



PART 2

*WHAT  
CANADIANS  
TOLD US  
AT THE  
SYMPOSIUMS*



# SYMPOSIUM ON THE ADMINISTRATION OF ELECTIONS AT THE CONSTITUENCY LEVEL



Edmonton, Alberta,  
October 21-23, 1990

**T**HE SYMPOSIUM WAS divided into six sessions covering the entire local election process, from enumeration to voting day:

- Running a Local Election
- Enumeration and Revision: Doing it Right
- Advance Ballots and Proxies: Improving the Process
- Serving Voters with Disabilities and Special Needs
- Election Day Headaches and How to Solve Them
- Improving the Local Election Process: Where Do We Go From Here?

The Commission assembled 30 returning officers from every province and the Northwest Territories, 15 local and national party officials, two Elections Canada officials and three provincial chief electoral officers to discuss how elections work at the constituency level. Participants believed this was the first such symposium ever held in Canada.

## **RUNNING A LOCAL ELECTION**

The opening session focused on running a local election. In her opening remarks, returning officer Ruth Haehnel said that although it is not always easy to be sensitive to political parties, the success of the constituency election process depends on it. Another returning officer said she found that political party representatives know little about election law and often nominate unqualified enumerators.

Party representatives pointed out that providing enumerators is not their top priority and that they do not always assign their best people. Furthermore, providing enumerators does not benefit parties as much as in the past because they can now compile reliable voters lists for campaign operations from other sources, such as telephone companies. Rosemary Dolman of the Progressive Conservative Party said her party wanted to

improve voter access, develop some kind of computerized voters list, make enumeration more thorough and efficient, and train election workers better. She also advocated the appointment of 'provincial' or supervising returning officers to improve national co-ordination and hasten responses to constituency queries.

Many participants addressed the issue of communication with voters. Ruth Haehnel said the primary problem in elections today is that too many

Canadians either cannot or do not read. Some participants said that because parties emphasize television and radio advertising, Elections Canada's booklets, brochures and posters are outdated as means of communication. Others remarked on the wide variety of languages spoken in Canada and argued for multilingual information programs.

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Richard Rochefort, formerly of Elections Canada, described the size of the task Elections Canada faces in

an election. He remarked that establishing returning offices across the country after an election is called is like starting up 295 small businesses in a week with little or no notice.

### ENUMERATION AND REVISION

At the second session, returning officer Joy Miller suggested that enumeration might be improved by allowing returning officers to nominate enumerators in addition to those nominated by the party and by allowing recruitment of enumerators before a writ is issued.

Miller described enumerators' problems in the field, pointing out that several categories of people are often not listed: those who are afraid to answer the door, people on vacation, people who live in illegal apartments, and people who move frequently. She advocated making revision – the process of adding or deleting names from the preliminary voters list compiled by enumeration – easier for voters, allowing revision until the polls close on election day, and making the returning officer the revising agent for each riding.

Cheryl Hewitt of the New Democratic Party said her party has three major goals at the local level: a broader franchise, an impartial electoral system and improved training of enumerators. She said it should be much simpler to register to vote and advocated voting-day registration in all constituencies, noting that there must be an element of trust in the enumeration system. When parties collect information about names left off the list, there should be a mechanism for sharing it with the local returning office.

Andrée Lortie of Elections Canada described a new computer system that Elections Canada intends to use in future elections. All returning offices would have computer terminals, fax machines and common software to help with enumeration. Parties could buy the software, which would be compatible with the Geographical Information System, to produce precise electoral maps. At each address, enumerators would fill in a slip with the names of all eligible voters. This information would be entered in the computer each day, keeping the computerized voters list up to date.

Keith Lampard, Chief Electoral Officer of Saskatchewan, described the address-based computerized enumeration system he is developing. In this system, enumerators receive lists of addresses with the names of the electors from the last election. The enumerator gives each person enumerated a copy of the enumeration slip to be presented at the poll. Anyone missed can register easily during revision or on voting day. In this system, forms and procedures are simpler, training of enumerators is easier and errors are reduced.

Participants generally agreed that they can live with the current system, although it has problems. Voters know the system, and door-to-door enumeration is effective in ensuring the list is as up to date as possible given that Canadians tend to move often. Participants also agreed that

the revision period should be longer and voters should be allowed to register on election day. Judges should not take part in revision, and returning officers should have more discretion in voter registration.

Most participants had encountered difficulty recruiting enumerators. As the work force absorbs the people who used to do this work, returning officers have to seek new sources of enumerators. Some participants suggested using service club members (possibly paying them as a group if the club offered its services to raise funds), 16- and 17-year-olds, enumerators recruited independently by returning officers, and enumerators nominated by all parties in a riding, not just the two leading parties. It was also suggested that returning officers should have the discretion to use one enumerator, rather than two, depending on the poll. Participants thought that parties should continue their involvement in enumeration, but they pointed out that most returning officers prepare lists of potential enumerators themselves and do not wait for parties to present theirs.

All participants agreed that preparation is the key to finding enough enumerators. They welcomed any measure that would make preparation easier. Some participants said that when they know an election is coming,

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they write to people who have done the job well in the past and invite them back. Most enumerators accept when asked in advance.

Participants generally approved of greater use of fax machines and computers. One remarked that in the last election, the first to feature extensive computerization, there were some bugs to be worked out but that, overall, the results were excellent. Now that Canada Post is developing a postal code with an identifying number for every residential building, a permanent computerized voters list looks like a real possibility. Computerization was seen as the way to simple, efficient election administration.

In another workshop, participants lauded Quebec's competitive system for appointing returning officers and thought it should be emulated under the federal law. Qualifications should be clarified, they said, and new returning officers should be tested on their ability to adapt to situations likely to arise during an election.

### ADVANCE AND PROXY VOTING

The third session dealt with how to improve arrangements for advance and proxy voting. Although workshop participants agreed that absentee voting and advance voting should be more accessible, they emphasized that advance voting cannot replace election day because candidates and parties must have time to present their platforms.

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Some participants pointed out that more and more electors vote at returning offices. One forecast that the advance poll will become increasingly popular because baby boomers are now busy adults who need a more flexible system. A participant suggested adding one day to the advance voting period, making it the Saturday, Sunday, Monday or Tuesday beginning nine days before election day.

Returning officer Linda Landry of St. Catharines suggested making advance voting more flexible, but

emphasized that the system must guarantee the secrecy and integrity of the vote. She advocated more advance polls and voting at the returning office for 26 rather than 21 days before election day, including a Sunday.

Jack Siegel of the Liberal Party criticized the proxy vote, saying it is sometimes not secret and is open to abuse when used by elderly people or persons with mental disabilities. He suggested limiting the proxy vote to people unable to vote in the advance poll, at the returning officer's office or by mail. He also suggested that students vote by mail instead of by proxy, pointing out that students studying abroad would not be disfranchised if they had this option.

Participants generally approved of the use of mobile polls on election day for small nursing homes and institutions where residents might otherwise not have an opportunity to vote.

In one workshop, participants said that the mail ballot should be considered an extension of normal voting rather than an exception. Using this system would solve many problems because it is easier to administer than proxy voting.

Chief Electoral Officer Richard Balasko of Manitoba contended that the mail ballot is the best way to extend the franchise to voters who cannot get to the polls. He warned against using the mail ballot as a substitute for mobile polls and advance polls, saying that each has its place in the system. Mail ballots are secret because voters can mark their own ballots and seal them in special envelopes. He recommended keeping the proxy system for cases in which a mail ballot is not practical.

Participants generally approved of mail ballots for travellers, students, transient workers and people in remote areas and communities too small to have advance polls, although some had reservations about the mechanics of the process. Some were not sure that the mail ballot envelope could be delivered on time, and some thought mail ballots should be received and counted by Elections Canada instead of by the returning officer. Some said that voters should be allowed to hand-deliver mail ballots to election officials.

Participants also suggested a write-in ballot for people who need to vote before nominations are complete, but one party representative argued that this would discriminate against independent candidates and focus too much on the parties.

The returning officers thought that current procedures to maintain the integrity of the vote avoid fraud and adequately protect the secrecy of the ballot.

### **VOTERS WITH SPECIAL NEEDS**

The session on voters with disabilities and special needs opened with a presentation by returning officer Lesley Singer. She addressed the need for guidelines and extensive training in serving voters with intellectual or psychological disabilities, living in institutions. As one participant pointed out, many people suffer emotional difficulties at least once in their lives, so this group cannot be ignored. Returning officers must choose election staff for institutions very carefully, she said, and parties should be equally selective with scrutineers. She discussed the 1988 election, in which the courts, after regular enumeration was finished, granted the franchise to persons with mental disabilities. This left officials little time to prepare for enumeration. Directions from Elections Canada were not clear enough. In later discussion, a representative of Elections Canada said that elections staff had been frustrated by the difficulties they faced and disappointed in the low participation rate.

Singer congratulated Elections Canada on its multilingual booklet *Voting in Canada*, but said also that it was not comprehensive enough for a riding

like hers, which contains dozens of ethnic groups. She called for more information to be provided multilingually, especially about enumeration and the questions enumerators ask, to help ensure that every qualified elector is placed on the voters list.

Noting that 15 per cent of Canadians have permanent or temporary disabilities, she pointed out that mobile polls are excellent for voters living

in chronic-care hospitals, nursing homes and seniors' residences. On the other hand, she said, many able-bodied people in urban areas will complain if they have to travel an extra half-mile to vote in a wheelchair-accessible building, as a result of the fact that many urban buildings are not barrier-free.

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Patrick Ledgerwood, Alberta's Chief Electoral Officer, noted that Alberta rewrote its electoral law in 1980 to modernize the language and

again in 1985 to adapt it to the *Canadian Charter of Rights and Freedoms*. In Alberta, rural and urban voters alike can register on election day if left off the voters list. The province dropped proxy voting because it was too vulnerable to corruption and instead uses a mail ballot (similar to Manitoba's) available to anyone who will be absent for the advance poll and on voting day. He described the system as very simple and problem-free.

Homeless people still have serious problems with proof of residence and identification. He agreed on the need to encourage more low-income voters to participate in the election process, but said it is not the chief electoral officer's responsibility to encourage them to take part; that is the job of political parties.

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Larry Brockman, a community worker in Edmonton, focused on the issues of homeless persons and literacy. He acknowledged that no one has had much success bringing homeless and transient people into the electoral system. He agreed that the electoral system is not designed to bring people in to vote, but went on to suggest several ways to improve current practices.

His key recommendation was that homeless people (and others) should be allowed to register on voting day, in rural and urban ridings alike. Although there is some risk of abuse, the guiding principle should be to include as many voters as

possible. Safeguards, such as requiring voters without fixed addresses or identification to be identified by registered voters, could be adopted. In discussion, a participant suggested putting polling stations in soup kitchens, because it has already been established that homeless people can be identified and enumerated there.

As elections rely heavily on the printed word, another of Mr. Brockman's key recommendations was that elections material should be written in plain language. Adults with reading difficulties also need information about the issues, the electoral process, the party system and how to get involved in politics. Community groups and government could help; one way would be to provide explanatory videotapes.

During the discussion it was pointed out that about 25 per cent of Canadians are functionally illiterate, and that they must no longer be ignored. A participant asked whether Elections Canada could get more involved in education. Elections Canada representatives reported that they are now preparing a special program for people with low reading skills.

One participant suggested using party symbols on the ballot, to make the process easier for voters with reading problems. He noted that even very young children can learn to recognize symbols, such as the McDonald's sign. When party representatives were asked to comment, one agreed, but others said independent candidates and candidates from small parties would suffer because they have little-known symbols or no symbols at all.

A participant remarked that the government should tell people about the electoral system but leave it to them to choose what to do. Another agreed, saying that both the parties and the returning officers have special responsibilities in communicating how the system works. Electoral officers should have a special mandate – and a budget – to inform the public.

### ELECTION DAY

In the fifth plenary session and the workshops that followed, participants proposed improvements in the election-day voting process. These included opening the polls early so people can vote on their way to work, paying poll staff better, permitting only one agent per candidate at each polling station (as more parties contest each election), and permanently locating polling stations in barrier-free buildings familiar to people with physical disabilities. Participants generally approved of allowing voters to register on election day, provided they do not delay pre-registered voters, and as long as the integrity of the electoral process is protected.

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Participants felt the idea of holding federal elections on Sundays is too controversial. They said it would result in lower turnout of voters, and that

fewer election workers would be available. They did support advance polling on Sundays to help solve the problem of access to the polls. One party representative warned, however, that many voters would not vote on Sunday in summer, spring or fall because they go away on weekends. One participant pointed out that people who have religious reasons for not voting on Sunday would abstain; they belong to a minority that deserves to be treated as sensitively as any other. Another party representative had no objection to Sunday voting, but suggested declaring a national holiday for federal elections to get maximum voter turnout.

Participants tended to favour keeping the current voting hours, rather than trying to reduce the differences in poll closing times that lead to disclosure of eastern Canada's results before the polls close in the West. Some thought that concern about variations in closing times is disproportionate to the problem and expressed the opinion that election staff would have to work too late if the polls closed later in the East. Other participants said western Canadian voters would be even more disadvantaged because they would have to get to the polls by 5:30 p.m. rather than the current 8 p.m. Participants suggested delaying the count in eastern Canada until the polls closed in the West as an alternative to staggered hours.

Terry Stratton of the Progressive Conservative Party pointed out that political parties now concentrate less on enumeration and scrutineering and more on bringing voters out to the polling station. In a shorter electoral period they would have difficulty recruiting volunteers because their recruitment period would also be shortened. He also remarked that parties should retain the responsibility for recruiting election volunteers because parties have the most direct interest in the political process.

Returning officers agreed that they should get more involved in their communities and circulate more information about the voting process between elections. They also agreed that returning officers, deputy returning officers and political parties should communicate better so each group understands the rules, practices and procedures of the others.

The symposium ended with a plenary session to summarize the issues discussed in the workshops. The final discussion produced general agreement that returning officers and party organizers should meet regularly between elections to exchange views on improving the electoral process.

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# *SYMPOSIUM ON THE ACTIVE PARTICIPATION OF WOMEN IN POLITICS*



Montreal, Quebec,  
October 31–November 2, 1990

**T**HE SYMPOSIUM ON the active participation of women in federal politics was held in Montreal at the École Polytechnique from October 31 to November 2, 1990. The main objectives of the symposium were to identify the principal barriers confronting women who want to enter federal politics, to find ways to eliminate discriminatory factors, and to study new ways of giving women more equitable access to the political process. The symposium was designed to improve understanding of the situation of women who want to enter politics and to give Commissioners an opportunity to discuss the issue with political and academic experts.

About 60 participants with varied training and experience related to politics shared their thoughts on the four major topics of the symposium.

- Women and Electoral Politics in Canada
- Women's Participation in Political Parties
- Women and their Candidacy to the House of Commons
- Women Politicians and the Media

Commissioner Lucie Pépin opened the meeting by raising questions about the low participation of women in the political process. Are women just not interested in politics? Do women fear political life? Are women satisfied with the current situation? Or is it so difficult for women to have access to the electoral process that they simply give up? Are the leaders to blame?

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Are the local riding associations involved? Do women wish to take up this challenge? What is holding them back?

Sheila Copps, candidate for the leadership of the Liberal Party of Canada, was the guest speaker at the opening session. She told participants that women continue to be relegated to the traditional roles that have been reserved for them for as long as women have been involved in politics. Of the 13.5 per cent of Members of Parliament who are women, 21 per cent are given responsibilities in the social policy fields, such as human rights or multiculturalism, while only 7 per cent are responsible for economic or monetary policy portfolios. In relegating women ministers or critics to topics such as abortion or education and keeping them out of areas such as defence and finance, women are given only partial power, since they do not control the levers that influence the rest of the political agenda.

