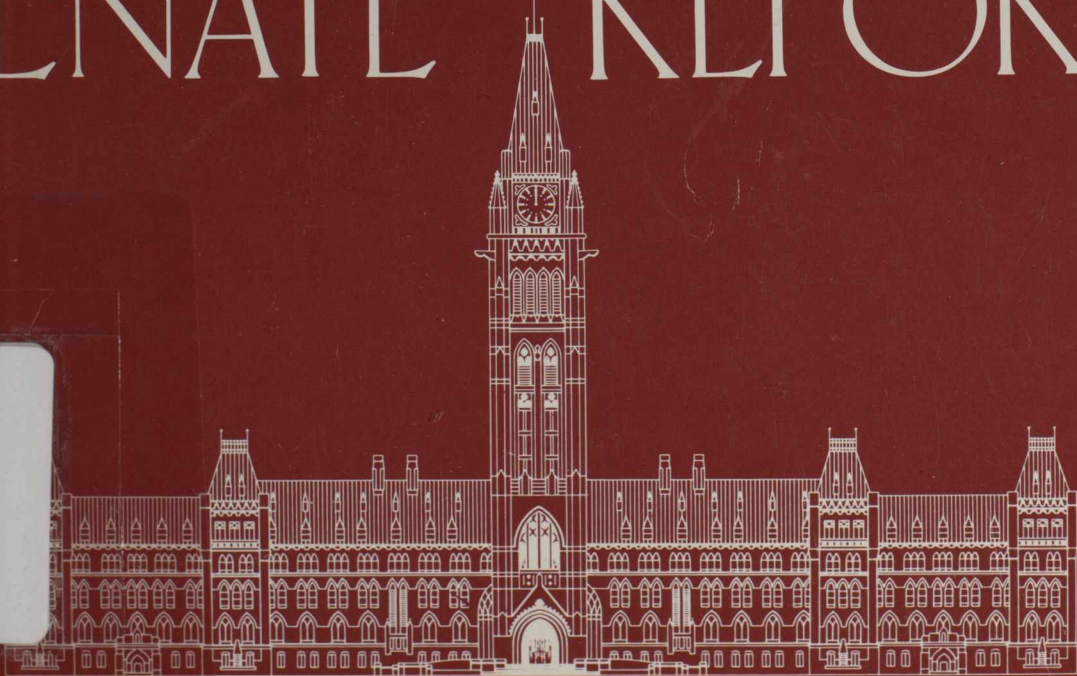




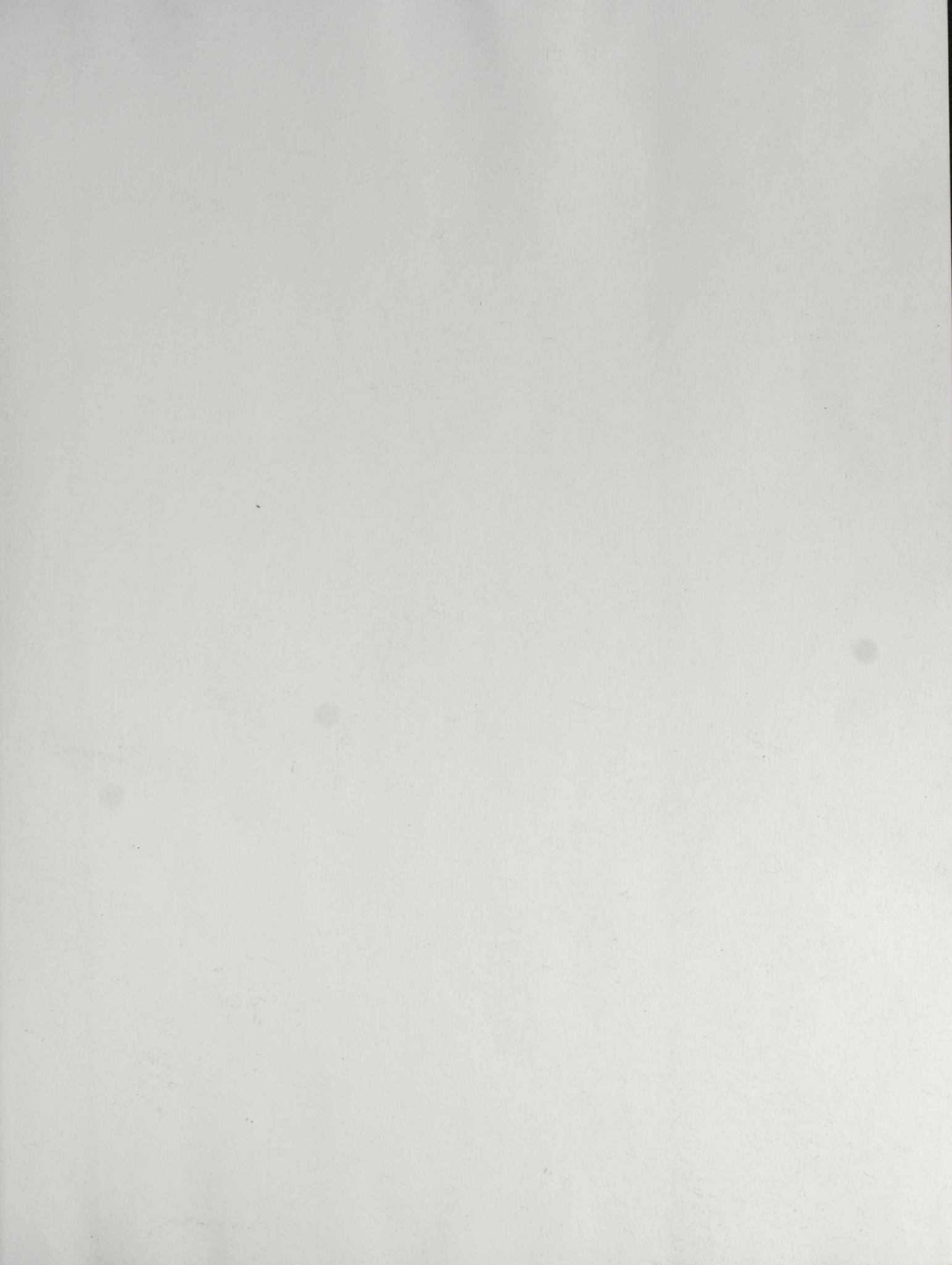
SPECIAL JOINT COMMITTEE  
ON

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**Report of the Special Joint Committee  
of the Senate  
and  
of the House of Commons  
on**

**SENATE REFORM**

**January 1984**

**Joint Chairmen:  
Honourable Gildas Molgat, Senator  
Honourable Paul Cosgrove, P.C., Q.C., M.P.**

NOTE: This report constitutes Issue No. 2 of the Minutes of Proceedings and Evidence of the Special Joint Committee on Senate Reform, Second Session, Thirty-second Parliament, 1983-84.

Additional copies of this report are available from the Joint Clerk of the Committee at the following address:

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SPECIAL REPORT OF COMMITTEE ON SENATE REFORMS  
MEMBERS



*The Senate of Canada*

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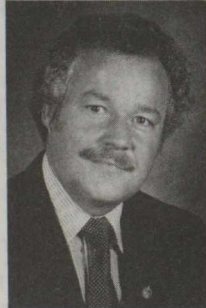
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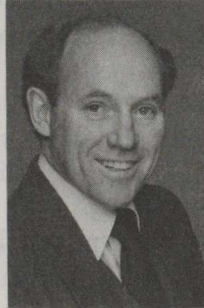
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William Petten, Senator  
Richard Stanbury, Senator  
David Steuart, Senator  
Norbert Thériault, Senator

## ACKNOWLEDGEMENTS

In the course of its deliberations, the Committee received valuable assistance from many sources.

We first thank the individuals and organizations who appeared as witnesses in Ottawa or in the twelve other cities that the Committee visited. Since part of our mandate was to report on ways in which the Senate could be reformed in order to strengthen its role in representing people from all regions of Canada, we benefited particularly from the views we received during the public and private meetings held in the provincial and territorial capitals. We would also like to express special appreciation for the courtesies extended to us by provincial and territorial governments.

In addition to the views expressed to us orally, of equal benefit were the many letters, briefs and submissions sent to us by individuals as well as groups.

The Committee also wishes to acknowledge the contribution of the Senators and members of the House of Commons who participated in the work of the Committee. Our express thanks are extended to the previous Joint Chairman from the House of Commons, the Honourable Roy MacLaren, who was appointed to the Cabinet in August 1983 and subsequently resigned from the Committee.

We wish to thank our Joint Clerks, Paul Belisle from the Senate and Maija Adamsons from the House of Commons who managed the administrative, financial and logistical aspects of the Committee's work.

An equally important arm of the central staff was the research team, which comprised people from both the Parliamentary Centre for Foreign Affairs and Foreign Trade and the Research Branch, Library of Parliament. John Hayes, as Director of Research from the Centre, co-ordinated the efforts of the team with respect to the preparation of background papers, the analysis of evidence and the drafting of the report. With the collaboration of Messrs. Louis Massicotte, Bruce Carson and John Terry from the Research Branch, Library of Parliament, the research team provided professional expertise to the Committee. Peter Dobell of the Centre, as Study Director, contributed invaluable during the report-writing stage of the Committee's work.

Finally, the Committee would like to thank the staff of the Senate and House of Commons Committees Directorates, the Translation Bureau of the Secretary of State Department, the Canadian Government Printing Office, and the other services of the Senate and of the House of Commons whose contributions were of unique importance in assisting the Committee in carrying out its mandate.

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# CHAPTER 1

## The Committee's Conclusions

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We have concluded that the Canadian Senate should be elected directly by the people of Canada.

An appointed Senate no longer meets the needs of the Canadian federation. An elected Senate is the only kind of Senate that can adequately fill what we think should be its principal role — the role of regional representation. We propose a Senate different in composition and function from the House of Commons and from the present Senate. The second chamber we recommend is designed specifically — by its distribution of seats, by the way it is elected, and by the powers it exercises — to represent the sometimes diverse interests of the people of Canada's provinces and territories in federal legislation and federal policies.

In fulfilling that role, an elected Senate would strengthen the authority of Parliament to speak and act on behalf of Canadians in all parts of the country.

We reached this conclusion after reviewing the work of previous inquiries into the question of Senate reform and after hearing the testimony of witnesses in all provincial and territorial capitals. We also benefited from the advice contained in the more than 280 briefs submitted to the Committee. We were told frequently that, after so many abortive attempts at Senate reform, the time has come for vigorous action — for fundamental change in the Senate — and that it would be a mistake to adopt inconsequential reforms.

Our conclusion was not reached lightly or easily. Although a substantial part of the testimony we heard favoured direct election, a roughly equal part opposed it, mainly on the grounds that a parliament with two elected houses cannot be reconciled comfortably with the principle of responsible government as it has operated in the British and Canadian traditions. Some highly respected people in public life and in the academic community prefer a reformed system of appointment to election. Among this group is one member of our Committee.

Although a reformed appointed Senate could bring about some needed improvements, we are persuaded that it would lack the political mandate to fill what we

believe is the Senate's primary role. Only a politically strong second chamber can dispute, when necessary, the decisions taken by a government that is supported by the House of Commons. Therefore only an elected Senate can satisfy the original intent of the fathers of Confederation: the provision of a chamber that would balance judiciously the power of the Commons (which is based on representation by population) by safeguarding the legitimate interests of the people of the less populous provinces.

In proposing an elected Senate we are rejecting not only a reformed system of appointment, but also certain other proposals that have been made in recent years. One of these is abolition of the Senate. It is a course of action that from time to time has appealed to some Canadians, and it is the preference of one member of our Committee. However, the weight of the testimony brought before the Committee was overwhelmingly opposed to abolition.

Another option we reject is the creation of a legislative chamber composed wholly or in large part of delegates of provincial governments acting under the instructions of those governments. Proposals for such a chamber are usually inspired by the German Federal Council, the *Bundesrat*. A *Bundesrat* is appropriate for Germany, where the *Länder* (the German provinces) have relatively little legislative and financial autonomy compared with Canadian provinces and where institutionalized co-ordination of federal and *Land* activities is made virtually mandatory by the fact that the *Länder* are heavily involved in administering federal legislation. The Canadian federal system is quite different, and a *Bundesrat*-type chamber could lead to serious problems. We share the view, contained in the 1980 report of the sub-committee of the Standing Senate Committee on Legal and Constitutional Affairs (the Lamontagne Report), that such a chamber would subordinate, in an inappropriate way, the federal legislature to the executive branch of the provincial order of government. It would, in the words of that report, make the federal Parliament a hybrid amounting to a monstrosity.

Nor do we consider that a system of 'indirect' election — the election of senators by members of Parliament or of the provincial legislatures — would result in any significant change in the role and political authority of the present Senate.

It has been pointed out to us that only a few years ago many people were recommending a *Bundesrat*-type Senate, and some have asked whether direct election is a fad, a passing interest that will fade as quickly as did interest in the *Bundesrat*. To respond, as one journalist has, that "democracy is never a fad" is perhaps too simplistic, but there is truth in that response. It seems to us that direct election is the proper path for Canada's long-term political and constitutional development.

Many witnesses who favoured an elected Senate were quick to point out that embracing the principle of direct election is only the first, although an important, step. It is also necessary to decide what kind of elected Senate would best suit Canada's parliamentary system of responsible government. We must also confront the difficult question of how to distribute among the provinces and territories the appropriate number of seats in such a politically powerful body.

We believe that Canada should establish an elected Senate designed in such a way that it would not be vying continually for supremacy with the House of Commons: it

should have significant powers, but it should not be able to undermine Canada's well-tried system of responsible government. We therefore propose that the new Senate be given only a suspensive veto, which would allow time for national debate and reflection, but which the Commons could, after a suitable lapse of time, override by re-passing the legislation in question.

We also propose that every effort be made to ensure that senators have a significant degree of independence of party. Only then will they be able to speak in favour of local and regional interests without having to be concerned primarily, as members of Parliament must be, with adhering to party policy. A healthy measure of independence is therefore essential if the Senate is to fill its role of regional representation. This does not mean that senators would lose sight of the needs of the country as a whole.

It is for this reason, and also to distinguish senators from members of the House of Commons, we propose that senators be elected for a single but comparatively long term — nine years — with one-third of the senators being elected every three years. To lessen party influence in the choice of senators, all but one of us prefer 'first-past-the-post' elections in single-member constituencies to proportional representation in multi-member constituencies. Each province would be divided into as many constituencies as it had senators.

We recognize that, in the absence of proportional representation for an elected Senate, the political parties will have to work hard to achieve balanced representation from across the country in the Commons and the Senate. This is as it should be. In striving to do this, they will have to adapt their policies accordingly, and this can only benefit national politics.

On the question of the distribution of seats, the Committee was advised by nearly all witnesses across Canada that the division should be made not on the basis of the present four Senate regions but by allocating seats to each province and territory. We accept that this kind of allocation reflects more closely the diverse nature of Canada.

As to how many seats should be allocated to each province or territory, we recognize that there is no perfect solution. We believe that giving an equal number of seats to each province would not be appropriate, having regard to Canada's historical development and the configuration of its population. If each province had the same number of seats, five provinces with as little as 13.4 per cent of Canada's population would have a majority of seats if they had the support of the territories.

While the less populous provinces merit a stronger voice in Parliament, equal representation in the Senate would tilt the balance too far and would be unacceptable to the vast majority of Canadians, not only to those living in the two largest provinces. We therefore propose a compromise whereby most provinces would have an equal number of seats, but Ontario and Quebec would have more and Prince Edward Island and the territories would have fewer. Our proposal would, for example, give the four western provinces together as many seats as Ontario and Quebec jointly. We believe that most Canadians would agree that our proposed distribution, or something close to it, represents a fair solution.

One of the original purposes of the Senate, and indeed, of the federation itself, in 1867 was to help protect Canada's French-speaking minority. Today, that purpose can best be achieved by an elected Senate with a special voting procedure. We are therefore proposing that measures having linguistic significance be approved only by a double majority: that is, by a majority of francophone senators and by a majority of all senators. If such measures failed to be approved by the double majority, they would not become law, and Senate rejection of them could not be set aside by the House of Commons. For these measures, and for them alone, the Senate would have an absolute veto.

