme de la Banque du Canada.

1. Le marché commun - Article 121

La création d'un marché commun comptait parmi les principales raisons de la création d'une fédération en 1867. L'article 121 de la *Loi constitutionnelle de 1867*, la clause du marché commun, était l'une des dispositions les plus importantes du nouveau Canada. Il abolissait les barrières tarifaires entre les provinces de manière à permettre le libre-échange du bois, des produits agricoles et des produits manufacturés, piliers de l'économie canadienne du XIX°. En dépit de l'article 121 cependant, notre marché interprovincial reste cloisonné.

Le gouvernement du Canada propose d'étendre l'article 121 de la *Loi constitutionnelle de 1867* (proposition 14) à la mobilité des personnes, des biens, des services et des capitaux sans distinction de frontières provinciales ou territoriales. Le projet de modification de l'article 121 aurait interdit de dresser et de maintenir des barrières ou restrictions territoriales, sauf pour assurer le développement économique régional et la péréquation, le développement régional provincial et l'intérêt national.

La majorité de ceux qui ont témoigné devant nous, y compris les premiers ministres provinciaux, appuient le principe du marché commun, mais bon nombre s'interrogent sur les

modalités de son application. Quelques-uns nous ont dit qu'ils ne savent pas très bien en quoi consistent les barrières et restrictions dont il est fait état dans la proposition et se demandent si les offres de commercialisation des produits agricoles, les régies provinciales d'assurance-automobile ou même les programmes sociaux et les normes de travail provinciales ne sont pas menacées.

Nous souscrivons au projet fédéral de renforcer notre marché commun, mais nous croyons qu'il faut calmer les inquiétudes de ceux qui craignent que la proposition ait des répercussions imprévues. En fait, les monopoles provinciaux, les subventions d'application générale, les régimes fiscalisés d'encouragement à la formation de capital (comme le Régime d'épargne-actions du Québec) devraient être soustraits à l'application de l'article 121.

En conséquence, nous recommandons de remplacer l'article 121 de la *Loi constitutionnelle de 1867* par une autre disposition établissant que le Canada est une union économique et prévoyant que les gouvernements ne peuvent interdire ou restreindre la circulation des biens, des services, des personnes et des capitaux lorsque cela fait obstacle au fonctionnement efficace de l'union économique ou constitue une mesure arbitrairement discriminatoire ou une entrave détournée au commerce entre les provinces ou les territoires. Le nouvel article 121 prévoirait des exceptions visant à remédier aux préoccupations légitimes qui nous ont été exposées, et obligerait les gouvernements à se doter de normes aussi uniformes que possible à l'échelle nationale afin d'accroître la mobilité et le bien-être des Canadiens[13].

Certains témoins ont souligné un autre inconvénient de la proposition visant à élargir l'application de l'article 121. Ils admettent qu'une nation commerçante comme le Canada doit favoriser la libre circulation des personnes, des biens, des services et des capitaux sur son territoire, mais soutiennent qu'il ne revient pas aux tribunaux de régler des questions de droit et de politique d'une telle complexité. Ils préféreraient que l'on recoure à un autre mécanisme de règlement des différends qui favoriserait la négociation et laisserait à des spécialistes reconnus le soin d'examiner chaque plainte et de trancher.

En conséquence, nous recommandons d'établir un mécanisme de règlement des différends qui comporterait trois étapes :

1) un examen, pour déterminer si la plainte est fondée à prime abord,

2) une conciliation, pour tenter d'en venir à une entente négociée et,

3) dans l'éventualité d'un échec à l'étape précédente, un tribunal commercial dont la décision serait finale et exécutoire.

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[13] Voir les projets de modifications constitutionnelles à l'Annexe A, page 118.

2. Le pacte social

Il est vital de mettre sur pied les mécanismes qui permettront d'assurer l'efficience économique et de créer des richesses aussi considérables que possible, mais les Canadiens veulent plus. Ils tiennent à répartir équitablement les fruits de notre nouvelle efficience par l'avancement des objectifs sociaux auxquels nous souscrivons en tant que Canadiens. Nous estimons donc que la présente ronde de négociations constitutionnelles est l'occasion idéale d'inscrire un pacte social dans la Constitution.

Les dispositions constitutionnelles dont dépend actuellement notre filet de sécurité sociale sont l'article 36 de la *Loi constitutionnelle de 1982* et les articles 7 et 15 de la *Charte canadienne des droits et libertés*. Les engagements pris à l'article 36, à l'égard de l'égalité des chances, du développement économique et des services publics essentiels, et dans la *Charte*, à l'égard de la sécurité de la personne et de l'égalité, sont d'une extrême importance, mais la Constitution pourrait aller plus loin. D'une part, l'article 36 est très faible sur le plan juridique et peu contraignant en raison de son caractère général. D'autre part, les articles 7 et 15 de la *charte* confèrent des droits aux citoyens; ils ne peuvent donc exprimer les engagements que les gouvernements doivent prendre envers l'ensemble de la société. En recommandant l'adoption d'un pacte social, notre propos est de confirmer les responsabilités que ces dispositions constitutionnelles reconnaissent aux gouvernements et de leur en donner d'autres à l'égard des programmes sociaux qui sont, pour les Canadiens, un élément de leur identité nationale.

En conséquence, nous recommandons de modifier la *Loi constitutionnelle de 1982* en y ajoutant l'article 36.1, en vertu duquel les gouvernements seraient tenus de favoriser l'atteinte des objectifs sociaux suivants :

- **l'intégralité, l'universalité, la transférabilité, la gestion publique et l'accessibilité des soins de santé;**

- **des services sociaux et des prestations sociales adéquats;**

- **une éducation de haute qualité;**

- **le droit des travailleurs à la syndicalisation et à la négociation collective; et**

- **le respect de l'environnement.**

Pour maintes raisons, ces engagements sociaux sont aussi importants pour les Canadiens que les droits et libertés que leur garantit la loi, mais ils sont d'une nature différente. Ils expriment non des droits, mais des objectifs, et ils comportent de très grandes responsabilités. Par conséquent, même s'il convient de les reconnaître dans la Constitution, leur concrétisation devrait continuer de relever des gouvernements élus. Nous croyons donc que les points visés par le pacte social doivent être réglés par des moyens démocratiques. Ces engagements ne doivent cependant pas demeurer lettre morte. C'est pourquoi nous estimons que la façon dont les gouvernements respectent le pacte social devrait être soumise à l'examen public, notamment au

cours d'audiences publiques et dans les rapports que des commissions d'experts devraient périodiquement déposer devant le Parlement et les législatures provinciales et territoriales.

3. La déclaration de l'union économique

Nombre de témoins ont soutenu que les gouvernements fédéral et provinciaux devraient mieux coordonner leur action de manière à réduire leurs dépenses, mais ils tiennent aussi à ce que le gouvernement fédéral demeure assez fort pour instituer des programmes nationaux.

Ils veulent que tous les gouvernements gèrent mieux leurs ressources fiscales et protègent les programmes sociaux pancanadiens que la population tient maintenant pour acquis.

Il est clair que la capacité des gouvernements d'offrir des programmes sociaux dépend de la capacité qu'a l'union économique de produire de la richesse, et de toute évidence, les Canadiens tiennent à l'un et l'autre, comme n'ont cessé de le répéter les participants à la conférence de Montréal sur l'union économique.

Afin de pouvoir respecter les engagements sociaux fondamentaux que nous avons pris en tant que nation éprise de justice, nous reconnaissons qu'il est primordial de rendre tous les Canadiens productifs. Les modifications que nous proposons d'apporter à l'article 121 de la *Loi constitutionnelle de 1867* nous aideront grandement à atteindre cet objectif, mais nous croyons que si la Constitution comportait une déclaration confiant aux gouvernements la mission de renforcer l'union économique, nous serions encore plus près du but.

En conséquence, nous recommandons de modifier la *Loi constitutionnelle de 1982* par l'ajout de l'article 36.2, en vertu duquel les gouvernements seraient tenus

- **de coopérer au renforcement de l'union économique;**
- **d'assurer la libre circulation des personnes, des biens, des services et des capitaux;**
- **de viser le plein emploi; et**
- **d'assurer à tous les Canadiens un niveau de vie décent.**

Bien que ces questions se prêtent à une reconnaissance constitutionnelle, les gouvernements élus doivent conserver le pouvoir de décider des meilleurs moyens de s'acquitter de leurs engagements. Il ne faut toutefois pas qu'il s'agisse uniquement de belles paroles. C'est pourquoi nous estimons que la façon dont les gouvernements se conforment à la Déclaration de l'union économique fasse l'objet d'un examen public, y compris d'audiences publiques et de rapports périodiques préparés par une commission spécialisée, rapports qui seraient déposés devant le Parlement ainsi que devant les assemblées législatives provinciales et territoriales.

4. La réforme de la Banque du Canada

Nous appuyons l'idée d'amener le gouverneur de la Banque du Canada à comparaître régulièrement devant le Parlement pour présenter et analyser l'évolution de la situation financière et économique, et de l'obliger à rencontrer les ministres fédéral et provinciaux des Finances.

Nous reconnaissons que la nature du mandat et la légitimité de la Banque du Canada sont intimement liées, mais étant donné le peu d'appui recueilli par la proposition et les nombreuses solutions de rechange proposées, nous croyons qu'il vaudrait mieux traiter ces questions en dehors du débat constitutionnel.

Nous recommandons par conséquent que le mandat de la Banque du Canada ne fasse pas partie des discussions constitutionnelles.

Nous croyons que la Banque du Canada renforcerait sa légitimité si elle était plus sensible aux régions. Puisque ces changements n'exigent pas de modifications à la Constitution, ils pourraient être examinés indépendamment de la réforme constitutionnelle.

Nous recommandons que le gouvernement fédéral consulte les gouvernements provinciaux et territoriaux au sujet de la nomination des membres du conseil d'administration de la Banque du Canada et procède à l'établissement de comités consultatifs régionaux.

5. La Conférence des premiers ministres

Depuis le début des années 60, les premiers ministres du Canada éprouvent le besoin de se réunir de plus en plus fréquemment, en public et en privé, afin de traiter des questions politiques nationales d'intérêt commun.

Aujourd'hui, le Canada fait face à d'immenses tâches en matière de commerce international, de politique sociale et d'environnement. Sur la foi des opinions que nous a communiquées le public au cours des derniers mois, nous avons acquis la conviction que le cadre constitutionnel doit amener nos gouvernements à travailler de concert. Il faut abandonner le fédéralisme conflictuel et prévoir dans la Constitution une tribune permanente où les décideurs discuteront des affaires courantes d'intérêt public.

Dans l'Accord du lac Meech, les premiers ministres avaient convenu de donner un caractère constitutionnel à la convocation annuelle d'une conférence des premiers ministres sur l'économie et les sujets connexes. Depuis 1987, les besoins sociaux et le fardeau fiscal de la population n'ont cessé de croître. Le Comité estime qu'étant donné les changements sociaux et les fortes pressions financières qui s'exercent sur nos gouvernements, une gestion mixte de la politique sociale et économique s'impose.

Le Comité propose donc de prévoir dans la Constitution une conférence annuelle des premiers ministres consacrée principalement à l'étude de questions d'ordre économique et social, et à toute autre question que les premiers ministres voudraient inscrire à l'ordre du jour[14].

[14] Voir les projets de modifications constitutionnelles à l'Annexe A, page 121.

CHAPITRE VI

La formule de modification

• Le contexte constitutionnel

1) *La Loi constitutionnelle de 1982*

Avec les modifications apportées à l'occasion du « rapatriement » de 1982, il y a maintenant cinq procédures de modification de la Constitution du Canada :

a) **La procédure normale de modification**, énoncée à l'art. 38 de la *Loi constitutionnelle de 1982*, requiert le consentement du Parlement et des deux tiers des provinces réunissant 50 p. 100 de la population. Elle s'applique aux révisions qui ne sont pas assujetties aux autres procédures, notamment à la plupart des révisions touchant la répartition des compétences, les pouvoirs de la Chambre des communes et du Sénat, la Cour suprême du Canada (sauf sa composition) et la création de nouvelles provinces. Elle reconnaît un droit de retrait dans tous les cas impliquant un transfert de pouvoirs provinciaux au fédéral, avec compensation en matière d'éducation et de culture.

b) **La règle du consentement unanime**, énoncée à l'art. 41 de la *Loi constitutionnelle de 1982*, requiert le consentement du Parlement et des législatures provinciales. Elle s'applique aux révisions touchant les institutions de la monarchie, le nombre minimum de députés de chaque province à la Chambre des communes, l'usage général du français ou de l'anglais, la composition de la Cour suprême du Canada et toute révision des procédures de modification.

c) **La procédure bilatérale**, énoncée à l'art. 43 de la *Loi constitutionnelle de 1982*, n'exige que le consentement du Parlement et d'au moins deux provinces. Elle s'applique aux révisions des dispositions qui touchent une province ou plus, mais pas toutes, telles les dispositions sur les frontières provinciales et sur l'usage du français ou de l'anglais dans une province. Elle ne peut être invoquée pour les révisions touchant la répartition des compétences.

d) **La procédure unilatérale fédérale**, énoncée à l'art. 44 de la *Loi constitutionnelle de 1982*, permet au Parlement d'apporter au pouvoir exécutif fédéral, à la Chambre des communes ou au Sénat des modifications n'ayant pas d'incidences sur leurs pouvoirs ou sur le mode de sélection de leurs membres.

e) **La procédure unilatérale provinciale,** énoncée à l'art. 45 de la *Loi constitutionnelle de 1982*, autorise les législatures à réviser la Constitution de leur province pourvu que les révisions ne visent pas des dispositions qui ne peuvent être révisées qu'en vertu d'une autre procédure de modification, comme les dispositions relatives à la charge de lieutenant-gouverneur.

2) *L'Accord du lac Meech*

Dans l'Accord du lac Meech de 1987, on proposait d'étendre la règle de l'unanimité prévue à l'art. 41 de la *Loi constitutionnelle de 1982* à la révision des attributs des institutions fédérales, tels que les pouvoirs, la composition et la sélection des membres de la Chambre des communes, du Sénat et de la Cour suprême du Canada (sauf sa composition), et la création de nouvelles provinces. Actuellement, ces révisions sont soumises à la procédure normale de modification. L'accord aurait aussi étendu le droit de compensation aux provinces refusant de participer au transfert de pouvoirs législatifs au Parlement fédéral. Ce droit, aujourd'hui limité à « l'éducation et (aux) autres questions culturelles », se serait appliqué à « n'importe quel » pouvoir législatif. Ces propositions exigeaient le consentement unanime du Parlement et des provinces en vertu de l'art. 41, car elles avaient pour effet de réviser la procédure de modification.

• La proposition du gouvernement du Canada

Dans *Bâtir ensemble l'avenir du Canada*, le gouvernement du Canada propose de réviser la procédure de modification s'il s'avère souhaitable de procéder, dans le projet final, à des réformes qui exigent l'unanimité. Il propose d'étendre la règle de l'unanimité aux modifications des pouvoirs, de la composition et du mode de sélection des membres de la Chambre des communes, du Sénat et de la Cour suprême du Canada. La création de nouvelles provinces resterait assujettie à la procédure normale de modification, qui exige le consentement des deux tiers des provinces réunissant 50 p. 100 de la population.

• La place du Québec dans la Constitution

Plusieurs témoins nous ont dit que s'il est si difficile de changer la procédure de modification, c'est qu'il faut le consentement unanime de toutes les provinces. Pour d'autres, la majorité des Québécois n'envisageront avec sérénité leur avenir au sein du Canada que si l'on reconnaît, dans la procédure de modification, la situation particulière du Québec en tant que seule province à majorité francophone. Notre point de vue est qu'il faut absolument résoudre la question de la formule de modification si nous voulons sortir la nation de la crise constitutionnelle actuelle.

Nous croyons que pour satisfaire aux aspirations du Québec francophone, avec sa langue, sa culture et son système juridique différents, il faut éviter d'apporter à l'entente originale de 1867 des modifications de fond sans le consentement de l'assemblée législative de cette province.

Le Comité ne juge ni nécessaire ni utile de revenir sur la controverse du rapatriement de la Constitution de 1982 avec une procédure de modification. Qu'il suffise de dire que

l'Assemblée nationale du Québec n'a jamais entériné les procédures de modification adoptées alors. Au cours de nos audiences, on nous a dit que le Québec, seule province où les Canadiens d'expression française forment une majorité, craint avec raison qu'on n'apporte sans son consentement des modifications aux pouvoirs, à la composition et au mode de sélection des membres de la Chambre des communes ou du Sénat, ou aux attributions de la Cour suprême du Canada, qui est chargée d'interpréter le Code civil du Québec, l'un des traits caractéristiques de la province. À notre avis, il ne faudrait pas réduire la représentation du Québec au Sénat sans son consentement. Selon nous, la meilleure façon de protéger une province qui n'est pas comme les autres, c'est de le faire dans les institutions fédérales. Il ne faudrait pas non plus que le Québec soit obligé, pour promouvoir et protéger son caractère français, de se soustraire sans compensation à une modification transférant au Parlement fédéral des pouvoirs législatifs dans des domaines autres que l'éducation et la culture.

Nous reconnaissons la difficulté qu'il y a à dégager un consensus sur une question aussi importante que la procédure de modification. Mais le Comité est convaincu que pour renouveler le Canada, il faut tout mettre en oeuvre pour parvenir à un accord entre toutes les provinces et le gouvernement fédéral.

Il n'y a pas de solution magique. Néanmoins, nous croyons que la solution réside dans l'une des cinq démarches suivantes.

1) La première réside dans la règle de l'unanimité énoncée à l'art. 41 de la *Loi constitutionnelle de 1982*. Elle pourrait être élargie de façon à inclure tous les éléments énumérés à l'art. 42 qui sont actuellement régis par la procédure normale (sauf la création de nouvelles provinces et le rattachement aux provinces existantes de tout ou partie des territoires, dont nous traitons en détail ci-après). Il s'ensuivrait qu'on ne pourrait pas, sans le consentement de toutes les provinces, apporter des modifications à la représentation à la Chambre des communes ainsi qu'aux pouvoirs et au mode de sélection des sénateurs, et au nombre minimum de représentants d'une province au Sénat et à la Cour suprême du Canada. En outre, l'art. 40 de la *Loi constitutionnelle de 1982* devrait être modifié afin de garantir une compensation raisonnable aux provinces pour toute modification transférant des compétences législatives provinciales au Parlement.

2) La seconde démarche consiste à exiger le consentement de deux provinces de l'Atlantique, de l'Ontario, du Québec et de deux provinces de l'Ouest représentant 50 p. 100 de la population de cette région pour toute modification du principe de la représentation à la Chambre des communes, des pouvoirs et de la composition du Sénat et de la Cour suprême du Canada; en outre, une compensation serait offerte aux provinces décidant de se soustraire à un transfert de pouvoirs législatifs au Parlement. Cette recommandation recoupe d'autres propositions de « veto régional » énoncées dans la Charte de Victoria (1971) et dans le rapport du comité Beaudoin-Edwards (1991). Une compensation serait offerte aux provinces qui décideraient de se soustraire à un transfert de pouvoirs législatifs au Parlement relativement à « n'importe quel » domaine.