Speaking more directly to the Commission's mandate, she underlined the importance of quickly removing discriminatory barriers in the Canadian democratic system. She said the nomination process and the financing of candidates are the two areas the Commission should look into first. The regulation of these two elements, which are now controlled by the political parties, should be subject to Elections Canada regulation to clean up these two processes and to legitimize the use of public funds in the form of tax credits for contributors to a candidate's campaign. It is important to understand that the election is not the barrier that limits women's access to political life. The problem lies at the nomination level, and it is at that level that the Commission should take action. Leadership campaigns in all of the parties should also be regulated by the *Canada Elections Act*.

### WOMEN AND ELECTORAL POLITICS IN CANADA

Discussion at the first session of the symposium emphasized the need to increase the number of women in Canadian politics, focusing on three major themes: the appropriate role of the state in regulating political parties and elections; the specific barriers to women's entry to political life; and the need for measures to ensure change.

The discussion began with a presentation by Janine Brodie of York University who emphasized that although Canada has made significant progress toward gender parity in its representative institutions, it should not be assumed that these gains are continual, permanent or sufficient. According to her, the barriers to women's entry into the political system include the cost of contesting party nominations and pre-writ spending, as well as the tendency among political parties to ask women to run in marginal ridings.

She argued that the persistent underrepresentation of women in Canadian politics calls into question the legitimacy of our democratic institutions. It is not necessary to demonstrate that women have universal interests that can be represented to justify their entry into politics, since men are not required to demonstrate such unanimity or homogeneity. This thought was echoed by several participants in the discussion that followed.

Brodie also argued that women are underrepresented not only when programs are established and decisions made, but also in terms of the values they want to promote. Again, this observation was echoed by many participants.

Ami Lönnroth, a Swedish journalist, gave an overview of the status of women in politics in Sweden. She attributed the strong representation of women in Swedish politics not to measures that ensure formal equality, but rather to growing corporatism in Swedish life. As economic issues are removed from the political arena and increasingly debated by unions and corporations, moral and cultural issues often associated with women become more prominent in the political arena. Lönnroth maintained that women's entry into politics has thus coincided with a shift in power away from the political arena.

Lönnroth also noted that in Sweden, although political parties do not officially adhere to quotas, many parties voluntarily accept a 40/60 principle, whereby neither sex should account for more than 60 per cent or less than 40 per cent of the names on their electoral lists. The entry of women into politics has also necessitated changes in public life so that it harmonizes with private life. For example, there is now a ban on evening sessions of the Swedish Parliament.

Eleanor Smeal, president of the American organization The Fund for the Feminist Majority, focused on the need for measures to increase the number of women in political parties. She noted that in the experience of both major American parties, voluntary measures to increase the participation of women have never succeeded. Only mandatory affirmative action programs achieved the desired result. She also noted that mandatory mea-

sures are often met with attempts to circumvent them, for example, by increasing the number of (primarily male) ex officio delegates to a party convention when a mandatory gender parity rule is imposed on convention delegates. She also observed that in many European countries, it is the smaller parties that adopt reforms increasing the number of women candidates, thereby pushing larger parties in the same direction.

Smeal emphasized the positive impact that organized feminist activity can have on the integration of women into the political system. She noted that one important activity for feminist organizations is to challenge discriminatory government regulations. Smeal also reminded participants that gender does make a difference: the gender gap has begun to exert an

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impact on the results of American elections, and significant gender gaps have begun to emerge among legislators on issues such as abortion rights.

The general discussion began with some debate about the degree to which it is necessary to see women as a special-interest group who face barriers to entry into political life. Dorothy Dobbie, Member of Parliament for Winnipeg South, made the case that women face few systemic or systematic barriers. There was general disagreement with her comments.

Jane Jenson of Carleton University suggested that the women who were gathered for the symposium were not representative of all women, in that they had generally been successful within the political system. According to Jenson, statistics show that there is systemic discrimination against women who want to participate in politics. She also noted that the adoption of a system of proportional representation would not be a panacea, since it is not the electoral system but rather the strategic decisions of political parties that affect the number of women elected. Jenson also suggested that the objective is not just to integrate women into the political system, but also to integrate all underrepresented groups.

During the discussion that followed, many participants felt that it was of primary importance that, in its final report, the Commission meaningfully address the underrepresentation of women. A lively debate centred on the appropriate role of the state in regulating parties and elections. A number of participants argued that it is inappropriate for the government to legislate the internal affairs of political parties. They felt that regulated nominations or mandatory quotas would be unacceptable intrusions into the internal operations of political parties. However, the majority of participants argued that such intervention is appropriate given the important role that political parties and their candidates play in the Canadian electoral system and given the fact that these parties and their candidates receive public funding.

Many participants addressed other barriers facing women who seek to enter politics. Among the most important barriers were family responsibilities, which are still shouldered

largely by women; financial constraints; lack of employment security; and, in many instances, insufficient support for women candidates at the level of the constituency association.

Concerning financial barriers, participants noted that the cost of nomination campaigns has increased greatly, particularly in urban areas, and stated that women are less likely to be able to raise the necessary funds.

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Several participants noted that women generally do not have access to the networks of affluent people that provide generous funding for many male candidates. Some participants suggested that regulating nominations or

providing public funds for nomination races would be one way to lessen the impact of financial barriers.

Some participants also blamed the demands of public life, while others suggested that there are elements of the Canadian political system that make it inaccessible to women. It was also suggested that women's entry into the small business and professional sectors made them unavailable for politics at the age when many men enter politics.

Speaking from their experience as party activists, a number of participants indicated that mandatory affirmative action programs were the only effective means of increasing the number of women active in political parties. In the experience of these participants, voluntary measures were seldom effective. Mandatory measures adopted by parties, however, were felt to have had a significant impact on women's participation in political parties. Such measures include requiring that 50 per cent of all convention delegates, committee members or public office holders be women.

According to Lucie Pépin, people are ready to accept women as rightful participants in active politics, but various political party leaders too often wish to retain absolute decision-making power over the choice of candidates and the ridings they are offered. Women are willing and able to perform political duties, but they must be given the opportunity to run for office. It would be unfortunate if the arrival of many women on the political scene coincided with a displacement of power from the political sector to business and unions, as has been observed in some Scandinavian countries. Pépin maintained that if women are given access to active politics by changes in attitudes or by making nominating and financing more equitable, the problem of their underrepresentation would largely be solved.

### **WOMEN'S PARTICIPATION IN POLITICAL PARTIES**

Sylvia Bashevkin of the University of Toronto opened the session with an analysis of the place and role of women at the various levels of political organization. Her research suggests that at the local level, women are still much less likely to hold the position of president or treasurer in constituency associations than they are to fill clerical positions. Although women are increasingly active at the intermediate level (which encompasses such roles as convention delegate, federal or provincial party executive member, and campaign manager), they still occupy the minority of these positions. At the candidate level, women remain poorly represented. Not only do women make up less than 30 per cent of party candidates, they are often nominated in marginal or unwinnable ridings. Certain political parties have undertaken formal and informal reforms. According to Bashevkin, political parties should increase the quantity and quality of female representation in the Canadian political process because voters seem ready to accept women as equal participants in the political process.

Bashevkin's findings were confirmed by the National Vice-President of the Progressive Conservative Party of Canada, Denise Falardeau, and

by the former federal Liberal cabinet minister, Judy Erola. Women frequently occupy the lowest rungs in political parties; and the higher you look, the fewer the women you find. Even today, although some progress has been made,

women continue to occupy primarily clerical positions in political parties, positions that are essential to the smooth running of the party but do not entail decision-making authority.

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Denise Falardeau and Judy Erola nonetheless underscored the crucial importance of demystifying the image of political parties as enormous, complex and impenetrable machines to which only a few can have access. They emphasized the need to obtain a good understanding, at all levels, of the operations of political organi-

zations and riding associations. Finally, they mentioned that women of all political parties must work together to improve the status of women in political parties and increase women's access to power.

Abby Pollonetsky, Director of Women's Programs in the New Democratic Party, Sheila Gervais, Secretary General of the Liberal Party of Canada, and Jennifer Lynch, President of the Women's Federation of the Progressive Conservative Party, echoed the previous comments and emphasized the importance of women's commissions within political parties to promote women's interests and ensure equal treatment.

A discussion ensued on the importance of women's commissions within political parties remaining vigilant, focusing on the example of the most recent results in the elections for the executive of the Liberal Party of Canada. Since 1986, the Liberal Party's constitution has stipulated that positions at the vice-presidential level should be divided equally between men and women. But, this requirement for equal sharing of positions was eliminated from the party's constitution in June 1990 and today, the Liberal Party's two vice-presidential positions are occupied by men, while the six regional presidential positions are held by four men and two women. Women are thus far less well represented in the party's decision-making process than they were between 1986 and 1990.

At the nominations level, financial problems are among those most frequently encountered by prospective women candidates. The majority of women have different working backgrounds in administration than men and generally less experience in executive positions. As a consequence, they do not have access to the financial networks that make fund raising easier. It was also pointed out that nomination races are very expensive, sometimes more expensive than the election campaign itself.

Another important factor is the issue of candidates for nomination who bus in newly recruited constituency association members – the so-called

instant party members. This can cause a substantial shift in support from one candidate to another. This practice is connected to the financing of nomination campaigns since, in many instances, instant members have their membership paid for by nomination candidates. Another element that can distort the democratic process when it is permitted is the practice of bringing in up to a certain percentage of voting delegates from outside the contested riding.

Proposals to ensure greater equity in financing, and thus to ensure greater access for women to the nomination process, included spending limits for nomination candidates, tax receipts for contributions to nomination campaigns and compulsory disclosure of all donors. Judy Erola also stressed the importance of such measures but warned participants against special treatment for women that could interfere with fair competition for nominations and with the democratic process in general.

Concerning the practice of busing in and the participation of delegates from outside a constituency, it was felt that political party rules must be changed. A number of participants felt that the entire nomination process should be brought under the *Canada Elections Act*.

The proposal for government regulation of parties sparked differing views. One participant felt that political parties are the public domain because they receive special treatment from the government along with subsidies and the right to issue tax receipts. Thus, Canadian citizens have the right to exercise some degree of control over the operations of recognized parties in Canada. Rosemary McCarney, former Vice-President of the Liberal Party of Canada, argued that Canadians have the right to expect some control over political parties, particularly in leadership races, given the importance of this position and the difficulty for parties to exercise sufficient and impartial control over the process.

Carolle Simard of the Université du Québec à Montréal cautioned participants against the dangers of over-emphasizing women's lack of power. While she agreed that they are underrepresented in politics, they do hold power in many other areas.

Pierre Lortie, Chairman of the Commission, concluded the discussions by referring back to several points that had been raised by participants. He pointed out that if the electoral process is open and equitable, on average and over a reasonable period of time, the results should be representative of the diverse components of Canadian society. Canadians should be optimistic, given the high turnover rate of Members of Parliament in the House of Commons following each election, that women should be able to run for a greater number of seats uncontested by incumbents. This situation presents an opportunity to redress more rapidly the inequality that characterizes the representation of women in the federal Parliament, compared with the situation in other countries.

Lortie suggested that although we must recognize the importance of parties in a democratic system, they ought not to be controlled by government. He suggested that the challenge was to balance the need for a regulatory

framework for the structure and practices of political parties with the need to ensure that their autonomy is not unduly curtailed and that regulations, if indeed they are introduced, are not cumbersome or otherwise undesirable.

Finally, Lortie raised a point that the session had not considered: the importance of encouraging young women to participate in political life. He cited the results of research prepared for the Commission demonstrating that high school girls show much less interest in politics relative to their male counterparts. One explanation is that the ethical values and behaviour of political parties and the values they promote do not reflect those of today's youth. This lack of interest on the part of young women and other Canadians, the Chairman concluded, cannot be addressed through legislation. Responsibility lies and should continue to lie with the political parties themselves and with Members of Parliament.

### **WOMEN AND THEIR CANDIDACY TO THE HOUSE OF COMMONS**

The focus of the third session was the nomination phase of the electoral process. Winning a party nomination has often been identified as the most difficult challenge of the electoral process for women seeking elected office.

Participants in this session based their remarks on their experience as candidates, campaigners and party officials.

The session began with a presentation by Lynda Erickson of Simon Fraser University focusing on the effect that Canada's decentralized nomination system has had on the election of women candidates. Although political parties at the national level have introduced several measures since 1984 to increase the number of women candidates, the fact that the nomination process is controlled by constituency associations has meant that these measures have not resulted in

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significant increases in the number of candidacies by women. Erickson also noted that the small number of women in politics is more a question of supply than of demand. She suggested that parties could increase the number of women running as candidates by adopting more formalized recruiting procedures designed to identify and recruit women.

Erickson suggested a number of reforms, including limiting expenditures at the nomination stage, providing centralized funding for nomination contests, and changing the nature of political life in Canada to make it more hospitable to women.

Libby Burnham of the Committee for '94 made the case for increased public funding of the electoral process to improve women's access to the system. She suggested that public financing of elections would open the system

to participation by women and other underrepresented groups. She also urged that public funding and expenditure limits be imposed on the nomination process to make this part of the electoral system more open to women. She pointed out that taxpayers are already funding at least 66 per cent of the cost of elections; thus as taxpayers, women are paying for a system that underrepresents them. Burnham also urged that political parties undertake more comprehensive programs to recruit and train potential women candidates.

The need for financial reform at the nomination level was also emphasized by Aldéa Landry, Deputy Premier of New Brunswick. She recommended that political parties work to develop a culture that makes the political process more attractive to women and that women already in the political sphere offer greater support to other women thinking of entering the process.

Albina Guarnieri, Member of Parliament for Mississauga, clearly identified the nomination process as the most formidable barrier to women's entry into politics. Guarnieri advocated a variation of the American primary system: a regulated nomination system administered by Elections Canada that would allow all electors to vote in one party's nomination, with all nomination meetings being held on the same day.

Many of the comments that had been made about the nomination process as women experience it were reinforced by Mary Clancy, Member of Parliament for Halifax. She noted that her own nomination had not been contested, possibly because her party was low in the polls at the time.

Marlene Catterall, Member of Parliament for Ottawa West, spoke about the need to open up the system not only to women, but also to members of other underrepresented groups such as visible minorities. She also spoke about the importance of increasing the number of women in political life to put issues of greater concern to women onto the political agenda.

The New Democratic Party's efforts to increase the number of women candidates were described by Richard Proctor, the party's federal secretary. He also noted that the New Democratic Party national executive, federal council and riding associations all strive for 50 per cent representation of women.

Several participants picked up on the suggestion in Erickson's presentation that political life must be made more hospitable to women. A number of elements of political life were identified as inhospitable to women, including the adversary nature of the political system (as typified by Question Period and strict party discipline), as well as the demands made on the time of Members of Parliament. Participants suggested a number of concrete changes in this regard, including set dates for elections, establishing dates and times for sessions of Parliament, and the use of new communications technologies to allow MPs to spend more time in their constituencies and with their families.