As we explain in the report, our proposals for the design of an elected Senate are interdependent, and it is important that they be considered together. These proposals contain some novel features and will require public discussion. To put in place any kind of elected Senate will require federal-provincial negotiation and subsequent constitutional amendment. As regards that process, some witnesses from Quebec and some members of the Committee suggested that so far-reaching a change as the introduction of an elected Senate should not be implemented without the agreement of the National Assembly of Quebec. All this will take time. Meanwhile, certain reforms to the present Senate should be made now.

These reforms are set out in detail in our report. They are designed to be consistent with an elected Senate, into which we hope the present Senate will evolve, and to help prepare the way for it. For a couple of members of our Committee, who believe that an elected Senate should be introduced only after a lengthy period of public discussion, these reforms are of particular importance. The reforms include the introduction of a fixed term for future appointments, the more flexible use of the Senate's powers in a way that could give the chamber a suspensive veto, and increased use of investigative committees. The implementation of these reforms will provide a basis for assessing how much more effective an appointed Senate would be and could confirm whether the Committee is justified in its judgement that the election of senators is necessary.

Some witnesses said that reforms are needed in other institutions, such as the House of Commons and the Supreme Court. Our terms of reference do not allow us to comment on those suggestions. We should say, however, that the reforms we propose for the Senate do not preclude and need not delay any desirable reforms in other institutions.

It is our conviction that an elected Senate along the lines we propose would strengthen Parliament and make a significant contribution to easing some of the tensions that have troubled our country in the last decade. We believe that our conclusions on these important matters merit consideration by the federal and provincial governments and by all those who are concerned about our national well-being and the effectiveness of our political institutions.

We urge the government to implement our recommendations as soon as practicable and request, pursuant to Standing Order 69(13), a comprehensive response to this report.



## CHAPTER 2

### The Committee's Hearings and Discussions

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On December 20, 1982, the Senate adopted a motion establishing a Special Joint Committee "to consider and report upon ways by which the Senate of Canada could be reformed in order to strengthen its role in representing people from all regions of Canada and to enhance the authority of Parliament to speak and act on behalf of Canadians in all parts of the country". The Committee's report was to include recommendations concerning the method of selection and length of term of senators, the powers of the Senate, the distribution of seats, and other matters that the Committee considered relevant to the reform of the Senate. An identical motion was adopted in the House of Commons on December 22, 1982.

On April 21, 1983 the two houses of Parliament appointed 8 senators and 10 members of the House of Commons to the Committee. The Committee convened for the first time on April 28 and elected the Honourable Senator Gildas L. Molgat and Mr. Roy MacLaren, MP as joint chairmen. Mr. MacLaren was appointed to the Cabinet on August 13, and the Honourable Paul Cosgrove, P.C. was elected to replace him on September 20. Following the prorogation of Parliament on November 30, the Committee was reconstituted in the Senate on December 8 and in the Commons on December 13.

The Committee was able to draw on the experience of a number of its members who had worked with the special joint committees on the Canadian Constitution that sat in 1970-72, 1978 and 1980-81, with the Special Senate Committee on the Constitution (1978-79), and with the Senate sub-committee on Certain Aspects of the Constitution (1980). Some members had also had experience at the provincial level while others had been federal Cabinet ministers.

As an initial step, we reviewed past proposals for reform. Numerous reports or bills have dealt with aspects of this issue since 1968. We were able to benefit from the thought that has been given to the subject by the federal government and by the governments of British Columbia, Alberta and other provinces. Senate reform has also been the focus of various parliamentary committees, the Task Force on Canadian Unity, the Ontario Advisory Committee on Confederation, the Constitutional

Committee of the Quebec Liberal Party, and the Canada West Foundation. In addition, a number of MPs have tabled bills on the subject. We also considered the discussion paper on Senate reform submitted on June 16, 1983 by the Minister of Justice.

The activities of the Committee were divided into three stages. From May 31 to June 29, hearings were held in Ottawa to obtain the views of parliamentarians — notably senators — and university professors. The hearings gave Committee members an opportunity to familiarize themselves with the issue and the proposed solutions. All federal parliamentarians had previously been invited to share their views on Senate reform with the Committee.

The Committee was empowered to travel within Canada. We decided to hold hearings across the country for two principal reasons. We felt it was important to learn how Canadians in general felt about an undertaking designed to produce a Senate in which all regions of the country would be truly represented. Second, the *Constitution Act, 1982* stipulates that certain changes to the Senate require not only the consent of both federal houses, but also that of the legislatures of seven provinces with at least 50 per cent of the country's population. We deemed it advisable to hear testimony from provincial political figures in their own provinces. At the outset of our inquiry, we wrote to all premiers and to the leaders of the elected executives in Yukon and the Northwest Territories, informing them of our mandate and inviting them to present their views either in public or in private. We also wrote to the leaders of opposition parties represented in the provincial and territorial legislatures.

During September and October, the second stage of our activities, public hearings were held in the capital cities of each province and territory as well as in Ottawa. The schedule of meetings held outside the national capital was flexible enough to give to the general public an opportunity to appear before the Committee and discuss the issue with parliamentarians. Private meetings were held with a number of provincial premiers and ministers. The Leader of the elected executive of the Northwest Territories appeared publicly as a witness.

During these two stages, we heard testimony from 119 witnesses, including 30 organizations (see Appendix B). Some 280 Canadians submitted written briefs or letters (see Appendix C). We were impressed with the high quality of the opinions presented and with the interesting proposals submitted, and we are grateful to all Canadians who took the time to share their views with us.

The third and final phase of our work took place *in camera*. During 14 such sessions the Committee reviewed the evidence and examined various options, weighing them against the objectives contained in our orders of reference. These deliberations led to the conclusions and recommendations in this report.

## CHAPTER 3

### The Arguments for Senate Reform

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In this chapter we describe the arguments that have been made for reforming the Senate. These arguments spring from a belief that, in one way or another, the Senate has not filled its role adequately. It is therefore appropriate to look first at the role originally intended for it and at the evolution of that role.

#### The original purpose of the Senate

The Senate was created in 1867 to fill not one but two major roles in the new federation. One was to protect and represent, so far as federal legislation was concerned, what Sir John A. Macdonald called "sectional interests".

Sectional interests include those interests peculiar to a region or to a linguistic or religious group. In this report we use the more familiar term 'regional interests'. The other major role was to help ensure political stability by acting as a counterweight to the popularly elected House of Commons. These two roles were to be carried out by the exercise of 'sober second thought' in the review of legislation emanating from the lower house — a house that drew its mandate from election based on population, although in those days the franchise was restricted.

As the powers of the national government in the federal system were to be relatively large, the Senate's check on the use of those powers was to be comparatively strong. The second chamber was given powers equal to those of the House of Commons except with regard to money bills.

The role of protecting and representing regional interests was reflected in the structure of the Senate. An equal voice was given to each of the three Senate divisions (or regions, as they have come to be called): Ontario, Quebec, and the Maritime provinces. Each of the three regions — to which a western region was added later — had an equal number of seats, regardless of the size of its population. This meant that both the less populous provinces and the predominantly French-speaking province of Quebec were to be given some protection against the wishes of a simple majority of Canada's population, as represented by the decisions of the House of Commons.

Historians say that without this protection there would have been no federation. As George Brown, a prominent father of Confederation from Upper Canada, said: "Our Lower Canada friends have agreed to give us representation by population in the lower house, on the express condition that they could have equality in the upper house. On no other condition could we have advanced a step."

At the same time, it is our understanding that there was also a concern to ensure representation for the English-speaking minority in Quebec. This group, already protected in the Quebec Legislative Assembly by section 80 of the *Constitution Act, 1867*, received additional protection in the Senate. Each of the 24 senators for that province was to represent one of the 24 electoral divisions of Lower Canada and was to reside or own property there. Because of the way the anglophone and francophone populations were distributed within the province, this helped to ensure that some Quebec senators would be English-speaking.

The Senate's other role — acting as a counterweight to the popularly elected House of Commons — was reflected in the way senators were chosen. They were to be appointed rather than elected, and only from among those citizens who were at least 30 years of age and who possessed property worth at least \$4,000.

Implicit, therefore, in the role of the Senate were the representation and protection of several minorities: the people of the less populous provinces, the French- or English-speaking people of Quebec, and people with property.

### **The evolution of the Senate's role**

The most important development affecting the role of the Senate since 1867 has been the gradual change in public attitudes, not only in Canada but worldwide, toward appointed or indirectly elected legislative bodies. The resulting loss of political authority meant first that the Senate's use of its so-called absolute veto over federal legislation came to be resented and, subsequently, that the Senate was no longer prepared to use its powers except on rare occasions. The last bill to be rejected by the Senate was a 1961 government bill to change the *Customs Act*, although the Senate has successfully amended a number of bills since then. One important consequence of this development was that senators could no longer act as politically powerful representatives of regional interests. The Senate's role therefore evolved toward one that complemented rather than competed with the popularly elected House of Commons. Its principal functions are now improving legislation and investigating questions of public policy.

### **The arguments for Senate reform**

Criticisms have been directed at the Senate for some years. They include the partisan nature of some Senate appointments; the poor attendance of some senators; the under-representation of women, aboriginal peoples and ethnic groups; the numerous Senate vacancies that are allowed to continue unfilled; the lack of balance in the number of senators affiliated with the different parties; the constraints that party

discipline imposes on the independence of senators; and the fact that the present distribution of seats does not reflect the growth of western Canada's population. It is argued that all these deficiencies have seriously hindered the effective functioning of the Senate.

However, the more recent arguments for Senate reform — notably those made to our Committee — have focused on achieving one of the original goals of the Senate: the protection and representation of regional interests. These arguments spring from a belief that Parliament needs a chamber that represents those interests with more political authority than can be achieved with a Senate appointed in the present way.

Witnesses suggested that this concern has its foundations in the emergence in Canada of regional pressures which, while they are not new, have become particularly acute. The intensification of Quebec's persisting concern with its autonomy has been one of the principal elements behind these pressures. Another has been the developing consciousness in the West of its growing strength. It is the perception of many people who live in the western provinces, and of some who live in the eastern provinces, that their views are not given sufficient weight in the decisions of the national government.

The principal complaint the Committee encountered was that federal institutions as they are now constructed are unable to express and mediate regional concerns. Although the Senate was originally designed to give the regions a weighted voice in Parliament's decisions, it is argued that this does not happen. Witnesses pointed out that regional interests are now forced to seek outlets through other means, often through provincial governments, and that this has helped to bedevil federal-provincial relations.

Those who argue for Senate reform, or for the reform of the House of Commons, say that institutional change can help the Canadian political system adapt to the new regional pressures. They do not argue that such change would solve all regional problems falling within federal competence. Rather the purpose would be to provide a better framework within which regional differences can be represented, debated and reconciled — a framework that gives the people of all provinces and territories a feeling that their views are given proper weight.

We were urged by almost all witnesses to ensure that our recommendations preserve and reinforce the capacity of the Senate to carry out those functions at which it has been most successful — improving legislation and investigating issues of public policy. It is universally acknowledged that the Senate makes a useful contribution to the work of Parliament in carrying out these functions. With reference to both private and public bills, the Senate holds public committee hearings that are especially effective because the Senate has members with specialized knowledge and considerable experience and who are for the most part — particularly in committee — inclined to be less politically partisan than members of the House of Commons.

Investigation is potentially a very important role for a reformed Senate. Senate committees can look into any number of subjects of public interest: the need for new legislation, the adequacy of existing legislation, the performance of the executive and the bureaucracy and, perhaps most important, the extent to which federal policies are

equitable for regions and for minorities. It is said that investigation is one area where the present Senate has shown a commendable degree of independence from the executive. In recent years the Senate has investigated a number of important public issues, including poverty, the mass media, unemployment, inflation, aging, land use, science policy, national defence, relations with the United States and the proposed national security agency. The recommendations of Senate committees have frequently influenced public policy and have resulted in legislative and administrative action.

### **The focus of recent reform proposals**

While a few witnesses recommended reform of the House of Commons, the great majority argued for reform of the Senate. This was partly because they recognized that the introduction of an element of proportional representation in the electoral system, which is seen by some as an alternative to Senate reform, appears to have been rejected by the national political parties. However, it is also because that alternative would not likely satisfy the demand of the less populous provinces for a way of mitigating the numerical dominance of the Commons by representatives from Ontario and Quebec. A further reason is that the Commons will continue to be subject to tight party discipline, whereas party discipline can be less strict in the Senate, because that chamber can be designed so that it does not control the fate of the government.

In the latter part of the 1970s many proposals for Senate reform envisaged giving the provincial governments direct representation as a means of accommodating regional interests, but very few witnesses who appeared before our Committee advocated this course. Their proposals concentrated instead on representing the views of the people of Canada's provinces and territories in the Senate. One important consequence of this development is that there has been increased interest in the possibility of a directly-elected Senate. It is an option that is attractive particularly to those who wish to give the Senate added political authority.

After so many abortive attempts at Senate reform, witnesses asserted that the time has come for vigorous action — for fundamental change in the Senate — and that it would be a mistake to adopt inconsequential reforms.

The options for Senate reform are examined in more detail in Chapter 5. In the next chapter, we consider the question of what the future role of the Senate should be and examine the objectives of Senate reform.

## CHAPTER 4

### The Future Role of the Senate and the Objectives of Reform

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The first question to be considered by the Committee was what the role of a second chamber of Parliament should be. In this chapter we examine that question and go on to consider what the objectives of Senate reform ought to be.

Our conclusions are, briefly, that the principal role of Parliament's second chamber should be to represent the sometimes diverse interests of the people of Canada's provinces and territories — one of the main roles intended for it in 1867 — and that a major objective of reform should be to strengthen the Senate's capacity to fill that role.

#### The role of the Senate

We noted in Chapter 3 that the two original functions of the Senate were to represent regional interests and to be a counterweight to the democratically chosen House of Commons. We also noted that, in recent years, the Senate has performed — and performed well — two other functions: the technical improvement of legislation and the investigation of questions of public policy.

At various times it has been proposed that a reformed Senate should provide for the representation of particular interests, among them the following:

- the direct representation of the interests of the provincial level of jurisdiction in federal legislation and in the exercise of certain federal executive powers;
- the representation of national minorities — not only French-speaking Canadians but also aboriginal peoples, ethnic minority groups and visible minorities; and
- the representation of francophones outside Quebec and of anglophones in Quebec.

As well, a number of additional powers have been suggested for the Senate, including the power to review and disallow international treaties, senior appointments to regulatory bodies, and subordinate legislation such as regulations passed by orders in council.

A number of witnesses also proposed that the Senate's role should complement rather than compete with the role of the House of Commons. On the other hand, a comparable number of witnesses argued that the Senate should constitute a check on the executive, which is based primarily in the House of Commons.

We have considered carefully all the functions that a reformed Senate might perform — the original ones, those it has acquired, and the new ones proposed — and we conclude that the principal role should be to represent the sometimes diverse interests of the people of Canada's provinces and territories. As in 1867, one important aspect of that role should be the representation of Canada's French-speaking minority. We have reached this conclusion because we are persuaded that in a country of the size and diversity of Canada there should be checks and balances built into the national legislature that will be a restraint on actions taken in the name of a majority of the population, as represented by the House of Commons.

We recognize that these diverse interests are in large measure the subject of provincial jurisdiction. Education is the foremost example. By international standards, the scope of provincial jurisdiction is wide, which raises the question of why special representation of such interests is needed in Parliament. The fact is that any modern federal legislature exercising its own jurisdiction necessarily engages in activities that give rise to reactions that vary from one province to another. In Canada, these activities include, for example, levying customs tariffs and regulating transcontinental railways and broadcasting. We believe that the Senate, with a distribution of seats different from that in the House of Commons, should give weighted representation in legislation on such matters to the interests of the less populous provinces, as was intended in 1867. We also agree with many witnesses that a special Senate voting procedure on linguistic matters should be established to give added protection for the French-speaking people of Canada. This, too, would help fulfil the intentions of 1867.