3) La troisième voie consiste à modifier l'art. 42 de façon à exiger que, exception faite de la création de nouvelles provinces ou du rattachement des territoires aux provinces actuelles, le Québec fasse partie des provinces devant donner leur accord à toute modification future des éléments énumérés à cet article (Chambre des communes, Sénat, Cour suprême du Canada); de plus, les provinces décidant de ne pas souscrire à des modifications, dans « n'importe quel » domaine, seraient compensées selon les autres options décrites ci-dessus.

4) La quatrième démarche consiste à ne rien changer à la procédure normale de modification de la Constitution, mais à exiger que toute modification de la procédure demandée par une province ou par un groupe de provinces représentant les diverses régions du Canada soit adoptée par référendum pour pouvoir entrer en vigueur. Ce référendum devrait être tenu partout au pays et dans chaque région désignée dans la procédure de modification. Il va sans dire qu'aux fins de cette démarche, le Québec constitue l'une des régions du Canada.

5) La cinquième possibilité serait la modification portant sur la procédure normale de modification pour préciser que le Québec doit faire partie des deux tiers des provinces dont l'approbation est nécessaire à toutes les modifications relevant de cette procédure; une compensation serait offerte aux provinces relativement à « n'importe quel » domaine, tout comme dans les quatre démarches précédentes.

Nous exhortons les premiers ministres à examiner chacune de ces possibilités. Étant donné l'importance de la formule de modification, en particulier pour la sécurité de ceux qui s'en remettent à la Constitution pour la protection de leurs droit et de leur spécificité, cette question devrait figurer parmi les priorités absolues de la présente série de négociations constitutionnelles afin de trouver une procédure de modification qui réponde aux besoins du Québec.

• L'effet de nouvelles provinces sur les procédures de modification

L'un des éléments les plus controversés de l'Accord du lac Meech proposait de remanier la procédure à suivre pour modifier les dispositions constitutionnelles relatives à la création de nouvelles provinces. Si l'Accord avait été adopté, la procédure de modification aurait exigé le consentement unanime des provinces.

Beaucoup de Canadiens, et plus particulièrement ceux des territoires, s'opposent à toute modification qui rendrait plus difficile pour les territoires la procédure d'accession au statut de provinces. Nous reconnaissons néanmoins que les provinces actuelles ont raison de s'inquiéter de l'effet que la création de nouvelles provinces pourrait avoir sur l'équilibre de la fédération.

Un moyen d'éviter la réduction des pouvoirs des provinces actuelles dans la procédure générale en vigueur serait de prévoir que la nouvelle province ne sera considérée comme province aux fins des procédures de modification que lorsque ces dernières auront été modifiées

de manière à l'inclure expressément. Le comité Beaudoin-Edwards a souscrit à cette idée dans les termes suivants :

> *... qu'il soit reconnu que la création de nouvelles provinces peut changer l'équilibre à l'intérieur de la fédération et peut rendre nécessaire la révision de la procédure de modification; si la création d'une nouvelle province requiert un changement à la procédure de modification, ce changement serait adopté selon la procédure de modification en vigueur à ce moment-là.*

À nos audiences de Whitehorse, le premier ministre Penikett a dit reconnaître qu'on s'inquiète à bon droit de « l'incidence négative que cela [la création de nouvelles provinces] peut avoir sur la formule de modification ». Il a fait observer :

> *Nous avons dit à chaque comité parlementaire avec qui nous avons discuté de la question que nous sommes tout à fait prêts à songer à la possibilité de devenir des provinces sans toutefois pouvoir influencer la formule de modification. Nous ne savons pas exactement comment cela pourrait se faire au plan juridique, mais comme le disait la Commission Beaudoin-Edwards, il me semble que l'on devrait discuter de ce problème lorsqu'il sera question de la formule de modification.*

Nous croyons que la proposition du premier ministre Penikett est valable et mérite d'être étudiée.

Nous faisons nôtres les recommandations du comité Beaudoin-Edwards sur la nécessité d'examiner les effets qu'aurait sur la procédure de modification l'accession des territoires au statut de provinces.

PARTIE III

Conclusion

PARTIE III

Conclusion

Au bout de notre extraordinaire entreprise, nous reprenons espoir pour le Canada et nous sommes optimistes. Les Canadiens qui ont pris contact avec nous — par lettre, mémoire ou de vive voix lors de nos audiences et des cinq conférences constitutionnelles — nous ont rappelé l'aspect de notre caractère national tant admiré à l'étranger et que nous considérons trop souvent comme allant de soi. Ils ont fait preuve de courtoisie, de tolérance, de savoir-vivre, de solidarité et de générosité, toutes qualités que nous aimons à considérer comme des traits distinctifs chez nous, mais que nous craignons parfois perdues.

Au cours des derniers mois, le bon sens des Canadiens a repris place dans la vie publique. Leur modération, leur amour du pays, leur désir de jeter des ponts par-dessus les obstacles de la langue, de la région ou de la culture nous ont partout frappés et nous ont remplis de gratitude. Il nous semble que nous sommes en train de renouveler non pas seulement notre pays ou notre constitution, mais notre foi en nous-mêmes.

Le chemin à parcourir

Selon nous, les recommandations que nous formulons apportent une réponse créative et cohérente aux deux grandes missions qui nous attendent : une mission d'intégration et une mission de redéfinition. Il faut maintenant que les gouvernements et les Canadiens engagent les discussions nécessaires pour donner suite à nos recommandations et opérer le renouvellement du pays.

Le temps presse. Le référendum québécois prévu pour octobre 1992 est un des délais impératifs que nous devons respecter, mais il n'est pas le seul. Beaucoup de Canadiens croient comme nous qu'il est essentiel de régler au plus vite le dossier constitutionnel de manière que le pays puisse passer à d'autres tâches, comme celle du renouveau économique et social qui fait partie, selon nous, de notre mission de redéfinition. Si le Canada ne parvient pas à dénouer rapidement l'impasse constitutionnelle, le reste du monde va le laisser pour compte.

Comme ces délais approchent à grands pas, nous croyons que les négociations intergouvernementales doivent s'amorcer aussitôt que possible après le dépôt de notre rapport. Quelles que soient les modalités de ces discussions, il est essentiel d'inclure le plus de gouvernements possible dans le dialogue constitutionnel afin de dégager au plus vite un consensus sur les éléments de renouveau. Pour accélérer le processus, nous proposons que notre rapport serve de base de discussion et de point de départ à la réalisation du consensus intergouvernemental. Il serait utile, croyons-nous, de se donner jusqu'au début de mai pour dégager ce consensus de manière que les gouvernements puissent faire le nécessaire pour mettre à contribution leur assemblée et, le cas échéant, leurs administrés avant que ne se mette en branle la campagne référendaire au Québec.

En dégageant leur consensus, les premiers ministres feraient bien d'envisager au moins deux séries de modifications constitutionnelles. Il faut absolument éviter d'acheminer le pays vers l'impasse simplement parce qu'il manque au projet un ou deux éléments qui exigent le consentement unanime. Nous proposons donc que les gouvernements envisagent une série de réformes exigeant l'approbation des deux tiers des provinces réunissant au moins 50 p. 100 de la population et une autre série de réformes assujetties à la règle de l'unanimité.

La participation des Canadiens au débat constitutionnel

Un des résultats les plus intéressants du processus de rapatriement du début des années 1980, c'est que le public s'est mis à s'intéresser vivement à la constitution du Canada. Depuis, grâce aux travaux de divers comités parlementaires et du Forum des citoyens, cet intérêt s'est accru et s'est manifesté de bien des façons. Des milliers de groupes et de particuliers ont témoigné devant des comités fédéraux et provinciaux; des groupes constitutionnels se sont formés qu'on pourrait presque comparer à des assemblées constituantes.

Plus récemment, il y a eu les cinq grandes conférences sur les propositions de renouvellement du Canada mises de l'avant par le gouvernement fédéral. Les participants n'étaient pas très nombreux, mais les conférences ont été télévisées et abondamment couvertes par les médias. Chacune a débouché sur un rapport qui nous a été utile dans nos travaux.

Nous croyons que le processus constitutionnel de consultation et de participation du public doit se poursuivre sous diverses formes partout au pays. Comme les Canadiens ont beaucoup à offrir, il importe de mettre en place les mécanismes qui leur permettent d'avoir voix au chapitre.

Nous recommandons qu'une loi fédérale soit adoptée, si le gouvernement fédéral le juge approprié, lui permettant de tenir, à sa discrétion, un référendum au sujet de propositions constitutionnelles, soit pour confirmer l'existence d'un consensus national, soit pour faciliter l'adoption des modifications constitutionnelles nécessaires.

Nous recommandons que le gouvernement assure la mise à contribution effective des dix provinces, des deux territoires et des dirigeants autochtones dans l'élaboration de la forme et du fond de la réponse du gouvernement à notre rapport.

Un avenir ensemble

Au début de notre rapport, nous faisions remarquer que, dans les moments de doute, les Canadiens semblent penser que l'expérience canadienne est plus fragile ou artificielle qu'elle ne l'est en réalité. Notre propre expérience et nos contacts avec les Canadiens nous ont confirmé que notre association est beaucoup plus profonde et ses fondements beaucoup plus solides que les vicissitudes de la vie quotidienne ne le donnent à penser. Nous avons évoqué quelques-uns des thèmes qui nous unissent ainsi que les deux grandes tâches qui nous attendent dans ce monde en mutation et quelques-unes des réformes constitutionnelles que nous devons entreprendre pour

mener ces tâches à bien. Dans l'ensemble, nous croyons que le portrait que nous brossons du Canada est réaliste, que notre diagnostic est juste et que les solutions que nous proposons sont pratiques. Nous croyons pouvoir envisager l'avenir avec confiance, avec la conviction que nous saurons remplir nos deux missions et amorcer un avenir aussi grandiose, riche et enviable que notre passé.

ANNEXE A

Projets de modifications constitutionnelles

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PRÉAMBULE

Nous, Canadiens,
Issus des quatre vents de la terre,
Sommes les citoyens privilégiés
d'un État souverain.

Héritiers d'un grand pays nordique,
nous en célébrons la beauté et la grandeur.
Peuples autochtones, immigrants,
francophones, anglophones,
mais Canadiens toujours,
nous sommes fiers de nos racines et de notre diversité.

Nous proclamons que notre pays
repose sur des principes qui reconnaissent
la suprématie de Dieu,
la dignité de la personne,
l'importance de la famille
et celle de la collectivité.

Nous reconnaissons que nous sommes libres
dans la mesure où la liberté s'inspire
du respect des valeurs morales et spirituelles
et du règne du droit
mis au service de la justice.

Nous chérissons ce pays libre et uni
qui figure au rang des grandes nations et,
conscients des responsabilités liées
aux privilèges dont nous jouissons,
nous prenons l'engagement d'en faire
un foyer de paix, d'espoir et de bonne volonté.

Déclaration

2. Nous, Canadiens, convaincus de la noblesse de notre projet collectif, réitérons par la présente notre décision historique de vivre ensemble dans un État fédéral;

Nous reconnaissons être profondément redevables à nos ancêtres :

les peuples autochtones, premiers habitants de notre vaste territoire et qui, de ce fait, ont le droit inhérent de se gouverner selon leurs propres lois, coutumes et traditions afin de protéger leurs langues et cultures diverses;

les colons français et britanniques, qui nous ont légué leurs propre langues et cultures, en plus de forger des institutions politiques qui ont renforcé notre union et permis au Québec de s'épanouir comme société distincte au sein du Canada; et

les gens de multiples autres nations et de toutes les parties du monde, qui se sont joints à nous et ont grandement contribué à réaliser la promesse de ce magnifique pays;

Nous réaffirmons notre attachement indéfectible aux principes et valeurs qui nous ont rassemblés, ont guidé notre vie nationale et nous ont assuré paix et sécurité, notamment, notre profond respect pour les institutions de la démocratie parlementaire; la responsabilité particulière du Québec de préserver et de promouvoir sa société distincte; le droit et la responsabilité des peuples autochtones de protéger et de développer leurs cultures, langues et traditions uniques; notre engagement ferme envers l'épanouissement et le développement des communautés minoritaires de langue officielle; l'impératif de réaliser l'égalité des femmes et des hommes; et notre reconnaissance de la valeur irremplaçable de notre patrimoine multiculturel;

Et nous prenons l'engagement de nous acquitter honorablement du devoir d'assurer à nos enfants leur prospérité et l'intégrité de leur environnement, afin qu'ils puissent faire de même pour leurs propres descendants.

Par conséquent, nous, Canadiens, adoptons officiellement cette Constitution, y compris la *Charte canadienne des droits et libertés*, comme l'expression solennelle de notre volonté et de nos aspirations nationales.

La *Charte canadienne des droits et libertés* devrait être modifiée afin d'inclure l'article qui suit après l'article 25 :

Société distincte et
dualité linguistique

25.1 (1) Toute interprétation de la présente *charte* doit concorder avec :

a) la protection et la promotion du caractère de société distincte du Québec au sein du Canada;

b) l'épanouissement et le développement linguistiques et culturels des collectivités minoritaires de langue française ou anglaise partout au Canada.

Société distincte

(2) Pour l'application du paragraphe (1), une société distincte comprend notamment, en ce qui concerne le Québec :

a) une majorité d'expression française;

b) une culture unique;

c) une tradition de droit civil.

Le texte ci-après remplacerait les paragraphes 35(3) et (4) de la *Loi constitutionnelle de 1982*.

Droit inhérent à l'autonomie gouvernementale

(3) Il est entendu que le droit inhérent à l'autonomie gouvernementale au sein du Canada est compris parmi les droits reconnus et confirmés par le paragraphe (1).

Droits issus de traités

(4) Il est entendu que sont compris parmi les droits issus de traités, dont il est fait mention au paragraphe (1) :

a) les droits existants issus d'accords sur des revendications territoriales ou ceux susceptibles d'être ainsi acquis;

b) les droits à l'autonomie gouvernementale qui peuvent être déclarés issus de traités pour l'application du paragraphe (1) dans tout accord -- notamment traité ou arrangement -- négocié conformément à l'article 35.2.

Égalité de garantie des droits pour les deux sexes

(5) Indépendamment de toute autre disposition de la présente loi, les droits -- ancestraux ou issus de traités -- visés au présent article sont garantis également aux personnes des deux sexes.

Les articles qui suivent seraient insérés dans la partie II de la *Loi constitutionnelle de 1982*.

Accords

35.2 (1) La structure, les pouvoirs, les droits et les privilèges des gouvernements autonomes des peuples autochtones ainsi que leurs rapports avec les autres gouvernements canadiens sont précisés dans les accords — notamment les traités ou les arrangements -- portant sur l'autonomie gouvernementale conclus, avant ou après l'entrée en vigueur du présent article, entre les représentants des peuples autochtones et les gouvernements fédéral, provinciaux ou territoriaux.

Engagement à la négociation

(2) Les gouvernements fédéral, provinciaux et territoriaux s'engagent à négocier les accords.

Mise en oeuvre des accords

(3) Les accords sont mis en oeuvre selon les termes de leur dispositif, lequel peut :

a) prévoir la modification de la Constitution du Canada ou du droit fédéral, provincial ou territorial.

b) déclarer que les droits reconnus par eux sont, pour l'application du paragraphe 35(1), issus de traités.

Convocation de conférences par le premier ministre du Canada

35.3 (1) Le premier ministre du Canada convoque au moins une conférence constitutionnelle sur les questions touchant les peuples autochtones du Canada dans les deux ans suivant l'entrée en vigueur du présent article.

Participants

(2) Sont invités à participer à chaque conférence les premiers ministres des provinces, les chefs de gouvernement des territoires et les représentants des peuples autochtones du Canada.

Ordre du jour

(3) Outre les questions constitutionnelles touchant les peuples autochtones du Canada, les conférences peuvent porter sur la négociation d'accords — notamment de traités ou d'arrangements — concernant l'autonomie gouvernementale de ces peuples.

Autres conférences

35.4 Les représentants des peuples autochtones sont invités à toutes les conférences convoquées par le premier ministre du Canada qui portent sur des questions constitutionnelles touchant directement les droits des peuples autochtones reconnus aux termes de l'article 35.

COUR SUPRÊME DU CANADA

Deux textes sont proposés ci-après. Chacun aurait pour effet d'insérer quelques dispositions après l'article 101 de la *Loi constitutionnelle de 1867*. Le premier pourrait être adopté selon la procédure de modification constitutionnelle générale (la formule 7/50). Le second doit être adopté à l'unanimité.

Premier texte proposé

Cour suprême du Canada

Propositions de nomination

101A. (1) En cas de vacance à la Cour suprême du Canada, le ministre fédéral de la Justice invite le gouvernement de chaque province concernée ou de chaque territoire concerné à lui proposer, pour la charge devenue vacante, au moins cinq personnes admises au barreau de cette province ou de ce territoire.

Nomination parmi les personnes proposées

(2) Dès réception par le ministre, en provenance de tous les gouvernements visés au paragraphe (1), du nom des personnes proposées ou à l'expiration d'un délai de quatre-vingt-dix jours suivant la date de l'invitation du ministre, le gouverneur général en conseil procède aux nominations parmi celles de ces personnes qui agréent au Conseil privé de la Reine pour le Canada; le présent paragraphe ne s'applique pas à la nomination du juge en chef du Canada dans les cas où il est choisi parmi les juges de la Cour suprême du Canada.

Juge suppléant

101B. (1) Dans le cas où aucune des personnes visées au paragraphe 101A(1) n'agrée au Conseil privé de la Reine pour le Canada, le ministre de la Justice entame une nouvelle procédure conformément à l'article 101A et le juge en chef du Canada peut, s'il l'estime nécessaire, demander par écrit à un juge de la Cour fédérale du Canada ou d'une cour supérieure provinciale ou territoriale, après consultation du juge en chef du tribunal visé, d'assister aux séances de la Cour suprême du Canada à titre de juge suppléant pendant la durée de la vacance.

Preuve de nomination

(2) Une copie de la demande du juge en chef du Canada est déposée auprès de la Cour suprême du Canada et constitue une preuve péremptoire de l'habilitation conférée au juge qui y est nommé.

Attributions

(3) Le juge suppléant ainsi désigné doit en priorité assister aux séances de la Cour suprême du Canada pendant le temps où sa présence y est requise; durant cette période, il a les pouvoirs et privilèges d'un juge de cette cour et en remplit les fonctions.

Absence de proposition

101C. Si le ministre ne reçoit aucune proposition de candidature dans le délai de quatre-vingt-dix jours, le gouverneur général en conseil procède à la nomination parmi les personnes qui agréent au Conseil privé de la Reine pour le Canada.

Deuxième texte proposé

Cour suprême du Canada

Maintien de la Cour suprême du Canada

101A. (1) La cour qui existe sous le nom de Cour suprême du Canada est maintenue à titre de cour générale d'appel pour le Canada et de cour additionnelle propre à améliorer l'application des lois du Canada. Elle conserve ses attributions de cour supérieure d'archives.

Composition

(2) La Cour suprême du Canada se compose du juge en chef, appelé juge en chef du Canada, et de huit autres juges, que nomme le gouverneur général en conseil par lettres patentes sous le grand sceau.