### **WOMEN POLITICIANS AND THE MEDIA**

Gertrude J. Robinson of McGill University presented her research results showing systematic differences between media coverage of male and female politicians. Women politicians are called upon to answer human interest

questions (children, husband, how to balance a political career with raising a family), questions that are asked of men in politics only rarely. Even today, the media play up a woman's personal appearance, and too often the contribution of women politicians is relegated to the back pages of newspapers or the tail-end of news reports. Robinson concluded on an optimistic note, however, pointing to the public's positive perception of women politicians, despite the stereotypes too often employed by the media, and the opportunity women have to offer Canadians an alternative based on consultation and sharing rather than confrontation.

The evolution of stereotypes applied to women was traced by Armande Saint-Jean of the Université du Québec à Montréal. Having shed their collective image as housewives and dimwits, women are now classified into new categories such as 'superwoman' and 'champion', to name but two.

These new stereotypes can be just as confining as the old ones, but they also give women greater latitude than in the past; women appear to have won the right to have faults individually, without having those faults attributed to the entire sex. But if they are talented, then nothing short of excellence is expected of them. To be equal, women must be more equal – that is, better – than men. She concluded by underscoring the important contribution of

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"To be equal, women must be more equal – that is, better – than men."

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women journalists, who are changing the mentality of the media and producing a more fair and balanced representation of women in politics.

The media strategist for Sheila Copps during her leadership campaign, Joseph Thornley, stated that women politicians have developed different approaches and values that appeal to Canadian voters. As Copps was the only woman candidate for the leadership of the Liberal Party of Canada in 1990, the strategy chosen was to dissociate her from the other candidates based on her sex and thereby offer an alternative to both the Liberal delegates and Canadians in general.

Another element of the strategy was to accept all airtime made available to the candidate. In addition to increasing her chances of reaching the greatest number of delegates at the leadership convention, Copps gave herself national visibility that would follow her throughout her political career, regardless of the outcome of the leadership race.

Male journalists refuse to criticize women politicians too severely for fear of being accused of sexism, but each success by a woman in politics will help to change this mentality in media circles and thus make journalists' treatment of women politicians fairer.

Rosemary Brown, a candidate for the New Democratic Party leadership in 1975, began her remarks by urging researchers to make a greater effort

to gather the diverse views and experiences of women living outside Quebec and Ontario to gain a broader Canadian perspective. She emphasized the importance of ethnic and geographic diversity in our democratic system. "I found the [symposium] papers were based on the premise that all women politicians are white and live either in Quebec or Ontario. It is not taken into account that there are women politicians outside of the golden triangle."

Women must go out and get what they want, she continued, and not wait for it to be given to them. This applies to the media as well. Women must learn to understand how the media work and overcome their fear of the power of the media while remaining on their guard. During interviews, they should reply in a straightforward and succinct manner and only to those questions they can and wish to answer, and use the remaining time to convey their own views.

Brown said that discrimination in the media does exist; one has only to compare the media treatment of Audrey McLaughlin, leader of the NDP, with that of her predecessor, Ed Broadbent. Every point gained in the polls under Broadbent was attributed directly to his leadership qualities, but rarely is McLaughlin as party leader credited for rising NDP popularity. Participants agreed with panelists that women are discriminated against in the way they are treated in the media.

Mary Clancy noted that the *Canada Elections Act*, like all Canadian laws, must be written in non-sexist terminology. Pierre Lortie, who chaired the session, indicated that the Commission had already agreed to adopt this principle in drafting its report.

Aldéa Landry also pointed out that media image is very important in politics, particularly for women, who are perceived differently by the media than are their male colleagues. Women must learn the underlying rules in the world of communications. A woman politician's appearance can influence voters, much more so than a man's, either for or against her depending on the image she projects. Body language is also perceived differently. Women are more expressive and seldom hide their emotions. They must learn to build a consistent front for the media that will make them less vulnerable to their political opponents and the electorate. They must follow that strategy for as long as the media do not apply the same rules of the game to men and women in politics.

Further to Thornley's comments regarding the media strategy chosen for Sheila Copps' leadership campaign, Rosemary McCarney sounded a note of caution against using female stereotypes to one's advantage as a woman politician. While those stereotypes may have worked in her favour, there is no guarantee that the same strategy will work next time, especially if there are other women running. She also drew attention to Question Period in the House of Commons, saying that it is not a good forum for women politicians. Changes should perhaps be made to that period of confrontation, which does not correspond to the way women are brought up.

The session concluded with one participant stating that women must not let themselves be stereotyped in one image. They must project the image that suits them and reject confining labels. The media reflect society, and until there are more women behind the cameras, women will not be portrayed fairly.

### CONCLUSION

Mary Collins, Minister Responsible for the Status of Women, personally contributed to the symposium by stressing many of the barriers women face if they wish to participate in politics. She stated that the Commission will have to make complex and innovative decisions to set up a more equitable system for political participation by women and men. The problem of the underrepresentation of women in politics is not unique to women but is a societal problem; we must try to find a solution that will reflect the values of all Canadians.

Most participants expressed the hope that the Commission's report would bring about many changes that will encourage women to enter active politics in Canada. Women have a strong willingness to participate in the democratic process as candidates or by working within a political party. All too often, however, they face insurmountable barriers of systemic discrimination and financial and organizational constraints. Political parties and governments in Canada must demonstrate a willingness to change and establish mandatory measures that will correct these inequalities.

# 3

## CANADA-UNITED STATES CAMPAIGN REFORM SYMPOSIUM



Joan Shorenstein Barone Center on the Press, Politics and Public Policy  
John F. Kennedy School of Government, Harvard University  
Cambridge, Massachusetts, November 19–20, 1990

**T**HE SYMPOSIUM CONSISTED of four sessions:

- The Financing of Election Campaigns in the United States and Canada
- The Role of the Media in Election Campaigns: A Discussion of Potential Reforms in the United States and Canada
- The Role of Political Parties: A Comparative Perspective
- Symposium Review by Canadian Participants

This symposium brought together prominent academics, journalists and practitioners in electoral politics in the United States with Canadian political practitioners and political scientists. The objective was to develop an understanding of American electoral politics and its relevance to Canada.

The first session focused on the current state of campaign finance in the United States and proposals for reform. Although regulations governing political financing in Canada and the United States are based on different philosophies, both countries face many of the same challenges.

Karl Sandstrom, Staff Director of the House Subcommittee on Elections, indicated that because the mass media provide the only means of reaching voters in a highly mobile society, spending on media accounts for at least 60 per cent of all spending in competitive races. He argued that the costs of campaigns have been increasing, partly as a result of declining reliance on volunteers.

Incumbents are driving up costs in the system, Marc Nuttle, Executive Director of the National Republican Congressional Committee, noted in his opening remarks. He suggested that the benefits enjoyed by incumbents are one reason for rising costs. The name identification associated with being an elected member of Congress is high, which means that challengers must spend \$600 000 or more just to achieve the same name recognition. The total value of the franking privilege for all members of Congress is estimated at \$130 million.

Frank Sorauf of the University of Minnesota pointed out that campaign spending has been increasing at a rate not much greater than the rate of

inflation. The change has been in the pattern of contributions, with the trend toward an increased share of all contributions being enjoyed by incumbents; expenditures by incumbents are increasing at a greater rate than expenditures by non-incumbents. Fred Wertheimer, President of Common Cause, noted that, over time, the gap between funds available to incumbents and to challengers has been increasing, with the trend toward 'de-funding' challengers. The consequence is a lack of competition in the electoral process. Of 406 incumbents in the 1990 election for the House of

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"... the gap between funds available to incumbents and to challengers has been increasing, with the trend toward 'de-funding' challengers."

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Representatives, 79 were unopposed, 168 faced challengers who spent less than \$25 000, and 124 faced challengers who had less than half the financial resources of the incumbent, leaving only 10 per cent of incumbents in competitive contests.

He argued that Political Action Committees (PACs) exist to give money to incumbents, pointing out that although overall contributions to incumbents outweigh contributions to challengers by a ratio of 8 to 1, PAC contributions to incumbents outweigh contributions to challengers by a ratio of 16 to 1. He noted that 96 per cent of House incumbents and 34 of 35 Senate incumbents were re-elected in 1990.

In response, John Motley, Vice-President of the National Federation of Business Free Enterprise PAC, argued that most of the money in American politics comes from individuals and parties, with 60 per cent of House funding and 75 per cent of Senate financing coming from these sources. If the system is skewed toward incumbents, it is not only because of the actions of PACs. He also argued that increasing costs are not the result of PAC activities. Rather, media costs are driving increases in campaign expenditures.

Phil Friedman, an attorney in Washington, D.C., argued that it is rational for PACs to give money to incumbents. Ideological PACs provide an opportunity for individuals to become involved in the political system. Friedman emphasized the importance of disclosure, arguing that informed voters are capable of making their own decisions about the sources of a candidate's funds.

The savings and loan scandal highlighted the inadequacies of the American disclosure system, argued Jill Abramson, a staff reporter for the *Wall Street Journal*. Most of the money in question was 'soft' money and consequently has become public knowledge only because of investigations by journalists and police.

The panelists suggested a wide variety of possible reforms to the American campaign finance system, reflecting their diverse viewpoints and backgrounds. Much of the discussion centred on the question of whether public funding should be provided.

Fred Wertheimer advocated extending the system of public funding in presidential campaigns to congressional elections. This would entail either cash grants or matching funds to participating candidates. Frank Sorauf suggested that implementing a system of public funding and expenditure limits in the United States is a more daunting regulatory task than it has been in Canada because of the size and decentralization of the American system as well as the constitutional constraints. He indicated that his preferred form of public funding would be a tax credit similar to the Canadian system.

Those opposed to public funding contended that the American public is not willing to pay for it. It was suggested that reforms should focus on incumbent advantage, shortening the campaign and requiring candidates to 'zero out' campaign funds after the election and thus prevent them from rolling over huge surpluses that intimidate potential challengers. Phil Friedman advocated eliminating the existing system and relying entirely on a full disclosure system.

Although none of the panelists suggested making PACs illegal, both John Motley and Phil Friedman expressed strong opposition to such a measure, and indicated that if PACs were made illegal, they and their members would find other means of becoming involved in the political system.

Discussion with the Canadian participants began with a question regarding the role of voluntarism in American politics. A panelist suggested that chequebook voluntarism had replaced traditional forms of voluntarism in American politics, noting that some 10 million Americans make political contributions. Another added that the professionalization of campaigning has progressed to the point that campaigns

sometimes reject offers of volunteers, preferring cash contributions instead.

A question about the popular support for public funding drew a response from Fred Wertheimer. He argued that some poll results suggest there is support for public funding and noted that nine of the 11 public funding proposals that have appeared on the ballot in California have been adopted. He concluded that it was a question of political will and choice. Phil Friedman called public funding fundamentally anti-democratic.

Karl Sandstrom suggested there is a class bias in the contribution system, with the bulk of contributions coming from wealthy white males, with

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"... the professionalization of campaigning has progressed to the point that campaigns sometimes reject offers of volunteers, preferring cash contributions instead."

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only 1 to 3 per cent of the electorate participating. Marc Nuttle took issue with this, indicating that the average contributor made small contributions, and was older, often retired, and had an income of less than \$30 000 annually.

Fred Wertheimer argued it is necessary to ensure organizations making independent expenditures are actually independent and advocated requiring groups making such expenditures to display their name on their advertisements. He also noted that most independent expenditures are made on behalf of incumbents. Another participant said the effects of these expenditures are overestimated. He noted, however, that if other channels were closed through further regulation of contributions or expenditures, independent expenditures would increase.

The trend in Canada toward independent expenditures focusing on individual candidates, with groups starting to target particular cabinet ministers or Members of Parliament, was noted by one participant. Another suggested there is about a five-year gap between the emergence of a phenomenon in the United States and its appearance in Canada. He also asked panelists to discuss the process of electoral reform and the reasons for the failure of American reform proposals.

The argument was advanced that it is necessary to overcome partisanship to achieve electoral reform. At present, neither the Democratic nor Republican party recognizes its self-interest. In fact, it was suggested, neither of the parties' initial assessments of their interests in campaign reform has been accurate. In a similar vein, the Democratic National Committee kept the 'soft' money loophole open and will suffer the consequences for having done so, as this is not in their self-interest. Another suggested that there are very real differences between the two parties and between the two chambers of Congress insofar as campaign finance reform is concerned.

It was suggested that the interests of incumbents are at play and that the current system constitutes an incumbent protection plan. Reform will not occur until incumbents feel threatened.

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"... the 'media maestros' are becoming the new political bosses in the United States."

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In response to a question, Karl Sandstrom noted that there are very few advocates of strong parties in the United States. In his view, increasing the strength of the parties would simply mean that money would be washed through the parties and passed on to candidates. John Motley argued that stronger parties would mean a much greater degree of polarization of the American political system, as unions lined up behind the

Democrats and business interests lined up behind the Republicans. He noted that this would not be an improvement, particularly because the public no longer trusts political parties to act as aggregators of interests.

Ellen Hume, Executive Director, Joan Shorenstein Barone Center on the Press, Politics and Public Policy, began the second session by underscoring the increasing role of the media in shaping political debate and discourse in the United States. She said the "media maestros" are becoming the new political bosses in the United States. As moderator, she asked the panelists to address four general issues concerning the role of the media in American politics. What are the trends in the free media? What are the trends in the paid media? Should some free airtime be provided during elections? Should leadership debates be reformed?

A staff writer with *The Washington Post*, Paul Taylor, noted that an increasing amount of political information is being transmitted through shorter sound bites. The average television sound bite shrank from 48 seconds in 1968 to 9.8 seconds in 1988. He reviewed how the media have become highly critical and sceptical about politics and politicians, and the carriers and chroniclers of dissatisfaction with political life. The media have fully embraced the 'strategic game' perspective, portraying politics as a horse race, emphasizing drama and theatrics over substance and issues, and searching endlessly for visual sensations. The cumulative impact of this approach has been to make politics more and more irrelevant to the everyday lives of American citizens.

He argued that the attack mentality of the contemporary media can be traced back to the submissive stance of the media during American involvement in Vietnam. Now the media are determined that coverage of the political process will not be manipulated or coerced by political elites.

Most politicians have embraced Roger Ailes's motto that the media are most receptive to "pictures, mistakes, attacks," said Ed Fouhy, Executive Producer of the Concord Communications Group. The 1988 presidential and congressional elections confirm the validity of this motto. He emphasized the role corporate economics play in shaping the election coverage of the three major television networks, which are concerned primarily with profits and are less imbued with a sense of public responsibility and political altruism than previously.

Jim May, executive vice-president (Government Relations) of the National Association of Broadcasters, applauded the expanding role of local networks in election coverage. He noted local networks have been organizing state-wide debates and have made some efforts to improve their reporting of substantive political issues.

Political consultants try to manage what issues and events are considered newsworthy and have had some impact on television news election coverage, explained Ron Rosenblith, a campaign consultant from Washington, D.C. He argued that there is a critical linkage between the news and the credibility of negative ads. To be effective, negative ads need some facts and must refer to actual events. If citizens can identify these facts and events in news stories, then the "spin" put on them by political consultants through negative ads becomes believable.

There are no simple answers to the question of the impact of contemporary media coverage on the way information and ideas are transmitted to voters, cautioned David Yepsen, chief political writer for the *Des Moines Register*. He felt the expanding electoral coverage of the local media means more information is available to voters. Generally, though, he faulted the media for not adequately sorting out the large amount of information available to voters.

Tom Patterson of Syracuse University charged that journalistic values had replaced primary political values as the guiding factors in determining the nature of election coverage in the United States. In his view, the media expend too much energy and resources on irrelevant stories. The media are too dedicated to highlighting the horse-race qualities of elections and too concerned with reporting on the personal foibles of candidates. He noted that 70 per cent of election coverage in the 1988 elections was negative, a change from 1960, when 60 per cent was positive.