We reject the view that the principal, or even a secondary, function of the second chamber should be federal-provincial co-ordination. Such co-ordination is, we think, best left to the federal and provincial governments. We have more to say about this in Chapter 5, when we comment on proposals that the second chamber be composed of provincial government delegates acting under instructions.

In addition to the primary function of regional representation, which is one that could give rise to competition with the House of Commons, the Senate should continue to undertake two complementary functions: investigation and the improvement of legislation. We believe that other functions should be no more than incidental to the performance of these three.

Representation of national and provincial minorities should not be achieved by reserving for them a specified number of seats in the Senate; but this conclusion should be regarded as provisional with regard to one important group of national minorities,



the aboriginal peoples. Some aboriginal groups testifying before the Committee asked that a specified number of seats be reserved for them in the Senate and perhaps also in the House of Commons. However, they recognized that the outcome of other discussions concerning aboriginal peoples are relevant to this request, among them discussions about self-government. The report of the Special Committee of the House of Commons on Indian Self-Government stated that "the best way to promote Indian rights is through Indian self-government and not by special representation for First Nations in Parliament. Nevertheless, the situation of Indian peoples will change with self-government, and special representation in Parliament might in future offer benefits that cannot now be anticipated." There is also continuing consultation through the constitutional conference of federal and provincial first ministers, with the aboriginal peoples participating, on this and other constitutional matters affecting aboriginal peoples. For these reasons we believe that no action should be taken at the present time to establish separate Senate seats for the aboriginal peoples.

We also heard representations about provincial official-language minorities. Such minorities are concerned primarily about the effects of provincial legislation, whereas the Senate is concerned with the passage of federal legislation. Aside from certain provisions in the Constitution, including the Charter of Rights and Freedoms, it is the workings of provincial politics, aided where appropriate by national public opinion, that are the main protection for these minorities. However, it would not be inappropriate — and might well be desirable — for any process of appointment or election of senators to result in the inclusion in the Senate of representatives from these minorities, so as to make the chamber as broadly representative as possible. Under a process of direct election this could be achieved through the choice of candidates, through the delineation of constituencies, or through the choice of an electoral system.

### **The Committee's objectives for Senate reform**

Our primary objective is to strengthen the Senate's capacity to fill its role of regional representation. At the same time it is important to preserve and strengthen the Senate's capacity to improve the quality of legislation and to investigate questions of public policy and administration.

To meet our primary objective, any reform should ensure that senators have more political authority and a measure of independence from party discipline. However, we also consider it essential that the House of Commons continue to be the pre-eminent chamber in Parliament, so that our system of responsible government can continue to operate effectively. Finally, our overriding concern is to ensure that Senate reform will strengthen the authority of Parliament as a whole to speak and act on behalf of Canadians in all parts of the country.

If these objectives are achieved, we believe that the functioning of our political system would be improved. Provincial governments, which now frequently speak on behalf of the people of their provinces in federal as well as provincial matters, would no longer have to carry that additional load. The excessive political burden now thrust upon federal-provincial conferences and intergovernmental relations would be reduced, because there would be a new forum whose principal role would be to discuss openly

and to reconcile competing regional interests in matters under federal jurisdiction. We do not argue that regional differences would disappear, but we do believe that the system for resolving them would be much improved and that regional tensions would be less troublesome.

## CHAPTER 5

# The Reform Alternatives

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### Introduction

In this chapter we review the arguments in favour of the various reform options in the light of the role we propose for the second chamber and the objectives of reform. These options are usually expressed in terms of how senators would be chosen. The four principal options are as follows:

- Reformed appointment — a second chamber whose members would continue to be appointed, but possibly in a different way, and that would undergo various reforms to improve its effectiveness.
- A *Bundesrat* — a council or second chamber whose members would be chosen by the provincial governments and who would vote according to their instructions.
- Indirect election — members of the second chamber would be elected by a two-tier process: that is, they would not be elected by the people of Canada but by MPs or provincial legislators from the different federal or provincial parties.
- Direct election — senators would be elected by the people of Canada.

Before we review the arguments for these reform options we should say something about another possible course of action — the abolition of the Senate without putting anything in its place.

### The question of abolishing the Senate

Abolition as an option is not, strictly speaking, covered by the Committee's terms of reference. Very few people who made representations to the Committee advocated abolition. Nor was it the preferred option of the great majority of the various task forces and committees that have given extensive consideration to the role of the Senate in recent years. It is also clear from what we said in Chapter 4 that we believe the Senate should not only be retained but that it has an essential role to play in Canada's

political system. However, abolition has appealed to some Canadians from time to time, and it is the preference of one member of our Committee. It may therefore be useful to set out the arguments for and against abolition.

The arguments put forward by those who favour abolition of the Senate include the following:

- The present Senate is so moribund and adversely regarded that no reform can 'resurrect' it.
- The Senate's legislative review and investigative functions could be carried out by the Commons or by special task forces, thereby saving the cost of a second chamber.
- The present system of appointment contradicts the principle of representation by population in Parliament and consequently harms the democratic process.
- Other changes, such as reform of the Commons or an institutionalized First Ministers Conference, could better achieve the objectives of reform.

The arguments that have been made against abolition are as follows:

- The establishment of the Canadian Senate in 1867, with equal representation of the three regions that existed at that time, was an essential part of the federal bargain. A second chamber representing the regions was considered then, as now, indispensable in a federation.
- A reformed Senate now offers by far the best opportunity to give the people of the less populous provinces a stronger voice in Parliament.
- The Senate has played a useful role in revising legislation and in investigating questions of public policy. Abolition would deprive Parliament of this valuable contribution to its work.

We believe that the arguments for retaining the Senate far outweigh the arguments for abolishing it. It appears to us that some of the priorities of the abolitionists are not the same as ours. For example, some who say that Commons reform is preferable to Senate reform attach high importance to remedying the party imbalance in Commons seats held across the country but little to giving the people of the less populous provinces a stronger voice in Parliament. We believe the latter is essential. We also believe that the Senate is ordinarily better suited than the Commons to carry out legislative review and investigation, partly because its members tend to be less partisan and partly because they have more time to devote to these functions.

### **Reformed appointment**

A large number of witnesses who appeared before the Committee were in favour of retaining the appointment of senators, but also favoured changing the manner or term of appointment, along with other reforms. Many of these witnesses commented favourably on the findings of the Lamontagne Report.

The changes witnesses proposed to the method of appointing senators included the following:

- a fixed term for senators, from 6 to 10 years;
- nomination of half the candidates by provincial governments, or nomination of all of them by a group of reputable citizens in a manner analogous to the system for selecting federal judges; and
- appointment of senators following each federal or provincial election, in a proportion that reflects each party's share of the popular vote.

A number of other reforms would, it was argued, make an appointed Senate more effective and representative. They included the introduction of a suspensive veto which, it was believed, would be used more readily than the Senate's present absolute veto. Witnesses also said that there should be a greater proportion of seats for the western provinces and that more senators should be appointed from among minority groups and native peoples.

Those who advocate retaining the appointment of senators generally do so by arguing that it is a better option than direct election. They say that direct election would endanger the supremacy of the House of Commons and responsible government, whereas an appointed Senate would not compete with the Commons. They believe that an elected Senate would be more partisan and therefore less able to perform the three functions that this Committee has identified as being those that need strengthening — regional representation, legislative review and investigation. They also say that obtaining the necessary consent for constitutional change would involve further constitutional debate and might in any event prove impossible.

Those opposed to a reformed appointment process believe that any change short of direct election would not achieve the objectives of reform. A few go so far as to say it would be better to abolish the Senate than to tinker with the present arrangements. Their principal argument is that only direct election can give senators an adequate mandate to represent the people of the provinces and territories.

Most of the members of the Committee agree that direct election is the best course. However, because it could be some time before the necessary constitutional changes are made to allow direct election, we believe that some of the reforms proposed for an appointed Senate should be implemented immediately. We discuss these reforms in detail in Chapter 7.

### **A *Bundesrat***

In the late 1970s there were a number of proposals for a second chamber or council composed of delegates of provincial governments who would act on the instructions of those governments. These proposals were inspired by the example of the West German second chamber, the *Bundesrat*.

One proposal envisaged a council composed of provincial delegates, with each province having a number of votes that, as a general principle, varied with (but was not proportionate to) its population. The council would exercise an absolute veto over the use of the so-called federal overriding powers. These powers include the spending power, the now obsolescent power to disallow provincial legislation, and several others. The council would have no role in other federal legislation. It would be a new institution, one that did not necessarily imply the abolition of the Senate.

Other proposals envisaged the combination of a provincial absolute veto on the overriding powers with a suspensive veto on other federal legislation. These proposals implied the replacement of the present Senate with a second chamber along the lines of the West German *Bundesrat*. Provincial governments would therefore represent the regions for purposes of federal legislation. Their delegates would vote under instructions, and each province would have a number of votes that varied with its population, but was not proportionate to it.

Underlying these proposals was the belief that the primary function of the second chamber should be intergovernmental co-ordination. However, most of the proposals envisaged a somewhat one-sided co-ordination, inasmuch as provincial initiatives that affected federal policies and programs would not have been subject to any institutionalized federal veto or input.

In the policy paper *The House of the Federation*, published in August 1978 following the tabling of Bill C-60, the federal government rejected the relevance for Senate reform of the West German experience as well as the notion of a second chamber composed of delegates of provincial governments.

In November 1980, the report of the sub-committee of the Senate Standing Committee on Legal and Constitutional Affairs (the Lamontagne Report) analysed in depth the arguments for a council composed of provincial delegates as well as the arguments for a *Bundesrat*-type Senate. It rejected both models and concluded that the intergovernmental aspects of the federation should continue to be handled by intergovernmental conferences. Its reasons were as follows:

- A council would give provincial governments a power of disallowance over certain legislation passed by Parliament. Its objectives could be accomplished in a less objectionable way, and without creating a new institution, by giving constitutional recognition to the First Ministers Conference.
- A *Bundesrat*-type second chamber would, in the same manner as a council, subordinate Parliament to the provincial governments: "It would give to the *executive branch* of the provincial order of government suspensive and absolute veto powers over the *legislative branch* of the federal order of government. It would make the federal Parliament a hybrid body amounting to a monstrosity."

The arguments advanced against new institutions based on the *Bundesrat* have clearly had their effect. Some expert witnesses appearing before the Committee admitted that they had changed their minds since first being attracted to the *Bundesrat* model in the late 1970s. Many other witnesses categorically opposed such an institution. A few supported the proposal in the Lamontagne Report for constitutional

recognition of the First Ministers Conference. Very few now argue for a provincial role in federal legislation.

This Committee is unanimous in opposing the creation of a second chamber composed in whole or in part of delegates who would act under provincial government instructions. We feel that regional representation with respect to federal legislation should not be a function of provincial governments. A *Bundesrat* is appropriate for West Germany, where the provinces are heavily involved in administering federal legislation and have relatively little legislative and financial autonomy compared with Canadian provinces. In Canada, such an institution could lead to serious problems for Parliament and the federal system. We can see some merit in institutionalizing the First Ministers Conference, but take no position on it because it is outside our terms of reference.

### **Indirect election**

In 1978 the federal government proposed a system of indirect election in Bill C-60. It explained the reasons for its choice in the paper entitled *The House of the Federation*. The proposal was that half a province's senators should be elected by MPs, with the MPs from each federal party electing a number of senators in proportion to the popular vote received by the party in the province in the most recent federal election; the other half would be elected in a similar manner by the province's legislators, in proportion to the party vote in the most recent provincial election. The result would be that both federal and provincial parties would be represented in the new chamber, and the chances were that no single party would ever have a majority. Bill C-60 proposed that the new second chamber be given a suspensive veto.

It was argued that indirect election would achieve effective representation for the people of the provinces in a way that would not threaten the primacy of the Commons to the extent that direct election might. It was believed that because the chamber was not elected directly, it would not choose continually to frustrate government legislation with its suspensive veto.

The proposals in Bill C-60 received little public support at the time, and the Supreme Court later ruled that the most important of the proposed changes to the Senate could not be implemented by Parliament acting alone.

Only a very few witnesses favoured indirect election. Those who did generally advocated the Bill C-60 model, with minor variations. They believe that indirect election would be more politically effective than a reformed appointed Senate, less potentially dangerous than an elected Senate, and able to meet some of the objectives of a *Bundesrat*.

On the other hand, others argued that indirect election is more like appointment than election, and that senators would have little standing as regional representatives. As a result, indirect election would not add to the political authority of the Senate. It is not improbable that caucuses would choose friends or associates who might not be the best qualified people for the job.

It is also argued that the provincial legislatures should not be involved in federal legislation. Senators chosen by provincial legislatures would be oriented toward matters germane to provincial jurisdiction. They would therefore have a conception of their duties entirely different from what senators elected by MPs would have. Moreover, the Senate would be composed of a political *pot-pourri* with which a government might find it difficult to negotiate productively. The Senate could also become a house of obstruction if the party in office federally held office in few provinces.

The Committee considered these arguments and is persuaded that indirect election would not meet its principal reform objectives, which are to strengthen the Senate's capacity to fulfil the functions of regional representation, legislative review and investigation, and to increase the political authority of Parliament as a whole.

### **Direct election**

A sizable proportion of witnesses, roughly comparable to that advocating reformed appointment, supported direct election of senators by the people of Canada.

A number of arguments are made in favour of direct election. Witnesses emphasized that only direct election would give the Senate substantial political authority. Consequently, if Senate reform is to give the people of the less populous provinces and territories a stronger voice in Parliament, an elected Senate would be the best way to achieve that goal.

Witnesses pointed out that with such a Senate, those who have territorially or culturally based interests in federal legislation and policies would have someone in the nation's capital to express their views in a direct, public and politically effective way — provided senators were not too bound by party discipline. As a result, those interests would no longer have to seek an outlet through provincial governments. That should help to remove an important source of irritation from federal-provincial relations. Inter-regional disputes about federal legislation and policies could be debated and resolved in a national forum rather than at federal-provincial conferences, which sometimes give the public an impression of constant bickering and national disunity.

Those who recommend proportional representation point out that direct election would bring better regional balance to the caucuses of the national parties, thus encouraging greater accommodation of regional views in party policies. A prime minister seeking to construct a regionally balanced cabinet would also have more choice.

Finally, those who support direct election say it works well in Australia which, like Canada, has a parliamentary system in the British tradition and is a federal country; Canada would not be introducing an untried system.

Those who oppose direct election say that elected senators would be bound to feel that they ought to exercise powers equivalent to those of MPs; this would result in a chamber that would compete with the House of Commons and endanger our system of responsible parliamentary government. It would be difficult, perhaps impossible, to



devise an institution that had neither too much nor too little power. If it had too much, the government would, in effect, be responsible to both houses. If it had too little, the new institution would not be taken seriously.

They argue further that it is unlikely that an elected Senate would be non-partisan, given that senators would need party support to get elected. To the extent that senators were bound by party discipline, much of the purpose of Senate reform would be defeated, because the Senate would come to resemble the House of Commons in everything but the distribution of seats. On the other hand, if senators were completely non-partisan, other problems could arise: senators might take too little account of national concerns or trade their support for parochial interests.

Opponents of an elected Senate also argue that such an institution is outside Canadian experience and that the effects of introducing it are unpredictable. They believe that the Australian experience, far from supporting the option of direct election, has revealed serious problems.

Finally, they argue that it will be difficult to get the necessary approval for constitutional amendments, and that the public is weary of constitutional disputes.

Those who favour an elected Senate and those who oppose it both recognize that a good deal would depend on how the institution is designed: the electoral system, the timing of elections, the term of senators, the legislative powers, and the distribution of seats. It seems to us that a major difference between the two sides is that those who favour an elected Senate believe that it is possible to achieve balance between too much and too little power for the Senate, and between too much and too little party influence over senators. Those who oppose an elected Senate doubt that this balance is possible and are opposed to introducing such a change because the outcome is uncertain.