Conditions de nomination

101B. (1) Les juges sont choisis parmi les personnes qui, après avoir été admises au barreau d'une province ou d'un territoire, ont, pendant au moins dix ans au total, été juges de n'importe quel tribunal du pays ou inscrites au barreau de n'importe quelle province ou de n'importe quel territoire.

Québec : trois juges

(2) Au moins trois des juges sont choisis parmi les personnes qui, après avoir été admises au barreau du Québec, ont, pendant au moins dix ans au total, été inscrites à ce barreau ou juges d'un tribunal du Québec ou d'un tribunal créé par le Parlement du Canada.

Propositions de nomination

101C. (1) En cas de vacance à la Cour suprême du Canada, le ministre fédéral de la Justice invite le gouvernement de chaque province concernée ou de chaque territoire concerné à lui proposer, pour la charge devenue vacante, au moins cinq personnes ayant été admises au barreau de cette province ou de ce territoire et remplissant les conditions visées à l'article 101B.

Nomination parmi les personnes proposées

(2) Dès réception par le ministre, en provenance de tous les gouvernements visés au paragraphe (1), du nom des personnes proposées ou à l'expiration d'un délai de quatre-vingt-dix jours suivant la date de l'invitation du ministre, le gouverneur général en conseil procède aux nominations parmi celles de ces personnes qui agréent au Conseil privé de la Reine pour le Canada; le présent paragraphe ne s'applique pas à la nomination du juge en chef dans les cas où il est choisi parmi les juges de la Cour suprême du Canada.

Nomination parmi les personnes proposées par le Québec

(3) Dans le cas de chacune des nominations visées au paragraphe 101B(2), le gouverneur général en conseil nomme une personne proposée par le gouvernement du Québec.

Nominations parmi les personnes proposées par les autres provinces

(4) Dans le cas de toute autre nomination, le gouverneur général en conseil nomme une personne proposée par le gouvernement d'une autre province que le Québec ou d'un territoire.

Juge suppléant

101D. (1) Dans le cas où aucune des personnes visées au paragraphe 101C(1) n'agrée au Conseil privé de la Reine pour le Canada, le ministre de la Justice entame une nouvelle procédure conformément à l'article 101C et le juge en chef peut, s'il l'estime nécessaire, demander par écrit à un juge de la Cour fédérale du Canada ou d'une cour supérieure provinciale ou territoriale, après consultation du juge en chef du tribunal visé, d'assister aux séances de la Cour suprême du Canada à titre de juge suppléant pendant la durée de la vacance.

Preuve de nomination

(2) Une copie de la demande du juge en chef est déposée auprès de la Cour suprême du Canada et constitue une preuve péremptoire de l'habilitation conférée au juge qui y est nommé.

Attributions

(3) Le juge suppléant ainsi désigné doit en priorité assister aux séances de la Cour suprême du Canada pendant le temps où sa présence y est requise; durant cette période, il a les pouvoirs et privilèges d'un juge de cette cour et en remplit les fonctions.

Absence de proposition

101E. Si le ministre ne reçoit aucune proposition de candidature dans le délai de quatre-vingt-dix jours, le gouverneur général en conseil procède à la nomination parmi les personnes qui remplissent les conditions de nomination visées à l'article 101B et qui agréent au Conseil privé de la Reine pour le Canada.

Inamovibilité, traitement, etc.

101F. Les articles 99 et 100 s'appliquent aux juges de la Cour suprême du Canada.

Rapport avec
l'article 101

101G. (1) Sous réserve qu'il ne soit pas adopté, dans les matières visées à l'article 101, de dispositions incompatibles avec les articles 101A à 101F, ceux-ci n'ont par pour effet de porter atteinte à la compétence législative conférée au Parlement du Canada en ces matières.

Renvois à la Cour
suprême du Canada

(2) Il est entendu que l'article 101A n'a pas pour effet de porter atteinte à la compétence législative du Parlement du Canada en ce qui concerne le renvoi à la Cour suprême du Canada de questions de droit ou de fait, ou de toute autre question.

POUVOIRS CONCURRENTS

Les points 12 et 21 de l'article 91 de la *Loi constitutionnelle de 1867* seraient remplacés par ce qui suit :

12. la pêche côtière;

21. la faillite et l'insolvabilité des personnes morales;

L'article 95 de la *Loi constitutionnelle de 1867* serait remplacé par ce qui suit :

Compétence
concurrente

95. La législature de chaque province peut légiférer en matière d'agriculture, de pêche intérieure, de faillite et d'insolvabilité des personnes physiques et d'immigration dans cette province, et le Parlement du Canada peut légiférer en matière d'agriculture, de pêche intérieure, de faillite et d'insolvabilité des personnes physiques et d'immigration dans toutes les provinces ou dans chacune d'elles. Toutefois, les lois édictées en pareille matière par une législature n'ont d'effet, dans les limites de la province et à son égard, que dans la mesure où elles ne sont pas incompatibles avec les lois du Parlement du Canada.

DÉLÉGATION DE COMPÉTENCE LÉGISLATIVE

Le texte ci-après serait inséré après l'article 95 de la *Loi constitutionnelle de 1867*.

Pouvoir de délégation réciproque

Délégation

95A. (1) Le Parlement du Canada ou la législature d'une province peuvent se déléguer réciproquement tout pouvoir de légiférer que leur confère la présente loi.

Résolution, audience publique et rapport

(2) La promulgation d'une loi portant ainsi délégation est subordonnée à :

a) l'adoption par chaque chambre du Parlement et par l'assemblée législative de la province d'une résolution donnant avis du projet de délégation;

b) la tenue, à la fois par un comité de l'une ou l'autre chambre du Parlement et un comité de l'assemblée législative de la province, d'une audience publique sur la question;

c) l'invitation des gouvernements des autres provinces à participer à cette audience et d'y faire des représentations.

d) à l'établissement d'un rapport sur l'opportunité de la délégation et au dépôt de celui-ci par le comité devant la chambre ou l'assemblée par laquelle il a été formé;

e) l'écoulement d'une année depuis l'adoption de la dernière résolution visée à l'alinéa a).

Compensation financière

(3) Il incombe au délégant de fournir au gouvernement chargé de la mise en oeuvre d'une loi édictée dans l'exercice du pouvoir délégué une compensation financière suffisante, compte tenu des frais de promulgation et de mise en oeuvre.

Responsabilités en matière de langues officielles

(4) Lorsque le Parlement du Canada délègue son pouvoir à la législative d'une province en vertu de cet article,

a) toutes les lois et règlements établis en vertu de ce pouvoir délégué seront publiés en français et en anglais; et

b) les obligations imposées aux institutions du gouvernement du Canada en vertu du paragraphe 20(1) de la *Charte canadienne des droits et libertés* devront être remplies par les institutions du gouvernement de la province en ce qui concerne l'administration et l'exécution de l'ensemble des lois et règlements établis en vertu du pouvoir délégué.

Modification ou abrogation

(5) Le dépôt d'un projet de loi visant à modifier ou à abroger une loi portant délégation est subordonné à un préavis d'au moins deux ans donné :

a) au premier ministre du Canada, dans le cas où le Parlement est délégataire;

b) au premier ministre de la province dont la législature est délégataire d'un pouvoir du Parlement.

Durée de validité

(6) La loi portant délégation édictée conformément au présent article cesse d'avoir effet cinq ans après sa sanction, mais sa réédiction sans changement avant cette date n'entraîne pas l'application du paragraphe (2).

ACCORDS INTERGOUVERNEMENTAUX

Le texte ci-après serait inséré dans la *Loi constitutionnelle de 1867* après l'article 95A proposé (délégation).

Accords intergouvernementaux

Incompatibilité

95AA. (1) Tout accord — convention, contrat ou autre forme d'entente — conclu entre le gouvernement fédéral et celui d'une province et agréé conformément au présent article l'emporte sur toute règle de droit incompatible édictée, avant ou après l'agrément, par une loi du Parlement ou de la législature de la province, ou sous le régime d'une telle loi.

Agrément

(2) L'accord est agréé par une loi du Parlement et de la législature de la province ou par une résolution adoptée par les deux chambres du Parlement et l'assemblée législative de la province.

Résolutions

(3) La résolution d'agrément déposée devant une chambre du Parlement ou une assemblée législative est réputée adoptée le vingt et unième jour de séance suivant son dépôt, sauf si, avant cette date, au moins vingt membres de cette chambre ou assemblée proposent que la résolution fasse l'objet d'un débat.

Modification
et abrogation

(4) L'accord ne peut être modifié ni abrogé, sauf selon les termes de son dispositif ou par un autre accord agréé conformément au présent article.

Application

(5) Le présent article s'applique, avec les adaptations nécessaires, aux accords conclus entre le gouvernement fédéral et ceux de plusieurs provinces.

FORMATION DE LA MAIN-D'OEUVRE

Le texte ci-après serait inséré après l'article 93 de la *Loi constitutionnelle de 1867*.

Formation
de la
main-d'oeuvre

93A. La législature de chaque province peut légiférer pour confirmer sa compétence exclusive en matière de formation de la main-d'oeuvre dans la province; le gouvernement du Canada négocie avec le gouvernement de la province qui légifère ainsi afin de conclure un accord portant sur la formation de la main-d'oeuvre dans la province.

CULTURE

Le texte ci-après serait inséré après l'article 93 de la *Loi constitutionnelle de 1867*.

Culture
au Québec

93B. Est confirmée la compétence exclusive du Québec de légiférer pour la province en matière de culture.

IMMIGRATION

Le texte ci-après serait inséré après l'article 95 de la *Loi constitutionnelle de 1867*.

Accords relatifs à l'immigration et aux aubains

Engagement
à négocier

95B. Sur demande du gouvernement d'une province, le gouvernement du Canada négocie avec lui en vue de conclure, en matière d'immigration ou d'admission temporaire des aubains dans la province, un accord adapté aux besoins et à la situation de celle-ci.

Accords

95C. (1) Tout accord conclu entre le Canada et une province en matière d'immigration ou d'admission temporaire des aubains dans la province a, une fois faite la déclaration visée au paragraphe 95D(1), force de loi et a dès lors effet indépendamment tant du point 25 de l'article 91 que de l'article 95.

Restriction

(2) L'accord ayant ainsi force de loi n'a d'effet que dans la mesure de sa compatibilité avec les dispositions des lois du Parlement du Canada qui fixent des normes et objectifs nationaux relatifs à l'immigration et aux aubains, notamment en ce qui concerne l'établissement des catégories générales d'immigrants, les niveaux d'immigration au Canada et la détermination des catégories de personnes inadmissibles au Canada.

Application

(3) La *Charte canadienne des droits et libertés* s'applique aux accords ayant ainsi force de loi et à toute mesure prise sous leur régime par le Parlement ou le gouvernement du Canada ou par la législature ou le gouvernement d'une province.

Proclamation relative aux accords

95D. (1) La déclaration portant qu'un accord visé au paragraphe 95C(1) a force de loi se fait par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat, de la Chambre des communes et de l'assemblée législative de la province qui est partie à l'accord.

Modification des accords

(2) La modification d'un accord visé au paragraphe 95C(1) se fait par proclamation du gouverneur général sous le grand sceau du Canada, autorisée:

a) soit par des résolutions du Sénat, de la Chambre des communes et de l'assemblée législative de la province qui est partie à l'accord;

b) soit selon les modalités prévues dans l'accord même.

Application des articles 46 à 48 de la *Loi constitutionnelle de 1982*

95E. Les articles 46 à 48 de la *Loi constitutionnelle de 1982* s'appliquent, avec les adaptations nécessaires, à toute déclaration faite aux termes du paragraphe 95D(1) ou à toute modification d'un accord faite aux termes du paragraphe 95D(2).

POUVOIR FÉDÉRAL DE DÉPENSER

Le texte ci-après serait inséré après l'article 106 de la *Loi constitutionnelle de 1867*.

Programmes cofinancés

106A. (1) Le gouvernement du Canada fournit une juste compensation au gouvernement d'une province qui choisit de ne pas participer au programme cofinancé établi pour l'ensemble du Canada après l'entrée en vigueur du présent article dans un secteur de compétence exclusive provinciale, si la province applique un programme ou une mesure réalisant les objectifs du programme fédéral.

Non-élargissement des compétences législatives

(2) Le présent article n'élargit pas les compétences législatives du Parlement du Canada ou des législatures des provinces.

MARCHÉ COMMUN

Le texte ci-après pourrait remplacer l'article 121 de la *Loi constitutionnelle de 1867*. Il y a lieu de prévoir un mécanisme d'arbitrage concernant l'application du présent article, mais le présent projet n'en propose pas.

Liberté de circulation

121. (1) Le Canada constitue une union économique où est assurée la libre circulation des personnes, des biens, des services et des capitaux

Interdictions ou restrictions

(2) Il est interdit au Parlement et au gouvernement du Canada, aux législatures et aux gouvernements des provinces, de même qu'aux conseils et aux gouvernements des territoires, d'imposer, par la loi ou dans la pratique, des restrictions ou des barrières incompatibles avec le paragraphe (1) et fondées sur les délimitations provinciales ou territoriales, si ces restrictions ou ces barrières nuisent à l'efficacité de l'union économique et constituent, pour le commerce franchissant les délimitations provinciales ou territoriales, un moyen de discrimination arbitraire ou une restriction déguisée.

Protection

(3) Le paragraphe (2) n'a pas pour effet d'invalider une restriction ou une barrière imposée sous le régime des lois :

a) fédérales édictées pour la mise en oeuvre des principes de la péréquation ou du développement régional;

b) provinciales ou territoriales visant la réduction des disparités économiques entre des régions situées à l'intérieur de la province ou du territoire;

c) fédérales, provinciales ou territoriales édictées pour :

(i) la protection, la santé ou la sécurité collectives,

(ii) l'institution et le fonctionnement de sociétés d'État gestionnaires de monopoles pour l'intérêt de la collectivité,

(iii) la protection des systèmes existants de gestion de l'offre et de la commercialisation dans l'intérêt de l'ensemble du pays, d'une province ou d'un territoire, sous réserve des engagements internationaux du Canada.

Accords
fédéraux-provinciaux

(4) Il incombe aux gouvernements fédéral, provinciaux et territoriaux de chercher à s'entendre sur des normes nationales équivalentes de mise en oeuvre mutuelle afin de favoriser la libre circulation des personnes et de veiller au bien-être des Canadiens, quelque soit leur lieu de vie ou de travail.

Droits préservés

(5) Le présent article ne porte pas atteinte aux droits en matière de liberté de circulation garantis par l'article 6 de la *Charte canadienne des droits et libertés*.

PACTE SOCIAL ET UNION ÉCONOMIQUE

La mention " PACTE SOCIAL ET UNION ÉCONOMIQUE " serait substituée au titre de la partie III de la *Loi constitutionnelle de 1982* et le texte ci-après serait ajouté à cette partie.

Pacte social

36.1 (1) Le Parlement, les législatures et les conseils territoriaux, ainsi que les gouvernements fédéral, provinciaux et territoriaux s'engagent conjointement à :

a) fournir partout au Canada un régime de soins de santé complet, universel, transportable, géré par l'État et accessible;

b) fournir les services et les avantages sociaux propres à assurer un niveau de vie normal à tous les Canadiens, notamment l'accès à l'alimentation, au logement et aux autres nécessités de la vie;

c) fournir un enseignement public de qualité aux niveaux primaire et secondaire à tous les résidents du Canada et veiller à rendre l'enseignement supérieur normalement accessible;

d) protéger les droits d'association et de négociation collective des travailleurs;

e) protéger l'intégrité de l'environnement d'une manière compatible avec un développement économique durable;

Examen

(2) La [éventuelle agence intergouvernementale] examine et évalue la réalisation, par les gouvernements fédéral, provinciaux et territoriaux, des objectifs du Pacte social énoncés au paragraphe (1) et fait rapport sur celle-ci.

Union économique

36.2 (1) Le Parlement, les législatures et les conseils territoriaux, ainsi que les gouvernements fédéral, provinciaux et territoriaux s'engagent conjointement à :

a) à travailler ensemble pour renforcer l'union économique du Canada;

b) à favoriser la libre circulation des personnes, des biens, des services et des capitaux;

c) chercher à atteindre le plein emploi;

d) assurer aux Canadiens un niveau de vie normal.

Examen

(2) La [éventuelle agence intergouvernementale] examine et évalue la réalisation, par les gouvernements fédéral, provinciaux et territoriaux, des objectifs de l'union économique énoncés au paragraphe (1) et fait rapport sur celle-ci.

Dépôt de rapports

36.3 Les rapports de [l'agence] effectués aux termes des paragraphes 36.1(2) et 36.2(2) sont déposés devant le Parlement, les législatures et les conseils territoriaux.

Effet sur les compétences législatives

36.4 Les articles 36.1 et 36.2 ne portent pas atteinte aux compétences législatives du Parlement, des législatures et des conseils territoriaux, ni à leur droit de les exercer.

CONFÉRENCE DES PREMIERS MINISTRES

XII. CONFÉRENCE DES PREMIERS MINISTRES

Institution de la conférence

148. Le premier ministre du Canada convoque au moins une fois par an une conférence réunissant les premiers ministres provinciaux et lui-même et portant sur les questions économiques et sociales touchant le Canada.

ANNEXE B

Autres préambules et autre clause Canada étudiés par le Comité

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2. Préambule (II) 126
3. Clause Canada 127

PRÉAMBULE (I)

Nous, Canadiens et Canadiennes, reconnaissant que :

les peuples autochtones ont été les premiers occupants du vaste territoire qui forme notre pays;

le Canada d'aujourd'hui émane de la rencontre en terre d'Amérique des Indiens, des Inuit, des Français, des Britanniques, des Métis et de peuples de toutes les parties du monde;

nous sommes dépositaires de richesses sociales, culturelles et naturelles diverses;

notre pays s'est taillé une place unique dans le concert des nations,

Affirmons notre volonté de maintenir au Canada un régime fédéral fondé sur :

l'égalité des individus dans le respect de leurs différences et de la diversité de leurs cultures;

l'égalité des provinces dans le respect de leurs caractéristiques uniques.

Nous, Canadiens et Canadiennes :

confiants dans notre avenir,

animés par un esprit d'équité et de justice,

Sommes résolus à bâtir un pays qui :

respecte la dignité de la personne, protège nos droits et libertés, individuels et collectifs, et reconnaît qu'ils constituent le fondement de la justice et de la paix;

reconnaît que les droits et libertés de la personne sont inséparables des droits et libertés d'autrui et du bien-être général;

reconnaît la responsabilité des peuples autochtones de protéger et de développer leurs cultures, leurs langues et leurs traditions propres;

reconnaît la responsabilité du Québec de protéger et de promouvoir le caractère distinct de sa société, unique en Amérique du Nord;

favorise l'épanouissement et le développement linguistiques et culturels des collectivités minoritaires de langue française ou anglaise dans tout le Canada;

reconnaît la contribution à son patrimoine culturel de ses citoyens de langues et de cultures de toutes les parties du monde;

veille à la qualité de son environnement naturel et l'exploite de façon rationnelle et responsable en vue d'assurer sa prospérité pour plusieurs générations;

reconnaît la primauté du droit et adhère à un régime de gouvernement parlementaire démocratique.