Commenting on ways the media could critically assess whether the content and messages of negative ads were truthful and relevant, one panelist said it was improbable the media could be purveyors of truth. He

placed less value on the impact of negative ads and more on increasing both the number and substance of leadership debates. He saw these debates as the most important events in election campaigns. Another advised the media to be more sceptical of the role played by "spin doctors" and journalists. Consultants want to sell a story; they want a say in the election coverage of their candidate. The media have to appreciate how consultants manipulate election coverage.

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"The media have to appreciate how consultants manipulate election coverage."

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Tom Patterson noted negative ads have come to dominate election campaigns in the United States as a result of the transition from issue-centred campaigns to candidate-centred campaigns.

Paul Taylor noted that commercial advertisers are subject to a more restrictive regulatory environment than political advertisers. He believes some free airtime (perhaps five minutes per party per night for the last month of the campaign) would encourage a more substantive treatment of political issues. Ed Fouhy said enhanced use of public television would be a solid first step in achieving substantive political discourse. Several panelists emphasized how the media environment in the United States has become highly fractured. The presence of cable television and speciality channels and the growing influence of local networks have made it exceedingly difficult to transmit political information and values to a large number of diverse audiences. The use of free airtime would be hampered by these structural and technical realities.

Panelists were asked to comment on the impact of public opinion polls on voting choices and whether there is wisdom in banning polls for a certain period during elections. Ed Fouhy said he was not bothered by the possible impact of polls. David Yepsen questioned whether media organizations should be conducting and publishing polls that could have an impact on voting choices and called for the media to be responsible in the use and reporting of polls. Tom Patterson noted that empirical studies have been inconclusive about the impact of published polling results on voting choices. He argued they have an indirect impact by accentuating the reporting of elections as horse races; polls indicate who is leading and who is trailing.

Asked how leadership debates could be made more meaningful, the panelists felt the debates would have more value and legitimacy if they were less scripted and more spontaneous. Conversely, panelists emphasized that the debates will never become more spontaneous because the players would not want to give up the control they now have.

In commenting on whether the media have become too accepting and too dependent on the sound bite, one panelist suggested that the existence of the 9.8 second sound bite simply reflects declining public interest in the political process.

A number of differences were cited between the electoral systems of the United States and Canada in relation to the way the media report on politics. Unlike the United States, where there is considerable symmetry between electoral districts and media markets, Canadian media markets normally extend beyond a single constituency. In Canada, candidates cannot make efficient use of media markets to reach voters as they would often be spending money to reach those who cannot vote for them. A similar dilemma exists in many congressional races, but less so in senatorial and gubernatorial campaigns. Media campaigns in Canada, therefore, tend to be national in scope (except in Quebec, where distinct media campaigns are presented), rather than candidate-centred. And because media campaigns are national, they are more likely to advocate issues, not promote individuals, thus reducing the incentive for negative advertising.

In the third session panelists were asked whether the role of political parties as public institutions has increased or decreased in recent years.

Gary Orren of Harvard University said a number of long-term social, economic and demographic factors have caused parties to decline. Parties are now performing fewer and fewer functions. The state has assumed responsibility for the administration of elections. Civil service reform has deprived parties of an important source of patronage. A better educated electorate has meant weaker party identification. The advent of the mass media has accelerated and reinforced the decline of parties. He labelled parties 'super PACs' which are making increasing use of modern technologies to raise large amounts of money.

Drawing a comparison with the Canadian system he noted, "A lot of functions that parties have performed ... have slipped away to other actors in the [American] political system. You have a much stronger party system

and you need to guard against that erosion. I think our elections are the worse for it here and by extension, our governing process is the worse for it."

The school of 're-invigorization of parties' was rejected by Bob Shogan, political correspondent with *The Los Angeles Times*. This view says parties are reasserting themselves as forums for recruiting and training candidates, providing policy research, and giving candidates election campaign resources. He said parties are simply imitating PACs, rather than re-building themselves as credible public institutions, and argued that parties have always been weak in American politics, a fact he attributed to the constitutional and institutional arrangements established by the founding fathers.

Leaders and other candidates do not want strong parties, said Paul Tully, Political Director for the Democratic National Committee. They want to communicate directly with their voters and are leery of using parties for

these purposes. He rejected the view that parties are systemically weak in American politics. A number of strong party machines exist in many American suburbs, where parties are important factors in voting decisions and in shaping public perceptions of policy issues. He argued that after race, party identification is the most reliable indicator of voting choice. He said parties do function as loose coalitions out of which legislative majorities are built.

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"... after race, party identification is the most reliable indicator of voting choice."

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He cautioned it was a mistake to describe parties as monolithic. American parties are organizationally complex; they are made up of a large number of committees and sub-parties. Certain segments of the parties are more influential than others.

Parties do have some carrots and sticks and use their financial and organizational resources to control unco-operative or undesirable candidates. Bernadette Budde, Vice-President of the Business Industry Political Action Committee, listed a number of activities performed by parties – policy research, fund raising, candidate training, contracting of assistance from political consultants, and polling for local candidates. Several other panelists agreed parties have resources that enable them to impose a degree of policy standardization on candidates.

Noting that parties have declined considerably, Jan Baran, General Counsel for the Republican National Committee, stated that parties no longer serve as policy and electoral mediators. The primary function of modern parties is to raise money, and the Republican Party has been far more successful than the Democratic Party. Republican fundraisers have been adroit at building a broad-based donor constituency through aggressive direct mail campaigns. Parties have almost no input on who becomes a candidate.

Asked whether parties and PACs compete, Gary Orren said that parties do less than PACs. Although parties provide some policy cues and ideological cohesion for local candidates, they do not perform four essential functions. They do not communicate with and educate voters; the media and candidates do this. Parties do not evaluate, test or appraise candidates; the news media do. Parties do not select leadership candidates; they simply ratify choices made by voters. And parties do not identify and recruit candidates; candidates make their own choices about whether to run.

Commenting on how parties could be strengthened, Bob Shogan said reform proposals should be modest in scope, perhaps directed at better campaign finance disclosure rules. Jan Baran felt any reforms would have to create financial equity between the Republicans and the Democrats. Currently, the Republicans have money, and the Democrats have seats. The Democrats would not want a more competitive electoral environment if they had far less money than their opponents. Another panelist said PACs would resist any reforms designed to change elections from candidate-centred campaigns to party-centred campaigns.

The panelists were asked for clarification of the role of American parties in policy formation. If parties play only a small role in policy making, where is policy made? The response was that parties no longer have a policy mediation role. Policy is made throughout the executive and legislative branches. Candidates, not parties, make policy selections. It was argued that a substantive policy-making role is alien to American parties; as a result, parties have been less relevant than in other countries.

In response it was noted, "because they [parties in the United States] don't do this, because they don't have any input on policy, they really are not terribly relevant to people. Therefore, they get weaker. If your parties have a policy function, cherish it and protect it against all enemies."

PAC activities are directed almost exclusively at local candidates, Bernadette Budde said in response to a question on whether PACs try to shape policy debates in American politics and whether they influence public opinion. Senators and members of the House of Representatives can make laws and control legislation. PACs want precise, measurable outcomes, not trends in public opinion. PACs give money to those individuals who can make things happen.

Several questions about the role and possibility of new parties in the United States were raised, with panelists replying that the electoral process regulatory regime in the United States makes it difficult for new parties to develop and survive.

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"If your parties have a policy function, cherish it and protect it against all enemies."

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Discussion at the final session applied the U.S. experience to the Canadian situation. Participants discussed a number of proposals for reform of the Canadian system, many of which focus on strengthening the Canadian party system. There was consensus among the participants that, in general terms, the Canadian electoral process and party system are much healthier than their U.S. counterparts.

One panelist warned that the American experience shows that weak parties result in "... wealthy and celebrity candidates. You get incumbents. You get political consultants. You get the news media, especially television. You get special-interest groups. Something is going to fill that void."

A brief description of the challenges facing the Canadian political system was given by Suzanne Warren, Ontario Director of Operations for the Progressive Conservative Party of Canada. Widespread voter malaise, a decrease in the number of volunteers, and the rise of regional parties (such as the Reform Party and the Bloc québécois) all challenge the relevance of the major parties as the primary vehicles of access to the political system.

She cautioned that the U.S. experience with contribution limits suggests they are difficult to enforce, and also noted that the American experience with referendums suggests that Canada should proceed with great caution on that front.

The Federal Secretary of the New Democratic Party, Richard Proctor, noted that although Canadian parties are stronger and more policy-oriented than U.S. parties, there has been some deterioration of the Canadian party system; he emphasized the need to strengthen political parties in Canada. To this end, he suggested consideration be given to public funding of political parties between elections. He suggested that the key issue upon which the Commission must focus is interest group advertising during elections.

The value of examining the American experience lies in seeing the future, and in this case the future doesn't work, remarked Tom Axworthy, Executive Director of the CRB Foundation. He noted that the earlier discussion about viable political parties pointed up that while the Canadian system is far from perfect, and there are some discouraging trends, there is still time to prevent Canada from going down some of the roads the Americans have. He also noted that technology affects the nature of elections; within three to five years of a technology's introduction in the United States, it appears in Canada. This suggests that unless certain safeguards are strengthened, Canada may face many of the difficulties experienced by the American system, most notably the decline of the party system.

Underscoring the importance of maintaining a strong party system, Axworthy pointed out that in a society with few truly national institutions, parties are all the more important because they perform the essential function of aggregation from which emerges a concept of national interest. Axworthy recommended that Canada maintain spending limits, retain and enhance public financing, expand the definition of election expenses to include polling, place limits on the use of public funds by political parties, reform

the system for allocating media time to minor parties, and limit interest group interventions during elections to maintain the integrity of the system. He advocated full disclosure for interest groups intervening in elections.

Asked how he would deal with regional groups like the Bloc québécois, Axworthy responded that the principle should be that any group with a reasonable following should not face significant barriers to gaining party status. On the question of having to name candidates in all regions of the country in order to gain registered party status, he indicated that, although his bias was toward national parties, it is impossible to deny regional parties the right to organize.

A participant expressed his view that given current spending limits, polling should not be included as an election expense, because this activity is too crucial to deny to parties. If polling were included as an expense, parties would be prevented from commissioning good quality polling, thereby relegating polling entirely to the media. He also argued that if polling were included as an election expense, parties would avoid the law by having other organizations perform their polling for them.

Axworthy responded that any activity a party pays for is a professional service and should be included as an election expense. Noting that all the parties engage in extensive polling during elections, and referring to polling as "Canada's soft money", he suggested that the integrity of the system would be enhanced by "coming clean" about polling. He also advocated increasing the spending limit to reflect the broader scope of the definition.

As the session concluded, it was noted that in contrast to the previous observations, many of the solutions being discussed by Americans are already in place in Canada, and that these measures have served Canadians well. The strength of the forces of fragmentation within the Canadian political system were noted, and it was suggested there is a need for a better appreciation of the forces affecting parties.

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"... any group with a reasonable following should not face significant barriers to gaining party status."

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## SYMPOSIUM ON ELECTION AND PARTY FINANCING AT THE CONSTITUENCY LEVEL



Winnipeg, Manitoba  
November 26–27, 1990

THE SYMPOSIUM CONSISTED of three sessions:

- Managing Candidates' Spending and Financing in Federal and Provincial Elections
- Presentation of Draft Proposal from Accounting Profession Working Group on Election/Party Finance Reporting at the Local Level
- Workshops for Official Agents and Auditors to Discuss the Proposal of the Accounting Profession Working Group

The purpose of the first session was to compare federal and provincial practices at the constituency level on issues such as registration and disclosure for local constituency associations, reporting procedures and the definition of election expenses.

Panelist Anthony Toth, a former federal candidate, suggested federal funding for candidates had significantly reduced the barriers for parties that could reach the vote threshold to qualify for partial reimbursement of campaign expenses. He pointed out that candidates may be subject to significant unregulated intervention from single-interest pressure groups and suggested limiting their right to spend independently during campaigns. He also said the definition of election expenses and the method of assessing the value of contributions and assets need to be more precise.

Training for candidates' official agents would be more effective if sessions for experienced participants were separate from those for new agents. He proposed that agents be required to be accredited accountants. Reporting should be computerized, and an effort should be made to create user-friendly forms. The remuneration received by auditors should be increased to compensate them adequately for doing a more complete audit.

Noting that public funds are involved, Toth advocated that federal constituency associations be required to make annual reports on their

expenditures. He concluded that despite the current problems, the integrity of our electoral process is intact.

Michael Krashinsky of the University of Toronto said that the current system of reporting is designed for accountants and lawyers, not average citizens. Noting that personal guarantees are usually required for loans to finance election campaigns, he suggested that a sliding scale replace the current 15 per cent of votes cast required to qualify for reimbursements; this would assist candidates in arranging financing.

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"... the current system of reporting is designed for accountants and lawyers, not average citizens."

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He also advocated increased allowances for auditors, simplified forms, clarification on valuing contributions, and steps to address the question of regulating special-interest groups. A petty cash allowance of \$500 to \$1000 for smaller items that would not require receipts was a further suggestion.

Pierre Dalphond, a lawyer who has acted as an official agent, proposed that equality, transparency and accountability should be the objectives of election law. He urged that the rules be made as simple as possible. He suggested that competition between candidates and unregulated interest groups results in a basic inequality that does not serve the election process well.

Dalphond supported the concept of reporting at the constituency level. Commenting on Quebec election law, which restricts to voters the making of contributions and limits their contributions, he noted that in some cases contributions are simply spread out over several individuals to get around these restrictions. He recommended that the vote threshold required for reimbursement be reduced to 5 per cent of the votes cast.

John Buckworth, a chartered accountant, suggested that there is an urgent need for clarification of the rules. He noted that many of the forms could be better designed so that they could be computerized more easily. He agreed that training sessions could be improved significantly and suggested they be held earlier in the campaign.

In the discussion that followed it was noted that many official agents are inexperienced volunteers; 30 per cent were newcomers in the last election. One participant suggested that more sample questions and answers, along with charts showing how to value contributions, would be a help to official agents.

Participants did not feel that provincial legislation is any easier to work with than the current federal system. One participant suggested Ontario's system of full reporting allows for much better accounting of contributions and expenditures. It was generally agreed that responsibility for training personnel should rest with the political parties, not Elections Canada.

### THE WORKING GROUP PROPOSAL

The second session began with the introduction of the proposal by the Accounting Profession Working Group on election and party finance reporting at the local level. Chairperson Denis Desautels indicated that their final report would include consideration of computerization of the reporting process.

He then outlined the objectives of the Working Group's proposal: clear language, simplicity, accountability for use of public funds, no excessive control or restrictions, full disclosure and transparency, and protection of the public interest. The central features of the proposal were: extension of registration and disclosure rules to constituency associations of registered parties; introduction of more timely detailed reporting for electoral district associations and candidates; use of an all-inclusive definition of election expenses; treatment of certain post-writ nomination expenses as election expenses; and reporting requirements consistent with generally accepted accounting practices. The reporting requirements would entail annual reports from registered constituency associations as well as post-election reports from both candidates and constituency associations.

A few participants said they saw no reason to require constituency associations to file post-election reports, suggesting instead that the official agent report all election expenses. The chairperson responded that this could be done, but that the separate reports called for in the proposal would produce a full picture. When asked why constituency associations' post-election reports need to be audited, a member of the Working Group responded that several items in associations' reports are crucial to complete disclosure.