Most members of the Committee consider, however, that the two most likely alternatives to direct election — a reformed appointment process and indirect election — would not give the Senate sufficient political authority; therefore they would not give the people of the less populous provinces a stronger voice or provide effective protection for Canada's French-speaking minority.

We conclude that direct election would best meet the reform objectives we set out in Chapter 4 and that a carefully designed elected Senate would achieve the necessary balance we have described. Our proposed model for an elected Senate, which has the support of most members of the Committee, is described in the next chapter.

Opponents of an elected Senate also argue that such an institution is outside Canadian expertise and that the effort of introducing it are disproportionate. They believe that the Australian experience, far from supporting the option of a bicameral system, has revealed serious problems.

Finally, they argue that it is a heavy burden to put the necessary resources for a constant and consistent effort to deal with the complex and often conflicting interests of the various provinces and the federal government. The Senate would be a permanent institution, and the burden of maintaining it would be a heavy one. It would be a major obstacle between the two sides, and it would be difficult to achieve a balance between the two sides. It would be a major obstacle between the two sides, and it would be difficult to achieve a balance between the two sides. It would be a major obstacle between the two sides, and it would be difficult to achieve a balance between the two sides.

We conclude that the best way to deal with the current situation is to maintain the Senate as it is, but to make it more effective. The Senate should be a permanent institution, and it should be a major obstacle between the two sides. It should be a major obstacle between the two sides, and it should be difficult to achieve a balance between the two sides.

It is clear that the Senate is a permanent institution, and it is a major obstacle between the two sides. It is a major obstacle between the two sides, and it is difficult to achieve a balance between the two sides. It is a major obstacle between the two sides, and it is difficult to achieve a balance between the two sides.

## CHAPTER 6

### An Elected Senate: The Committee's Proposal

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Having concluded that an elected Senate would best meet our objectives for reform, the Committee faced a wide range of choices on questions such as the method of election, the distribution of seats among the provinces, and the powers of the Senate. The choices ranged from a Senate with powers equal to those of the House of Commons and with an equal number of seats for each province, to an advisory rather than a legislative body, with a distribution of seats proportionate to the population of each province.

We tried to strike a balance between these extremes. We propose that, in due course, senators be elected for non-renewable nine-year terms by plurality vote in single-member constituencies, in triennial elections separate from Commons elections, and that the Senate have a suspensive veto of 120 sitting days over most bills. The representation of the less populous provinces and of the territories would be increased, bringing the number of seats in the Senate to 144. Legislation of linguistic significance would require a double majority vote. Before describing our proposals in detail, we shall say something about the principles that guided our choice.

It is generally acknowledged that a parliamentary system based on ministerial responsibility has served Canada well and should not be endangered. Such a system clearly works better if the government is responsible to only one house. If the government were responsible to two houses, one of which it did not control, the operations of government could well be paralysed. We have sought to avoid this at all costs. We have attempted therefore to ensure that an elected Senate, while enjoying substantial powers, will not be in a position to contest the ultimate supremacy of the House of Commons.

Another of our major concerns was to ensure that senators have the desired measure of independence. If they are perceived as purely partisan, their credibility as people speaking on behalf of regional interests will be diminished, and we will have failed to meet one of the goals of reform. In deciding on a method of election, on the powers of the Senate, and on the length of a senator's term, we have made choices that should help give senators a certain autonomy.

Finally, given that we believe it is necessary to increase the western provinces' share of seats in the Senate, it follows that the share of other provinces would be reduced. As a result, Canada's francophone community, which is located primarily in Quebec, could feel more vulnerable. We therefore propose a new voting procedure to enable senators representing that community to vote separately on any linguistic proposal of special interest to it.

The components of our model for an elected Senate are described in the pages that follow. For each we list the principal options and explain our choice. We emphasize that the components of our model are interdependent. Considered alone, each has its drawbacks, but taken together we believe they would produce a strong Senate able to represent regional interests without undermining the system of responsible government that we enjoy in this country.

### **The electoral system**

The Committee had to choose between a majority system and proportional representation — that means, in practice, between single- and multi-member constituencies.

Proportional representation is the system used to elect the Australian Senate and most western European legislatures. Essentially, it gives each political party a number of parliamentary seats corresponding roughly to the percentage of votes cast for it. Witnesses advocated two systems of proportional representation: the *single transferable vote* system used in Australia and in Ireland and a *list system* based on the European model. Witnesses advocating proportional representation argued that the present plurality vote system (also called first-past-the-post) has resulted in a lack of regional balance in parliamentary caucuses and that minority parties in each region win few seats, if any. The present system can and does result in one of the major federal parties failing to elect a single member in any given region of Canada, which makes it impossible to constitute a fully representative federal cabinet. Proportional representation, on the other hand, would have enabled the major parties to elect candidates in all regions of the country had it been the system in use at recent elections. Some witnesses also argued that the Senate should have an electoral system different from that of the House of Commons so as to emphasize the distinction between the two houses. Finally, in a system of proportional representation, senators would be elected in constituencies the size of the provinces, and that would add to their prestige.

Opponents of proportional representation argue that if the system were used for Senate elections—and even more, if it were used for elections to the House of Commons—it would facilitate the emergence of purely regional parties. Such a development would undermine the national parties, which help to integrate and soften regional differences. Conflict between purely regional parties could increase regional tensions.

We have been impressed by this argument and have concluded that Senate reform should not stray from its true objective or serve to resolve a representation problem for which the political parties have only themselves to blame. In other words, if parties are incapable of electing members in a particular province, they should pull themselves

together and change their attitudes. The electoral system should not be altered merely to compensate for the weaknesses and strategic errors of political parties. However, we should note that one member of the Committee continues to favour proportional representation.

In addition, it is apparent that electoral systems based on proportional representation are complex. While they are not beyond the comprehension of Canadians, we are concerned about public reaction to an unfamiliar and even confusing electoral system — a system that was used at the provincial level in the cities of Winnipeg, Calgary and Edmonton beginning in the 1920s, but that was abandoned in the 1950s. Moreover, province-wide constituencies would not allow for regional representation within provinces; for example, almost all the senators elected from a province might come from the major urban areas, leaving rural areas unrepresented.

Some people suggested that we recommend the use in single-member constituencies of the alternative vote that is used for the Australian House of Representatives. They argued that such a system gives the voter an opportunity to express a sequence of preferences among the various candidates and political parties. It also results in the election of a candidate who enjoys the support of a majority of the votes cast, although those votes might not be all first preference votes. We considered the implications of using this system. We noted that it was used but subsequently discarded in three Canadian provinces; that if introduced now it would be unfamiliar to Canadian voters; and that experience shows that election results are only marginally different from those under the present system.

By contrast, the Committee found the present single-member plurality system simple and satisfactory. Voters are familiar with the system, having used it for generations to elect representatives to all levels of government, with a few exceptions. We see a real advantage in having the senatorial election system rest on the same principles as those governing election to the House of Commons, so as to avoid confusing voters about the existence within the federal Parliament of two opposing electoral systems. There are other advantages. Having smaller constituencies electing only one senator would facilitate election campaigns. Also, the chances of linguistic and cultural minorities within each region electing one or more of their members would be greater if constituency boundaries were drawn so as to permit such representation. The application of this principle should also facilitate the election of representatives of some of Canada's aboriginal peoples.

One of our major concerns is that the use of lists in large constituencies might increase the control that party headquarters have over candidate selection. The corrective measures suggested to us seemed inadequate. The use of lists could have amounted to nothing more than the veiled appointment of senators by political parties. On the other hand, with smaller single-member constituencies, local party workers would be in a better position to have their views prevail over those of central party authorities. This would meet one of our major objectives — to give senators a broader measure of independence.

We should not conclude these comments on alternative electoral systems without noting that we were urged by a number of witnesses to take a first-hand look at how

proportional representation works in practice for Australian Senate elections. It was argued that if we were to talk on the spot with politicians and others in Australia, the disadvantages we perceive in proportional representation in general, and in the single transferable vote in particular, would not seem so formidable. In any event, the time available to our Committee for its investigations and for essential travel in Canada was not sufficient to allow us to make the trip and to meet even our extended deadline. We do recognize, however, that a comprehensive review of alternative electoral systems for the Canadian Senate should ideally include an on-the-spot examination of the system used in Australia.

### **Constituency boundaries**

While voters in each senatorial constituency would elect only one representative, as is the case in House of Commons elections, we do not believe that constituency boundaries should be determined according to the same principles of population equality. Senators should represent natural, identifiable communities. Although population should be one criterion in determining the boundaries of Senate electoral districts, greater importance should be attached to geographic, community, linguistic and cultural factors than is the case for House of Commons constituencies. In readjusting the federal electoral map, larger discrepancies in the average number of electors could be tolerated than those authorized in the *Electoral Boundaries Readjustment Act*. At present Quebec is divided into 24 senatorial districts, the boundaries of which were delineated in 1856. They no longer have much relation to contemporary realities and should be abolished. New districts would be created in Quebec as in the other provinces. Senate electoral districts, like those of the Commons, should not extend beyond the geographic limits of a province or territory.

It would be necessary periodically to readjust Senate constituency boundaries. Since this task would require political judgement, we propose that independent commissions prepare proposals for constituency boundaries in accordance with criteria specified in the law, but that the final delineation be done by an act of Parliament. Parliament would then have an opportunity to amend the proposals made by the commissions. However, the initial distribution for the first elections to the Senate should be done by a special joint committee of the Senate and the House of Commons.

### **The senatorial term and the timing of elections**

We recognized that in choosing single-member constituencies we had to ensure that the role of elected senators would be quite clearly different from that of members of the House of Commons. Our proposal to restrict senators to a single term of office does this and achieves some other important objectives. If senators are not able to seek re-election they will have more independence of party influence and greater freedom to speak out as regional representatives, they will be less likely to get involved in the kind of constituency duties that would duplicate those of members of the House of Commons, and they would be able to devote most of their energies to sittings of the Senate and its committees.

We realize that senators who serve for a single term would not be obliged to account for their actions to their electors at a subsequent election. But senators, like all elected and even many appointed officials, are accountable in a variety of ways to the people they serve. Quite apart from their own motivation, there are many different social and party pressures on them to do a good job. We believe that these pressures will tend to ensure that senators who are elected for a single term will not abuse the trust of those who vote for them. We acknowledge that if the Senate had as much power as the Commons the question of re-election would assume relatively more importance. With a suspensive veto the accountability problem, while important, is less critical. On balance, therefore, we believe that the advantages of a single term outweigh the disadvantages.

It was difficult to decide how long the single term should be. Most witnesses recommended a term of six years, without any restriction on senators running for a second or subsequent term. This is the arrangement in the United States and Australia. We decided that if candidates were to be restricted to a single term, the term would have to be long enough to attract good candidates. Our preference for nine years is to allow for continuity in the Senate. With senators serving just a single term, it is important that the turnover not be too rapid. For example, if half the senators serving a six-year term were elected every three years, after any given election a maximum of half the senators would have only three years' experience in the chamber. We therefore decided to recommend a nine-year term, with one-third of the senators being elected every three years. The longer term would have the additional advantage of giving senators more independence and enough time for them to learn to be effective in their role as legislators and regional representatives.

Our recommendation to renew part of the Senate every three years follows the system used for the Senates of the United States, Australia and France. Because we would be using single-member constituencies, voters in only one-third of the constituencies in each province would be called to the polls at each triennial election. (For the territories we are recommending a number of seats that would not be divisible by three, so for them there would be special provisions.)

These triennial elections should be held separately from Commons elections and on fixed dates — for example, on the second Monday of March in every third year. A number of witnesses recommended that Commons and Senate elections be held simultaneously, with half the Senate being elected at each Commons election. They pointed out that this would result in fewer elections and could produce a higher voter turnout. One disadvantage of half-Senate elections for our model is that a senator's single term could be too short in that it would be limited to two parliaments; and it could be too long if one-third were elected at each Commons election to sit for three parliaments. But we had other objections. The Senate election campaign would be overshadowed by a simultaneous campaign whose primary object was to elect a government. Also, the power to dissolve Parliament would give the government a certain measure of control over the Senate. We believe that senators would have more independence, and more authority as regional representatives, if their elections were separate. Moreover, separate elections could well increase the chances of candidates without party affiliation running successfully. While affiliation with parties will be natural, it should not be the only way of getting elected.

The power of dissolution enables the Governor General, on the recommendation of the Prime Minister, to cut short the mandate of the House of Commons at any time during the five years following a general election. By virtue of this power, elections to the House of Commons could be timed by the government to coincide with the triennial Senate elections. To prevent this, there should be constitutional safeguards.

### **Legal provisions governing Senate elections**

Legal provisions will be needed governing such matters as who is eligible to vote or to stand as a candidate for election. These provisions should be set out in a new statute designed specifically to govern all aspects of Senate elections, including election expenses. The statute should come into force in advance of the first elections.

### **The distribution of seats between the provinces and territories**

At present, Senate seats are divided according to the principle of four equal geographic regions — Ontario, Quebec, the Western provinces and the Atlantic provinces. The principle of equality is not followed strictly, because the four Atlantic provinces have a total of 30 seats in the Senate, compared with 24 for each of the other regions. Witnesses argued that this division on the basis of four regions is outmoded for the purposes of regional representation, that it should be abolished, and that the distribution of Senate seats should be made solely by allocating seats to each province and territory.

It was also asserted that it makes no sense for a province to have more seats than one with a much larger population, as happens now.

A number of witnesses argued strongly that each province should have equal representation in the Senate. They claimed, in essence, that equality of citizens in the House of Commons must be balanced by provincial equality in the Senate. This is the principle accepted in federations such as the United States, Australia and Switzerland, where all states or cantons have the same number of seats in the second chamber despite considerable population differences. These arguments were pressed most vigorously during our public hearings in the West and in the Atlantic provinces.

We note, however, that in none of these three federations is the imbalance between the constituent units as pronounced as it is in Canada. For example, Canada's largest province, Ontario, has about 36 per cent of the country's population; in the United States, the largest state has only about 10 per cent. In Canada, the application of the equality principle would enable the five least populous provinces — that is, those accounting for 13.4 per cent of the Canadian population — to have a majority in the Senate if they had the support of the territorial representatives, whatever their number. A resident of Prince Edward Island would have as much electoral clout as 70 Ontarians and 50 Quebeckers. Such pronounced inequities could jeopardize the institution's credibility. Moreover, if this system were adopted, the only province with a francophone majority would see its relative weight in the Senate, which stood at 33 per cent of the seats in 1867 and today stands at 23 per cent, plummet to less than 10 per cent.



We therefore concluded that, while providing for substantial over-representation of the less populous provinces and territories, we should propose a distribution that reflects the Canadian reality more accurately than simple numerical equality can do. In so doing we drew upon the example of the second chambers of the West German and Indian federations, where the equality principle has been weighted on the basis of the population of each state.

For this reason, most members of the Committee favoured the following distribution: Ontario and Quebec would retain the same number of seats that they have now (24), and the other provinces would be given 12 seats each, with the exception of Prince Edward Island, which would be given 6. Yukon and the Northwest Territories would both have increased representation. This formula would produce a Senate with 144 members. The stronger role envisaged for the Senate both in regional representation and in committee work warrants a significant increase in the number of senators. In some cases our formula would give provinces and territories more senators than MPs. This troubled some members of the Committee, because they believe it could undermine the authority of MPs from those areas. However, most of us believe that an equitable division of Senate seats among provinces and territories is more important.

If our proposed distribution is adopted, it would be necessary to amend section 51A of the *Constitution Act, 1867*, which now provides that a province is always entitled to a number of MPs that is not less than its number of senators. The section should probably be amended to say that the wording should apply only to the number of senators that a province had in 1982. Thus, Prince Edward Island would be guaranteed at least four MPs, but the number would not rise to six when the number of its senators is increased from four to six under our proposed distribution. The accompanying table compares the existing distribution of seats with the proposed distribution.

|                       | Existing<br>Senate | Proposed<br>Senate |
|-----------------------|--------------------|--------------------|
| Newfoundland          | 6                  | 12                 |
| Prince Edward Island  | 4                  | 6                  |
| Nova Scotia           | 10                 | 12                 |
| New Brunswick         | 10                 | 12                 |
| Quebec                | 24                 | 24                 |
| Ontario               | 24                 | 24                 |
| Manitoba              | 6                  | 12                 |
| Saskatchewan          | 6                  | 12                 |
| Alberta               | 6                  | 12                 |
| British Columbia      | 6                  | 12                 |
| Yukon                 | 1                  | 2                  |
| Northwest Territories | 1                  | 4                  |
| <b>TOTAL</b>          | <b>104</b>         | <b>144</b>         |

### The Senate's powers

Almost all the witnesses who spoke in favour of an elected Senate recommended that the Senate not be able to overturn a government. We agree fully. In a parliamentary system, a government cannot serve two masters, whose wills might on occasion be diametrically opposed.