Nous, Canadiens et Canadiennes :

Sensibles aux transformations de notre monde,

Conscients des mesures à prendre pour y conquérir notre juste place, et assurer notre essor économique et notre épanouissement social et culturel,

Sommes convaincus de la nécessité de :

resserrer notre marché commun et l'union économique du Canada;

réaffirmer partout au pays notre engagement à l'égard des droits sociaux et économiques de nos citoyens et notre attachement au principe de l'égalité des chances;

rajeunir nos institutions gouvernementales afin qu'elles soient plus représentatives, plus sensibles à nos besoins et plus efficaces pour relever les grands défis de l'heure.

Le Canada est âme

l'âme des peuples autochtones qui révèrent et cultivent cette terre splendide et prodigue de temps immémorial;

l'âme des colons français et britanniques qui ont fait de cette terre leur foyer aux confins de trois océans;

l'âme des peuples qui sont venus et continuent de venir de tous les continents pour enrichir cette terre de leur labeur et de leurs traditions.

Le Canada est foi

foi dans la force qui naît de la diversité de son peuple;

foi dans le droit inhérent aux peuples autochtones de se gouverner, et de préserver et d'enrichir leurs traditions, leurs langues et leurs cultures;

foi dans la responsabilité du Québec, représentant unique du peuple de langue française en Amérique du Nord, de préserver et de promouvoir sa société distincte;

foi dans l'épanouissement et le développement des deux langues de nos lois et des collectivités minoritaires de langue officielle qui leur donnent vie dans tout le Canada;

foi dans l'épanouissement de l'héritage de nos patrimoines culturels multiples.

Le Canada est engagement

engagement à la démocratie et à la primauté du droit;

engagement aux droits et libertés de la personne;

engagement au bien-être social et économique de tous les Canadiens.

En tant que citoyens du Canada, nous sommes acquis à vivre en harmonie, et à préserver, étendre et partager nos richesses spirituelles et matérielles, notre héritage commun et particulier, nos cultures et nos arts;

En tant que citoyens du monde, nous sommes acquis à la paix entre les nations et à la conservation de la terre pour les générations futures;

Nous proclamons que la Constitution du Canada est la loi suprême de notre pays et que ce texte lui tient lieu de préambule.

CLAUSE CANADA

Le texte ci-après pourrait être inséré dans la *Loi constitutionnelle de 1867* à l'article 2.

Déclaration

2. Ayant pris l'engagement de cultiver la paix, l'espoir et la bonne volonté entre nations, nous déclarons ce qui suit:

LE CANADA EST :

- un pays composé de peuples autochtones, premier peuple du pays, de personnes d'expression française et d'expression anglaise et d'immigrants des quatres coins du monde;

- un pays caractérisé par une dualité linguistique florissante;

- une monarchie constitutionnelle et une démocratie parlementaire qui garantit à tous ses citoyens le plein accès au processus électoral;

- une fédération dont l'identité est définie par les caractéristiques et les valeurs de toutes les collectivités, provinces et territoires qui la composent.

LE CANADA RECONNAÎT :

- que les peuples Indiens, Inuit et Métis, possédant plusieurs cultures, langues et traditions, ont le droit inhérent de se gouverner au sein du Canada;

- que le Québec a la responsabilité particulière de veiller à la protection et à la promotion de sa société distincte;

- son engagement à favoriser l'épanouissement et le développement des collectivités minoritaires de langue officielle dans tout le Canada;

- que la diversité ethnique, religieuse et culturelle de sa population resserre les liens collectifs et enrichit la vie du pays.

LE CANADA CONFIRME :

- qu'il croit aux principes de la compassion, de l'équité, de l'intégrité et du respect de la vie, pratiqués dans un climat d'ouverture d'esprit, de respect et de responsabilité mutuels, et que tous les citoyens, sans aucune discrimination, ont le droit de participer pleinement à la vie du pays;

- qu'il croit à l'égalité des femmes et des hommes;

- son engagement à maintenir la dignité et la valeur de ses peuples, de ses citoyens et de ses collectivités ainsi que leurs droits et libertés individuels selon la loi et par son application équitable, comme fondement de la justice et de l'harmonie sociale.

LE CANADA S'ENGAGE :

- à protéger les familles et les enfants;

- à gérer de façon responsable ses terres, ses ressources et son environnement;

- à rechercher le bien-être spirituel, culturel, économique, intellectuel, politique, social et physique des Canadiens de tous les âges;

- à promouvoir la paix et la justice parmi toutes les nations et tous les peuples.

Tant que brillera le soleil,
que couleront les rivières et que soufflera le vent,
nous proclamons notre loyauté envers ce pays qui s'appelle
le Canada.

ANNEXE C

Liste des témoins

NOM DU TÉMOIN	FASCICULE	DATE
21ST CENTURY CANADA COMMITTEE	54	92/01/27
Jocelyn Adamson		
Deirdre Nicholson		
Laurie Gecheke, porte-parole		
Ron Gray		
Calvin Netterfield		
ACTRA	61	92/02/06
Sandy Crawley, présidente		
Sonja Smits, membre		
Garry Neil, secrétaire général		
AETNA CANADA	10	91/10/28
Rose Marie Earle, directrice des communications et relations de travail		
AFFORDABLE HOUSING ASSOCIATION OF NOVA SCOTIA	44	92/01/16
Grant Wanzel, président		
AFRO-CANADIAN CAUCUS OF NOVA SCOTIA	44	92/01/16
Davies Bagambiire		
AIRD, Paul	13	91/10/29
ALLIANCE DE LA FONCTION PUBLIQUE DU CANADA	30	91/12/12
Daryl T. Bean, président		
ALLIANCE QUEBEC	29	91/12/11
Robert Keaton, président		
Casper Bloom, président du conseil		
Alan Hilton, membre du conseil		
Marjorie Goodfellow, membre du conseil		

NOM DU TÉMOIN	FASCICULE	DATE
ANDERSON, Brian	13	91/10/29
ASSEMBLÉE DES PREMIÈRES NATIONS Ernie Benedict, ancien Myrtle Bush, coordinatrice Tom Porter, sous-chef, Conseil traditionnel de la nation mohawk Mike Mitchell, grand chef, Conseil mohawk d'Akwesasne Tony Hall, professeur d'histoire à l'université de Lethbridge Leroy Littlebear, professeur d'études autochtones à l'université Lethbridge Moses Okimaw, conseiller juridique, Assemblée des Premières nations	35	92/01/08
ASSEMBLÉE DES PREMIÈRES NATIONS Ovide Mercredi, chef national Moses Okimaw, conseiller juridique Mary Ellen Turpel, conseiller juridique Leroy Littlebear, professeur d'études autochtones Myrtle Bush, coordonnatrice	62	92/02/10
ASSOCIATION CANADIENNE DE L'IMMEUBLE David Higgins, président élu Gaylord Watkins, avocat et constitutionnaliste Patricia Verge, vice-présidente	21	91/12/02
ASSOCIATION CANADIENNE DE LA CONSTRUCTION John Halliwell, président Michael Atkinson, directeur exécutif Michael Makin, directeur	23	91/12/03
ASSOCIATION CANADIENNE DES COMMISSAIRES D'ÉCOLES CATHOLIQUES Mervy Lynch, président Lawrence Dufresne, coprésident	49	92/01/22
ASSOCIATION CANADIENNE DES CONSTRUCTEURS D'HABITATIONS John Kenward, directeur Gary Reardon, président	26	91/12/09

Laurier Dechêne, secrétaire
Gord Thompson, président sortant

ASSOCIATION CANADIENNE DES PROFESSEURS D'UNIVERSITÉ 14 91/10/31
Fred Wilson, président
Donald Savage, président du Conseil d'administration
Robert Kerr, ancien président

ASSOCIATION CANADIENNE DES TROUBLES D'APPRENTISSAGE 52 92/01/23
Beulah Phillpot

ASSOCIATION CANADIENNE-FRANÇAISE DE L'ALBERTA 50 92/01/22
Denis Tardif, président
Marc Arnal, vice-président
Georges Arès, directeur exécutif

ASSOCIATION CANADIENNE-FRANÇAISE DE L'ONTARIO 27 91/12/10
Jean Tanguay, président
Yves Le Bouthillier, membre
Gilles Le Vasseur, membre

ASSOCIATION CANADIENNE POUR LA PROMOTION DES SERVICES DE GARDE D'ENFANTS 14 91/10/31
Barbara Kilbride, directrice exécutive
Penny Bertrand

ASSOCIATION CULTURELLE FRANCO-CANADIENNE DE LA SASKATCHEWAN 47 92/01/21
Denis Magnan, président
Maria Lepage, présidente, Fédération provinciale des Fransaskoises
Roger Lepage, avocat
Florent Bilodeau, directeur exécutif
Marguerite Compagne, représentante des régionales de l'ACFC

ASSOCIATION D'HABITATION ET DE RÉNOVATION URBAINE 34 91/12/18
Sylvia Haines, directrice exécutive

David Crenna
Robert Player, ex-président
Michael Wilson, membre

ASSOCIATION DE COMTÉ DU NOUVEAU PARTI DÉMOCRATIQUE DE BRANDON — 18 — 91/11/6
Ian Robson, porte-parole

ASSOCIATION DES COMPTABLES GÉNÉRAUX AGRÉÉS DU CANADA — 57 — 92/02/03
Marcel Hardy, président
Ronald J. Bourke, premier vice-président
S. Anthony Toth, directeur des affaires publiques
Wm. Laurence Scott, conseiller pour les affaires gouvernementales

ASSOCIATION DES FEMMES AUTOCHTONES DU CANADA — 61 — 92/02/06
Gail Stacey Moore, présidente
Teressa Nakanee, coordonnatrice en matière constitutionnelle
Virginia Meness, adjointe exécutive
Margo Nightingale, coordonnatrice en matière constitutionnelle
Marge Friedel, trésorière, Association nationale des femmes métisses du Canada
Dianne Soroka, conseillère
Winnie Giesbrecht, membre du conseil exécutif
Sarah Fiddes, membre du conseil exécutif

ASSOCIATION DES JURISTES AUTOCHTONES DU CANADA — 34 — 91/12/18
Donald E. Worme, président
Marion Buller, vice-présidente
Mary Ellen Turpel, membre du conseil
Moses Okimaw, membre du conseil
Roger Jones, secrétaire-trésorier

ASSOCIATION DES JURISTES D'EXPRESSION FRANÇAISE DU NOUVEAU-BRUNSWICK — 43 — 92/01/15
Louise R. Guerrette
Zoël Dionne

NOM DU TÉMOIN	FASCICULE	DATE
ASSOCIATION DES PARENTS FRANCOPHONES DE YELLOWKNIFE Marie Claire Leblanc, présidente Diane Mahoney, présidente, Fédération franco-ténoise des Territoires Bernadette Leblanc-Fortier, membre du conseil exécutif Chantale Francoeur, agent de développement	52	91/01/23
ASSOCIATION DES TOWNSHIPPERS Myrna MacAulay, présidente Marjorie Goodfellow, présidente, Comité des affaires constitutionnelles Michael Fox, directeur Susan Mastine, directeur exécutif	58	92/02/03
ASSOCIATION DU BARREAU CANADIEN J.J. Camp, c.r., président L'hon. Paule Gauthier, vice-présidente Terence Wade, directeur exécutif Melina Buckley, directrice adjointe	30	91/12/12
ASSOCIATION DU DROIT DE L'ENVIRONNEMENT DE LA CÔTE OUEST William J. Andrews, directeur exécutif	53	92/01/27
ASSOCIATION FRANCO-YUKONNAISE Florine Leblanc-Hutchinson Pierre Laroche Jeanne Beaudoin	56	92/01/28
ASSOCIATION NATIONALE DES CANADIENS JAPONAIS Art Miki, président	16	91/11/04
B'NAI BRITH CANADA David Matas, conseiller juridique principal Lyle M. Smordin, vice-président	16	91/11/04
BARKER, Tom	16	91/11/04
BCE INC. A. Jean de Granpré, président	32	91/12/17

NOM DU TÉMOIN	FASCICULE	DATE
BLACK UNITED FRONT OF NOVA SCOTIA Ogueri Ohanaka, pasteur, directeur exécutif	44	92/01/16
BLAKE, CASSELS & GRAYDON Peter Hogg, professeur, Osgoode Hall Law School, université York Theodore A. King Mitchell Wigdor Anne Thomas	33	91/12/18
BOULANGER, Gaston	16	91/11/04
BOWKER, Marjorie Juge à la retraite, Cour provinciale d'Alberta	32	91/12/17
BRANDON WOMEN'S STUDY GROUP Paula Mallea Mary Annis Donna Everitt	18	91/11/06
BUREAU DE COMMERCE DE MONTRÉAL Luigi Liberatore, président du conseil David Powell, vice-président	60	92/02/04
BUREAU DE COMMERCE DE VANCOUVER Owen Anderson Marguerite Ford, membre de l'ancien conseil d'administration Sandra Montour, membre du Comité des affaires communautaires John Hansen, économiste principal	54	27/01/92
BUREAU DE COMMERCE DU TORONTO MÉTROPOLITAIN Donald King, président Gerry Meinzer, vice-président	60	92/02/04
BURGES, Bill	18	91/11/06
CABINET POUR LES RELATIONS FÉDÉRALES-PROVINCIALES Jocelyne Bourgon, secrétaire associée du Cabinet	1, 3, 7, 8, 9	91/09/25 91/10/22

NOM DU TÉMOIN	FASCICULE	DATE
		91/10/23 91/10/24
Ron Watts, secrétaire adjoint, Développement constitutionnel	3, 8	91/10/01
Scott Serson, sous-secrétaire du Cabinet Nicholas d'Ombrain, sous-secrétaire du Cabinet (Appareil gouvernemental et Personnel supérieur)	8	91/10/23
CAMERON, Jamie professeur, Faculté de droit d'Osgoode Hall, université York	29	91/12/11
CAMPBELL, Robert S.W.	13	91/10/29
CANADA FOR ALL COMMITTEE Murad Velshi, président Ishrath Velshi Soma Ray Kikee Malik	13	91/10/29
CANADIAN ASSOCIATION OF VISIBLE MINORITIES Darryl Gray, pasteur, coprésident national	44	92/01/16
CANADIAN COMMITTEE FOR A TRIPLE E SENATE Bert Brown, président	21	91/12/02
CANADIAN ENVIRONMENTAL LAW ASSOCIATION AND POLLUTION PROBE Barbara Rutherford, conseil Paul Muldoon, conseil	32	91/12/17
CANADIAN FILM & TELEVISION PRODUCTION ASSOCIATION Peter Mortimer, directeur Stephen Ellis, trésorier	24	91/12/04
CANADIAN LABOUR FORCE DEVELOPMENT BOARD Laurent Thibault, coprésident	27	91/12/10

NOM DU TÉMOIN	FASCICULE	DATE
Gérard Docquier, coprésident		
CANADIAN PARENTS FOR FRENCH Josalys Scott, directeur exécutif Pat Brehaut, présidente nationale	30	91/12/12
CANADIANS FOR EQUALITY OF RIGHTS UNDER THE CONSTITUTION Keith Henderson, président Howard Greenfield, vice-président	32	92/12/17
CARVER, Horace	6	91/10/10
CATHOLIC WOMEN'S LEAGUE OF CANADA Agnes Ebbs, responsable des résolutions Catherine Gregory	41	92/01/14
CENTRE POUR LES DROITS D'ÉGALITÉ AU LOGEMENT Bruce Porter, coordonnateur	24	92/12/04
CHAMBRE DE COMMERCE CANADIENNE Timothy Reid, président Miller A. Ayre, président Philip O'Brien, vice-président	38	92/01/13
CHAMBRE DE COMMERCE DE BRANDON Gordon Peters, président	17	91/11/06
CHAMBRE DE COMMERCE DE CALGARY John Currie, président et président du Groupe de travail sur l'unité Bill Kauffman, gérant George Caillou, membre du Groupe de travail sur l'unité Colin MacDonald, membre du Groupe de travail sur l'unité	50	92/01/22
CHAMBRE DE COMMERCE DE COLOMBIE-BRITANNIQUE E.A George, directeur exécutif Ian MacLeod, premier vice-président	54	92/01/27
CHAMBRE DE COMMERCE DE HALIFAX	44	92/01/16

NOM DU TÉMOIN	FASCICULE	DATE
Andrew M. Horgan		
CHAMBRE DE COMMERCE DE WINNIPEG Buddy Brownstone, président	16	91/11/04
CHAMBRE DE COMMERCE FRANCOPHONE DE SAINT-BONIFACE Germain Perron, président Richard Chartier, conseiller juridique	16	91/11/04
CHANAL INC. Keith Walker, directeur exécutif pour Terre-Neuve et Labrador Daniel Reid, secrétaire	41	92/01/14
CHEF DE L'OPPOSITION Sharon Carstairs, chef	39	91/11/04
CITIZENS FOR PUBLIC JUSTICE Tim Schouls, attaché de recherche Gerald Vandezande, directeur national des affaires publiques	12	91/10/29
CLARK, Joe, Le très honorable Ministre responsable des affaires constitutionnelles	1	91/09/25
COMEAULT, Rudy	16	91/11/04
COMITÉ CANADIEN D'ACTION SUR LE STATUT DE LA FEMME Judy Rebick, présidente Salome Loucas, membre de l'exécutif Janet Maher, Ontario Women's Action Coalition Thelma McGillivray, représentante régionale de l'Ontario	10	91/10/28
COMITÉ DE TERRE-NEUVE ET DU LABRADOR SUR LA CONSTITUTION Ed Roberts, président Doug May, professeur d'économique, Memorial University Peter Boswell, professeur de science politique, Memorial University Aubrey Gover, vice-président Jack Harris	40	92/01/14

Dorothy Inglis
Melvin Penney
Art Reid
Alex Snow
Grace Sparkes
Lynn Verge
Jim Walsh
Beatrice Watts

COMITÉ MANITOBAIN POUR UN SÉNAT TRIPLE E 17 91/11/06
Jerry Fullerton, vice-président

COMITÉ PERMANENT DE L'ENVIRONNEMENT 61 92/02/06
David MacDonald, député, président
Paul Martin, député
Jim Fulton, député
Yvon Côté, député, vice-président

COMITÉ PERMANENT DES COMMUNICATIONS ET DE LA CULTURE 61 92/02/06
Bud Bird, député, président
Sheila Finestone, députée, vice-présidente
Jean-Pierre Hogue, député, vice-président

COMITÉ SPÉCIAL DE L'ÎLE-DU-PRINCE-ÉDOUARD SUR LA CONSTITUTION DU CANADA 5 91/10/10
Walter McEwen, président
L'hon. Barry Hicken
Marion Murphy
L'hon. Leone Bagnall
Walter Bradley
Albert Fogarty
Alan Buchanan

COMITÉ SPÉCIAL DE LA RÉFORME CONSTITUTIONNELLE 51 92/01/23
L'hon. Stephen Kakfwi
Ernie Bernhardt
Sam Gargan
Brian Lewis
L'hon. Dennis Patterson