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... the public has the right to know, particularly because public funds are involved."

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Noting that the proposal calls for disclosure of contributors' addresses, a participant remarked that this seemed intrusive. A Working Group member responded that the public has the right to know, particularly because public funds are involved.

Several participants asked about proposed treatment of fund-raising expenses. The Working Group acknowledged that exempting expenditures for fund raising from limitations would include direct-mail solicitation. When asked whether direct mail would remain an unlimited expense if it promotes the candidate as well as soliciting donations, the Working Group noted that Elections Canada now judges whether direct-mail solicitations qualify for the exemption. The Working Group also noted that exempting fund-raising expenses from limits is not based on the purpose of the event, but on whether the event actually raises money. Consequently, a constituency association that loses money on an election

period fundraiser could find the expenses of that fundraiser included in its election expenses.

Several participants expressed concern about how the proposed legislation would replace the current system of assessing the value of contributions in the price of tickets to fund-raising events. They noted that many associations work hard to give donors as much of a tax credit as possible on fundraiser tickets. Changes in this system would reduce contributions from the public to candidates and parties.

A number of participants asked about including some post-writ nomination expenses in the total election expenses subject to limitation. One noted that hotly contested nomination races give candidates free media coverage and asked why only 10 per cent of nomination expenses were included as election expenses. A member of the Working Group responded that this provision was designed to set a price on this free media attention and to help level the playing field.

Several participants argued that post-writ nomination expenditures should not be included in election expenses. One pointed out that this provision could drive nominations into the pre-writ period, which would give the advantage to those who can afford to commit to candidacy earlier – especially incumbents and candidates from the party in government. It was also argued that a constituency association's decision to hold its nomination meeting after the writ would affect its candidate's allowable expenses, which would be unfair.

There was considerable discussion about the definition of volunteer labour; several participants suggested that professional services (such as legal advice from a self-employed lawyer to a candidate) should not be considered contributions.

Several aspects of registration and deregistration in the proposal provoked discussion. Participants expressed concern about the requirement that registered parties assume the liabilities of constituency associations after redistribution if a new riding association does not take on these liabilities. A Working Group member commented that this system works in Ontario, and some entity should assume these liabilities; also, parties may now choose not to transfer the assets and liabilities of constituency associations, thus avoiding responsibility.

One participant protested that automatic transfer of liabilities and surpluses from campaigns to constituency associations is unfair because it can force an association that has had no part in running a campaign to assume its liabilities. This participant also proposed giving candidates the option of transferring surpluses to another level of the party.

The requirement that constituency associations report the contributions and expenditures of their auxiliary and affiliated organizations was discussed. Several participants noted that in their party, women's and youth organizations are separate entities; they argued that constituency associations should not have to file reports on these organizations as long as they

do not issue tax receipts. Participants noted also that some party organizations, such as campus organizations, cross constituency boundaries.

### OFFICIAL AGENTS' WORKSHOP

The Official Agents' Workshop provided an opportunity for official agents to discuss in greater detail issues related to the proposal of the Accounting Profession Working Group. There was considerable discussion, for example, on the question of how to value a computer owned by a constituency association. Issues raised included whether the original value or depreciated value should be used, along with the broader question of whether a portion of its value or the fair market rental value was an appropriate means of including it as an election expenditure.

There was consensus that forms should be as simple as possible and that every effort be made to combine proposed forms to reduce the number to be submitted. The Working Group indicated it was considering a short form or a statutory declaration for candidates and associations that do not spend a lot of money.

It was recommended that the limit on anonymous contributions be raised from \$25 to \$100. After discussion, there was consensus at setting the anonymous contribution limit at \$50. There was also general agreement that cash could be accepted up to \$200, after which contributions would have to be made by either cheque, money order or credit card. One participant thought that limits on monetary donations were inappropriate given that volunteer labour or food can be donated and considered an expense and not a contribution. Another participant reiterated the point and suggested a blanket exemption of \$2000. Alternatively, he suggested that services donated by individuals be exempt, but that goods remain included.

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### AUDITORS' WORKSHOP

The final session dealt with the effects of the Working Group's proposal on the work of auditors. Don Sheehy, a member of the Working Group, indicated some of the principal considerations for the workshop. He outlined the proposed requirements for who may act as an auditor, summarized the general requirements for the returns, and listed the additional returns that would have to be audited and filed under the proposal. He indicated that the criteria to be used in preparing and auditing the accounts would be those generally accepted by the accounting profession, but suggested the completeness of recording may never be fully satisfactory, so that returns

may have to include the standard qualification to that effect. Finally, he questioned whether, given the low level of audit fees paid, auditors can be expected to attain a zero level of materiality on returns of candidates and constituency associations.

There was considerable discussion of whether materiality limits should apply to candidate and constituency association returns. One person suggested that auditors would have to work with zero materiality as a result of the strict liability and penalties for exceeding the expenditure limit in the present law. Since no limit is suggested for the expenditures of the constituency association in a non-election year, its audit might allow a materiality limit. Several interveners suggested that guidelines should be issued on these questions rather than leaving it to the auditor's discretion.

In summing up, Don Sheehy noted that many interveners had suggested the need for precise accounting guidance on such issues as pro-rating. Some clarification was reached on who, under the proposal, is responsible for ensuring that a person meets the requirements to be an auditor. Sheehy suggested that the issue of materiality may be beyond the mandate of the Working Group because it relates to decriminalizing offences and Elections Canada's discretionary authority over prosecutions.

There was discussion of the role of Elections Canada in ensuring that spending limits are respected. One participant asked about the discretion the Commissioner of Canada Elections has in deciding whether to prosecute those who exceed the limits. He suggested a distinction should be made between a small amount overlooked and a large intentional infraction, since exceeding spending limits by even a small amount currently constitutes an offence. Such discretion would make auditors more comfortable. It was suggested that the Commissioner has assumed such discretion based on the *Canada Elections Act* which states that prosecutions require his consent.

Some of the pressure could be alleviated if many such offences were decriminalized and heard before an administrative tribunal rather than a criminal court. It was proposed that only in cases of deliberate disregard should the case go to the Federal Court of Canada.

# SYMPOSIUM ON THE ADMINISTRATION OF ELECTIONS AT THE CONSTITUENCY LEVEL



Sherbrooke, Quebec  
December 9–11, 1990

THE SYMPOSIUM WAS organized around six sessions:

- The Organization of Elections at the Constituency Level
- Enumeration and Revision: How Do We Proceed?
- Advance Polls and Proxy Voting: How Can the System Be Improved?
- Service to Voters with Disabilities and Citizens with Special Needs
- Problems Arising on Election Day: How Do We Deal with Them?
- Facilitating Election Operations at the Constituency Level: Where Are We Heading?

This symposium brought together 43 federal returning officers and party and election officials, mostly from Quebec. The subjects covered were similar to those dealt with at the Edmonton symposium. The opening session addressed the need for co-operation between parties and returning officers and the need to inform election and party workers about election procedures.

At the first session returning officer Raphaël Richard began by pointing out the need to reduce the high cost of elections. Fixing the date for federal elections, as in the United States, would permit better election planning and organization and a better choice of polling places. He recalled an experience when a school board had authorized him to use a school gymnasium as a polling place but the school principal cancelled the permit at the last minute.

He also advised holding meetings at the beginning of an election period to permit party organizers and returning officers to discuss such topics as the selection of polling places, rules for the election period and appointment of enumerators.

Louis Lavoie of Elections Canada pointed out that Canadian election law is complex, cumbersome and often incomprehensible, because it attempts to resolve all possible electoral problems. Elections Canada should simplify

its information, he said, and make it more accessible. Not only does Canada have a 25 per cent illiteracy rate, but people tend to ignore Elections Canada's public information in any event. Lavoie noted that Elections Canada's new information program will take this reality into account.

Several returning officers and the Chief Electoral Officer of Quebec described how they made special arrangements to guarantee smooth relations with candidates for purposes of election administration. One returning officer said he took this a step further and asked each candidate's organizers to designate someone for all communications with his office.

### ENUMERATION AND REVISION

At the plenary session on enumeration, returning officer Jacques Charpentier outlined recent enumeration problems. Polling divisions are becoming bigger, enumerators are fearful of going door-to-door in some areas, and voters

are increasingly likely to be away from home all day. Innovative ways must be found to cope with these new conditions. Participants estimated that the current enumeration system lists between 85 and 97 per cent of voters. However, some felt that people left off the voters lists often do not want to be listed anyway.

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"... enumerators are fearful of going door-to-door in some areas, and voters are increasingly likely to be away from home all day."

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Charpentier suggested that Elections Canada publicize the need for enumerators and invite voters to apply to political parties for this work.

Although the current system of nominating enumerators is efficient, he said, parties should be careful to select people who meet certain minimum physical and intellectual standards. He saw no benefit in training enumerators before a writ is issued because parties constantly change their lists of nominees. It would also be unprofitable to enumerate before a writ is issued because Canada's population is highly mobile, and too many changes to the preliminary list would be needed.

Charpentier contended that paying enumerators according to the number of voters enumerated is not fair; people work as hard in small polling divisions as in large ones but they get less pay. Also, enumerators get paid for repeat calls only if they eventually register voters. Enumerators in small polling divisions should receive a guaranteed minimum salary, and all enumerators' salaries should be tax-exempt. If these changes are made, he said, many more people would volunteer to be enumerators. He also pointed out that revising agents are underpaid and that the pay of returning officers should be based on the final list, not the preliminary one, because revision often raises as many problems as the original enumeration.

The discussion then turned to alternative systems for voter registration. Alain Gauthier, a consultant to the Commission, described Revenue Ontario's preliminary voters list used at the municipal and school board levels and British Columbia's permanent voters list. Enumeration was becoming increasingly difficult in these provinces and the validity of some lists was dubious. Under the new systems there should be fewer problems.

Gauthier was conducting a study that compared these systems, their problems and corrective measures. He discussed door-to-door canvassing, in which enumerators have trouble covering all voters in apartment buildings, and the Ontario experience with drawing up voters lists based on tax data and property purchase agreements. Locating home-owners is easier with this method, but it does not improve registration of dependants and tenants. He suggested preparing a preliminary list by the Ontario method and revising it by door-to-door canvassing.

Andrée Lortie of Elections Canada said computerizing returning officers' offices would not cause major problems because Elections Canada's systems do not require them to be expert operators. The 1988 election produced good and bad experiences, but it showed that all elections across Canada should be computerized. In the next election, enumeration will be done with index cards and an index book, the forms will be in different colours, enumerators will not have to type the voters lists, information will be entered on computers, and revision will be done from the index cards prepared for the preliminary list. Elections Canada would like to appoint – and pay for – one staff person in each returning officer's office to manage computer lists.

Jean-Paul Laperrière, another Commission consultant, reviewed the permanent voters lists used in British Columbia and Ontario's municipal voter register. According to the British Columbia elections organization, their system compares favourably with American systems, as it can be used for elections at any level, municipal to federal, thereby reducing duplication of effort and saving money.

In Ontario, the Ministry of Revenue had a mandate to develop and process municipal and school board voter registration. The public responded well to the new system, which produced more accurate information on voters.

Laperrière noted that a preliminary Commission study looked at the feasibility of using information from other government departments and agencies. One working group was investigating the possibility of using Revenue Canada data to prepare and maintain a permanent voters list. Representatives of Elections Canada, Canada Post and Statistics Canada formed a second group to evaluate geomatic data-matching, using information from their combined data banks, to produce electoral maps.

The enumeration workshops produced several conclusions. Participants did not generally question partisan nomination of enumerators, but they agreed that returning officers should make the appointments and maintain lists of people who should not be appointed again. Most participants

agreed that to increase the pool of willing enumerators, enumerators' pay should not be taxable. Many enumerators are unemployed or on welfare. If they have to declare their income from enumeration, they will not want to work during elections because their pay will be deducted from their benefits.

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"... returning officers should make the appointments and maintain lists of people who should not be appointed again."

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Several participants approved of the Quebec practice of appointing supervisory enumerators to supervise enumeration in 20 to 25 polling divisions and check preliminary lists for accuracy before sending them to returning officers. Participants preferred to continue using two enumerators in each poll, to reassure voters of the integrity of the process and to keep up the enumerators' confidence.

Returning officers and party representatives found they had conflicting objectives in the appointment of enumerators. Returning officers generally accepted the current appointment system despite its problems, but they protested that incompetent enumerators are sometimes appointed and parties refuse to co-operate by nominating more suitable individuals. Party representatives admitted that they do not want to lose their best campaign volunteers during enumeration. To resolve this problem, participants proposed expanding the sources of potential enumerators by inviting applicants from smaller parties or outside sources, such as schools and colleges. They also suggested that returning officers and parties could co-operate more closely, even before the election is called; that the public should be informed about the importance of enumeration; and that the two leading parties in each riding should appoint representatives to assist the returning officer.

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"... the mail ballot ... guarantees secrecy by requiring voters to mark their own ballots and seal them in envelopes."

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#### ADVANCE AND PROXY VOTING

In the sessions on advance and proxy voting, participants differed on whether to maintain the proxy vote but agreed on introducing a mail ballot. Several returning officers suggested eliminating voting in their offices because it causes administrative problems, unless the voting process can be modified to lighten their load. Many participants favoured abolishing the proxy vote because it

is complex and used infrequently, but some said it is useful for voters in outlying regions. Some participants pointed out that students and military

personnel have the opportunity to vote twice with current arrangements; mail ballots would pose the same risk.

The Chief Electoral Officer of Manitoba, Richard Balasko, contended that for voters who cannot get to a polling station, the mail ballot is the best way to exercise the franchise; it guarantees secrecy by requiring voters to mark their own ballots and seal them in envelopes. He suggested keeping the proxy vote for people who do not have easy access to mail service, such as trappers and others working in remote areas. Allowing automatic registration of people who vote by mail would improve this system.

Participants approved of mobile polls for hospitals and other institutions. At present, Elections Canada authorizes hospital polls only in some instances. Participants felt it would be impractical to keep these polling stations open all day if everyone has already voted.

### VOTERS WITH DISABILITIES AND SPECIAL NEEDS

In the session considering voters with disabilities and special needs, participants discussed literacy and access to the vote. Rachel Bélisle of the Canadian Institute for Adult Education described illiteracy in Quebec, emphasizing that reading and writing problems often affect voters with other disabilities, such as deafness.

Concentrating on illiteracy problems and possible solutions to them, Bélisle discussed the accessibility of the ballot and other election-related forms, as well as access to political ideas and issues, which, she said, are rarely presented in simple language. She pointed out that using colours, numbers and simple, clear language would be a first step to removing obstacles to persons with reading difficulties.

Bélisle encouraged participants to remember the needs of about 25 per cent of the population by sticking as closely as possible to everyday language, using very simple sentence structures to express messages, and supplementing written messages with other audio-visual means whenever possible.

Sylvie Godbout, a member of the board of directors of the Office des personnes handicapées du Québec, noted that the obstacles facing voters with disabilities may not be readily apparent to people without disabilities. Yet everyone has the right to vote, regardless of their level of ability. People with disabilities have every right to a voice in who will represent them in Parliament.

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"People with disabilities have every right to a voice in who will represent them in Parliament."

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Level access to polling stations is a priority, Godbout said, but returning officers are not the only ones with a responsibility in this regard. Candidates should also ensure that their offices, meeting halls and other

facilities are accessible. How can candidates aspire to represent persons with disabilities if they can't even bother to ensure that their offices are accessible? Godbout therefore suggested that level access become a condition for the reimbursement of candidates' expenses.