A number of witnesses maintained that an elected Senate ought to have the same legislative powers as the House of Commons or, more accurately, that it should continue to have the powers assigned to it by the *Constitution Act, 1867*. The argument was made that two legislative bodies, both elected on the basis of universal suffrage, should be on an equal footing. Doubts were also raised about the quality of the candidates who would want to run for seats in a chamber whose powers were markedly inferior to those of the House of Commons. The result of this line of argument would be a Senate exercising an absolute veto over all legislation voted by the House, with the possible exception of money bills. If there were persistent disagreement between the two chambers, the disputed bill might be left in abeyance, or a joint committee composed of members from each house could try to agree on a mutually satisfactory redrafting. Some people proposed that if the disagreement persisted, a joint session of the two chambers could be held to resolve it by a majority vote; and, if that failed, both houses could be dissolved and an election called.

Thus, if the Senate enjoyed an absolute veto, the parliamentary process would become considerably more unwieldy than if it had just a suspensive veto. The government would have to be responsible to both houses. Double dissolution could mean a proliferation of elections, and the threat of dissolution could become an instrument of government control over senators. But the principal factor in our decision not to accord the Senate an absolute veto was the possibility, if not the probability, of our parliamentary institutions continually becoming deadlocked. The example of the Australian Senate, whose legislative powers are practically equal to those of the lower house, illustrates that this fear is not merely academic.

We therefore decided that it was wiser and more in keeping with the character of parliamentary government to give the Senate the power to delay but not altogether prevent the adoption of measures voted by the House of Commons. The Senate would therefore have a suspensive veto of a maximum of 120 sitting days, divided into two equal periods of 60 days. Supply bills would not be subject to any delay. The mechanism we have in mind would work as follows:

- (a) Bills passed by the House of Commons would be transmitted without delay to the Senate.
- (b) Within the 60 sitting days following the transmission of a bill from the House, the Senate would make a final decision on it, either adopting it, rejecting it, or passing it with amendments. If the Senate had not made a final decision on a bill within the prescribed delay period, the bill could be presented direct to the Governor General for royal assent.
- (c) A bill adopted by the House of Commons and rejected by the Senate could not be presented to the Governor General for assent unless the House of Commons had adopted the bill a second time. That second adoption could not take place unless at least 60 sitting days had elapsed since the Senate rejected the bill.
- (d) If the Senate amended a bill passed by the House of Commons, the amendments would be transmitted to the Commons, which would have to accept or reject the amendments. If accepted, the bill could then be presented immediately to the Governor General for assent; if rejected, the bill could be

presented to the Governor General for assent only after at least 60 sitting days had elapsed since transmission of the Senate amendments to the House. At the end of the 60-day period, the House would again vote on the amendments and on the bill. This rule would also apply to bills on which the House had rejected some Senate amendments while accepting others.

- (e) In computing the 60-day periods referred to above, only days when either House is sitting would be counted.

We decided to use sitting days rather than calendar days to avoid the distortions due to holidays and recesses. In practice, and depending on the time of the year, the maximum length of the delay would be between seven and nine months.

The business of supply has unique importance in our parliamentary tradition. A simple delay in voting the estimates can paralyse public administration for months. We regard this possibility as unacceptable. To give the Senate even a suspensive veto in such a vital area would amount to giving it a disguised power to overturn the government. We therefore propose that the Senate have no power over appropriation bills (including the main, interim and supplementary estimates).

At present, money bills cannot be introduced in the Senate first. We believe this prohibition should be maintained, with exceptions being made for the Senate's own budget and for bills dealing with elections to the Senate and its internal organization. In these three matters, the Senate should have the power of initiative to ensure its independence. For the same reason, it is essential that the Senate have full control over its own budget. Senators would continue to have the power to introduce bills other than money bills.

### **The double majority**

To ensure additional protection for the French language and culture, we accept the argument of a number of witnesses that legislation of linguistic significance should be approved by a double majority in the Senate. Two methods of calculating such a majority were proposed to the Committee. One called for a majority of both francophone and anglophone senators. The other called for an overall majority of all senators that would have to include a majority of the francophone senators.

The second method would, like the first, protect the francophone minority against legislation that they believed threatened them. In addition, it might be easier to get Senate approval of legislation that the francophone minority considered desirable, because the second method would require a larger proportion of anglophone senators — if they were to vote without francophone support — to defeat it than just the simple majority of anglophones required under the first method. Since Senate rejection of such legislation could not be overridden by the Commons, there is an argument for making that rejection by the majority language group more difficult. Because the second method does that, we tend to prefer it.

Such a voting procedure would achieve its purpose only if the Senate veto on these matters were absolute. In other words, a bill or a portion of a bill having linguistic

significance could not become law unless it had been passed by a double majority in the Senate. To identify those bills or parts of bills that should be subject to the double majority, it would be necessary to adopt a workable definition and a procedure for resolving disputes.

We propose that, at the time of swearing in, senators would be asked to declare whether they consider themselves francophone for purposes of the double majority.

### **Ratification of appointments**

We believe that order in council appointments to federal agencies whose decisions have important regional implications should be subject to Senate ratification within a period of perhaps 30 sitting days. If the Senate did not reject an appointment within that period, it would be deemed to have ratified it.

### **Internal organization of the Senate**

Under section 34 of the *Constitution Act, 1867*, the Speaker of the Senate is appointed and removed by the Governor General, on the recommendation of the Prime Minister. The provision, probably modelled on the practice in the British House of Lords, means that the administrative management of the Senate is the responsibility of a person who may not be the choice of the majority of senators. We feel that the independence of the Senate would be increased if it could elect its own Speaker after each triennial election. This would parallel what happens in the legislative assemblies of practically all democratic countries.

The reasons that justify election of the Speaker by senators apply with even greater force to the election of the leaders of the political groups in the Senate. Those responsible for organizing Senate business should not be selected by the party leaders in the Commons. For these reasons, we believe that the government and opposition supporters in the Senate should elect their officers.

We considered the question of whether senators should be eligible for membership in the Cabinet. Some members of the Committee attached importance to the government being able to choose senators as ministers in cases where there are no members of the House of Commons of the government party from a particular province. We feel, however, that appointment of senators to the Cabinet should not be used to overcome the failure of political parties to elect representatives in some provinces. The majority of Committee members also believes that if ministers are drawn from the Senate, cabinet solidarity would prevail over their responsibility as regional representatives. We also consider that the possibility of becoming a minister and the presence of ministers in the Senate would impair the ability of senators to represent effectively the interests of their regions. We conclude therefore that senators should not be eligible for cabinet office or for a position as parliamentary secretary.

The effect of this prohibition would be to make it difficult to introduce and defend government bills in the Senate. We therefore propose — as Senate rules already allow — that ministers appear in the Senate and in its committees to explain and argue for

their legislation. We believe that the rules should allow parliamentary secretaries and departmental officials to appear as well.

Witnesses have suggested that regional caucuses should be created, grouping senators from a given region regardless of their party affiliation, in order to emphasize their role as regional representatives. Such a practice would correspond with the spirit and general intent of our report. It goes without saying that participation in such caucuses should not prevent senators from attending the traditional party caucuses that are an essential part of the parliamentary process. It is there that elected senators would have a significant opportunity to contribute to the formation of party policy. Being elected, senators should have a stronger voice than they have now.



## CHAPTER 7

### Reforms That Should Be Made Now

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We recognize that our proposals for an elected Senate contain some novel features and will require public discussion. As well, putting in place an elected Senate will require constitutional amendment involving the consent of Parliament and of the specified number of legislative assemblies. All this will take time. Meanwhile, certain useful reforms to the present Senate, requiring action only by Parliament or by the Senate itself, should be introduced without delay.

The reforms we have in mind are consistent with — and would pave the way for — the elected Senate we recommend. For example, we propose two important changes that could be implemented right away: a nine-year term for future Senate appointments to replace appointment until age 75; and the more flexible use by the Senate of its present absolute veto in a way that would make it a suspensive veto. These proposals, which parallel two elements of our design for an elected Senate, are explained below.

The reforms we propose in this chapter, if exploited fully, could enable the Senate to be more effective than it is now. We must emphasize, however, that in the opinion of nearly all the members of our Committee, such reforms would fall short of enabling the Senate to fulfil its future role adequately, because only direct election can do that. Nevertheless, in the interval before an elected Senate could be put in place, the operation of the reformed chamber would provide the basis for assessing how much more effective an appointed Senate could be and whether our judgement that direct election is necessary is justified.

We shall describe our proposed reforms under three headings: the selection of senators and their tenure; the powers of the Senate; and the internal organization of the Senate.

#### **The selection of senators and their tenure**

Some of the most trenchant criticisms made before our Committee were directed at the present method of choosing senators: appointment by the Governor General on the advice of the Prime Minister. Some witnesses found no fault with appointment as

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

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

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

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

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

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

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



from current voting patterns as it has in recent years. We urge that new appointments correct this distortion.

We do not suggest any formal consultative procedure for the appointment of future senators, but we believe that such informal consultation with politicians and other community leaders as has been customary in the past should be continued and, preferably, broadened.

The *Constitution Act, 1867* requires that those appointed to the Senate have assets totalling at least \$4,000. The original purpose of this requirement is no longer valid, and the property qualification is now anachronistic. The requirement should be removed by a constitutional amendment under section 44 of the *Constitution Act, 1982*.

Witnesses have pointed out that most of the work of the Senate is carried out by a minority of its present members. It was also suggested that being a senator should be a full-time job. Several witnesses argued that attendance rules and conflict of interest guidelines should be strengthened, and that there should be pension arrangements for senators comparable to those available to other parliamentarians. We see merit in these suggestions and propose that a special committee of the Senate be established to consider the issues and make recommendations. Such recommendations would apply to senators who are appointed. Upon introduction of an elected Senate, the rules and guidelines should be reviewed.

### **Powers of an appointed Senate**

At present, the Senate has powers equivalent to those of the House of Commons, except with regard to money bills and constitutional amendments. Although a money bill can be rejected by the Senate, it cannot be introduced in the Senate. Constitutional amendments require the assent of the House of Commons, but the Senate's assent is not required if the House re-passes the relevant resolution after a lapse of 180 days following its first passage. The Senate therefore has only a suspensive veto over constitutional amendments.

With the exception of constitutional amendments, the Senate's consent is required before any bill, including a money bill, can become law. This requirement is commonly called the Senate's absolute veto. We have already noted that the Senate has been increasingly unwilling to use that veto. Many people have suggested, however, that an appointed Senate would feel less inhibited about using a suspensive veto, and that if it did, senators would be able to play a more important and useful role in their review of legislation emanating from the House of Commons.

We agree that a suspensive veto would be a more suitable instrument in the hands of an appointed Senate than an absolute veto, and would probably be used. We also believe that the availability and occasional use of such a veto would help to facilitate the transition from an appointed Senate to an elected Senate, where a suspensive veto is likely to be used more readily.

The Senate's present absolute veto could not be converted to a suspensive one without a constitutional amendment involving the use of the general amending procedure, because such a change would affect the Senate's powers. However, it has been suggested to us that the Senate, without diminishing its constitutional powers, could adopt a procedure for the more flexible use of its veto, a procedure that would have the effect of making it suspensive.

This procedure could work in the following way. The debate on any bill in the Senate could be adjourned to a subsequent date on the motion of any senator, provided the motion was approved in the debate that followed. Such a procedure is already allowed under the Rules of the Senate. An adjournment of the debate would give notice to the government that the Senate wanted time to negotiate changes to the legislation. If the points at issue were resolved, the bill would be brought back for completion of debate and ultimate disposition. The Senate would, of course, have to approve the bill before it could become law.

This procedure would work best if everyone, in both houses of Parliament, understood the rules: that is, the circumstances in which the procedure would be invoked, the length of the delay for different kinds of bills (if the delay is not to be decided separately for each bill), and other relevant matters. These rules could be incorporated in the existing Rules of the Senate or, with more formality, in a federal statute requiring the consent of both houses. Although a statute would not bind the Senate constitutionally, it would have the advantage of signifying that the procedure laid down was acceptable to both houses.

The use of a suspensive veto would supplement rather than displace what is called the pre-study procedure. Pre-study is a most useful arrangement whereby the Senate can begin its consideration of the subject matter of a bill before it has received third reading in the House of Commons, thereby giving the Senate legislative input without formally amending the bill and without risking confrontation. The Senate achieves this input by communicating its views to the House informally. Pre-study should be continued. Its use with regard to any particular bill could give additional time to resolve differences with the Commons, thus making unnecessary any resort to a suspensive veto. In an elected Senate of the kind we have proposed, pre-study would become even more important because the time for the Senate to dispose of a bill would be limited.

The Standing Joint Committee on Regulations and Other Statutory Instruments, in its Fourth Report to Parliament of 1980, recommended that "All subordinate legislation not subject to a statutory affirmative procedure" (that is, not actually affirmed by both Houses before it can come into effect) "be subject to being disallowed on resolution of either House and that the Executive be barred from re-making any statutory instrument so disallowed for a period of six months from its disallowance". The Standing Joint Committee believed that such a procedure, which would require legislation to put it in place, would act as a salutary check on the quantity, complexity and legal effect of regulations and other subordinate legislation.

This recommendation of the Standing Joint Committee was adopted in the Lamontagne Report on Certain Aspects of the Canadian Constitution, 1980, because the new procedure could give the Senate a powerful instrument for protecting the rights

of citizens. Although both houses would have the same powers with respect to subordinate legislation, the Senate, being more independent of the executive, would be more likely to use them. When an elected Senate is established with a suspensive veto, its power to disallow regulations should also be suspensive.

A number of witnesses told us that the Senate could perform a particularly useful role in reviewing subordinate legislation. We are also advised that the Australian Senate has had considerable success in doing this. We concur with the recommendations of the Standing Joint Committee and of the Lamontagne Committee, for the reasons they advanced. As to the reasons advanced by the Lamontagne Committee, we recognize that the Charter of Rights and Freedoms has since been entrenched in the Constitution, but we imagine that from time to time subordinate legislation is likely to contain measures that escape the ambit of the Charter but impinge unnecessarily on the rights of average Canadians.

### **Internal organization of the Senate**

By virtue of the *Constitution Act, 1867* the Speaker of the Senate is selected by the Governor General. It would be more in keeping with a Senate that enjoys some measure of independence for senators to elect their Speaker. This would be consistent with our proposal for an elected Senate. We therefore recommend that the Speaker be elected and that Parliament pass the necessary constitutional amendment to permit this.

It would help to improve the present and future functioning of the Senate, and to prepare it for the changes that will come with election, if senators were given forthwith, both in Ottawa and their home provinces, services and staff comparable to those available to members of the House of Commons.

We have already noted that the Senate's standing and special committees perform a valuable and necessary role in Parliament. Aside from their legislative review function, in recent years they have investigated significant social and economic issues. The Senate should continue to make extensive use of its investigatory power, and it should be assured of the necessary funds for this purpose. If the Senate were to investigate matters that provoke inter-regional controversy, that would be both useful and appropriate for a body whose principal future role should, in our view, be regional representation.

A number of witnesses pointed out that Senate investigative committees could often assume tasks given to royal commissions and other bodies, at less cost and with the additional benefit that standing committees can follow up on the implementation of their recommendations. We urge that consideration be given to using Senate committees wherever possible.