NOM DU TÉMOIN	FASCICULE	DATE
COMITÉ SPÉCIAL DE LA RÉFORME CONSTITUTIONNELLE	49	92/01/22
L'hon. James Horsman, MAL, Medecine Hat, ministre des affaires fédérales et intergouvernementales, président		
L'hon. Ken Rostad, MAL, Camrose, procureur général		
Fred Bradley, MAL		
Gary Severtson, MAL		
Jack Ady, MAL		
Pam Barrett, MAL		
Bob Hawkesworth, MAL		
Yolande Gagnon, MAL		
Stan Schumacher, MAL, président		
L'hon. Dennis Anderson, ministre de Consommation et corporations		
L'hon. Nancy Betkowski, MAL, ministre de la Santé		
Pearl Calahasen, MAL		
Stockwell Day, MAL		
Barrie Chivers, MAL		
John McInnis, MAL		
Sheldon Chumir, MAL		
COMMISSARIAT À LA PROTECTION DE LA VIE PRIVÉE	26	91/12/09
Bruce Phillips, commissaire		
David Flaherty, professeur, université Western, Ontario		
Edward Ratushny, professeur, université d'Ottawa		
COMMISSARIAT AUX LANGUES OFFICIELLES	61	92/02/06
Victor Goldbloom, commissaire		
Marc Thérien, directeur général, Politiques		
Jean-Claude Nadon, directeur général, Plaintes et vérification		
Monique Matza, chef de Cabinet		
COMMISSION CANADIENNE DES DROITS DE LA PERSONNE	34	
Maxwell Yalden, président		
COMMISSION DU NOUVEAU-BRUNSWICK SUR LE FÉDÉRALISME CANADIEN	42	92/01/15
Marie-Marthe-Aldéa Landry, coprésidente		
James Lockyer, coprésident		
James Downey		

Pierrette Ringuette-Maltais, MAL
Erminie Cohen
Yvon Fontaine
Albert Levi
Ronald LeBreton

COMMISSION NATIONALE DES PARENTS FRANCOPHONES — 22 — 91/12/03
M. Raymond Porrier, président
Paul Charbonneau, directeur général
Armand Bédard, directeur, Recherche et formation

CONFÉRENCE "VERS L'AN 2000" — 26 — 91/12/09
John Trent, président
François Rocher
Patrice Martin, coordinateur

CONFÉRENCE CANADIENNE DES ARTS — 24 — 91/12/04
Keith Kelly, directeur national

CONFÉRENCE DES ÉVÊQUES CATHOLIQUES DE L'ONTARIO — 39 — 92/01/13
Évêque O'Mara
Archevêque Marcel Gervais
Peter Lauwers, avocat

CONGRÈS DU TRAVAIL DU CANADA — 59 — 92/02/04
Shirley Carr, présidente
Nancy Riche, vice-présidente exécutive
Dick Martin, vice-président exécutif
Richard Mercier, secrétaire-trésorier
Robert White, président national, TUA
Judy D'Arcy, présidente nationale, SCFP
Dawn Ventura, directrice de recherches
Cindy Wiggins, recherchiste

CONGRÈS GERMANO-CANADIEN — 26 — 91/12/09
Gerry Meinzer, président
Alexander Sennecke, président élu
Alexander Münter, vice-président

CONGRÈS HELLÉNIQUE DU CANADA — 58 — 92/02/03
Harry Tsimberis, vice-président

NOM DU TÉMOIN	FASCICULE	DATE
André Gerolymotos, secrétaire		
CONGRÈS ITALO-CANADIEN	58	92/02/03
Antonio Sciascia, ex-président		
Giusseppe Manno, président, région du Québec		
CONGRÈS JUIF CANADIEN	58	92/02/03
Les Scheininger, président		
Max Bernard, président du Comité de l'unité nationale		
CONSEIL CANADIEN DES CHEFS D'ENTREPRISES	61	92/02/06
Thomas D'Aquino, président		
William W. Stinson, président-directeur général, Canadian Pacific Ltd.		
Bertin F. Nadeau, président du conseil, Provigo inc.		
CONSEIL CANADIEN DES CHRÉTIENS ET DES JUIFS (RÉGION DE L'ONTARIO)	12	91/10/29
Sheldon J. Godfrey		
CONSEIL CONSULTATIF CANADIEN SUR LA SITUATION DE LA FEMME	6	91/10/10
Linda Gallant, présidente		
CONSEIL CONSULTATIF SUR LA CONDITION DE LA FEMME DU NOUVEAU BRUNSWICK	43	92/01/15
Jeanne d'Arc Gaudet, présidente		
Dawn Bremner, vice-présidente		
CONSEIL DE LA CONDITION FÉMININE DES T.N.-O.	52	92/01/23
Lynn Brooks		
Winnie Fraser-McKay		
CONSEIL DE LA CONDITION FÉMININE DU YUKON	56	92/01/28
Lynn Gaudet		
Lois Pope		
Jon Leah Hopkins		
CONSEIL DES ARTS		

NOM DU TÉMOIN	FASCICULE	DATE
DE L'ÎLE-DU-PRINCE-ÉDOUARD Richard Lemm, président du Département d'anglais de l'université de l'Île-du-Prince-Édouard	6	91/10/10
CONSEIL DES CANADIENS Maude Barlow, présidente Ken Wardroper, membre du conseil, coprésident, politiques	33	91/12/18
CONSEIL DES INDIENS DU YUKON Judy Gingell, présidente Albert James, vice-président Victor Mitander, négociateur en chef Steve Welsh, conseiller juridique	56	92/01/28
CONSEIL DES SERVICES COMMUNAUTAIRES Frankie O'Flaherty, vice-président Penelope Rowe, directrice exécutive	41	92/01/14
CONSEIL DU PATRONAT DU QUÉBEC Ghislain Dufour, président Guy Laflamme, président du conseil d'administration Sébastien Allard, membre du conseil d'administration	57	92/02/03
CONSEIL DU PREMIER MINISTRE D'ALBERTA SUR LA CONDITION DES PERSONNES HANDICAPÉES Eric Boyd, directeur exécutif Cliff Bridges, coordinateur des communications	50	92/01/22
CONSEIL DU TRÉSOR Ian Clark, secrétaire	9	91/10/24
CONSEIL ÉCONOMIQUE DU CANADA Judith Maxwell, présidente Caroline Pestieau, vice-présidente Harvey Lazar, vice-président	34	91/12/18
CONSEIL ETHNOCULTUREL DU CANADA Lewis Chan, président Anna Chiappa, directeur exécutif Emillio Binavince, conseiller juridique honoraire	14	91/10/31

Andrew Cardozo
Art Miki, président, Association nationale des canadiens japonais

CONSEIL MULTICULTUREL DE L'ÎLE-DU-PRINCE-ÉDOUARD — 6 — 91/10/10
Jacob Mal, membre du Comité de la politique du conseil multiculturel le l'Île-du-Prince Édouard
George Steiger, membre du Comité de la politique du conseil multiculturel le l'Île-du-Prince-Édouard

CONSEIL NATIONAL DES AUTOCHTONES DU CANADA — 35 — 92/01/08
Patrick Brascoupe
Martin Dunn
Rosalee Tizya
Sue Heron-Herbert
Claude Aubin
Chris Reid
Jane Gottfreidson
Carl Larivière
William Beaver
Sam Gull
Terry Doxtator
Ron George, président
Phil Fraser, vice-président
Martin Dunn, coprésident, Commission de l'examen constitutionnel
Yves Assiniwi, conseiller spécial
Dwight Dorey, coprésident, Groupe de travail constitutionnel
Brad Morse, conseiller spécial

CONSEIL NATIONAL MÉTIS — 14 — 91/10/31
Yvon Dumont, président, Conseil national métis
Ron Rivard, directeur exécutif, Conseil national métis

Yvon Dumont, porte-parole — 36 — 92/01/09
Ron Rivard, directeur exécutif, Conseil national métis
Olaf Bjornaa, président, Association métisse et autochtone de l'Ontario
Harry Daniels, chef négociateur constitutionnel, Association métisse et autochtone de l'Ontario

Norman Evans, président, Fédération métisse du Pacifique
Bernice Hammersmith, commissaire, Société métisse de la Saskatchewan
Gary Bohnet, président, Nation métisse des Territoires du Nord-Ouest
Jimmy Durocher, président, Société métisse de la Saskatchewan
Clem Chartier, président, Commission métisse sur la constitution canadienne
Caje Shand, conseiller constitutionnel, Fédération métisse du Manitoba
Fortunat Guiboche, sénateur, Fédération métisse du Manitoba
Larry Desmeules, président, Nation métisse de l'Alberta
Sheila Hays, présidente, Association des femmes métisses de l'Alberta, Nation métisse de l'Alberta
Tony Belcourt, membre du Conseil, Association métisse et autochtone de l'Ontario
Marielee Nault, conseillère constitutionnelle, Fédération métisse du Manitoba

Norm Evans, président, Fédération métisse du Pacifique, porte-parole — 65 — 92/02/11
Yvon Dumont, président
Tony Belcourt, membre du conseil, Association métisse et autochtone de l'Ontario
Larry Desmeules, président, Nation métisse de l'Alberta
Gary Bohnet, président, Nation métisse des Territoires du Nord-Ouest

CONSEIL POUR L'UNITÉ CANADIENNE — 6 — 91/10/10
L'hon. James M. Lee, président provincial pour l'Île-du-Prince-Édouard, et membre du conseil exécutif

Pierre J. Jeanniot, président du conseil d'administration — 58 — 92/02/03
Thomas R. Denton, président
Jocelyn Beaudoin, vice-président exécutif
Pierre Tremblay, vice-président national
Margo Brousseau, représentante, les Amis du Canada

CONSORTIUM NATIONAL DES SOCIÉTÉS — 31 — 91/12/17

NOM DU TÉMOIN	FASCICULE	DATE
SCIENTIFIQUES ET PÉDAGOGIQUES Caroline Andrew, présidente Clément Gauthier, représentant Robert Léger, représentant Pierre Ritchie, représentant		
COURCHÊNE, Thomas professeur, School of Policy Study, université Queen's	33	91/12/18
CRISTAL, Eleanor	18	91/11/6
DE MESTRAL, Armand professeur, Faculté de droit, université McGill	26	91/12/09
DELLER, Terri	18	91/11/06
DENTON, Kady	18	91/11/06
DION, Léon Professeur, Département de science politique, université Laval	28	91/12/10
DOER, Gary Chef du NPD du Manitoba	39	92/01/13
DOMOKOS, Alex	16	91/11/04
DOULL, James Professeur, université Dalhousie	41	92/01/14
DOWSETT, Thomas	18	91/11/06
DROVER, Martin	13	91/10/29
EDMONTON FRIENDS OF THE NORTH ENVIRONMENTAL SOCIETY Lorraine Vetsch, coprésidente Dave Parker, trésorier Harry Garfinkle, membre	50	92/01/22
ERROL, P. Mendes Professeur, université de l'Ouest de l'Ontario,	10, 26	91/10/28

Faculté de droit

ETHNO-CULTURAL ASSOCIATION OF NEWFOUNDLAND AND LABRADOR 41 92/01/14
Conrad Tittley, directeur général
Robert Cormier, président

EVANGELICAL FELLOWSHIP OF CANADA 27 91/12/10
Brian C. Stiller, pasteur, directeur exécutif
Donald Page, vice-président
Janet Epp Buckingham, directrice exécutive, région de l'Est
Ross Maracle, pasteur, président, National Native Bible College

EVANGELICAL LUTHERAN CHURCH IN CANADA SYNOD OF ALBERTA AND THE TERRITORIES 24 91/12/04
Carl Rausch, membre
Roy Pudrycki, pasteur

FANCY, Khursheed 13 91/10/29

FÉDÉRATION ACADIENNE DE LA NOUVELLE-ÉCOSSE 44 92/01/16
Paul Comeau
Ronald Bourgeois, coordinateur

FÉDÉRATION CANADIENNE DES ÉTUDIANTS 21 91/12/02
Kelly Lamrock, président national
Catherine Remus, agent des relations gouvernementales

FÉDÉRATION CANADIENNE DES MUNICIPALITÉS 33 92/12/18
Doreen Quirk, présidente
Ron Hayter, deuxième vice-président
Ray O'Neil, président sortant
James W. Knight, directeur exécutif

FÉDÉRATION CANADIENNE DU CIVISME 14 91/10/31
Constance Middleton-Hope, présidente
Diana Togneri
Nicholas Zsolnay

FÉDÉRATION DE L'HABITATION COOPÉRATIVE DU CANADA 30 91/12/12

Marcel Lefebvre, président
Laird Hunter, conseiller
Danielle Cécile, directrice de Cooperative Development
Alexandra Wilson, directrice exécutive

FÉDÉRATION DES COMMUNAUTÉS FRANCOPHONES ET ACADIENNES — 31 — 91/12/17
François Dumaine, avocat
Raymond Bisson, président
Marc Godbout, directeur général
Sylvio Morin, directeur des communications

FÉDÉRATION DES FRANCO-COLOMBIENS — 54 — 92/01/27
Marie Bourgeois, présidente
Yseult Friolet, directrice générale

FÉDÉRATION DES FRANCOPHONES DE TERRE-NEUVE ET DU LABRADOR — 41 — 92/01/14
Conrad Titley, directeur exécutif
Robert Cormier, président

FÉDÉRATION DES JEUNES CANADIENS-FRANÇAIS INC. — 28 — 91/12/10
Gino Leblanc, président
Paul LePierre, directeur exécutif

FÉDÉRATION DES NATIONS INDIENNES DE LA SASKATCHEWAN — 48 — 92/01/21
Roland Crowe, chef
Roy Bird, vice-chef
Vikas Khaladkar, conseiller juridique
Felix Musqua, conseiller constitutionnel

FÉDÉRATION DES TRAVAILLEURS DES TERRITOIRES DU NORD-OUEST — 52 — 92/01/23
James M. Evoy
Peter Atamanenko

FÉDÉRATION DES TRAVAILLEURS ET TRAVAILLEUSES DU NOUVEAU-BRUNSWICK — 43 — 92/01/15
Maurice Clavette, secrétaire-trésorier

FÉDÉRATION DES TRAVAILLEURS DE L'ALBERTA — 50 — 92/01/22

NOM DU TÉMOIN	FASCICULE	DATE
Don Aitkin, président Audrey M. Bath, secrétaire-trésoriere		
FÉDÉRATION PROVINCIALE DES COMITÉS DE PARENTS FRANCOPHONES DU MANITOBA Gérard Lécuyer, directeur général Gilbert Savard, président	16	91/11/04
FÉDÉRATION QUÉBÉCOISE DES ASSOCIATIONS FOYER-ÉCOLES Barbara Milne-Smith, présidente Calvin Potter, membre Rod Weiner, membre, FCAFEPM Helen Koeppe, présidente FCAFEPM	34	91/12/18
FRASER VALLEY REAL ESTATE BOARD Ruth Boulton, présidente Ken MacKenzie, directeur exécutif Mary Wade Anderson, membre du Comité des affaires législatives et publiques	53	92/01/27
FRIENDS OF THE VALLEY Gerry McKinney, président	18	91/11/06
GAASENBEEK, Johannus	13	91/10/29
GALLANT, Linda Présidente	6	91/10/10
GARANT, Patrice Professeur, université Laval	57	92/02/03
GERAETS, Théodore Professeur, Département de philosophie, université d'Ottawa	22	91/12/03
GOUVERNEMENT DE L'ÎLE-DU-PRINCE-ÉDOUARD L'honorable Joseph Ghiz, premier ministre de l'Île-du-Prince-Édouard	4	91/10/09
GOUVERNEMENT DE LA SASKATCHEWAN L'hon. Roy Romanow, premier ministre L'hon. Robert Mitchell, ministre de la Justice	47	92/01/21

et procureur général
George Peacock, consultant en matière constitutionnelle

GOUVERNEMENT DE LA COLOMBIE-BRITANNIQUE 54 92/01/27
L'hon. Moe Sihota, ministre de la Colombie-Britannique

GOUVERNEMENT DE NOUVELLE-ÉCOSSE 45 92/01/16
L'hon. Donald Cameron, premier ministre

GOUVERNEMENT DE TERRE-NEUVE 40 92/01/14
L'hon. Clyde Wells, premier ministre

GOUVERNEMENT DU NOUVEAU-BRUNSWICK 42 92/01/15
L'hon. Frank McKenna, premier ministre

GREEN, John 18 91/11/06

GRIFITH, Edward A. 13 91/10/29

GROUPE DES 22 25 91/12/05
L'hon. Maurice Sauvé
L'hon. Allan E. Blakeney
L'hon. William G. Davis
Harrison McCain
Susan Sherk
Kathleen Mahoney

GROUPE CONSTITUTIONNEL DE COMTÉS 62 92/02/10
David H. Bai, Edmonton sud est, Alberta
Michael Manley-Casimir, Port Moody-Coquitlam, Colombie-Britannique
Ann Cardus, Port Moody-Coquitlam, Coquitlam, Colombie-Britannique
Brenda Wahlen, Port Moody-Coquitlam, Colombie-Britannique
Margaret Wanlin, Thunder Bay-Atikokan, Ontario
Barb Ellingson, Red Deer, Alberta
Paul Abbott, Red Deer, Alberta
Lynn Lemieux, Edmonton est, Alberta
David Gravelle, Calgary sud ouest, Alberta
Allen Millar, Calgary sud ouest, Alberta
Jean Thompson, Wild Rose, Alberta

Joe Elliott, York-Simcoe, Ontario 63 92/02/10
Niki Rauzon-Wright, York-Simcoe, Ontario

Trevor Wilson, York-Simcoe, Ontario
Joe Gordon, York-Simcoe, Ontario
Wilfred Posehn, Calgary nord, Alberta
Marc Kealy, circonscription d'Ontario Ontario
Steven Rae, circonscription d'Ontario, Ontario
Brian Shedden, circonscription d'Ontario, Ontario
Ashok Bhatia, circonscription d'Ontario, Ontario
Keith MacGregor, circonscription d'Ontario Ontario
Laura Nigro, circonscription d'Ontario, Ontario
Janet Greene-Potomski, Windsor-Lake, St.Clair
Patrick Rafferty, Wellington-Grey Dufferin-Simcoe, Ontario
George Schreyer, Selkirk, Manitoba
John Gleeson, Selkirk, Manitoba
Preston Cook, Thunder Bay-Nipigon, Ontario
Greta Baron, Thunder Bay-Nipigon, Ontario
Hylda Howes, Haldimand-Norfolk
Mary Edmonds, Haldimand-Norfolk
Catherine Parakoski, Beaver River, Alberta
John Gerrard, Saint-Boniface, Manitoba
Jean-Pierre Després, Saint-Boniface, Manitoba
Mark Sutor, Sarnia-Lambton, Ontario
Shirley Latham, Sarnia-Lambton, Ontario
Peter Westfall, Sarnia-Lambton, Ontario
Diane Cork, Ottawa centre
Nini Pal, Mont Royal, Québec
Allan Levine, Mont Royal, Québec
Roxanne Roy, Mont Royal, Québec