Current efforts to hire persons with disabilities as election officials are useful, Godbout suggested, but participation will be discouraged and the purpose defeated if election offices are not accessible. In addition, sign language interpretation for hearing-impaired voters should be available at polling stations and on television. After so many years of neglect, said Godbout, no effort should be spared to give persons with disabilities everything they need to know in order to vote.

In discussion, participants agreed that access ramps are now perceived as normal, not remarkable. Barrier-free buildings exist, and no effort should be spared to find and use them as polling places. The Act should make this a requirement.

Andrée Lortie remarked that Elections Canada's study of ways to eliminate obstacles has resulted in a new voting booth, which has no written instructions, only illustrations. Participants considered using candidates' photos on ballots, but abandoned the idea because voters know party leaders better than candidates. They did agree that adding party colours and symbols to ballots would address these problems.

### ELECTION DAY

In the workshops on election-day problems, discussion focused on the choice of election day. Unlike their colleagues who met in Edmonton, this gathering strongly favoured Sunday voting and discounted objections on religious or other grounds.

During her presentation, returning officer Céline Bernier described problems in finding adequate election-day facilities. She believes that Sunday elections would make returning officers' work easier because problems, such as recruiting qualified staff, would be reduced. She suggested allowing returning officers to recruit replacement staff for employees who are absent on election day. She also advocated election-day voter registration but suggested that election-day registrants should register and vote at the office of the returning officer to prevent double voting.

Several returning officers opposed election-day registration, in rural and urban constituencies alike, suggesting longer revision periods as an alternative. Few rural voters exercise their right to be registered on election day, they said. Other participants said that extensive voting-day registration would lead to abuse, and that rural and urban ridings should be treated similarly in this respect.

Jean Jolin, Assistant to the Chief Electoral Officer of Quebec, noted that in Quebec deputy returning officers are appointed by the governing party while poll clerks are appointed by the opposition. These officials are trained together and can fill in for one another. Each polling station also has an information

and control officer who helps manage the polling station on election day. This officer acts as the eyes of the returning officer in the polling station and stays in close contact with the returning office. When the vote has been counted, the deputy returning officer communicates the results to the information and control officer, who in turn communicates them to the returning officer's office, where they are posted and made available to the media. The results are usually available 45 minutes after the close of the polls.

At the last election, Quebec used mobile polls for the first time in senior citizens' homes and hospitals where many people are unable to travel. The mobile polling team was similar to a regular polling station team.

In the workshops most returning officers disagreed with a proposal to postpone the opening of ballot boxes so as to delay the transmission of eastern Canada's results to western Canada. They argued it would create confusion in the polling stations, and election officials might leak information. Some, however, thought a half-hour delay might be possible. Morning voting hours could be shorter, but extending evening voting hours would be difficult because poll staff would be tired and impatient. Several participants concluded that the time zone problem is unsolvable and that the status quo should remain. Others noted that Sunday voting would allow more flexibility in voting times.

# 6

## SYMPOSIUM ON POLITICAL PARTIES



Halifax, Nova Scotia  
February 7-8, 1991

**T**HE SYMPOSIUM WAS divided into six sessions:

- The Internal Dynamics of Parties: Candidate and Leadership Selection
- The Internal Dynamics of Parties: Party Organization
- Parties, Representation and Alternative Forms of Participation
- Responsiveness, Volatility and the Electoral System
- Parties as National Institutions
- Parties as Primary Political Organizations

The Commission devoted part of its research effort to examining the performance of political parties as the main vehicles of political participation and representation in Canada. This research seminar focused on political parties as the most direct means Canadians can use to represent their interests and become involved in politics. The objective was to provide opportunities for the Commission, senior representatives of political parties and the media, and academic researchers to discuss the Commission's preliminary research findings and possible reforms. Overall, the Commission sought input from participants on ways to affirm the importance of national political parties to political participation, representation and integration. Advice was also sought on possible reforms to electoral law to improve political parties' performance in these areas and on the limitations of such reform.

### **CANDIDATE AND LEADERSHIP SELECTION**

The first session, moderated by Kenneth Carty of the University of British Columbia, reviewed the pros and cons of reforming the candidate selection process at the constituency and national levels, particularly regarding spending limits. Should the law regulate these processes or should they be regulated mainly by the parties?

Each of the three largest parties has its own approach to leadership selection. The New Democratic Party biennial convention is technically a leadership convention, although the incumbent leader is rarely challenged.

The Liberals and Progressive Conservatives, however, have separate policy and leadership conventions. It was suggested that any attempt to regulate leadership selection must recognize the distinct processes of all the parties.

A brief overview of the recent New Democratic Party and Liberal leadership conventions was provided by Keith Archer of the University of Calgary. It was noted that both parties have used the tax credit system to assist leadership candidates in fund raising. This means the leadership selection process is subsidized from public funds.

Reference was made to the three parties' recent efforts to reform the leadership selection process. For example, at their last national policy convention, the Liberals adopted a resolution to move toward allowing all party members to elect the leader. Some expressed concern that electing the leader directly would not necessarily strengthen the party. Direct elections would give constituency interest groups more opportunities to influence the outcome, and this approach may not always result in greater participation by party members.

Lynda Erickson of Simon Fraser University identified several controversial aspects of the candidate selection process, including membership requirements, the timing of selection meetings by the party executive, and the increasing cost of a few nomination contests. Spending limits imposed by public regulation, some suggested, could open up the selection process to candidates of all socio-economic backgrounds.

Panelists generally agreed that some level of public regulation of this process is justified when public funding is involved. However, on specific issues like membership requirements, they agreed that the parties would strongly resist such efforts.

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"... the combination of public funding, spending limits and disclosure gives Canada's electoral system a high measure of public confidence and legitimacy."

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Michael Robinson of the Liberal Party suggested that the combination of public funding, spending limits and disclosure gives Canada's electoral system a high measure of public confidence and legitimacy. Extending this combination to leadership and candidate selection could make the process more democratic.

#### **PARTY ORGANIZATION**

At the second session, moderated by Steven Wolinetz of Memorial University, participants discussed how the parties' organization and policy-making capacities could be improved.

Panelists were also asked whether linkages between the parties' federal and provincial wings should be tightened or loosened.

Participants were told that the organization of Canadian political parties reflects their preoccupation with electoral competition. Their proficiency in

organizing elections tends to be stronger than their ability to develop policy. William Chandler of McMaster University suggested that Canadian parties need more resources to do policy research.

Internal party processes should be concerned with more than just policy development, argued Jack Graham of the Liberal Party. These processes also give members the opportunity to express views to party leaders, develop policy support among members and educate members about policy issues. Others felt that the grassroots model of policy development is unrealistic – the grassroots membership gives direction to policy makers, rather than developing detailed policy.

Several panelists supported the establishment of party foundations such as those found in Germany and the Netherlands. Party foundations could let parties develop long-term policy alternatives and could allow parties to tap regularly into networks of policy experts and research institutes. One participant said that the foundations must remain relatively autonomous if they are to work as envisaged. Others argued that the short-term and highly partisan policy needs of political parties mean that they would want to control party foundation activities.

Steven Wolinetz noted that party foundations in several western European nations were sensitive to the partisan political climate in which they functioned. One participant suggested that foundations could make parties more credible and visible between elections. In Europe, foundations are not simply think tanks. They also educate and get party members more involved between elections.

In Germany, parties have a privileged position enshrined in the constitution, and consequently receive public support. One panelist stated that as private organizations, parties should not be given public funds. Another panelist responded that party foundations are a controlled way of encouraging policy development and suggested that directly giving funds to parties to perform certain functions would be more effective.

There was a general discussion about why Canadian political parties have not created institutions like party foundations. One panelist replied that party preoccupation with elections precludes this; another suggested that parties simply have not thought of the idea, while another argued that limited resources force parties to concentrate on elections.

Panelists reviewed the strength and direction of organizational linkages between the federal and provincial wings of the political parties. Rand Dyck of Laurentian University argued that these linkages should not be changed. It was suggested that dividing these wings would force volunteers, whose numbers are declining, to choose between them. In addition, the fracturing caused by separate organizations in the Quebec Liberal party was highlighted as a potential pitfall of such weak linkages.

### **PARTIES AND REPRESENTATION**

Jane Jenson of Carleton University moderated the third session in which panelists discussed whether the major parties are in danger of being replaced

by interest groups or single-issue groups. They also addressed changes in public opinion on political parties and reviewed ways to channel new forms of participation into the mainstream parties, as successfully achieved in some European countries.

The moderator noted that political parties are crucial because they represent the electorate. However, this role is complicated by higher levels of public cynicism and distrust and increasing recourse to single-issue activities that bypass the parties and inhibit the compromise necessary for party representation. Consequently, parties are less able to link people and government and to generate a national political language. The suggestion was made that some believe this is inevitable because social change creates a more individualistic, consumer society or because the *Canadian Charter of Rights and Freedoms* encourages using the courts rather than elections to resolve conflicts. It was also argued

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"... parties are less able to link people and government and to generate a national political language."

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that political parties handicap themselves by failing to give voters clear, consistent policy alternatives.

Although parties still have an important representational role, Canadians' identification with political parties has diminished, agreed Neil Nevitte of the University of Calgary. Critical public attitudes reflect the value changes of advanced industrial societies. These societies enjoy unprecedented prosperity and security, as well as geographic and occupational mobility, and through technological and informational changes they have more political knowledge. In addition, the gap between the general public and the elite has been narrowed by increasing public access to political information and dissemination of skills for autonomous decisions. A new political agenda has emerged on the quality of life (for example, the environment), and equality for Aboriginal people, women and other marginalized groups. This agenda competes with the old one, concerned with redistributive politics, and has led to a new style of political participation that demands direct action on issues.

Val Sears, formerly of *The Toronto Star*, suggested that we should not be concerned with integrating interest groups with parties, but rather with balancing interest group and party activities. Politics should be seen as groups operating in a marketplace of ideas or a collection of interests that many can share.

Another panelist, Tom Axworthy of the CRB Foundation, cautioned that increasing public cynicism should be put into perspective. Political decisions are collective choices of people who disagree. Everybody – including the Cabinet, Parliament and the public – loses most of the time

because the position that is adopted will always be a compromise. Hence, in a diverse society, it is not surprising that many are cynical. One participant asserted that despite the system, most people lose, so the important question is how to give everyone a fair opportunity to influence. Another suggested that of the four traditional functions of political parties, only one has been transformed. Parties still act as organizers of electoral choice, promoters of value systems and aggregators of interests. However, because of the rise of single-issue groups, parties play a lesser role in interest articulation. To support the role of parties as promoters of values, some argue, there is a case for having an ideological basis for parties.

Panelists agreed that although levels of political participation in Canada have remained relatively stable, individuals are increasingly channelling their political activism toward special-interest groups. The effect of communication technology on the behaviour of political parties and interest groups was also discussed. Someone suggested that the government's increasing use of public opinion surveys encourages special-interest groups to try to mobilize public support in a visible and confrontational style. This approach increases the visibility of certain issues and increases the probability of sympathetic public support.

Panelists discussed how the processes used recently by political parties to select leaders and candidates had contributed to declining public confidence in parties as primary political organizations. Someone suggested that the political parties had demonstrated limited internal reform, and that only public regulation would force parties to adjust their practices to meet changing public expectations. It was noted that political parties view themselves as private organizations made up of volunteers; as such, they would not welcome state regulation of internal processes and activities.

There was general agreement that parties must present themselves to the public as effective, credible political forums, a function performed increasingly by special-interest groups.

It was noted that although the government funds and gives tax credits for educational, charitable and other interest groups, it provides little funding for political advocacy and education.

#### **RESPONSIVENESS AND VOLATILITY**

The next session, moderated by Richard Johnston of the University of British Columbia, dealt with some of the properties of the electoral system and how they relate to party performance.

How responsive is the Canadian electoral system to changes in voter sentiment? Are high turnover and reduced incumbency necessarily good things? Does the system force parties to focus too much on short-term goals?

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"How responsive is the Canadian electoral system to changes in voter sentiment?"

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Research on electoral volatility and legislative turnover in Canada was summarized by Michael Krashinsky of the University of Toronto as "parties matter, regions matter and incumbency matters." These three factors explain most of the constituency-by-constituency swing in votes. The incumbency effect has not changed over the past 40 years, but Canadian elections are becoming increasingly regional. Regional effects on election outcomes are great and are much more important than incumbency. It was estimated that incumbency has a 4 to 5 per cent effect on electoral outcomes. The trend toward media and leader-oriented national campaigns decreases the effect of incumbency, while the increasing resources available to Members of Parliament that assist them in their communication and constituency service roles may increase the impact of incumbency. Commission research shows that size, whether the character of the constituency is rural or urban and the region do not influence the effect of incumbency. Overall, the incumbency effect is not strong in Canada.

Incumbency in the United States is a serious problem, noted panelist Brian Gaines of Stanford University, largely because of the way legislators garner personal votes through constituency service and pork-barrelling. Research shows that this phenomenon also occurs in the United Kingdom, but not in Canada. Incumbency in Canada is reduced by a consistently high turnover for parties and candidates; there are many marginal seats, and the number has not decreased. Electoral swings do not change significantly, suggesting that it is not the candidate that matters. Survey data suggest, however, that constituency service does have a limited effect. The conclusion was that low incumbency is a measure of the responsiveness of the Canadian system, and that this is a positive characteristic of Canadian politics.

David Gotthilf of Viewpoints Research suggested that there is a dichotomy between electoral and political responsiveness. Electoral responsiveness involves election results; political responsiveness involves policy and law. The American system, characterized by low turnover and opinion-driven policy development, is politically responsive but not electorally responsive. In Canada, the electoral system is very responsive while the political system is not. There are three reasons for this electoral responsiveness:

- The combination of a single-member plurality electoral system and a three-party system means that a small vote swing can cause a seat to change hands.
- Party identification among voters, particularly those under the age of 45, is declining.
- Politics is becoming increasingly professional, through the integration of marketing techniques and political strategy.

Canadian electoral responsiveness makes the political system less responsive. Politicians know how volatile public opinion is and soon learn that the campaign matters more than what they did in the preceding

four years. The task is to balance electoral and political responsiveness. Following the presentations, panelists debated whether having experienced career politicians is more desirable than high legislative turnover in ensuring that politicians are constantly responsive to their constituents. Although no consensus was reached, panelists did agree that there is no apparent trade-off between having experienced legislators and ensuring the political process is accessible to new candidates. They also agreed that limiting a politician's term, an idea that is somewhat popular in the United States, is inappropriate in Canada because of high legislative turnover.

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### **PARTIES AS NATIONAL INSTITUTIONS**

The session on parties as national institutions, moderated by Brian Crowley of Dalhousie University, examined the ability of the national parties to play an integrative role and incorporate diverse views. Panelists offered conflicting interpretations of the parties' ability to serve as primary national institutions. David Elkins of the University of British Columbia observed that Canada is difficult to govern because of the presence of linguistic and regional cleavages. The expectation that parties can solve this problem may be unrealistic. He suggested that parties are good at selecting leaders, nominating candidates, competing in elections and presenting policy alternatives. But parties will be overburdened if they are expected to also serve nation-building functions.