Some witnesses who advocated the establishment in the Senate of cross-party caucuses for each province and territory argued that there was no reason to wait until an elected Senate is put in place. It is our view that attendance of senators at such caucuses would not be inconsistent with their continued participation in traditional party caucuses.

## The transition to an elected Senate

The reforms just described are desirable in themselves, and they should help to ease the transition to the elected Senate that we are recommending—one in which senators would have a good measure of independence of party and whose primary function would be regional representation. The nine-year term, the suspensive veto procedure, the review of subordinate legislation, the election of a Speaker, the activity of investigative committees, and the establishment of cross-party regional caucuses should all contribute to the achievement of these longer-range objectives.

Some reforms would have to be deferred until senators are elected, either because they are more appropriate for an elected Senate, or because they would require the use of the general constitutional amending procedure and could not therefore be implemented quickly. These include a redistribution of what will be a larger number of Senate seats among Canada's provinces and territories, the introduction of a double majority voting procedure for bills of linguistic significance, Senate confirmation of certain federal appointments, the election by the Senate of its own house leaders, and an arrangement to give the Senate control over its own budget.

One important issue remains. How should elected senators replace the senators who have already been appointed until age 75 or for life, and how should the government discharge its obligation to those senators who have to retire?

The constitutional commitment by the government to those senators appointed for life or until age 75 is undisputed. Clearly, any senator who is obliged to resign before the end of his or her term is entitled to appropriate compensation. If, under a phasing-in arrangement, a question arises as to which senators are retired first, every effort should be made to take account of the preferences of individual senators, and the same terms should apply to all.

With regard to the transition to an elected Senate, there are, broadly speaking, two alternatives. All appointed senators could be retired together; or elected senators could be phased in, in three groups, with the result that, for a period of six years, appointed senators and elected senators would serve together.

Under the first alternative, all appointed senators would be retired together, with appropriate pension arrangements. Senate elections would be held in all constituencies to return a full complement of elected senators; but one-third of the initial group of senators from each province would serve for three years, one-third for six years, and one-third for nine years. There would be a special arrangement for the territories, where the number of Senate seats would not be divisible by three.

Under the second alternative, only one-third of the senators for each province would be elected at the first senatorial election. The choice of which constituencies would elect senators at the first, second and third Senate elections would be made by the body entrusted with drawing the constituency boundaries. A sufficient number of appointed senators would be retired, or vacancies would be left unfilled, to make way for the elected senators who would assume office at each election.

If there were 144 seats in the new elected Senate, as we recommend, this phasing in of elected senators would require the removal of fewer appointed senators in the early stages than if there were fewer seats. This figure of 144 is 40 more than the present number of seats, so that only 8 vacancies would be required to make way for the 48 senators who would join the Senate after the first election. These vacancies could arise through natural attrition, or by shortening the nine-year term of some new appointments. For the second election, three years later, 48 vacancies would be required, and a further 48 would be needed six years after the date of the first election. In the event that there were too many vacancies, we favour short-term appointments to fill them. Those appointed would not be eligible for subsequent election to the Senate.

We see some advantage in the second of the two alternatives — the phasing in of direct elections. We believe that the Senate could benefit considerably during the transition period from having a number of members who had already served for some time and who could continue to bring their experience to the chamber's deliberations.

The question may be asked: if a system of direct election is not established, should the term of those senators who have already been appointed for life or to age 75 be shortened? We believe that this question should be addressed if and when it becomes clear that an elected Senate is unlikely to be put in place. It may, however, be noted that the turnover of membership in the Senate has been fairly rapid. From 1970 to 1980, for example, 59 per cent of the seats in the Senate became vacant. This would suggest that not many years would elapse before most senators had been appointed for nine-year terms.

If there were 144 seats in the new elected Senate and we retained the principle of elected senators would require the removal of lower appointed senators in the early stages than it does now for seats. The history of 1942-43 illustrates the present number of seats which may be vacated would be required in order for the 144 seats to be filled out the Senate after the election. These vacancies would arise through resignation or by expiring the longest term of senators appointed under the present election laws. Some 43 vacancies would be required and a further 100 would be needed in order to fill the 144 seat position in the Senate that there were 144 seats appointed in the present Senate.

These appointed would not be eligible for subsequent election in the Senate. We see some advantages in the record of the two alternatives - the placing in direct election. The policy that the Senate should be elected during the transition period from having a number of members who had already served for some time and would be coming to the end of their term of office.

The question may be asked if a system of direct election is not established should the term of these senators who have already been appointed for life or for long periods? We believe that this question should be considered and when it becomes clear that an elected Senate is unlikely to be put in place it may however be noted that the removal of members in the Senate has been held from 1918 to 1920 for example 75 per cent of the seats in the Senate became vacant. This would suggest that not many seats would be left vacant if seats had been appointed for

independent terms. The present system of appointment of senators for long periods is a disadvantage in that it does not allow for the removal of members who have become ineffective or who are no longer representative of the people. It is also a disadvantage in that it does not allow for the removal of members who have become ineffective or who are no longer representative of the people.

The present system of appointment of senators for long periods is a disadvantage in that it does not allow for the removal of members who have become ineffective or who are no longer representative of the people. It is also a disadvantage in that it does not allow for the removal of members who have become ineffective or who are no longer representative of the people.

The present system of appointment of senators for long periods is a disadvantage in that it does not allow for the removal of members who have become ineffective or who are no longer representative of the people. It is also a disadvantage in that it does not allow for the removal of members who have become ineffective or who are no longer representative of the people.

The present system of appointment of senators for long periods is a disadvantage in that it does not allow for the removal of members who have become ineffective or who are no longer representative of the people. It is also a disadvantage in that it does not allow for the removal of members who have become ineffective or who are no longer representative of the people.

# APPENDIX A

## Orders of Reference

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### Order of Reference from the Senate

*Extract from the Minutes of Proceedings of the Senate, December 8, 1983:*

“With leave of the Senate,

The Honourable Senator Frith moved, seconded by the Honourable Senator Langlois:

That a Special Joint Committee of the Senate and of the House of Commons be appointed to consider and report upon ways by which the Senate of Canada could be reformed in order to strengthen its role in representing people from all regions of Canada and to enhance the authority of Parliament to speak and act on behalf of Canadians in all parts of the country;

That the Committee include in its final report recommendations concerning the method of selection, powers, length of term for Senators, distribution of seats and other matters that the Committee considers relevant to the reform of the Senate;

That the following Senators be appointed to act on behalf of the Senate on the said Special Joint Committee, namely, the Honourable Senators Asselin, Doody, Leblanc, Le Moyne, Lewis, Lucier, Molgat and Tremblay;

That the Committee have power to appoint, from among its members, such sub-committees as it may deem advisable or necessary;

That the Committee have power to sit during sittings and adjournments of the Senate;

That the Committee have power to report from time to time, to send for persons, papers and records, and to print such papers and evidence from day to day as may be ordered by the Committee;

That the papers and evidence received and taken on the subject and the work accomplished during the First Session of the Thirty-second Parliament be referred to the Committee;

That the Committee have power to adjourn from place to place within Canada;

That the quorum of the Committee be 10 members, whenever a vote, resolution or other decision is taken, so long as both Houses are represented and that the Joint Committee be authorized to hold meetings, to receive evidence and authorize the printing thereof, whenever 5 members are present, so long as both Houses are represented;

That the Committee be empowered to retain the services of professional, clerical and stenographic staff as deemed advisable by the Joint Chairmen;

That the Committee present its final report no later than January 31, 1984; and

That a Message be sent to the House of Commons requesting that House to unite with this House for the above purpose and to select, if the House of Commons deems advisable, members to act on the proposed Special Joint Committee.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative, on division.”

Charles A. Lussier  
*The Clerk of the Senate*



## Order of Reference from the House of Commons

Tuesday, December 13, 1983

*Ordered*,—That the House of Commons do unite with the Senate in the appointment of a Special Joint Committee of the Senate and of the House of Commons to consider and report upon ways by which the Senate of Canada could be reformed in order to strengthen its role in representing people from all regions of Canada and to enhance the authority of Parliament to speak and act on behalf of Canadians in all parts of the country.

That the Committee include in its final report recommendations concerning the method of selection, powers, length of term for Senators, distribution of seats and other matters that the Committee considers relevant to the reform of the Senate;

That the Members of the House of Commons to act on behalf of the House as members of the said Committee be Mr. Comtois, Mr. Cosgrove, Mr. Crosby (Halifax West), Mr. Gourde (Lévis), Mr. Harquail, Mr. Jarvis, Mr. Murphy, Mr. Portelance, Mr. Roy and Mr. Thacker;

That the Committee have power to appoint, from among its members, such sub-committees as it may deem advisable or necessary;

That the Committee have power to sit during sittings and adjournments of the House;

That the Committee have power to report from time to time, to send for persons, papers and records, and to print such papers and evidence from day to day as may be ordered by the Committee;

That the Committee have power to adjourn from place to place within Canada;

That a quorum of the Committee be 10 members, whenever a vote, resolution or other decision is taken, so long as both Houses are represented and that the Committee be authorized to hold meetings, to receive evidence and authorize the printing thereof, whenever 5 members are present, so long as both Houses are represented;

That the Committee be empowered to retain the services of professional, clerical and stenographic staff as deemed advisable by the Joint Chairmen and that for these purposes the Committee be deemed never to have ceased to exist;

That the Committee present its final report no later than January 31, 1984;

That the evidence adduced by the Committee in the first session of the present Parliament be referred to the Committee; and

That a Message be sent to the Senate to inform that House accordingly.

*ATTEST*

C. B. KOESTER  
*The Clerk of the House of Commons*



# APPENDIX B

## Committee Witnesses

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Witnesses who appeared before the Committee are listed in alphabetical order. The issue number of the Minutes of Proceedings and Evidence is indicated in parentheses.

### ALBERTA CHAMBER OF COMMERCE AND

EDMONTON CHAMBER OF COMMERCE (Issue 17)

Day, Brigham, General Manager, Alberta Chamber of Commerce

George, E.A., President, Edmonton Chamber of Commerce

McKillop, D.L., Alberta Chamber of Commerce

Lock, G.S.L., Edmonton Chamber of Commerce

ALLMAND, Hon. Warren, P.C., M.P. (Issue 3)

ARMSTRONG, Kay (Issue 26)

### ASSOCIATION OF METIS AND NON-STATUS INDIANS

OF SASKATCHEWAN (Issue 25)

Sinclair, Jim, President

Durocher, Jim, Provincial Treasurer

BEAUDOIN, Gérald, Professor, University of Ottawa (Issue 11)

BELL, Hon. Senator Ann Elizabeth (Issue 30)

BENTON, S.B., Professor, University of New Brunswick (Issue 16)

BERNARD, André, Professor, *Université du Québec à Montréal* (Issue 1)

BIRD, Hon. Florence (Issue 2)

BLAKENEY, Hon. Allan, P.C., Leader of the Official Opposition, Saskatchewan (Issue 25)

BOLTON, Ken (Issue 17)

BOSA, Hon. Senator Peter (Issue 9)

BOSWELL, Peter G., Professor, Memorial University (Issue 15)

BRAID, Don (Issue 17)

BROWN, Harold (Issue 24)

BROWNE, Hon. William, J., P.C. (Issue 15)

BRUSHETT, Sam (Issue 13)

BUCKWOLD, Hon. Senator Sidney (Issue 4)

BURNS, R.M., Professor, Queen's University (Issue 7)

BUSINESS COUNCIL ON NATIONAL ISSUES (Issue 29)

d'Aquino, Thomas, President

Heffernan, Jerry, Chairman, Task Force on Government Organization

- CANADA WEST FOUNDATION (Issue 17)  
McCormick, Peter
- CANADIAN BAR ASSOCIATION (Issue 21)  
McKercher, Robert H., National President Elect  
Blond, Les, Chairman, Special Committee on Senate Reform  
MacPherson, James, Member of the Special Committee on Senate Reform
- CANADIAN INSTITUTE OF STRATEGIC STUDIES (Issue 12)  
Bell, George, President
- CANADIAN POLISH CONGRESS (Issue 12)  
Malicki, Mark, Vice-President  
Gertler, Wladyslaw, Chairman  
Kogler, Rudolf, Vice-President
- CAPON, Paul (Issue 17)
- CARREL, André Jean (Issue 19)
- COMMUNIST PARTY OF CANADA (Issue 12)  
Kashtan, William, Leader  
Doig, Mel, Member of the Central Executive Committee
- COUNCIL OF NATIONAL ETHNOCULTURAL ORGANIZATIONS  
OF CANADA (Issue 12)  
Leone, Laureano, President  
Parekh, Navin, First Vice-President  
Krombergs, Talivaldis, Second Vice-President
- CRÊTE, Jean, Professor, *Université Laval* (Issue 10)
- CULP, Ted W. (Issue 12)
- DAY, John Patrick (Issue 17)
- DION, Léon, Professor, *Université Laval* (Issues 7 and 28)
- DOBELL, W.M., Professor, University of Western Ontario (Issue 12)
- DONAHOE, Hon. Senator Richard (Issue 13)
- DUDA, Michael (Issue 12)
- ELTON, David, Professor, University of Lethbridge and President, Canada West  
Foundation (Issue 4)
- FÉDÉRATION DES FRANCOPHONES HORS QUÉBEC INC. (Issue 20)  
Létourneau, Léo, President  
Lafontaine, Jean-Bernard, Director General  
Archibald, Clinton, Advisor
- FORSEY, Hon. Eugene (Issue 3)
- FORTIN, Ghislain (Issue 27)
- FRITH, Hon. Senator Royce (Issue 1)
- GODFREY, Hon. Senator John (Issue 31)
- GOVERNMENT OF NEW BRUNSWICK (Issue 16)  
Hatfield, Hon. Richard, Premier
- GOVERNMENT OF THE NORTHWEST TERRITORIES (Issue 18)  
Braden, Hon. George, Leader of the Elected Executive  
Lal, Stien K., Deputy Minister, Justice and Public Services
- GOVERNMENT OF PRINCE EDWARD ISLAND (Issue 14)  
Lee, Hon. James, Premier  
McMahon, Hon. George, Minister of Justice and of Labour
- HAMMING, Anco (Issue 14)
- HICKS, Hon. Senator Henry (Issue 4)
- HODGINS, Barbara (Issue 17)
- HOYT, John (Issue 19)

- HUMAN RIGHTS INSTITUTE OF CANADA (Issue 30)  
 Ritchie, Marguerite, President  
 Nixon, Mary-Anne, Legal Consultant  
 Nickson, May, Member
- INA FINANCIAL SERVICES, INC. (Issue 12)  
 Baptista, Joe
- INNES, David (Issue 12)
- INUIT COMMITTEE ON NATIONAL ISSUES (Issue 31)  
 Tagoona, Eric, Chief Negotiator  
 Amagoalik, John, Co-Chairman  
 Simon, Mary, President, Makivik Corporation  
 Gordon, Mark, First Vice-President, Makivik Corporation
- IRVINE, William, Professor, Queen's University (Issue 8)
- IWANUS, Jaroslaw (Issue 24)
- JACKSON, Robert, Professor, Carleton University (Issue 9)
- KALEVAR, Chaitanya Keshavrao (Issues 12 and 31)
- KEYES, Thomas E. (Issue 25)
- LANDES, Ronald G., Professor, Saint Mary's University (Issue 13)
- LANG, Hon. Senator Daniel (Issue 20)
- LAROCHELLE, A. (Issue 12)
- LEESON, Howard, Professor, University of Regina (Issue 25)
- LEMIEUX, Vincent, Professor, *Université Laval* (Issue 27)
- LIBERAL PARTY OF CANADA IN ALBERTA (Issue 17)  
 Russell, R.A., President  
 McKercher, Brian, Member of the Policy Committee
- LINGEMAN, Daniel (Issue 13)
- LOUIS RIEL METIS ASSOCIATION OF BRITISH COLUMBIA (Issue 26)  
 House, Fred, President  
 Story, Fred, British Columbia Technician of Metis National Council
- MACGUIGAN, Hon. Mark, P.C., Minister of Justice (Issues 6 and 10)
- MAINE, Frank (Issue 12)
- MANITOBA BAR ASSOCIATION (Issue 23)  
 Nerbas, Grant, Chairman  
 Cantlie, Ron  
 Lamont, John  
 Square, Brian  
 Matas, David
- MCILRAITH, Hon. Senator George J., P.C., (Issue 7)
- MCNEIL, M.H. (Issue 16)
- MCVICAR, J.S. (Issue 26)
- MCWHINNEY, Edward, Professor, Simon Fraser University (Issue 6)
- MEISEL, John (Issue 10)
- METIS ASSOCIATION OF ALBERTA (Issue 17)  
 Sinclair, Sam, President  
 Haineault, Bill, Constitutional Coordinator
- METIS NATIONAL COUNCIL (Issue 22)  
 Guiboche, Ferdinand, Chairman, Constitution Committee,  
 Manitoba Metis Federation  
 Sinclair, Jim, President, Association of Metis and Non-Status Indians  
 of Saskatchewan  
 Sinclair, Sam, President, Metis Association of Alberta

NATIVE COUNCIL OF CANADA (Issue 20)  
 Bruyère, Louis, President  
 Gould, Gary, Chairman of the Constitution Committee

NEARY, Stephen, Leader of the Opposition, Newfoundland (Issue 15)

NEIMAN, Hon. Senator Joan (Issue 11)

NEW BRUNSWICK ASSOCIATION OF METIS AND  
 NON-STATUS INDIANS (Issue 16)  
 Gould, Gary, President

NOTLEY, Grant, Leader of the Official Opposition, Alberta (Issue 17)

NOVA SCOTIA LIBERAL ASSOCIATION (Issue 13)  
 Moore, Wilfred

OLSON, Hon. Senator H.A., P.C., (Issue 30)

OSLER, Edmund B. (Issue 23)

PANJABI LITERARY SOCIETY (Issue 12)  
 Gill, T.S.