GROUPE DE TRAVAIL DE LA CHAMBRE DE COMMERCE SUR LA RÉFORME CONSTITUTIONNELLE 49 92/01/22
John Rossal, président du groupe de travail
John Knebel, président du conseil
Fred Windwick, président de la chambre
Gerald Chipeur, membre du groupe de travail

GROUPE DE TRAVAIL MANITOBAIN SUR LA CONSTITUTION 15 91/11/04
N. Fox-Decent, professeur, président
Jean Friesen
Oscar Lathlin
Shirley Carstairs

NOM DU TÉMOIN	FASCICULE	DATE
Darren Praznik Shirley Render Jim McCrae		
GROUPE DE TRAVAIL SUR LE FÉDÉRALISME CANADIEN Julius Grey, président Monty Berger, directeur Roger Comtois, vice-président	57	92/02/03
GROUPE MACLEAN'S Rick Miller Sheila Simpson Charles Dupuis Carol Geddes Karen Collings	39	92/01/13
HABITAT FAUNIQUE CANADA David J. Neave, directeur général Agathe Savard, directrice générale Wayne Roddick, directeur de la levée de fonds et du marketing	44	92/01/16
HANLY, Ken	18	91/11/06
HARRIS, Richard Professeur, Département d'économie, université Simon Fraser	28	91/12/10
HEALTH ACTION LOBBY Sharon Sholzberg-Gray, directrice exécutive Luc Granger Judith Oulton Kevin Doucette	60	92/02/04
HEENEY, Dennis	18	91/11/06
HELLYER, L'honorable Paul T.	12	91/10/29
HÉRITAGE CANADA Mary Elizabeth Bayer, présidente Douglas Franklin, directeur Jacques Dalibard, directeur exécutif	23	91/12/03

NOM DU TÉMOIN	FASCICULE	DATE
HODGES, Gregory J.	13	91/10/29
HOGG, Peter Professeur, Faculté de droit, Osgoode Hall, université York	33	91/12/18
HOWE, T.A.	48	92/01/21
HYNES, William	13	91/10/29
INDIGENOUS WOMEN'S COLLECTIVE OF MANITOBA INC. Winnie Grisbrecht	15	91/11/04
INSTITUT ARCTIQUE DE L'AMÉRIQUE DU NORD Cynthia Hill, présidente Mike Robinson, directeur exécutif Bob Blair, directeur	49	92/01/22
INSTITUT PROFESSIONNEL DE LA FONCTION PUBLIQUE DU CANADA Iris Craig, présidente Sally Diehl, chef de la recherche Pierre Choquette, chargé de recherche	31	91/12/17
INUIT TAPIRISAT DU CANADA Rosemarie Kuptana, présidente Jose Kusugak, membre, Comité inuit sur les questions constitutionnelles Susan Aglukark, adjointe administrative de la présidente John Amagoalik, conseiller constitutionnel, Fédération Tugavik du Nunavut Joe Otokiak, porte-parole national John Merrit, avocat, Fédération Tungavik du Nunavut Wendy Moss, coordinatrice, Comité inuit sur les questions constitutionnelles	37 & 64	92/01/09
Rosemarie Kuptana, présidente John Amagoalik, membre, Comité inuit sur les questions constitutionnelles Wendy Moss, coordinatrice, Comité inuit sur les questions constitutionnelles	64	92/02/11

NOM DU TÉMOIN	FASCICULE	DATE
JOHNSON, A.W. Professeur émérite, Département de sciences politiques, université de Toronto	33	91/12/18
KATHERINE, Swinton Professeur, Faculté de droit, université de Toronto	10	91/10/28
KEDDIE, Dorothy	18	91/11/06
KEEN, Carolyn	13	91/10/29
KERR, Edward	13	91/10/29
KING, Ted A.	33	91/12/18
MACKLING, Al	16	91/11/04
MACQUARRIE, Bob	52	92/01/23
MAINSE, David	13	91/10/29
MALCOLMSON, Patrick Professeur de science politique, université St. Thomas	43	92/01/15
MANITOBA WOMEN'S INSTITUTE Joyce Johnson, présidente	18	91/11/06
MANITOBA FARM WOMEN'S CONFERENCE	18	91/11/06
MANITOBA LEAGUE OF THE PHYSICALLY HANDICAPPED INC. Donald Halechko, président David Martin, coordonnateur provincial	15	91/11/04
MANITOBA MÉTIS FEDERATION Fortunat Guiboche, sénateur Holly Ferguson, membre Dorothy Rokovetsky, membre	18	91/11/06
MANITOBA WRITERS' GUILD INC. Neil Besner, président Terry Lulashnyk, Lobbying Chair	16	91/11/04

NOM DU TÉMOIN	FASCICULE	DATE
MARANATHA GOOD NEWS CENTRE Roger Armbruster, ministre	17	91/11/06
MCCULLOUGH, Helen	16	91/11/04
MCDONNELL, Patrick Vice-président, Manitoba GOUVERNANT Employees' Association	16	91/11/04
MCWHINNEY, Edward Professeur, université Simon Fraser	21	91/12/02
MEMBRES DE L'ORDRE DU CANADA Peter J.G. Bentley Peter C. Newman Erich W. Vogt	54	92/01/27
MEMBRES DU COMITÉ SPÉCIAL SUR LE RÔLE DE L'ONTARIO AU SEIN DE LA CONFÉDÉRATION Dennis P. Drainville, président Gilles Bisson, vice-président Jenny Carter Alvin Curling Ernie Eves Charles Harnick Margaret Harrington Gary Malkowski Irene Mathyssen Steven Offer Yvonne O'Neill David Winninger	11	91/10/28
MINISTÈRE DE LA JUSTICE John Tait, sous-ministre	1, 3, 7, 8 & 9	91/09/25 91/10/01 91/10/22 91/10/23 91/10/24
MINISTÈRE DES FINANCES Fred Gorbet, sous-ministre	3 & 9	91/10/01 91/10/24
MONAHAN, Patrick Professeur, Osgoode Hall, université York	12	91/10/29

NOM DU TÉMOIN	FASCICULE	DATE
NAIDU, M.V.	18	91/11/06
NATION ALGONQUINE Grand chef Jean-Maurice Matchewan David Nahweghbow, conseiller juridique Russell Diabo, conseiller politique James Morrisson, historien Richard Falk, professeur de Droit international, université Princeton	57	92/02/03
NATION DÉNÉE Chef Bill Erasmus, chef national	52	92/01/23
NATIONAL BLACK COALITION OF CANADA Wade Williams	16	91/11/04
NATIONAL INTERFAITH AD HOC WORKING GROUP ON CANADA'S FUTURE Archevêque E.W. Scott, président Manohar Singh Bal Ernest Benedict Karen Mock Père Alexander Taché Soeur Eva Solomon Gerald Vandezande	13	91/10/29
NEW VISION CANADA Wes Spencer, président José Aggrey, président Lindsay Blackett	28	91/12/10
NOUVEAU PARTI DÉMOCRATIQUE DE L'ÎLE-DU- PRINCE-ÉDOUARD Larry Duchesne, chef	6	91/10/10
NOUVEAU PARTI DÉMOCRATIQUE DE LA NOUVELLE-ÉCOSSE Alexa McDonough, chef	45	92/01/16
NOVA SCOTIA WORKING COMMITTEE ON THE CONSTITUTION L'hon. Eric Kierans, président Junior Bernard	46	92/01/17

Wanda Thomas Bernard
Donald Campbell
Jim Chang
Yvon Deveau
Rick Laird
Marilyn Peers
Darlah Purdy
Laraine Singler
Myrna Slater
Brian Crowley

NUU-CHAH-NULTH TRIBAL COUNCIL 54 92/01/27
George Watts, président

O'NEIL, Diane 16 91/11/04

ORDRE IMPÉRIAL DES FILLES DE L'EMPIRE 28 91/12/10
Jean Throop, présidente, chapitre national
Sandra Connery

ORGANISATION NATIONALE ANTI-PAUVRETÉ 24 91/12/04
Lise Corbeil, directrice exécutive

PACKER, Marc 13 91/10/29

PARTI CONSERVATEUR DE LA SASKATCHEWAN 47 92/01/21
Grant Devine, chef

PARTI DU YUKON 55 92/01/28
John Ostashek, chef du Parti du Yukon
L'hon. Dan Lang, chef de l'Opposition officielle

PARTI LIBÉRAL DE L'ALBERTA 50 92/01/22
Lawrence Decore, chef

PARTI LIBÉRAL DE LA COLOMBIE-BRITANNIQUE 53 92/01/27
Gordon Wilson, chef

PARTI LIBÉRAL DE LA SASKATCHEWAN 47 92/01/21
Lynda Haverstock, chef

PARTI LIBÉRAL DU MANITOBA 39 92/01/13
Sharon Carstairs, chef

NOM DU TÉMOIN	FASCICULE	DATE
PARTI NÉO-DÉMOCRATE DU MANITOBA Gary Doer, chef	39	92/01/13
PARTI PROGRESSISTE CONSERVATEUR DE L'ÎLE-DU-PRINCE-ÉDOUARD Pat Mella, chef	6	91/10/10
PASCAL, Marguerite	18	91/11/06
PELLETIER, Réjean Professeur, Département de science politique, université Laval	28	91/12/10
POIRIER, Armand	18	91/11/06
POPULATION SALISH LE LONG DES CÔTES Joe Mathias, chef de la nation Squamish	54	92/01/27
PRIVY COUNCIL, FEDERAL-PROVINCIAL RELATIONS Jocelyne Bourgon, secrétaire associée du Cabinet pour les Relations fédérales-provinciales Scott Serson, sous-secrétaire du Cabinet pour les Relations fédérales-provinciales (Affaires intergouvernementales et autochtones) Nicholas d'Ombrain, sous-secrétaire du Cabinet (Appareil gouvernemental et Personnel supérieur) Ron Watts, secrétaire adjoint, Dévelopement constitutionnel	8	91/10/23
RAE, Bob, L'honorable Premier ministre de l'Ontario	38	92/01/13
RAY, Ratna	13	91/10/29
REGROUPEMENT ÉCONOMIE ET CONSTITUTION Claude Beauchamp, président Guy St-Pierre, vice-président Yvanhoé Beaulieu, Communications	30	91/12/12
RÉSEAU CANADIEN D'ACTION Mary Boyd, présidente Urban Laughlin, membre	6	91/10/10

NOM DU TÉMOIN	FASCICULE	DATE
RESNICK, Philip Professeur, Département de science politique, université de la Colombie-Britannique	22	91/12/03
ROBERTSON, Gordon Ancien greffier du Conseil privé et secrétaire du Cabinet	31	91/12/17
SASKATCHEWAN ARTS BOARD Valerie Creighton-Wells, directrice exécutive John Griffiths, coprésident	48	92/01/21
SASKATCHEWAN ORGANIZATION FOR HERITAGE LANGUAGES Tonis Harras, membre du conseil exécutif Pamela J. Wilson, directrice exécutive Yars Lozochuk, membre du comité	48	92/01/21
SASKATCHEWAN WHEAT POOL Garth Stevenson, président Glen McGlaughlin, directeur administratif de la politique et des services aux membres John Beke, conseiller juridique Nial Kuyek, adjoint exécutif Darryl Kristjanson, analyste des politiques	48	92/01/21
SCHINDLER, Edward	13	91/10/29
SHUGARMAN, David Professeur, Département de science politique, université York	31	91/12/17
SIMEON, Richard Professeur, Département de science politique, université de Toronto	29	91/12/11
SMITH, Jennifer Professeur, université Dalhousie	27	91/12/10
SOCIÉTÉ DES ACADIENS ET ACADIENNES DU NOUVEAU-BRUNSWICK Réal Gervais, président Norbert Roy, directeur général	43	92/01/15

NOM DU TÉMOIN	FASCICULE	DATE
Michel Doucet, avocat		
SOCIÉTÉ FRANCO-MANITOBAINE Georges Druwé, président Cécile Bédard, directeur exécutif	16	91/11/04
SOCIÉTÉ SAINT-THOMAS D'AQUIN ET DU COMITÉ CONSULTATIF POUR LES COMMUNAUTÉS ACADIENNES Robert Arsenault, vice-président Éloi Arsenault, président Jean-Paul Arsenault, membre Aubrey Cormier, directeur général	6	91/10/10
STRUCK, George	16	91/11/04
SYED, Hasanat Ahmad	13	91/10/29
SYNDICAT NATIONAL DE LA FONCTION PUBLIQUE PROVINCIALE James Clancy, président	30	91/12/12
TAYLOR, MCCAFFREY, CHAPMAN AND SIGURDSON Riley G. Patrick S.	15	91/11/04
THÉRIAULT, Ben	13	91/10/29
TURNLEY, Pat	18	91/11/06
UNION DES ÉTUDIANTS DE L'UNIVERSITÉ DE L'ALBERTA Randy Boissonnault, vice-président Martin Kennedy, porte-parole du Conseil des étudiants	50	92/01/22
UNION OF NOVA SCOTIA INDIANS Dan Christmas, directeur exécutif Bruce Wildsmith, professeur, conseiller juridique	44	92/01/16
UNIVERSITÉ YORK Patrick Monahan	12	91/10/29
VILLE DE CALGARY Al Duerr, maire	50	92/01/22

NOM DU TÉMOIN	FASCICULE	DATE
VILLE DE VANCOUVER Gordon Campbell, maire et premier vice-président de l'Union des municipalités de la Colombie-Britanique	53	92/01/27
VILLE DE YELLOWKNIFE R.M. Findlay, maire adjoint	52	92/01/23
WALLIE, William	17	91/11/06
WEINRIB, Lorraine Professeur, Faculté de droit, université de Toronto	32	92/12/17
WESTMAN COALITION FOR EQUALITY RIGHTS Sheila Doig Gwen Trip Gladys Worthington	17	91/11/06
WOEHRLING, José Professeur, université de Montréal	32	91/12/17
WHYTE, John D. Professeur, Faculté de droit, université Queen's	34	91/12/18
WILLCOCK, Elizabeth Juge principal de la citoyenneté	23	91/12/03
WILLIAMS, Bryan, c.r.	53	92/01/27
WOMEN ON WINGS Judi Kwa Molas Johnny	56	92/01/28
ZUCAWICH, Gerald	16	91/11/04

ANNEXE D

Liste des soumissions

A. B. Cash Investment
Abbott, George
Abbott, Richard B.
Abitbol, Isaac Jacques
Aboriginal Women's Unity Coalition
Ackerman, Don
Action Canada Network
Action pour la Vie
ACTRA
Ad Hoc Community Committee
Adainac, Jonathan B.
Adam, Arthur G.
Adam, Barry D.
Adam, Paul
Adamkovics, J.I.
Adams, Carol
Adams, D.S.
Adkin, Dennis W.
Advisory Group on Race Relations
Aebtemicluk, Breat
Affordable Housing Association of Nova Scotia
Afro-Canadian Caucus of Nova-Scotia
Afro-Canadian Congress
Agoto, Ed
Ahmadiyya Movement in Islam
Ahmed, S. D.
Aird, Paul
Akler, N.
Alberta Association of Registered Nurses
Alberta Federation of Labour
Alberta Premier's Council on the Status of Persons
with Disabilities & Committee of Citizens with Disabilities
Alberta Select Special Committee on Constitutional Reform
Albertans for Property Rights Association
Alcock, Tom
Alder, Rob
Alexander, Chiara
Alexander, David
Alexandria, Anne Gloria
Allaire, Armand J.
Allen, Berna M.
Allergy Information Association
Alliance of Canadian Cinema, Television and Radio Artists
Alliance Québec
Allix, Hereward
Allward, Brian
Altenhof, Laura
Alvarez, Francisco
Amirault, Dorothy
Amirault, Thérèse
Amis du Canada
Ammann, Raymond
Amos, Elizabeth
Anderson, Bruce W.
Anderson, Doris
Anderson, Edna, députée
Anderson, Elizabeth
Anderson, Marjorie
Anderson, Muriel A. et Jas. H.
Anderson, R.C.
Anderson, S.M.
Andras, Tony
Andrews, Charlie
Andrews, D.G.
Andrews, George
Andrews, Harry W.
Andy, K.
Angebrandt, Matt F.
Angelson, Kenneth
Angle, R.P. Randy
Angus Reid Group
Anjo, William R.
Anstey, Mark
Anstruther, Alex

Antonovitch, Dennis
Appleton, John M.
Archambault, Ghislain
Archibald, Russell W.
Archives Council of Prince Edward Island
Arctic Institute of North America
Ardiel, Laura
Argue, Lois
Argue, Thelma I.
Armstrong, Irwin R.
Armstrong, Joe C.W.
Armstrong, John L.
Arnold, T.
Arnott, Casey
Aronson, Beacha
Aronson, Doron
Aronson, Gordon R.
Arsenault, Claude
Arsenault, K.J.
Arseneault, Guy H., député
Artindale & Partners
Artistic Futures
AS-Arinah
Asch, Michael
Ashton, Art
Assad, T.A.
Assels, Margaret
Asselstine, Dean E.
Assemblée des évêques de l'Atlantique
Assembly of British Columbia Arts Councils
Assembly of First Nations
Assembly of First Nations
Association canadienne de justice pénale
Association canadienne de la radio et de la télévision de langue française
Association canadienne de production de film et télévision
Association canadienne des constructeurs d'habitations
Association canadienne des professeurs d'université
Association canadienne du droit de l'environnement
Association canadienne-française de l'Alberta
Association canadienne-française de l'Ontario
Association canadienne pour la promotion des services de garde à l'enfance
Association canadienne des loisirs/parcs
Association canadienne du gaz
Association catholique canadienne de la santé
Association culturelle franco-canadienne de la Saskatchewan
Association culturelle de Bellevue inc.
Association des archivistes du Manitoba
Association des enseignantes et des enseignants franco-ontariens
Association des galeries publiques de l'Ontario
Association des juristes d'expression française de l'Ontario
Association des juristes d'expression française du Nouveau-Brunswick
Association des juristes catholiques du Quebec
Association des municipalités de l'Ontario
Association des musées canadiens
Association des parents francophones de Yellowknife
Association des parents inuit
Association des parents catholiques du Québec
Association des producteurs de fruits de mer de la Nouvelle-Écosse
Association des universités et collèges du Canada
Association du Barreau canadien
Association franco-yukonnaise
Association humaniste du Canada
Association minière du Canada
Association minière du Québec inc.
Association multiculturelle et folklorique de Sudbury
Association nationale des canadiens et canadiennes d'origine indienne
Association progressiste conservatrice de Simcoe Nord
Astral Communications
Atamanenko, Alex T.
Atkinson, Don
Augey, Yan
Austin, Neville
Australian National University
Ayden, Edward
Ayoub, Anna
Azoulay, Robert J.
B.C. Film

B.C. Youth Council
B'Nai Brith Canada
Babiak, E.
Bacsalmasi, Stephen P.
Bage, Sheri
Bailey, E.T.W.
Bailey, Nan
Baillie, Judy
Bain, Dave B.
Bain, William F.C.
Baines, Bob R.W.
Baines, T.F.
Baird, Rebekah
Baire, Gail
Baiton, Grace L.
Baker, Adrien
Baker, Geraldine
Baker, Jack
Bakker, J.J.
Balaban, Alana
Balassone, Gabriel
Balic, Mirko
Ball, Ed
Balm, Mitch B.
Bandy, Dave W.
Banerjee, Chin
Banister, Harold B.
Banks, Margaret A.
Banks, Ted
Banks, William
Barbely, Fredrick
Barclay, F.W.
Barker, Frances et Stanley
Barns, G. Melville
Barnsley, Reginald C.
Barr, Anne
Barratt, Greg
Barraud, E.V.
Barron, Mansell, I.
Barter, Rhonda
Bartlett, Jean
Barton, Bernard et Carrie
Baskerville, Grace
Basuk, Jack
Batchelor, John
Bateman, H.E.G.
Batho, John
Battersby, Roy
Battrum, Phyllis L.
Baugh, David J.
Baxter, Barbara
Bayne, Andrea
BCE inc.
Beakes, Herbert
Bearcroft, Norma
Beard, Holly C.
Beattie-Morison, James
Beatty, Perrin, député
Beaubien, Paul
Beauchamp, Grégoire
Beauchamp, René C.
Beaudin, Lucien
Beaule, Paul
Beaule, Valerie
Beck, Gerry K.J.
Beck, L. Grant
Beer, Ronald J.
Behr, Carol Joan
Belcher, Jessie M.
Belgrave, Kevin
Bell City Auto Center Inc.
Bell, Ronald G.
Bellan, Ruben C.
Belliveau, Peter
Belliveau, William E.
Bender, J.F.
Benjaminson, M.
Benn, P.J.
Bennett, Jacqueline
Bennett, Richard A.F.
Benson, Carolyn R.
Bentley C. Fred
Benton, S.B.
Berg, Kenneth L.
Berger, Adrien
Berger, David, député
Bernier, Alain
Berrigan, G. J.
Berry, A.J.
Berthiaume, Wilfred R.
Bertrand, Antonio
Bertrand, Chantal
Bertrand, Gabrielle, députée
Bertrand, Geo. A.