Maureen Covell of Simon Fraser University countered that Canadian political parties do bring together diverse interests; this feature distinguishes the Canadian system from other party systems where interest aggregation occurs in the legislature or in the corporate system. In Europe, this occurs through mediation between political parties representing specific interests. The Canadian system expects parties to be open to interest groups while developing policy ideas. Denis Pageau of the Progressive Conservative Party noted that parties wanting to govern must be national in scope and accept responsibility for mediating and accommodating competing regional interests.

Several panelists noted that even when parties enjoy strong regional representation, tension between promoting national interests and advancing local interests is inevitable. A participant argued that political parties have been fairly successful at balancing these interests through leadership selection, policy conventions, and policy research and development. One panelist contended that the national integration role of parties is weak because various interest groups avoid joining political parties.

The integrative and nation-building abilities of political parties could be strengthened if Members of Parliament were allowed to represent their constituents more effectively in the House of Commons, argued one person. Another argued that parties could have a greater electoral presence in more regions if Canada adopted a system of proportional representation rather than single-member plurality. In response, several panelists noted that experience shows that the regional presence of national parties does not depend on proportional representation.

A number of panelists noted that the possibility of members representing regional parties joining the House of Commons after the next federal election could further undermine the national parties' ability to represent various regional interests. Michael Robinson pointed out that projects like the goods and services tax and the Meech Lake Accord have made parties reticent about embracing national projects. This reluctance has made the policies of regionally based parties and special-interest groups more popular.

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The session closed with a general discussion of whether the current system of public funding gives parties enough resources to represent diverse interests, and whether this system favours existing parties at the expense of newer or smaller parties with alternative policy ideas. There was no consensus on whether current levels of public funding are adequate or excessive. Most panelists did agree, how-

ever, that because the current system is tied to election spending, the three major parties have an advantage. The exclusion of other parties from the public funding system could restrict voters' electoral choices.

### **PARTIES AS PRIMARY POLITICAL ORGANIZATIONS**

In the final session, panelists were asked by Herman Bakvis of Dalhousie University to address leadership and candidate selection; party funding at the national and constituency level; and how to strengthen national parties.

Several panelists disagreed on the need for greater public regulation of candidate and leadership selection processes. Kenneth Carty argued these processes are of public interest and should therefore be regulated. Dalton Camp suggested these processes are internal party affairs. Neil Young, a New Democratic Party Member of Parliament, suggested that if public funds are used, there should be full disclosure and surpluses could be returned. A Liberal Member of Parliament, Peter Milliken, argued that full financial disclosure on contributions would be a step toward ensuring public confidence in the integrity of these processes.

Participants were asked to consider parties' private and public dimensions and whether they can be separated to determine which activities should be regulated. Several participants said the selection processes were important enough to justify some public regulation. Another participant objected to any public regulation that interfered with the basic voluntaristic ethos of political parties.

There was general agreement that the current requirements for election reimbursements for candidates are too restrictive. One person suggested that the 15 per cent of the constituency vote required to qualify for partial reimbursement of election expenses should be removed. Another suggestion was that parties should be reimbursed according to their national electoral performance, leaving individual candidates to be reimbursed on the basis of their local performance.

Participants then reviewed the role interest groups should play during federal election campaigns. Concern was expressed about these groups' increasing participation at the constituency level. If interest groups can make independent expenditures during federal elections, the integrity of election spending limits imposed on political parties could be undermined. Without such restrictions, Canadian elections would move closer to the system in the United States, where numerous political action committees have become key participants by raising and spending money for candidates.

The argument was advanced that spending money on advertising during elections is an issue of freedom of speech, although reasonable limits may be justified under the *Canadian Charter of Rights and Freedoms*. Most participants agreed, however, that some restrictions on independent expenditures by interest groups during federal elections are necessary and defensible.

# 7

## SYMPOSIUM ON MEDIA AND ELECTIONS



Toronto, Ontario  
February 20–22, 1991

**T**HE SYMPOSIUM CONSISTED of seven sessions:

- Media and Parties: Setting the Campaign Agenda
- Leaders Debates: Significance and Potential
- Polling, Campaigns and the Media
- The Regulatory Framework
- Local Campaigns: Improving the Information Environment
- New Approaches to Campaign Communication
- Issues and Lessons

The objective of this symposium was to bring together researchers preparing reports for the Commission and practitioners from the political parties, the media, and the polling industry to discuss the preliminary findings of the research. Although the symposium covered a wide range of issues, discussion revolved around two central questions: (1) the appropriate role of regulation of political communication in electoral reform, and (2) the extent to which competition would serve the needs of candidates and voters.

Pierre Lortie, Chairman of the Commission, emphasized two points in his opening remarks:

1. The consensus of scholarly research is that the media play a central role in election campaigns.
2. Television has transformed elections.

He also noted that interveners at the Commission's public hearings had raised concerns about the role of the media and asked participants to advise the Commission as to how it could ensure the public has a fair chance of getting a clear message during campaigns.

### **MEDIA AND PARTIES**

The first session focused on the relationship between party strategists and journalists. Topics discussed included the balance between style and

substance in campaign information, the effects of the growth of political marketing on voter information and behaviour, and the influence of changes in media technologies and practices.

Michael Nolan of the University of Western Ontario described the evolution of the relationship between the media and parties in the conduct of federal election campaigns. In discussing the evolution of media technology, he noted the increasing importance of party advertising and identified three ages of political journalism: (1) the partisan age, from before Confederation to the 1950s, (2) the adversarial age, best exemplified by the pipeline debate, and (3) the age of political cynicism or irreverence. He also underscored the importance of providing free time as a supplement to paid time and news coverage.

Elly Alboim of the CBC summarized the coverage of elections as a struggle between politicians and journalists to set the agenda. He argued that the move to paid advertising by the political parties results from their

belief that they can no longer communicate with their electorate through the news media. At the same time, journalists have begun to tire of old models of election campaign coverage. This is partly because of the inability of the media to accept the parties' view of election campaigns as "exercises in repetitiveness in trying to establish, educate, and convince people of central messages – a process that has nothing to do with news as the media see it." The media are losing interest in covering leaders' tours, and are

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"The media are ... increasingly suspicious that the mandates articulated during election campaigns have little to do with governing."

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Newer media outlets, such as CBC television's Newsworld, will perpetuate this pattern, Alboim argued. Through live access to most of the political campaign on the ground, Newsworld will steadily assume the mandate for routine coverage. This will result in "less and less reporting of the substance of the parties and political platforms." In all likelihood, future election coverage will concentrate on "the major events of the campaign, the debates, the accidents, the mistakes." Increasingly, he predicted, the national media "will begin to treat elections more and more as an irrelevancy."

One participant argued that paid advertising is the only method by which parties can send an unfiltered message to voters. The role of the media, in part, should be to educate the voter about what is being done with and through paid advertising.

William Gilsdorf of Concordia University reported finding increasing cynicism in relation to election coverage in a recent survey of journalists across the country.

Research by Jean Crête of Université Laval indicates that short spots on television are a very effective means of getting messages across to people. Crête argued that spots are considered good if issues are addressed, people are not alienated, and positions on issues are made clear. His research also indicates that it is better to address issues than sell candidates. He recommended that free time could be made available and allocated through a system of credits allowing parties to choose the way they use their time.

Another participant suggested that even negative advertising by parties during the campaign – which he predicted will become more common, as in the United States – must resonate somewhere to be effective, and the media have the responsibility to analyse advertisements of this type. He argued that average Canadians are very capable of accepting or rejecting such advertising.

Another participant restated the idea that free-time broadcasting was more of a burden than a benefit to political parties and that paid time reaches the audiences parties wish to reach. It was also stated that radio can be very effective, since people can be left with impressions whether they realize it or not. Narrowcasting is the most important trend for party strategists. It was this participant's view that the voters have become increasingly sophisticated and that negative ads risk a backlash.

Elly Alboim suggested that the Commission should work to ensure a level playing field. He argued that to cover and critique party advertising campaigns, journalists require better access to information, and that the Broadcasting Arbitrator should collect and release information on the details of media purchases by parties and other aspects of campaign advertising.

According to one party official, a major task for the Commission is to find a balance among the many elements of the campaign and to ensure that money is not a dominant factor. It was suggested that all networks could be required to provide suitable

time slots for free-time party broadcasts and to devote a reasonable amount of time to election coverage. As well, the Commission should "regulate the role of the media – or at least the amount of information the media provide during a campaign – how much time they devote to the coverage of what is, after all, one of the most important times in our country." This participant also recommended a shorter campaign period and an effort to make information available to voters at times when they are ready to receive it and in a format suitable to their information needs.

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"... there is an assumption ... that whatever is good for the media, is good for the politicians and political parties, and is good for the public interest. And I'm not necessarily sure about that."

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Another participant suggested that the public interest should be considered in the discussion. "I think there is an assumption in this debate, and elsewhere, that whatever is good for the media, is good for the politicians and political parties, and is good for the public interest. And I'm not necessarily sure about that."

One participant spoke against regulatory control of the media on the basis that media cynicism and irreverence alone do not shape the messages in an election campaign. Both the media and politicians set the agenda for elections, he claimed. The Commission's role, he suggested, should be "to encourage the media to pursue its own separate and useful role in scrutinizing the broader context of a political campaign."

### LEADERS DEBATES

In the second session Cathy Widdis Barr of Wilfrid Laurier University summarized her research on televised leaders debates in Canada, based on statistical analysis of the 1984 and 1988 National Election Study data. She noted that debates influence voter choice, participation rates, voters' perceptions of leaders' qualifications, and citizens' understanding of election issues. Those voters who gain most knowledge are those who use few other information sources.

Drawing on his comparative study of televised leaders debates, Robert Bernier of École nationale d'administration publique argued that the absence of regulations governing leaders debates has favoured the major parties and that, because debates are an important source of voter information, they should be institutionalized. He suggested that debates should be held at the end of the campaign, when voter interest is at its height, and that there should be a separate debate for the leaders of smaller parties.

Terry Hargreaves of the CBC rejected outright the idea of a regulatory framework for the debates. If we want to impose rules, he asked, where do we begin and where do we end? How can legislation be worked out that is suitable in all circumstances? He also rejected the idea of debates for smaller parties, citing the problem of identifying who would participate.

Several participants called for some form of access to the debates for minor or regional parties. One participant noted, however, that the attempt to regulate a leaders debate in Quebec had been a disaster, resulting in no debate being held during a recent election campaign.

A Liberal party strategist claimed that "the new over-regulated industry is going to be elections." However, he favoured the suggestion of having someone from outside the broadcasting sector involved in organizing the leaders debates, perhaps as convener.

Commissioner Pierre Fortier commented that the focus on the pros and cons of regulation in the morning session had restricted thinking about the larger picture. He characterized participants as saying, "Please leave us alone, we're doing fine, don't meddle, don't regulate. From Quebec came the cry – we tried to regulate; it failed, so don't try it." Fortier's response

was that "I don't fear regulation, but on the other hand I'm not foolish enough to think that we should regulate for the sake of regulating." He asked that participants consider the broader picture in their deliberations.

### **POLLING, CAMPAIGNS AND THE MEDIA**

Guy Lachapelle of Concordia University led off the third session, presenting the results of his research on the publication of opinion polls during election periods. He reviewed public concern about the issue, cited legal opinion that publication could be regulated under the Charter, summarized existing codes of ethics adopted by pollsters, journalists and broadcasters, and reported his finding that reports published during the 1988 Canadian federal election campaign often failed to live up to these standards. Among his major recommendations were (1) that the publication of polls on polling day and the two days preceding it be prohibited; (2) that all opinion polls published or broadcast during the election period be accompanied by specific technical information; (3) that exit polls be banned; and (4) that a polling commission, on the French model, be established to enforce professional standards.

Donna Dasko of Environics Research argued that placing restrictions on polling would be "an outright assault on freedom of information and freedom of speech," expressing the view that it would be better to encourage polls, which provide important information. The requirement that technical information be provided would limit the dissemination of polling data and make the publication of short excerpts impossible. She argued that competition and self-regulation has worked well and that a polling commission would have little benefit.

Christopher Waddell of *The Globe and Mail* argued that if media polls were to be regulated, all polls should be regulated. He noted that a requirement that methodological information

be published whenever poll data were cited would preclude the use of such data in many forms of journalism. One participant, a pollster, maintained that opinion polls influence the voters, and that journalists do not receive proper training to interpret the data so that the public can be adequately informed. He called into question the ethics of certain polling firms that produce opinion polls for the media one day and work as consultants for certain political parties the next. He favoured some form of regulation.

Elly Alboim remarked that the debate was confusing methodology and analysis and that much of the information disclosed to the public would, in his view, not be understood by them. The real point of argument in the

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"Placing restrictions on polling would be 'an outright assault on freedom of information and freedom of speech...' "

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debate over polling, he claimed, is how individual polling organizations and media organizations reach their conclusions. To hide behind methodological disclosure as something that is going to resolve the real issue – competent or incompetent analysis and its effect – sidesteps the question in Alboim's view.

He then responded to Commissioner Fortier's earlier remarks on the defensive tone of the seminar. "There is defensiveness? Yes, there is because, in my view, the Commission is failing to articulate what its analytical framework is here. To bring all of us into a room, particularly broadcasters and politicians, knowing that you have leverage and power and the ability to make regulations or propose regulations, and not to understand your analytical framework leaves us in a defensive and uncomfortable position. I find it very hard to respond. I believe in regulation of debates, but I'm not sure how much I want to talk about them until I know what your point of departure is." Fortier responded that a review of the electoral process occurs only every 20 to 25 years and that it is important to examine every relevant issue without a preconceived agenda.

Other participants noted that polling has had a significant effect on Canadian politics and that this suggests the need for some form of regulation. One participant admitted he was reconsidering his position on the issue. "When I heard Professor Lachapelle's recommendations, I was still thinking we could go ahead with self-regulation. And now that I've heard from three members of the polling community, I guess I was wrong." The resistance of the pollsters to regulation, he said, had convinced him that legislation was required, despite his general reluctance to regulate.

Another participant noted that there are no professional standards; anyone can start a polling organization and presumably, with access to the media, publish polling reports. "It is difficult for me to subscribe totally to the position that there should be no regulation whatsoever if there are no professional standards within that industry." One participant responded by indicating there is self-regulation and that self-selection goes on within many of the media outlets;

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"It is shocking to me how most of the discussion we have had to date accepted regulation as a starting point."

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the participant cautioned against proceeding too quickly to regulation. "It is shocking to me how most of the discussion we have had to date accepted regulation as a starting point."

### THE REGULATORY FRAMEWORK

The fourth session focused on the framework of laws and regulations governing election broadcasting and advertising. Discussion topics included

the fairness and effectiveness of current regulations covering free and paid political time, broadcast news and public affairs coverage, and alternative regimes and possible reforms.

David Spencer of the University of Western Ontario noted that the guiding principle of the 1936 *Broadcasting Act* – that political broadcasting should be more information-driven and less sales-driven – remains today. Radio has been overtaken by television as the principal actor in political broadcasting, with the possible exception of local coverage in smaller communities. He suggested that a special network for political broadcasting, both during and between elections, might meet some of the communication needs of voters and parties. He also argued that free time should be provided for political and election broadcasting by all broadcasters as a condition of licensing.

Pierre Trudel of Université de Montréal began his discussion by referring to the distinction in Canadian law between broadcast and print media. Print media have traditionally had more unfettered freedom of expression because of the ease of starting a newspaper. Broadcast media, using scarce public airwaves, have typically faced more regulation. Trudel suggested that the editorial freedom of the media to decide the content of their messages may exclude some participants from receiving equitable coverage. The efforts of the Canadian Radio-television and Telecommunications Commission (CRTC) to promote equity in election coverage may be most effective through encouraging self-regulation and the establishment and monitoring of directives rather than by detailed, inflexible regulation.