PATERSON, Don (Issue 17)

PATTERSON, Stanley R. (Issue 12)

PELLETIER, Réjean, Professor, *Université Laval* (Issue 27)

PERRAULT, Hon. Senator Ray, P.C., (Issue 31)

PETERSON, David, Leader of the Official Opposition, Ontario (Issue 12)

PITFIELD, Hon. Senator Michael (Issues 30 and 31)

RAE, Bob, Leader of the New Democratic Party of Ontario (Issue 12)

REDMAN, B.A. (Issue 13)

RÉMILLARD, Gil, Professor, *Université Laval* (Issue 6)

ROBLIN, Hon. Senator Duff, P.C., (Issue 24)

RUSSELL, Peter, Professor, University of Toronto (Issue 3)

SCHUMIATCHER, M.C. (Issue 25)

SIMEON, Richard, Professor, Queen's University (Issue 4)

SMILEY, Donald, Professor, York University (Issue 30)

SMITH, Jennifer, Professor, Dalhousie University (Issue 13)

SOCIÉTÉ SAINT-THOMAS D'AQUIN (Issue 14)  
 Bernard, Alcide  
 Doiron, Jean

SOUTHWOOD, Thomas (Issue 26)

SPAFFORD, Duff, Professor, University of Saskatchewan (Issue 25)

STANFIELD, Hon. Robert L., P.C. (Issue 7)

STEPSURE ASSOCIATES AND BUSINESS INFORMATION GROUP (Issue 12)  
 Gerol, Basil  
 Richard, Mike

STEVENS, Johannes (Issue 12)

STEVENSON, Garth, Member, Constitutional Policy Committee,  
 Alberta N.D.P. (Issue 17)

TAYLOR, Nick, Leader of the Liberal Party of Alberta (Issue 17)

THÉRIAULT, Hon. Senator L. Norbert (Issue 16)

UNIVERSITY OF OTTAWA (Issue 31)  
 Gaboury, Jean-Pierre, Professor  
 Charron, Lucie, Student  
 Dubé, Roxanne, Student  
 Larue, Stéphane, Student  
 Roy, Alain, Student  
 Morin, Julie, Teaching Assistant

UNIVERSITY OF VICTORIA (Issue 26)

- Blois, Darren, Student
- Henderson, Timothy D., Student
- Forest, David, Student
- Gartshore, David, Student

VAN ROGGEN, Hon. Senator George (Issue 30)

VELSHI, Murad (Issue 12)

WABISCA, Dorothy (Issue 19)

WESTERN CANADA CONCEPT PARTY OF ALBERTA (Issue 17)

- Marshall, F.C., Acting President
- Hurst, Lorne, Member

WHITEHORSE CHAMBER OF COMMERCE (Issue 19)

- Duncan, Patricia

WHYARD, Flo (Issue 19)

WRIGHT, C.P. (Issue 13)

YURKO, William J., M.P. (Issue 5)

APPENDIX C

The Committee received written material, including letters, reports or letters from the following groups and individuals:

|                              |          |          |
|------------------------------|----------|----------|
| ALBERTA PARTY                | Edmonton | Edmonton |
| ALBERTA ASIAN PROMOTION      | Edmonton | Edmonton |
| OF CANADA                    | Edmonton | Edmonton |
| ALBERTA CHAMBER OF           | Edmonton | Edmonton |
| COMMERCE                     | Edmonton | Edmonton |
| ALBERTA GOVERNMENT           | Edmonton | Edmonton |
| ALBERTA NATIONAL             | Edmonton | Edmonton |
| ASSOCIATION                  | Edmonton | Edmonton |
| ASSOCIATION OF FIRST NATIONS | Edmonton | Edmonton |
| ASSOCIATION OF METRIC AND    | Edmonton | Edmonton |
| NON-METRIC MEASUREMENTS      | Edmonton | Edmonton |
| OF SASKATCHEWAN              | Edmonton | Edmonton |
| BANKS, Margaret A.           | Edmonton | Edmonton |
| BASTIEN, William             | Edmonton | Edmonton |
| BELCH, David J.              | Edmonton | Edmonton |
| BEAUFORT, Glenn              | Edmonton | Edmonton |
| BECK, Bruce                  | Edmonton | Edmonton |
| BENTON, Al                   | Edmonton | Edmonton |
| BIRKHEAD, Anne               | Edmonton | Edmonton |
| BLAKENY, Alan W. C.A.        | Edmonton | Edmonton |
| BLOOM, David                 | Edmonton | Edmonton |
| BOLAND, Tom                  | Edmonton | Edmonton |
| BORTH, William               | Edmonton | Edmonton |
| BUSA, Paul                   | Edmonton | Edmonton |
| BOSWELL, David               | Edmonton | Edmonton |
| BOW, Eric C.                 | Edmonton | Edmonton |
| BRAND, Ray                   | Edmonton | Edmonton |
| BROWN, Arthur W.             | Edmonton | Edmonton |
| BRITISH COLUMBIA             | Edmonton | Edmonton |
| GOVERNMENT                   | Edmonton | Edmonton |
| BROCK, David                 | Edmonton | Edmonton |
| BROWN, Bill                  | Edmonton | Edmonton |





# APPENDIX C

## Submissions Received

The Committee received written material (articles, briefs, reports or letters) from the following groups and individuals:

|   |                 |                  |
|---|-----------------|------------------|
| ACLAND, Peter   | Burnaby         | British Columbia |
| AFRO-ASIAN FOUNDATION<br>OF CANADA                                | Montreal        | Quebec           |
| ALAYAI, Repa Krishna  | Toronto         | Ontario          |
| ALBERTA CHAMBER OF<br>COMMERCE                                    | Edmonton        | Alberta          |
| ALBERTA, Government of  | Edmonton        | Alberta          |
| ALLMAND, Warren, P.C., M.P.                                       | Ottawa          | Ontario          |
| ARKELIAN, A.J.  | Oshawa          | Ontario          |
| ASSEMBLY OF FIRST NATIONS   | Ottawa          | Ontario          |
| ASSOCIATION OF METIS AND<br>NON-STATUS INDIANS<br>OF SASKATCHEWAN | Regina          | Saskatchewan     |
| BANKS, Margaret A.  | London          | Ontario          |
| BANWELL, F.D.   | Vancouver       | British Columbia |
| BASTIEN, William F.   | Toronto         | Ontario          |
| BAUGH, David J.   | Toronto         | Ontario          |
| BEAUDOIN, Gérald  | Ottawa          | Ontario          |
| BECK, Gerry   | Edmonton        | Alberta          |
| BENTON, S.B.  | Fredericton     | New Brunswick    |
| BERNARD, André  | Montreal        | Quebec           |
| BLAKENEY, Allan, M.L.A.   | Regina          | Saskatchewan     |
| BLOUIN, George  | Saskatoon       | Saskatchewan     |
| BOLAND, Frank   | North Bay       | Ontario          |
| BOOTH, William  | Cobourg         | Ontario          |
| BOSA, Peter, Senator  | Toronto         | Ontario          |
| BOSWELL, Peter  | St. John's      | Newfoundland     |
| BOW, Eric C.  | Toronto         | Ontario          |
| BRAID, Don  | Edmonton        | Alberta          |
| BRAUN, Kenneth N.   | Kanata          | Ontario          |
| BRITISH COLUMBIA,<br>Government of                                | Victoria        | British Columbia |
| BROOKER, Elmer  | Edmonton        | Alberta          |
| BROWN, Stu  | Annapolis Royal | Nova Scotia      |

|   |                  |                      |
|---|------------------|----------------------|
| BUCKWOLD, Sidney, Senator                           | Saskatoon        | Saskatchewan         |
| BURNS, R.M.   | Victoria         | British Columbia     |
| BURRI, Jean-Pierre                                  | Montreal         | Quebec               |
| BURTON, Philip J.                                   | Calgary          | Alberta              |
| BUSER, Frederick                                    | Ottawa           | Ontario              |
| BUSINESS COUNCIL ON<br>NATIONAL ISSUES              | Ottawa           | Ontario              |
| CALGARY SOUTH LIBERAL<br>ASSOCIATION                | Calgary          | Alberta              |
| CANADA WEST FOUNDATION                              | Edmonton         | Alberta              |
| CANADIAN BAR ASSOCIATION                            | Ottawa           | Ontario              |
| CANADIAN<br>MULTICULTURALISM<br>COUNCIL             | Ottawa           | Ontario              |
| CANADIAN POLISH CONGRESS                            | Toronto          | Ontario              |
| CAPON, Paul   | Thunder Bay      | Ontario              |
| CARREL, André Jean                                  | Whitehorse       | Yukon                |
| CARVER, Horace, M.L.A.                              | Charlottetown    | Prince Edward Island |
| CASEY, Brian  | Toronto          | Ontario              |
| CENTRAL INTERIOR TRIBAL<br>COUNCILS                 | Kamloops         | British Columbia     |
| CHEMICAL INSTITUTE<br>OF CANADA                     | Guelph           | Ontario              |
| CITARELLA, Rino                                     | Toronto          | Ontario              |
| CLAGUE, Robert E.                                   | Winnipeg         | Manitoba             |
| CLIFTON, N. Roy                                     | Richmond Hill    | Ontario              |
| CLYNE, J.V.   | Vancouver        | British Columbia     |
| COMMUNIST PARTY<br>OF CANADA                        | Toronto          | Ontario              |
| COUNCIL FOR CANADIAN<br>UNITY                       | Montreal         | Quebec               |
| COUNCIL OF ETHNOCULTURAL<br>ORGANIZATIONS OF CANADA | Toronto          | Ontario              |
| CRÊTE, Jean   | Quebec           | Quebec               |
| D'AUGEROT-AREND, Sylvie                             | Toronto          | Ontario              |
| DAY, John Patrick                                   | Edmonton         | Alberta              |
| DAVIES, Keith                                       | Metcalf          | Ontario              |
| DÉCARY, Robert                                      | Hull             | Québec               |
| DILTZ, C.H.   | Uxbridge         | Ontario              |
| DION, Léon  | Quebec           | Quebec               |
| DOBELL, W.M.  | London           | Ontario              |
| DONAHOE, Marie                                      | Charlottetown    | Prince Edward Island |
| DONNELLY, Peter                                     | Victoria         | British Columbia     |
| DUDA, Michael                                       | Toronto          | Ontario              |
| DULMAGE, Isabelle                                   | Surrey           | British Columbia     |
| DUSANJ, John H.S.                                   | Vancouver        | British Columbia     |
| DVORAK, Allan                                       | Scarborough      | Ontario              |
| ELTON, David  | Calgary          | Alberta              |
| EVANS, Violet                                       | Saskatoon        | Saskatchewan         |
| FÉDÉRATION DES<br>FRANCOPHONES HORS<br>QUÉBEC INC.  | Ottawa           | Ontario              |
| FILSON, D.G.  | Scarborough      | Ontario              |
| FISHER, F.H.  | Medicine Hat     | Alberta              |
| FISHER, John I.                                     | North Battleford | Saskatchewan         |
| FLEMING, Bill                                       | Toronto          | Ontario              |
| FLUKE, John   | Thessalon        | Ontario              |

|                                       |                     |                      |
|---------------------------------------|---------------------|----------------------|
| FONTAINE, Alain                       | Cap-de-la-Madelaine | Quebec               |
| FOOKS, John                           | Windsor             | Ontario              |
| FORD, Michael                         | Edmonton            | Alberta              |
| FORSEY, Eugene                        | Ottawa              | Ontario              |
| FORTIN, Ghislain                      | Quebec              | Quebec               |
| FRITH, Royce, Senator                 | Perth               | Ontario              |
| GALLAGHER, J.P.                       | Calgary             | Alberta              |
| GALLIGAN, Brian                       | Tasmania            | Australia            |
| GELLER, Vincent                       | Toronto             | Ontario              |
| GEORGAS, Sherry                       | Burlington          | Ontario              |
| GEROL, Basil                          | Toronto             | Ontario              |
| GIBBINS, Roger                        | Calgary             | Alberta              |
| GILL, Tarlochan S.                    | Toronto             | Ontario              |
| GINOU, Alex                           | Agincourt           | Ontario              |
| GIORDANO, George                      | Toronto             | Ontario              |
| GODFREY, John, Senator                | Toronto             | Ontario              |
| GOETZ, David S.                       | Brampton            | Ontario              |
| GOLLNER, J.                           | Nepean              | Ontario              |
| GREEN PARTY OF ONTARIO                | Hawkesbury          | Ontario              |
| GROLLE, E. Hendrik                    | Regina              | Saskatchewan         |
| GUTOWSKI, F.G.                        | Calgary             | Alberta              |
| H Aidasz, Stanley, Senator            | Toronto             | Ontario              |
| HALEY, Richard                        | Pickering           | Ontario              |
| HAMMING, Anco                         | Cornwall            | Prince Edward Island |
| HANNEN, P.D.                          | Montreal            | Quebec               |
| HATFIELD, H.R.                        | Penticton           | British Columbia     |
| HAZLEY, Gail A.                       | St. Catherines      | Ontario              |
| HERBERT, Hal, M.P.                    | Vaudreuil           | Quebec               |
| HICKS, Henry, Senator                 | Halifax             | Nova Scotia          |
| HITTRICH, Jack J.                     | Vancouver           | British Columbia     |
| HODGINS, Barbara                      | Calgary             | Alberta              |
| HOFF, M.                              | Calgary             | Alberta              |
| HOTZ, M.C.B.                          | Ottawa              | Ontario              |
| HUDSON, T.B.                          | Calgary             | Alberta              |
| HUGHES, Ken                           | Calgary             | Alberta              |
| HULL, W.H.N.                          | St. Catharines      | Ontario              |
| HUMAN RIGHTS INSTITUTE<br>OF CANADA   | Ottawa              | Ontario              |
| INA FINANCIAL SERVICES, INC.          | Toronto             | Ontario              |
| INFOMARKETING LTD.                    | Halifax             | Nova Scotia          |
| INNES, David C.                       | Agincourt           | Ontario              |
| INUIT COMMITTEE ON<br>NATIONAL ISSUES | Ottawa              | Ontario              |
| IRVINE, William                       | Kingston            | Ontario              |
| IWANUS, Jaroslav                      | Winnipeg            | Manitoba             |
| JACKSON, Robert                       | Ottawa              | Ontario              |
| JAMIESON, Ronald A.                   | Willowdale          | Ontario              |
| JOHNSON, J. Dalziel                   | St. Thomas          | Ontario              |
| KALEVAR, Chaitanya K.                 | Toronto             | Ontario              |
| KEYES, Thomas E.                      | Regina              | Saskatchewan         |
| KILGOUR, D. Marc                      | Waterloo            | Ontario              |
| KITCHENER CHAMBER<br>OF COMMERCE      | Kitchener           | Ontario              |
| KOREY, George                         | Toronto             | Ontario              |
| KWAVNICK, David                       | Ottawa              | Ontario              |
| LACHANCE, Claude-André, M.P.          | Rosemont            | Quebec               |