Berze, Joseph
Betts, Glenn
Bielski, Witoed J.
Biesinger, Larry
Bigas, Jim D.
Billard, Allan
Billowes, Colin
Binnie, Victor
Birch, David J.
Bird, Arthur
Bird, Charles
Birtch, James
Bischof, Leslie J.
Bishop, Anne
Bishop, Collin
Bishop, John M.
Bjornson, David, député
Black United Front of Nova Scotia
Blackmore, Ewart W.
Blair, Gary L.
Blair, Jean E.
Blake, Cassels & Graydon
Blanchet, Pauline
Blanchette, Alain
Blattberg, Charles
Blecker, Mathias
Bleuer, Otto
Blitzer, Steve
Bloc Québécois
Block, Isaac
Blondeleau, Robert
Bloodworth, E.L.T.
Board of Directors of the Edmonton Northwest Progressive Conservative Association
Board of Trade of Metropolitan
Bobee, Jay
Boddy, Dale
Boehm, R. WM.
Bogdanovic, Zarko
Boisvert, Michel A.
Boisvert, R.F.
Boivin, Georges
Boivin, Sonia
Boldrini, Dr P.
Bolton, Ben
Bongelli, Steve
Bonnett, Diane
Booiman, S.H.
Borbely, A.G.
Borle, Hector
Bosch, Arnold
Bosecker, D.F.
Boser, Walter
Bosveld, B.J.
Bouchard, Roch
Bouchette, Jane et Murray
Boudria, Don, député
Boudrot, Jason D.L.
Boulter, Joe
Bourget, Gabriel
Bowers, Rachel
Bowes, Mark A.
Bowker, Marjorie
Bowley, R.E.
Boxen, Gloria
Boyarzin, Greg
Boyer, Jean-Guy
Boyle, Nuala M.
Braaten, Larry
Bradford, Henry M.
Bradshaw, David
Bradshaw, Valerie
Brandell, D.L.
Brandl, A.R.
Braukmann, Ralf B.
Bray, Arthur
Brazeau, Maurice
Breakwell, Laurence
Brewin, John, député
Brill, Rudy
Brillinger, R. H.
Brind, Joyce R.
Bripon, A.
Brisco, Howard C.
British Columbia Chamber of Commerce
British Columbia Public Interest Advocacy Centre
Brix-Kugler, Paul
Brock, Herb E.
Brock, Kathy L.
Brode, Patrick
Brooker, Michael
Brooks, Lloyd
Brooks, Lorne K. et Georgina

Broughton, R.W.
Brown, A.E.
Brown, Eileen
Brown, Garfield
Brown, Glenn R.
Brown, Ian
Brown, Michael J.
Brown, Philip
Brown, Walter et Dorothy
Brownhill, Diane
Browning, Dale A.
Brownsdon, Dave
Brownsett, A.
Brull, Howard
Brum, S.M.
Brunelle, Jacques M.
Brunet, Jean-Pierre
Brunet, Jeanne
Bryan, Ernie
Buchanan, Lorne
Bucket, Thunder
Buckley, Adele
Buell, Milton
Buffi, Lenora
Buist, Maisie K.
Bullen, Dennis
Bunn, Jean E.
Bunnister, Donna
Bunting, Mark
Burch, R.J.
Bureau de commerce de Montréal
Burke, Roger J.
Burkinshaw, Orville V.
Burnaby Art Gallery
Burns, George E.
Burns, R.M.
Bursey, Leonard G.
Burstall, Victor F.
Busch, Gerald S.
Bushell, Beverley
Business Council on National Issues
Butcher, Hubert M.
Buxcey, Jesse
Byess, Karen Schad
Bytown Research Group
Cabrera, Karlo P.
Cadieux, Jean-Pierre
Cain, Alan et Elizabeth
Cairone, Vito
Calden-Ethier, Doris
Caldwell, E.R.
Calgary Chamber of Commerce
Calver, Marilyn
Camblin, Cyril
Cameron, D.
Cameron, Fred
Cameron, G. Graeme
Cameron, Heather
Cameron, Jamie
Cameron, M.E.
Campaing Life Coalition
Campbell, A.M.
Campbell, Don
Campbell, Finlay A.
Campbell, Gordon
Campbell, Gordon D.
Campbell, Graham G.
Campbell, John E.
Campbell, Mavis
Campbell, Ross W.A.
Campbell, W.R.
Campey, John
Canada for All Committee
Canada Habitat Faunique
Canada Life
Canada Trust
Canadian Art Museums
Canadian Association of Broadcasters
Canadian Association of Visible Minorities
Canadian Cancer Society
Canadian Co-operative Association
Canadian Coalition for the Rights of Children
Canadian Construction Association
Canadian Manufacturers Association
Canadian Parents for French
Canadian Parents for French Newfoundland and Labrador
Canadian Pensioners Concerned
Canadian Petroleum Association
Canadian Quebecers for a United and Prosperous Canada
Canadian Teacher's Federation
Canadian Training and Development Group Inc.

Canadians for Constitutional Money
Canadians for Equality of Rights Under the Constitution
Canadore College
Cancom/CTN
Candidat pour la nomination fédérale libérale
Canfield, Michael B.
Canning, Miss
Cannon, Elizabeth M.
Cantwell, Robert
Cappe, L.P.
Carag, Marica
Carder, Delores
Carey, Cap. A.E.
Carley, C.M.
Carline, Brian Paul
Carlson, Louella
Carman, Douglas P.
Caron, André
Caron, Jean, député
Carrière, Louise
Carruthers, Alex O.
Carswell, Audrey M.
Caruso, John
Carver, Horace
Cashman, G.M.
Cassidy, J.R.
Castonguay, Claude, Sénateur
Castonguay, Suzanne
Cattalani, Corrado
Cau, François Henri
Cave, William
Cavers, T.W.C.
Central Okanagan Community Futures Board
Centre démocratique des droits de la personne
Centre pour les droits à l'égalité au logement
Certified General Accountants' Association of Canada
Chabot, Roland
Chagnon, Alfred
Chalabi, Yusef K.
Chaloux, Rosaire
Chamberlin, Ross
Chambers, Len
Chambre d'immeuble de la vallée du Fraser
Chambre de commerce de Timmins
Chambre de commerce de Winnipeg
Chambre de commerce francophone de Saint-Boniface
Chambre de commerce d'Edmonton
Chambre de commerce du Montréal métropolitain
Chambre de commerce du Québec
Chan, Carolina
Chanan, K.K.
Chandler, Colin
Chandler, Doug
Channon, Owen
Charbonneau, Claude
Charbonneau, Jean
Charles, M. et Mme Walter
Charlottetown Rural High School
Charpentier, Daniel
Charron, Raymond L.
Chartier, Rusty
Chaudhry, Riaz Ahmad
Chazan, Donald
Cherry, Joan W. et Douglas H.
Chester, Réginald W.
Chidwick, Lynn
Child, Alf et Edna
Chinn, F.
Chisholm, Robert James
Chiswell, Ross
Chittle, Edward J.
Chivers, Rose Eileen
Chivers-Wilson, A.
Choate, Harold C.S.
Choices: une coalition pour la justice sociale
Christian Labour Association of Canada
Christian Legal Fellowship
Christian Resource for Meeting Human Need
Christie, David
Christoffersen, André
Chukwuemeka, O.U.
Church of Christ Mission
Chuter, Pat
Cibulak, Estelle
Cicchinelli, Armando
Citizens for Public Justice
City of Langley
Clapp, Jane
Claridge, Ernest
Clark, George

Clark, Gerry W.
Clark, Helen
Clark, J.P.
Clark, John A.
Clark, R.A.
Clark, Robert
Clark, Sherry
Clarke, Don
Clarkson, A.W.
Clarkson, Gerald G.
Clarkson, J.A.
Clavette, J.W.
Clayton, Cam
Clayton, Joe
Cleane, Francis
Cleland, Gwen
Clement, Paul
Clifford, C.E.
Clifford, Ronald G.
Clift, F.R.
Clinton, Bert
Clouthier, Dan
Cloutier-Liddell, Suzanne
Club Canada 2067
Clue, Pearl
Clulow, James D.
Co-operative housing federation of Nova Scotia
Coalition Concerned Canadian Catholics
Coalition des payeurs d'impôt de Colombie-Britannique, de leurs conjoints et de leurs descendants (Committee Ad
Coalition for equality of Newfoundland and Labrador
Coalition pour la réforme des droits de la personne du Nouveau-Brunswick inc.

Coalition pour les droits des autochtones (Projet Nordique)
Coburn, Douglas
Cochrane, George G.
Cohen, David Israel
Colas, Emile
Cole, Dacre P.
Cole, Thomas F.C.
Colin-Smith, Eric
Coll, Philip
Collie, Bruce
Collie, Henry E.
Collier, Barbara
Collier, Louise
Collier, W.
Collins, Glen H.
Collins, Helen
Collins, Leyton
Collins, Michael
Comité canadien d'action sur le statut de la femme
Comité canadien pour un Sénat élu, efficace et à représentation égale (Triple E)
Comité du Sid d'Ottawa
Comité manitobain pour un Sénat triple E
Comité permanent de l'environnement
Comité permanent des communications et de la culture
Comité permanent des droits de la personne et condition des personnes handicapées
Comité pour la promotion de l'égalité en éducation de l'Association des enseignants de Brandon
Comité pour un Canada rationnel
Comité spécial de l'Ile-du-Prince-Édouard sur la Constitution du Canada
Comité sur la formation dans le secteur culturel
Commissaire à la protection de la vie privée du Canada
Commissaire aux langues officielles
Commission canadienne des droits de la personne
Commission du droit de prêt public
Commission du Nouveau-Brunswick sur le fédéralisme canadien
Commission nationale des parents francophones
Common Agenda Alliance for the Arts
Commonwealth Historic Resource Management Limited
Communicom
Comptables agréés du Canada
Compu-Clone Computer Solutions Inc.
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Conacher, Duff
Concept Group
Conference des évêques catholiques de l'Ontario
Conference Towards 2000

Conférence canadienne des arts
Congrès canadien polonais inc.
Congrès du travail du Canada
Congrès germano-canadien
Congrès juif canadien
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Conseil canadien d'insolvabilité
Conseil canadien de développement social
Conseil canadien des chrétiens et des juifs de la région de l'Ontario
Conseil canadien du porc
Conseil consultatif sur la condition de la femme
Conseil consultatif sur le statut de la femme du Manitoba
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Conseil de l'éducation catholique pour les francophones de l'Ontario
Conseil de planification sociale d'Ottawa-Carleton
Conseil des arts de l'Ile-du-Prince-Édouard
Conseil des arts du Manitoba
Conseil des arts de l'Ontario
Conseil des Canadiens
Conseil des sciences du Canada
Conseil des services communautaires de Terre-Neuve et du Labrador
Conseil du patrimoine de l'Alberta
Conseil du patronat du Québec
Conseil du premier ministre de l'Alberta sur la situation des personnes handicapées
Conseil ethnoculturel du Canada
Conseil jeunesse provincial inc. (Manitoba)
Conseil multiculturel de l'Ile-du-Prince-Édouard
Conseil municipal de Neepawa
Conseil national des Autochtones du Canada
Conseil national des femmes du Canada
Conseil pour l'unité canadienne
Consortium national des sociétés scientifiques et pédagogiques
Constituency Constitutional Groups
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Corfield, Bill
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Corke, Dianne
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Cormier, Jean-François
Cormier, L.J.P.
Cornish, S.H.
Cornwall, Andrew
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Côté, Jacques
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Coulter, M. et Mme D.S.
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Cox, M.
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Criddle, Ernest E.
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Crosman, F.C.
Cross, Alex
Crossley, R.D.
Croteau, Lionel
Crow, John P.
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Crowley, Ronald C.

Crozier, Robert B.
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Cunningham, Robert A.
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D'Eon, Bernard G.F.
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Daniels, Viire
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Davidson, Neil A.
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Davies, Virgil
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Davis, John R.
Davis, M.
Davis, Vera
Dawson, Dorothy
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De Groot, Menno
De Groot, Pieter
De Jong, Ted
De La Chevrotière, Annie
de Mestral, Armand
De Pasquale, Daniel A.
de Puyjalon, Guy
de Sherbrooke, A.B.
De Vos, Fred
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Dean, Ray
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Desjarlais, Garnet
DesLauriers, Julie
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Desroches, Roland
DeStefano, Carmela
Destiny Canada
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di Norcia, Vincent
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Dimalta, Frank
Din, Zahir
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Diocese of Huron
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Doran, Michael
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Dovauo, Fay et Murray
Dove, Ann
Down, Graham E.
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Drouillard, L.A.
Drummond, Scott
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Duff, George G.
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Easton, Bruck
Eaton, Rosemay
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Economic Council of Canada
Edgcumbe Environmental Consulting Services Ltd.
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Edmonton Women's Ad Hoc Committee
Edmonton Women's Coalition on the Constitution
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Égalité pour les gais et les lesbiennes
Ehrat, Rolf

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Ellison, A.H.
Elms, E.A. (Ted)
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Empson, Bryan
Endall, Florence Mé
Engel, Marita
Englander, Mathew
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Environics Research Group Limited
Environmental Law Society
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Equality Party
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Ethno-cultural Association of Newfoundland and Labrador
Evangelical Fellowship of Canada
Evangelical Fellowship of Winnipeg
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Fabien Excavation
Fair, Arthur W.J.
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Family Medicine Associates
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Federation of Saskatchewan Indian Nations
Fédération acadienne de la Nouvelle-Écosse
Fédération canadienne de l'agriculture
Fédération canadienne des enseignantes et des enseignants
Fédération canadienne des étudiant-e-s
Fédération canadienne des municipalités
Fédération canadienne des sociétés de biologie
Fédération canadienne du civisme
Fédération culturelle canadienne-francaise
Fédération de l'habitation coopérative du Canada
Fédération des communautés francophones et acadiennes
Fédération des enseignantes-enseignants des écoles secondaires de l'Ontario
Fédération des femmes canadiennes-françaises de l'Ontario
Fédération des Franco-Colombiens
Fédération des francophones de Terre-Neuve et du Labrador
Fédération des groupes ethniques du Québec inc.
Fédération des jeunes canadiens français inc.
Fédération des sports
Fédération des travailleurs et travailleuses du Nouveau-Brunswick
Fédération nationale des femmes PC
Fédération provinciale des comités de parents inc.
Fédération provinciale des Fransaskoises
Fédération québécoise des associations foyers-écoles
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Fenning, Elvee
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Ferland, Philippe

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Fields, George E.
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Fisher, Kay et Gerry
Fisher, Michelle D.
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Flis, Jesse, député
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Flynn, Roger J.
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Fontaine, Louise
Fontaine, Patricia
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Fortin, Paul-Emile
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Fosu, Boachie
Fouchik, Violet
Foxton, Richard
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Francoeur, Mary-Ellen
Franklin, Anne
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Freedman, Joe
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French, Debra Lee
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Froom, David R.
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Fryer, John S.
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Fullerton, G.A.
Fullerton, Jim
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Gable, Dr Eric G.
Gaffney, Beryl, députée
Gagné, Robert L.
Gagnon, Claire
Gagnon, Fleurette
Gagnon, Michel A.
Gagnon, Stanley
Galbraith-Hamilton, Douglas
Galilee, Mary
Gall, John A.
Gallagher, Edward
Gallant, Una
Galvon, Henry
Gannon, Patrick
Garant, Patrice
Gardner, Elizabeth

Gardner, John R.
Gareau, Fernand
Garen, Sally
Garneau, Danielle
Garneau, J.
Garneau, Raymond
Garrett, Frank M.
Garrett, Ken C.
Gaskell, John
Gates, Frances A.
Gates, Morris D.
Gaul, John Andrew
Gauley, Hazel
Gauvin, Maurice F.
Gauvin, Stephane
Gazley, Verna
Geddes, Stewart P.
Gedies, Adolf J.R.
Gee, Brian
Gekman, Earle
Gelinas, Francine
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Genge, Rayfield
George, Isabelle
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Geraets, Théodore
Gerber, Walter J.
Geren, Dick
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Ghan, Esther
Ghiz, Joseph
Giacomelli, Janet
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Gibson, T.G.
Gick, Bernard
Gidwaney, Vasdeo
Giegerich, E.G.
Gigantes, Philippe D. (sénateur)
Gilchrist, W.R.
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Gillespie, Laura Leah
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Ginn, James M.
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Gleadow, Harold N.
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Godlonton, Glen A.
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Goldberg, Melville M.
Goldberg, Michael A.
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Goneau, Elizabeth K.
Gontier, Hazel L.
Good, Linnea
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Gordon, Elsa
Gordon, Patricia A.
Gorling, L.
Gossi, Hilda R.
Gouin, Jean-Paul
Gouin, Wilfrid Peter
Gould, Oliver
Gouvernement de la Colombie-Britannique
Gouvernement de la Nouvelle-Écosse
Gouvernement du Manitoba
Gouvernement du Nouveau-Brunswick
Gouvernement du Yukon
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Grady, Chris
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Graham, Michael R.
Graham, P. Jeffrey
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Grassi, Norman
Gravells, David et Mandy
Graves, Frank et Marion
Gray, Charles T.
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Green Coalition Verte
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Greenaway, B.H.
Greene, David
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Greenham, Stuart
Greenwood-Speers, Judy
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Gregory, Alan F.
Gregory, Michael J.
Grenier, Damas
Grenier, Gilles
Grenstad, Mary
Grey, Deborah, députée
Griesen, Gwen
Griew, Stephen
Griffin, Robert V.
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Grimes, Robert A.
Groenenberg, Jake
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Groupe d'intervention action-santé
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Gunys, Eric E.
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Hackbusch, Christian
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Hamill, J.L.
Hamilton, John P.
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Hampton, Bruce
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Hancock, Todd
Hancock, Trevor
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Hansen, Diane
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Harbicht, Doug
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Hardy, Jamie
Harkness, Prof. Sir Don
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Harle, Steve
Harlow, Justine
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Health Sciences Centre
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Huston, Baxter
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Indigenous Bar Association in Canada
Indigenous Women's Collective of Manitoba
Ingle, Fred B.
Ingle, Lorne c.r.
Innes, Robert
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Institute of Christian Ethics
Institute of Human Values
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Iriye, Linda
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J.P. Dubreuil Investments Inc.
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Jack, W.R. Bill
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Jeffs, Jim
Jefkins, Gloria
Jenkinson, H.E.
Jennings, Cedric

Jensen, Bob
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Jessop, W.D.
Johannesson, Ron
Johnson, A.W.
Johnson, Albert W.
Johnson, G.R.
Johnson, Kelly
Johnson, Mark G.
Johnson, Mary E.
Johnson, Stuart
Johnson, V.L.
Johnston, Alan H.
Johnston, Charles F.
Johnston, David
Johnston, Geoffrey
Johnston, Ivan F.
Johnston, Jessie
Johnston, M.M.
Johnston, R.J.
Johnston, Robert
Johnston, Ruth
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Jones, Doreen
Jones, Doug
Jones, I.M.
Jones, S.G.L.
Jones, Thomas
Jopp, Wilf
Jordan, G.E.
Jorsling, Kara
Josephy, Goldie
Jost, Aldana
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Joynt, C.S.
Julian, Glenn
Julien, Bernard
Jumelle, Arlette Y.
K.M. Citizen of Canada
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Kahlon, Harbhajan
Kalil, Alexander E.
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Kann, Stephen C.
Kapila, Kulwant R.
Kariel, Nancy
Kashtan, W.
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Kennedy, Gordon H.
Kennedy, James T.
Kennedy, Michelle
Kenyon, Roger J.
Kernaghan, Nan
Kesker, I.
Keyes, Stan
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Kidd, Ronald K.
Kiely, LIoyd B.
Kilgour, David, député
Killeen, Eveline
Kilpatrick, Barbara E.
Kilpatrick, Barry
King, H.R.
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Shelswell, Craig
Sheng, Robert
Shepherd, Rodney
Shepherd, Sherry
Shibley, Brian
Shill, N.R.
Shirkey, Ray
Shirley, J.L.

Shirley, R.
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Shopland, Harold J.
Shore, Martin
Shortreed, R.
Shufflebotham, D.L.
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Sibley, George
Side, Sam
Siewert, Dan A.
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SIM Canada
Simard, Jacques L.
Simard P.
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Sinclair, Verna J.
Sinclair, W.L.
Singerling, Dirk A.
Sivaramalingam, Siva
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Slobodzian, S.
Sloman, Robert
Slote, Murray L.
Small, George W.
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Smith, Agnes
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Smith, Harold
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Smith, Jane
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Smith, John E.
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Smith, Rhea
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Société du port de Vancouver
Société franco-manitobaine
Société nationale des Québécois, secteur de Val d'Or
Société pour la protection des parcs et des sites naturels du Canada
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Speller, Bob, député
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Spurr, Carol A.

Squamish Nation
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Surrey Museum, B.C.
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Suthren, Joseph W.
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Syndicat national de la fonction publique provinciale
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Turner, John, député
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United Nurses of Alberta
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Vincent, Jean Robert
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von Boetticher, Pete
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Weaver, Norton et Lillian
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Williams, Marge
Williams, R.D.
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Wilson, E.C. Grant
Wilson, Geoff, député
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Wilson, S.E.
Wilson, W.W.
Wilstead, Nadine
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Windsor Homeless Coalition
Windsor Islamic Association
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Winter, Paul
Winterbon, Bruce

Wipprecht, John
Wise, Leonard
Wittenberg, Gerritolina G.
Wodehouse, Herbert
Woehrling, José
Wohl, Jon
Wolff, Clark
Wolff, Earl
Wolff, Kathryn
Wolff Von Wulfing, W.J.
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Women on Wings
Wood, Charmaine
Wood, Gary
Woodard, A.T.
Woods, B.
Woods, Bradley D.
Woods, Robert Matthew
Woolverton, Bill
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Yates, Ruth E.
Yazbeck, James T.
Yeo, Harvey M.
Yorick, V. Jeanne
Youck, V. Jeanne
Young, Aurele
Young, Dennis
Young, Douglas
Young, John B.
Young, K.
Young, Murray
Young, R.H.
Yue, Chi Lap
Yukon Human Rights Commission
Yukon Independent Alliance
Yukon Party
Yukon Status of Women Council
Zarand, Noreen
Zarubiah, Peter
Zuercher, Werner
Zuger, E.
Zyri, Adam

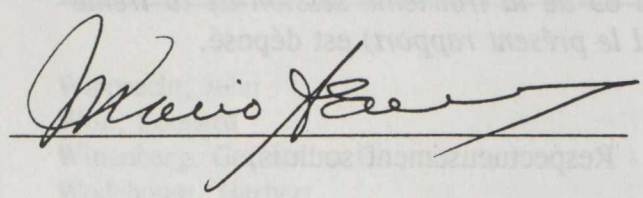
Un exemplaire des Procès-verbaux et témoignages s'y rapportant du Comité mixte spécial sur le renouvellement du Canada *(fascicules nos 1 à 65 de la troisième session de la trente-quatrième législature et le fascicule 66 qui comprend le présent rapport)* est déposé.

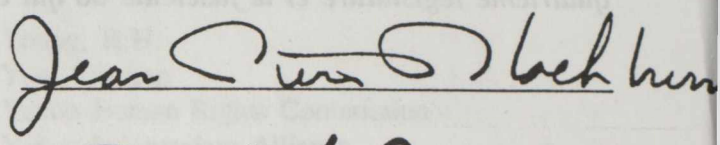
Respectueusement soumis,

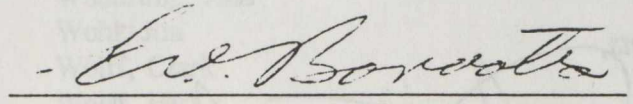
Les coprésidents,

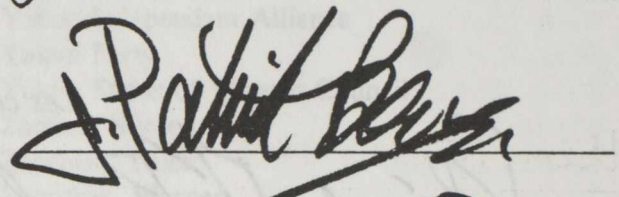
SÉNATEUR GÉRALD BEAUDOIN

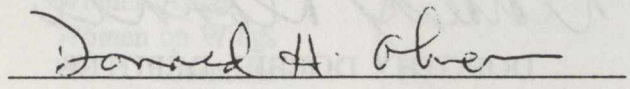
DOROTHY DOBBIE, DÉPUTÉE

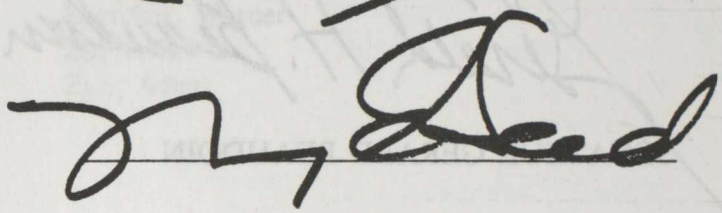


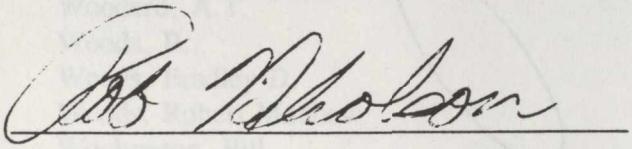


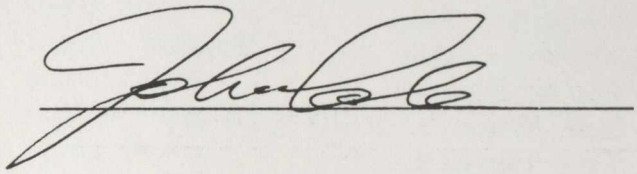


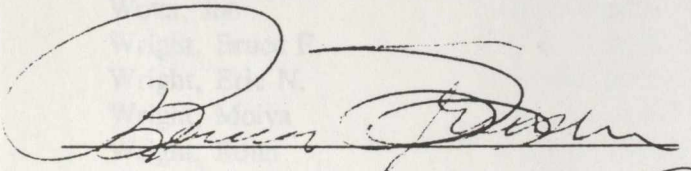


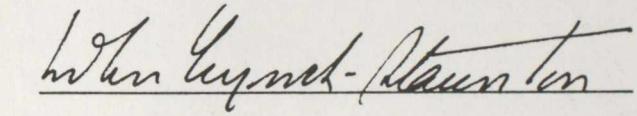


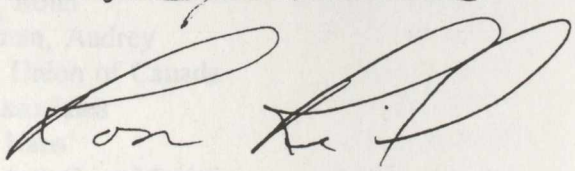


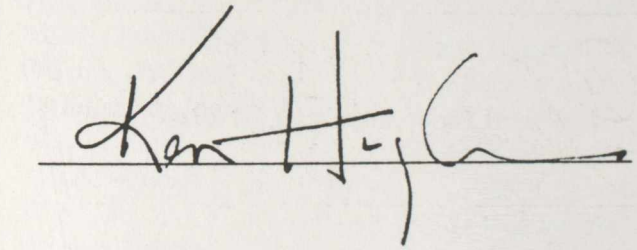


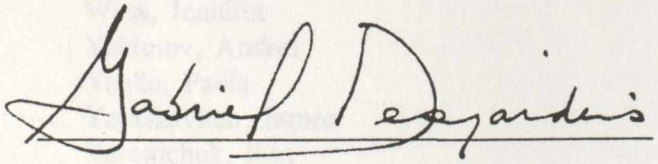


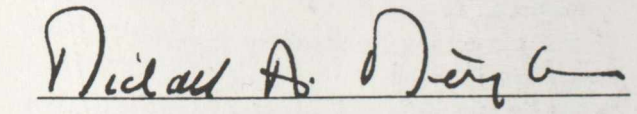


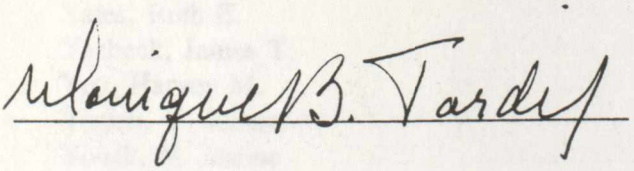


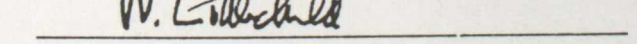


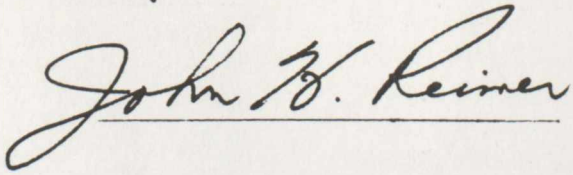












Andrée Bullet

Allan J. MacEachen

Ron. Ollerenshaw

Peter Stollery

[illegible]

[illegible]

Sharon Carstairs

Pierre DeBané

[illegible]

Gérald A. Beaudoin

Lorne Nystrom

Lloyd D. Ford

Lynn Hunter

Dorothy Dobbie

Phil Edmonston

AGAINST/CONTRE

ABSTENTATIONS/ABSTINENCES

LE JEUDI 27 FÉVRIER 1992
(71)

[Traduction]

Le Comité mixte spécial sur le renouvellement du Canada se réunit à *huis clos* à 20 h 20, dans la salle 200 de l'édifice de l'Ouest, sous la présidence de l'honorable Sénateur Gérald Beaudoin et Dorothy Dobbie *(coprésidents)*.

Membres du Comité présents:

Réprésentant le Sénat: Les honorables sénateurs E.W. Barootes, Gérald Beaudoin, Mario Beaulieu, Pierre De Bané, Daniel Hays, John Lynch-Staunton, Allan J. MacEachen, Michael Meighen, Donald Oliver, et Peter Stollery.

Réprésentant la Chambre des communes: Jean-Pierre Blackburn, Ethel Blondin, Gabriel Desjardins, Dorothy Dobbie, Ronald Duhamel, Benno Friesen, Albina Guarnieri, Ken Hughes, Lynn Hunter, Wilton Littlechild, Russell MacLellan, Rob Nicholson, Lorne Nystrom, André Ouellet, Ross Reid, John Reimer, Monique B. Tardif et Ian Waddell.

Autres députés présents: Phillip Edmonston, Howard McCurdy et Nelson Riis.

Aussi présents: David Broadbent, directeur exécutif et Roger Tassé, conseiller constitutionnel.

Conformément à ses ordres de renvoi des mercredi 19 et vendredi 21 juin 1991, le Comité reprend l'étude des propositions du gouvernement relatives au renouvellement du Canada (*voir les Procès-verbaux et témoignages du mercredi 25 septembre 1991, fascicule n° 1).*

Le Comité poursuit l'examen de son projet de rapport.

À 20 h 32, le Comité s'ajourne jusqu'à nouvelle convocation du président.

LE VENDREDI 28 FÉVRIER 1992
(72)

Le Comité mixte spécial sur le renouvellement du Canada se réunit à *huis clos* à 22 h 30, dans la salle 200 de l'édifice de l'Ouest, sous la présidence de l'honorable Sénateur Gérald Beaudoin et Dorothy Dobbie *(coprésidents)*.

Membres du Comité présents:

Réprésentant le Sénat: Les honorables sénateurs Gérald Beaudoin, Mario Beaulieu, John Lynch-Staunton, Michael Meighen, Donald Oliver et Nancy Teed.

Réprésentant la Chambre des communes: Jean-Pierre Blackburn, Patrick Boyer, John Cole, Gabriel Desjardins, Dorothy Dobbie, Phillip Edmonston, Albina Guarnieri, Ken Hughes, Lynn Hunter, Wilton Littlechild, Rob Nicholson, Lorne Nystrom, André Ouellet, Ross Reid, John Reimer et Monique B. Tardif.

Autres députés présents: Iain Angus, Howard McCurdy, Marcel Prud'homme et Ian Waddell.

Aussi présents: David Broadbent, directeur exécutif et Roger Tassé, conseiller constitutionnel.

Conformément à ses ordres de renvoi des mercredi 19 et vendredi 21 juin 1991, le Comité reprend l'étude des propositions du gouvernement relatives au renouvellement du Canada (*voir les Procès-verbaux et témoignages du mercredi 25 septembre 1991, fascicule nº 1).*

Le Comité reprend l'examen de son projet de rapport.

Sur motion de Jean-Pierre Blackburn (appuyé par André Ouelllet et Lorne Nystrom), il est convenu, -- Que le projet de rapport soit adopté comme Rapport du Comité au Parlement, que le personnel du Comité et les conseillers juridiques des partis soient autorisés à y corriger toute erreur technique ou typographique, de style ou de traduction, et que le rapport ainsi modifié soit déposé auprès des greffiers des deux chambres avant minuit ce soir.

Sur motion de Monique B. Tardif, il est convenu, -- Que le Comité fasse imprimer 10 000 exemplaires du fascicule no 66 qui inclut le rapport du Comité.

Sur motion de Ken Hughes, il est convenu, -- Que le Comité autorise la production en version audio-cassettes, de son rapport dans les deux langues officielles.

Sur motion de Albina Guarnieri, il était convenu, -- Que le greffier principal des comités de la Chambre des communes soit authorisé à faire imprimer ou reproduire des exemplaires du rapport.

À 23 h 05, le Comité s'ajourne jusqu'à nouvelle convocation des coprésidents.

Les cogreffiers du Comité

Richard Rumas
Charles Robert

REMERCIEMENTS

Les membres du Comité mixte spécial tiennent à souligner le dévouement et le précieux concours du personnel qui a appuyé le Comité dans ses travaux et collaboré à la rédaction et à la production du présent rapport.

Directeur exécutif :

David Broadbent

Cogreffiers :

Charles Robert

Richard Rumas

Autres greffiers de comité :

Carol Chafe
Bernard Fournier
Lise Laramée
François Prégent

Richard Dupuis
Line Gravel
Eugene Morawski

Conseiller constitutionnel principal :

Roger Tassé

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CANADA

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Cet index est un index croisé couvrant des sujets variés. Chaque fascicule est enregistré selon la date et cette référence se trouve à la page suivante.

L'index contient l'analyse des sujets et les noms des participants. Chaque référence apparaît sous les deux rubriques afin de faciliter l'accès par le nom de l'intervenant ou par le sujet. Les chiffres qui suivent les titres ou sous-titres correspondent aux pages indexées. Certains sujets d'importance font aussi l'objet de descripteurs spéciaux.

Les noms des intervenants et les descripteurs sont inscrits dans un ordre alphabétique. Certaines entrées relatives à la législation sont indexées chronologiquement.

Une entrée d'index peut se composer d'un descripteur en caractères gras et d'un ou de plusieurs sous-titres tels que:

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Gains en capital. *Voir* Impôt sur le revenu—Agriculteurs

Les abréviations et symboles que l'on peut retrouver dans l'index sont les suivants:

1re, 2e, 3e l. = première, deuxième, troisième lecture. A. = appendice. Am. = amendement. Art. = article. Chap. = chapitre. Dd. = ordre de dépôt de documents. Déc. = déclaration. M. = motion. Q.F. = question au *Feuilleton*. Q.o. = question orale. R.g. = réponse du gouvernement. Rés. = résolution. S.C. = Statuts du Canada. S.r. = sanction royale.

Affiliations politiques:

BQ	Bloc Québécois
Cons. Ind.	Conservateur indépendant
Ind.	Indépendant
L	Libéral
NPD	Nouveau parti démocratique
PC	Progressiste conservateur
Réf.	Parti réformiste du Canada

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Eves, Ernie (Comité spécial sur le rôle de l'Ontario au sein de la confédération)
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Ferguson, Holly (Manitoba Métis Federation)
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Flaherty, David (Commissariat à la protection de la vie privée)
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Fogarty, Albert (Comité spécial de l'Île-du-Prince-Édouard sur la Constitution du Canada)
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Fontaine, Yvon (Commission du Nouveau-Brunswick sur le fédéralisme canadien)
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