|                             |               |                  |
|-----------------------------|---------------|------------------|
| LAFOND, Paul, Senator       | Hull          | Quebec           |
| LANDES, Ronald              | Halifax       | Nova Scotia      |
| LANG, Daniel, Senator       | Toronto       | Ontario          |
| LAPOINTE, Malcolm           | Toronto       | Ontario          |
| LAROCHELLE, A.              | Toronto       | Ontario          |
| LEESON, Howard              | Southey       | Saskatchewan     |
| LEMIEUX, Vincent            | Quebec        | Quebec           |
| LETHBRIDGE FOOTHILLS        |               |                  |
| LIBERAL ASSOCIATION         | Lethbridge    | Alberta          |
| LEVESQUE, Terrence J.       | Waterloo      | Ontario          |
| LIBERAL PARTY OF CANADA     |               |                  |
| IN ALBERTA                  | Edmonton      | Alberta          |
| LISTER, Rota                | Waterloo      | Ontario          |
| LIVERMORE, Ian              | Calgary       | Alberta          |
| LONG, J.                    | Toronto       | Ontario          |
| LOUIS RIEL METIS            |               |                  |
| ASSOCIATION OF              |               |                  |
| BRITISH COLUMBIA            | Victoria      | British Columbia |
| LOVELL, W. Lawrence         | Orangeville   | Ontario          |
| LUSSIER, Michel             | Montreal      | Quebec           |
| LUTTON, Lois                | Saint John    | New Brunswick    |
| LYON, Vaughan               | Peterborough  | Ontario          |
| LYTTLE, R. Orville          | Clearbrook    | British Columbia |
| MACGUIGAN, Hon. Mark, P.C., |               |                  |
| M.P., Minister of Justice   | Ottawa        | Ontario          |
| MACKINNON, Frank            | Calgary       | Alberta          |
| MADDEN, Wayne               | Fort McMurray | Alberta          |
| MAINE, Frank                | Guelph        | Ontario          |
| MAINS, Geoff                | Vancouver     | British Columbia |
| MALLORY, J.R.               | Montreal      | Quebec           |
| MANITOBA, Government of     | Winnipeg      | Manitoba         |
| MANITOBA BAR ASSOCIATION    | Winnipeg      | Manitoba         |
| MANNING, Ernest, P.C.       | Edmonton      | Alberta          |
| MARSHALL, Jack, Senator     | Cornerbrook   | Newfoundland     |
| MARSHALL, Terrance          | Ancaster      | Ontario          |
| MASON, M. Stephanie         | Toronto       | Ontario          |
| MAYES, Brian                | Winnipeg      | Manitoba         |
| MCCORMICK, Peter            | Calgary       | Alberta          |
| MCGOWAN, John               | Richmond      | British Columbia |
| MCMANUS, O.R.               | Sydney        | Nova Scotia      |
| MCVICAR, J. Stanley         | Richmond      | British Columbia |
| MCWHINNEY, Edward           | Burnaby       | British Columbia |
| METIS ASSOCIATION           |               |                  |
| OF ALBERTA                  | Edmonton      | Alberta          |
| METIS NATIONAL COUNCIL      | Ottawa        | Ontario          |
| MEYER, Jack Lazar           | Calgary       | Alberta          |
| MITCHELL, John              | Dollard des   |                  |
|                             | Ormeaux       | Quebec           |
| MITTON, Susan               | Oshawa        | Ontario          |
| MOONEY, Monica              | Saint John    | New Brunswick    |
| MOORE, Wilfred              | Halifax       | Nova Scotia      |
| MORISON, James              | Calgary       | Alberta          |
| MURRAY, David               | Burnaby       | British Columbia |
| NADLER, Joseph              | Montreal      | Quebec           |
| NATIVE COUNCIL              |               |                  |
| OF CANADA                   | Ottawa        | Ontario          |
| NEARY, Stephen, M.L.A.      | St. John's    | Newfoundland     |

|  |                 |                       |
|--|-----------------|-----------------------|
| NEW BRUNSWICK  |                 |                       |
| ASSOCIATION OF METIS AND<br>NON-STATUS INDIANS           | Fredericton     | New Brunswick         |
| NORTHWEST TERRITORIES,<br>Government of                  | Yellowknife     | Northwest Territories |
| NOTLEY, Grant, M.L.A.                                    | Edmonton        | Alberta               |
| NOWAK, W.S.W.  | Paradise        | Newfoundland          |
| NOWLAN, Pat, M.P.  | Wolfville       | Nova Scotia           |
| OLSON, (Bud) H.A., P.C., Senator                         | Ottawa          | Ontario               |
| ONTARIO, Government of                                   | Toronto         | Ontario               |
| ONTARIO PROGRESSIVE<br>CONSERVATIVE YOUTH<br>ASSOCIATION | Toronto         | Ontario               |
| OSLER, Edmund  | Winnipeg        | Manitoba              |
| PAHL, Daniel R.  | Edmonton        | Alberta               |
| PATTERSON, S.R.  | Unionville      | Ontario               |
| PEEVER, Donald   | Pembroke        | Ontario               |
| PELLETIER, Réjean  | Quebec          | Quebec                |
| PENIKETT, Tony, M.L.A.                                   | Whitehorse      | Yukon                 |
| PETERSON, David, M.P.P.                                  | Toronto         | Ontario               |
| PETTICK, Joseph  | Regina          | Saskatchewan          |
| PIDDISI, Frank Peter                                     | Toronto         | Ontario               |
| PITFIELD, P.M., Senator                                  | Ottawa          | Ontario               |
| PONCELET, M.   | Ottawa          | Ontario               |
| POOLE, David A.  | Edmonton        | Alberta               |
| PRINCE EDWARD ISLAND,<br>Government of                   | Charlottetown   | Prince Edward Island  |
| PRIOR, John G.   | Vernon          | British Columbia      |
| QUITTNER, Joe  | Toronto         | Ontario               |
| RAE, Bob, M.P.P.   | Toronto         | Ontario               |
| RAMAUTARSINGH, Tom                                       | Georgetown      | Ontario               |
| RAY, A.K.  | Gloucester      | Ontario               |
| RÉMILLARD, Gil   | Quebec          | Quebec                |
| RICHARD, Mike  | Toronto         | Ontario               |
| ROBB, Michael  | Hay River       | Northwest Territories |
| ROBERGE, P.  | Edmonton        | Alberta               |
| ROBERTS, Stan  | Vancouver       | British Columbia      |
| ROBERTSON, Gordon  | Ottawa          | Ontario               |
| ROBINSON-KEYS, Christopher                               | Burlington      | Ontario               |
| ROBLIN, Duff, P.C., Senator                              | Winnipeg        | Manitoba              |
| ROSARIO, Edgar   | Vancouver       | British Columbia      |
| ROSS, Gordon   | Halifax         | Nova Scotia           |
| ROWAN, Marc  | Fort McMurray   | Alberta               |
| RUBIDGE, Gregory   | St. Clair Beach | Ontario               |
| RUDNYCKYJ, J.B.  | Montreal        | Quebec                |
| RUSSELL, Peter   | Toronto         | Ontario               |
| RUSSO, C.  | Toronto         | Ontario               |
| SASKATCHEWAN,<br>Government of                           | Regina          | Saskatchewan          |
| SCHROEDER, B.A.  | High River      | Alberta               |
| SÉNÉCAL, Lior  | Montreal        | Quebec                |
| SETO, David  | Chicoutimi      | Quebec                |
| SHAINHOUSE, J. Zev                                       | Scarborough     | Ontario               |
| SHERIDAN, Michael  | Hamilton        | Ontario               |
| SMALL, George and Lorraine                               | Merville        | British Columbia      |
| SMILEY, Don  | Toronto         | Ontario               |

|                             |                |                      |
|-----------------------------|----------------|----------------------|
| SMITH, Colin Henderson      | Vancouver      | British Columbia     |
| SMITH, Jennifer             | Halifax        | Nova Scotia          |
| SMITH, Jerry                | Medicine Hat   | Alberta              |
| SMITH, William              | Winnipeg       | Manitoba             |
| SMITHS FALLS DISTRICT       |                |                      |
| COLLEGIATE INSTITUTE        | Smith Falls    | Ontario              |
| SMYTHE, John W.C.           | Lloydminster   | Alberta              |
| <i>SOCIÉTÉ SAINT-THOMAS</i> |                |                      |
| <i>D'AQUIN</i>              | Summerside     | Prince Edward Island |
| SOLLOSY, Albert             | Plunkett       | Saskatchewan         |
| SOUTHWOOD, Thomas           | Victoria       | British Columbia     |
| SPAFFORD, Duff              | Regina         | Saskatchewan         |
| STEIN, Brian                | Edmonton       | Alberta              |
| STEIN, Carol                | Calgary        | Alberta              |
| STEIN, Patrick              | Calgary        | Alberta              |
| STENDEBACH, Jim             | Lethbridge     | Alberta              |
| STEVENS, Johannes           | Oakville       | Ontario              |
| SUTHERLAND, Toni Ann        | Vancouver      | British Columbia     |
| SWENSON, Orville            | Edmonton       | Alberta              |
| TAYLOR, Nick                | Edmonton       | Alberta              |
| TENNANT, Walton and Betty   | Kamloops       | British Columbia     |
| THIBAUT, Joe                | Calgary        | Alberta              |
| THOMAS, David               | Richmond Hill  | Ontario              |
| THOMPSON, Paul              | Abbotsford     | British Columbia     |
| THOMSON, Dale C.            | Montreal       | Quebec               |
| THORSELL, William           | Edmonton       | Alberta              |
| TILLEMA, Kloas              | Chatham        | Ontario              |
| TIMBERS, W.G.               | Red Deer       | Alberta              |
| TOFFOLI, Garry              | Toronto        | Ontario              |
| TOMKA, Edward               | Ottawa         | Ontario              |
| TURNBULL, Colin and Dorothy | Prince George  | British Columbia     |
| UHR, John                   | Canberra       | Australia            |
| UNIVERSITY OF OTTAWA,       |                |                      |
| students of                 | Ottawa         | Ontario              |
| UNIVERSITY WOMEN'S CLUB     |                |                      |
| OF VANCOUVER                | Vancouver      | British Columbia     |
| UTZIG, Richard H.           | Calgary        | Alberta              |
| VELSHI, Murad               | Toronto        | Ontario              |
| WALKER, F.H.                | Victoria       | British Columbia     |
| WARNE, Keith                | Toronto        | Ontario              |
| WARNKE, Allan               | Vancouver      | British Columbia     |
| WE, THE PEOPLE!             | Saskatoon      | Saskatchewan         |
| WEDDING, Adrian P.          | Winnipeg       | Manitoba             |
| WESTERNELL, William         | Coquitlam      | British Columbia     |
| WHITE, Carl                 | Lunenburg      | Nova Scotia          |
| WHITEHORN, Alan             | Kingston       | Ontario              |
| WHITEHORSE CHAMBER          |                |                      |
| OF COMMERCE                 | Whitehorse     | Yukon                |
| WILLIAMS, Marc              | Outremont      | Quebec               |
| WILLIAMS, Robert J.         | Waterloo       | Ontario              |
| WILSON, Christopher         | Nanaimo        | British Columbia     |
| WILSON, Douglas             | Vancouver      | British Columbia     |
| WILSON, R.G.                | Stony Mountain | Manitoba             |
| WINTEMUTE, Paul             | Niagara Falls  | Ontario              |
| WRIGHT, C.P.                | Wolfville      | Nova Scotia          |
| YANCHULA, Joseph            | Calgary        | Alberta              |
| YUKON, Government of        | Whitehorse     | Yukon                |
| YURKO, Bill, M.P.           | Edmonton       | Alberta              |

## APPENDIX D

### Public Hearings

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| ISSUE No. | DATE               | LOCATION                               |
|-----------|--------------------|--|
| 1         | May 31, 1983       | OTTAWA, Ontario                        |
| 2         | June 1, 1983       | OTTAWA, Ontario                        |
| 3         | June 2, 1983       | OTTAWA, Ontario                        |
| 4         | June 14, 1983      | OTTAWA, Ontario                        |
| 5         | June 15, 1983      | OTTAWA, Ontario                        |
| 6         | June 16, 1983      | OTTAWA, Ontario                        |
| 7         | June 21, 1983      | OTTAWA, Ontario                        |
| 8         | June 22, 1983      | OTTAWA, Ontario                        |
| 9         | June 23, 1983      | OTTAWA, Ontario                        |
| 10        | June 28, 1983      | OTTAWA, Ontario                        |
| 11        | June 29, 1983      | OTTAWA, Ontario                        |
| 12        | September 8, 1983  | TORONTO, Ontario                       |
| 13        | September 13, 1983 | HALIFAX, Nova Scotia                   |
| 14        | September 14, 1983 | CHARLOTTETOWN, Prince<br>Edward Island |
| 15        | September 15, 1983 | ST. JOHN'S, Newfoundland               |
| 16        | September 16, 1983 | FREDERICTON, New Brunswick             |
| 17        | September 20, 1983 | EDMONTON, Alberta                      |
| 18        | September 21, 1983 | YELLOWKNIFE, Northwest<br>Territories  |
| 19        | September 22, 1983 | WHITEHORSE, Yukon                      |
| 20        | September 27, 1983 | OTTAWA, Ontario                        |
| 21        | September 28, 1983 | OTTAWA, Ontario                        |
| 22        | September 29, 1983 | OTTAWA, Ontario                        |
| 23        | October 3, 1983    | WINNIPEG, Manitoba                     |
| 24        | October 4, 1983    | WINNIPEG, Manitoba                     |
| 25        | October 5, 1983    | REGINA, Saskatchewan                   |

|    |                  |                            |
|----|------------------|----------------------------|
| 26 | October 6, 1983  | VICTORIA, British Columbia |
| 27 | October 12, 1983 | QUEBEC CITY, Quebec        |
| 28 | October 13, 1983 | QUEBEC CITY, Quebec        |
| 29 | October 17, 1983 | OTTAWA, Ontario            |
| 30 | October 18, 1983 | OTTAWA, Ontario            |
| 31 | October 25, 1983 | OTTAWA, Ontario            |



# APPENDIX E

## Committee Staff

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Paul Belisle, Clerk from the Senate  
Maija Adamsons, Clerk from the House of Commons

*from the Parliamentary Centre for Foreign Affairs and Foreign Trade*

John Hayes, Director of Research  
Peter Dobell, Study Director

*from the Research Branch, Library of Parliament*

Bruce Carson, Research Associate  
Louis Massicotte, Research Associate  
John Terry, Research Associate

*from the Humphreys Group (communications consultants)*

David Humphreys, Margot Maguire

*Report editing and production*

Kathryn J. Randle, Editor

*French editor*

Mario Pelletier

APPENDIX B  
1981-82  
1982-83  
1983-84  
1984-85  
1985-86

1986-87  
1987-88  
1988-89  
1989-90  
1990-91

Committee Staff

Paul Bellis, Clerk from the Senate  
Maja Adamson, Clerk from the House of Commons

Parliamentary Centre for Foreign Affairs and Foreign Trade  
John Hager, Deputy of Research  
Peter Doherty, Study Director

from the Research Branch Library of Parliament  
Bruce Carson, Research Associate  
Euan Macdonald, Research Associate  
John Terry, Research Associate

from the Humphrey Group (communications consultants)  
David Humphrey, Market Manager

Report editing and production  
Kathryn A. Rando, Editor

French editor  
Marie-Pierre