Catherine Thompson-Pyper provided an overview of the implications for election broadcasting of the new *Broadcasting Act*. Of particular note are the elimination of the requirement to identify the sponsor and political party associated with a political program or announcement, and the extension of the paid-time requirements of the elections act to include pay and specialty services.

Christopher Dornan of Carleton University stated that the accountability of the print media in elections is low because they are not governed by formal mechanisms. Existing methods of redressing unfair or biased coverage through a letter to the editor or a complaint to the ombudsman or a press council are ineffective. The issue of the accountability of the print media stems from the contradiction of the principle of freedom of the press and the principle that no social authority should go unchecked. The print media, especially subject to concentrated ownership by large corporations, have become a social authority. Dornan argued that the only feasible check is increased press criticism.

John Coleman of the Canadian Advertising Foundation claimed he was “struck by the tone of some, if not all, of the presentations, and indeed the whole inquiry into the idea of reforming the electoral process. It was as if someone had said, ‘Let’s put the rules in place in case we need them.’ ” Coleman argued that party advertising during election campaigns should

be subject to the same regulatory procedures and industry self-regulation that govern other advertising. He saw no way to ban advertising by advocacy groups during campaigns.

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"It was as if someone had said, 'Let's put the rules in place in case we need them.' "

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Another participant argued that such advertising must be constrained because the political parties face controls on advertising while interest groups do not. He noted that failure to restrain special-interest and advocacy groups would undermine the whole system. Co-ordination between a party and interest groups would allow a party to evade spending and advertising limits. It was alleged that such co-ordination took place in 1988

with respect to the free trade debate. Pierre Trudel argued that, just because advocacy advertisements can influence opinion and the vote, this is not a good reason to prohibit them. He noted that from a constitutional point of view, any limit on advertising by other than the political parties would have to be well thought out and form part of an integrated system of election regulation.

William Howard of the CRTC stated that other speakers had confused the right of expression with the right to be informed. Broadcast media are more regulated because not everyone can have access to the airwaves. He said that smaller parties have argued that the CRTC is an ineffective control because it cannot force changes before the fact, but only examines cases after the fact.

The panelists were asked whether restrictions on the access of pressure groups to the media could apply to provincial governments during federal elections and vice versa. Pierre Trudel said that it may be possible for the federal government to decide whether provincial governments can become interveners in federal elections.

One of the participants said that the Christian Heritage Party faces the difficulty of getting on the air because of the high cost of producing a television advertisement for use during its four minutes of allocated free time. In addition, he felt the party's news events receive little coverage.

One journalist acknowledged that the press may be considered a player in elections, but asserted that it was unlike any other because of its attempt to provide balanced coverage and to be accountable to its readers. This role should not attract regulation, he argued, adding that special election press councils would be dangerous.

The difficulty in distinguishing between small groups speaking out and powerful groups buying ads during elections was also raised by one participant.

#### LOCAL CAMPAIGNS

The fifth session examined local campaign communications, particularly their impact in rural and remote communities. Among the issues discussed

were (1) the impact of spending limits, (2) problems of media market fit with constituency boundaries, (3) problems of access in remote areas, (4) the appropriate balance of local, regional and national campaign information, (5) alternative mechanisms for effective communications at the local level, and (6) media treatment of minor parties.

David Bell of York University argued that the Commission could have some impact on the level of democratic involvement in Canada by promoting more vibrant and meaningful local politics. In urban constituencies the media give scant attention to local issues during elections. Most coverage focuses on polling results, on national issues and on leadership politics. Large increases in constituency size (with 10 times more voters than 100 years ago) and the emergence of highly sophisticated national media have contributed to the declining importance of local campaigns in urban areas. In rural constituencies, the media, especially newspapers, report local issues in more detail, even though the quality of the coverage is often poor. Most national issues have important local implications, but the links are rarely made. Bell suggested workshops for local media, summer research internships to prepare background material on local issues, and more media access for local candidates.

Marcel Côté of SECOR Inc. listed three objectives of local election campaigns: (1) to get the candidate known in the constituency; (2) to get the candidate well positioned to win; and (3) to develop a style and method consistent with the local media environment. The achievement of these objectives depends on whether the candidate is an incumbent or a challenger, on campaign spending limits, and on the quality of the constituency organization. Pamphlets, billboards, canvassing and other direct forms of communication are available to local organizations.

Côté argued that the management of a local campaign is shaped, in part, by the quality of the local media. While there is considerable variability in the competence of local media, he believes they try generally to be fair and balanced. He did not want the candidate selection process regulated. Local nomination races are not driven by money, he argued, but by organizational skills and capacities. Moreover, through internal reform, parties are addressing some of the contentious areas in the current selection process.

There was a lengthy discussion of the influence of local candidates and campaigns on voting decisions. The consensus was that the candidate's 'personal vote' accounts on average for about 7 or 8 per cent of the total vote.

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"The management of a local campaign is shaped, in part, by the quality of the local media."

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Canadians in general, it was argued, want their local politicians to have a greater representational role in the policy process. Other participants agreed that local issues and local campaign strategies are more important in rural constituencies. The primary difference between rural and urban constituencies is the way information and ideas are communicated to voters.

One participant cautioned against simplistic interpretations on how voters make choices. The interplay between local and national issues and factors is difficult to document. It was said that local candidates do not know much about local issues. They take their policy cues from the national party. It is difficult to identify the dominant local issues in most constituency campaigns, and the media are not offering adequate and competent coverage of local issues and candidates.

Valerie Alia of the University of Western Ontario summarized her research on the role of the media in the local campaigns in the Yukon, the Northwest Territories and northern areas of the provinces. She argued that interdependency among remote northern communities makes politics personal, casual and small-scale, yet the nature of the circumpolar North also makes its politics global. In short, local and national dimensions of northern politics cannot be separated. Alia made several recommendations to remove barriers to electoral participation by Aboriginal people in the North, emphasizing the importance of recognizing the special needs of Aboriginal, northern and remote communities. The recommendations covered three crucial areas: (1) the need to amend regulations to permit new technologies to be used more widely to help overcome distance; (2) recognizing the special educational needs of voters, journalists and candidates in these areas; and (3) recognizing the special needs of these voters with respect to language and literacy. It was her view that the Aboriginal people in the territories and the northern regions of provinces should be fully involved in any changes to their communication and electoral environments.

Lorna Roth of Concordia University presented her research on the CBC Northern Service and the federal electoral process. She reviewed the problematic features of the CBC Northern radio and television services: (1) lack of access by all political candidates to free airtime; (2) limitations of CBC electoral coverage; (3) inadequate coverage of election issues in Aboriginal languages; (4) inconsistent radio coverage of northern issues; and (5) dissatisfaction with the CBC's policy of not allowing the Inuit Broadcasting Corporation to sell advertising time while using CBC's satellite channel.

Roth listed several recommendations designed to improve local access for all parties and candidates to northern media during election campaigns. In general, she said, the CBC Northern Service should be given a legislated special status and a mandate different from that of CBC's national service. She wanted the activities and coverage of the electoral process in the North by the CBC Northern Service tailored to meet the complex but divergent linguistic, cultural and geographic needs of the various Aboriginal peoples.

She underscored the fact that Aboriginal people in the North want more control over the design and production of paid political advertisements and more autonomy from the national parties in the management of local constituency contests.

It was noted that the broadcast time allocation issue in the North provides a useful reference point for assessing how broadcast time in general should be allocated. What is the appropriate trend? Should political advertising strategies be national in scope and controlled by the national parties, or should there be more opportunity for locally focused advertising? Finally, should these trends and strategies be regulated through the *Canada Elections Act* or the *Broadcasting Act*?

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“Aboriginal people in the North want more control over the design and production of paid political advertisements...”

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Robert Hackett of Simon Fraser University reviewed the role of the local media in election campaigns, with special attention to the coverage of smaller parties. He said community weeklies were relatively fair in their coverage of local issues and candidates and were an important source of information for their readers. However, the quality of coverage was limited by a shortage of resources. The smaller parties receive about 5 per cent of the total coverage of elections and parties provided by the large media institutions. Community newspapers provide more extensive coverage. The Green Party, the Christian Heritage Party and the Confederation of Regions Party have had some success in getting media coverage of their policy platforms. He said representatives of the media argue that they provide serious and adequate coverage of emerging parties. Although local coverage of smaller parties may be more detailed, the quality is weak. Further, smaller parties are unable to make effective use of free airtime because they lack the financial and technical resources to produce credible presentations.

Hackett found that television – even though it is regulated with a mandate to provide balanced access for different points of view on matters of public concern – actually provides less coverage of smaller parties than does the daily press. As well, every representative of a smaller party expressed dissatisfaction with the current allocation of free broadcast time. They made the point that “free time is not as free as it appears, because there are production costs associated with producing ads for free time.”

One media representative commented that his paper had offered equal space to all candidates in a 1988 federal general election supplement. A member of the Christian Heritage Party said his experience suggests the media are biased in their coverage of emerging parties. It was said that the smaller parties want fair treatment, but free airtime is made available to

smaller parties only in non-prime periods, when the viewing audience is small.

A representative of the Reform Party said smaller parties are not treated fairly by the media and claimed that the parties do not want special treatment, just objective, balanced coverage. "I think the Commission should be

looking at equal treatment for smaller parties. And that is saying that every party has an equal right to purchase broadcast time. No party has a special claim to power, or a special right to have their message heard by the Canadian public."

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"No party has a special claim to power, or a special right to have their message heard by the Canadian public."

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A media representative argued that it takes time for new and growing parties to establish adequate public profiles. The key to greater media coverage is the election of members to Parliament. "If it wants to be recog-

nized and covered as though it is a national party rather than a regional party, then it needs to elect some members in more than one region."

### NEW APPROACHES TO CAMPAIGN COMMUNICATION

The sixth session focused on the increasing rate of change in communication technologies and practices. Among the issues discussed were trends in media use, competing views on the responsibility of the state to ensure that voters are adequately informed, new communication systems that might improve voter information and participation, and the potential of information services delivered through cable television systems.

Robert MacDermid of York University indicated that according to his research, a significant number of Canadians pay little attention to media coverage of politics and that those paying more attention tend to be older and male. Educational level is also an important factor determining newspaper readership. He felt that "our concern really should be with how to broaden communication and how to [reach] the vast majority of people who pay no attention to politics and the messages of the media whatsoever." MacDermid suggested that more diverse channels of campaign communication may be needed to encourage participation.

David Hogarth of Concordia University suggested that Newsworld will not provide any real alternative to the kind of election coverage Canadians receive on regular broadcast channels. He recommended that Newsworld provide a service that is distinct from that of the CBC, particularly in its regional election coverage, and that it broaden access to include smaller parties and interests.

Peter Desbarats of the University of Western Ontario noted that cable television still has flexibility to expand, unlike mainstream media. He

wondered why the United States, with the world's most developed system of political communication, is facing a decline in voter participation. Their electoral campaigns are making some use of cable television since it offers the impact of television, at less cost, and the targeting advantage of direct mail. Desbarats advocated regulations governing the use of cable television to ensure access to the widest possible range of political candidates and opinions. Otherwise, "to open up our cable system to paid political advertising would simply hurry along the process of making it prone to the same problems that mainstream television has when it comes to election campaigns." He advocated free time on community channels and an accountability mechanism for cable.

Lyndsay Green reported that most significant efforts to increase the level of partisan information available to voters have been carried out mainly by intermediaries, rather than by the state. She suggested that programs for improving voter information should be publicly funded and give priority to meeting the needs of those with the least access to information, because participation in the democratic process should not be based on ability to pay.

Catherine Murray from Decima Research contended that it is wrong to claim that Canadians pay little attention to the news when there is growing attention to broadly defined news programs, including entertainment. Referring to the previous presentation, she wondered whether public funding of information transmission would merely reinforce informational disparities and reach only the politically converted and informed. While seeing the potential of the community channels, Murray advocated more public notice of program time and program availability. In addition, recommendations should be made to the cable associations to speed up their process of developing new standards of quality and fairness with respect to representing community groups; all too often, Murray argued, the community channel is becoming a forum for local organized interests. One participant commented that the interactive possibilities of cable television could lead to instant polls, which might be even more troublesome than exit polls.

Robert MacDermid responded to a question on voter participation, noting that participation is related to efficacy. "People will participate so long as they feel they can have an effect on politics." While people may well continue to participate, he said, many choose to participate outside political parties because they do not believe that political parties are able to represent their interests. He provided the example of environmental groups, many of which have chosen to work the political system from outside political parties.

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"People will participate so long as they feel they can have an effect on politics."

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### ISSUES AND LESSONS

The final session featured summaries of the symposium proceedings. John Harvard, Member of Parliament for Winnipeg St. James, began by asking the Commission to keep the interests of voters foremost in their minds during the process of arriving at recommendations. "Do not be stampeded by the political parties, do not be stampeded by the politicians, do not be stampeded by the media," he said. Pointing to the political alienation and low turnout in the United States, Harvard emphasized the importance of getting voters involved in the electoral process. He suggested that the Parliamentary Channel and CBC Newsworld present exciting opportunities to provide information about elections. As a politician, he said, he wanted to be able to express himself and to present his message – whether on his own behalf or on behalf of his political party – with the least possible expense. "The other thing I want as a politician is fairness." He would also like to see more local coverage. Finally, Harvard recommended barring interest group advertising during election campaigns and ensuring that negative advertising does not make campaigns "orgies of character assassination."

Rather than drawing conclusions from the symposium's many sessions, Lynn McDonald, a former Member of Parliament, chose instead to remind participants of the main themes of each. The responses to many issues, such as the proposal for a mandatory leaders debate, "were very predictable by sector.... Nobody broke ranks with the sector they came from." Among other points, McDonald noted that most participants favoured some form of self-regulation among pollsters and journalists, acknowledging that polls do affect voting behaviour. She stated that self-regulation for polling appears to be non-existent at present. "Nobody who is actually in the business suggested any way that they might do their job better or control their colleagues, or encourage or require them to do a better job." She noted that smaller parties want more and better coverage of their activities, while journalists felt the smaller parties get what they deserve. In addition, McDonald added her support to those favouring regulation of the nomination process and strengthening of the spending limits and called for greater gender parity at events such as this symposium.

Jodi White agreed with other participants that the "heavy air of regulation" was hanging over the symposium. In her view, there are areas where regulation is needed. "But I think we must also be sure it is not regulation for regulation's sake. There are areas that should be left alone." She said that Canada's low incumbency rate and high voter turnout gave her good reason to be optimistic about the electoral process in this country. She argued that although parties are public institutions, they are in competition with one another and must be given some latitude for privacy. Further, she expressed concern that parties not be saddled with spending limits that do not take into account the cost of new technologies or with equity provisions that do not acknowledge the central role of the major parties in maintaining the Canadian political system.

White also mentioned that transparency will be "a key issue in ensuring the trust of the Canadian people in the system that is set up." Along with transparency, however, the phrase 'a level playing field' appeared. "I think that should not be confused with the lowest common denominator.... We must not create a system that would penalize the major parties.... We must aim to have a House of Commons that is workable." She stated that the election law ought to be made as simple and clear as possible, and that it ought to come down on one side or the other on the issue of advertising by interest groups.

A discussion followed on the idea of allowing parties to buy unlimited amounts of broadcast advertising; participants offered opinions on both sides of the issue. One participant cautioned that Canada must mediate between democracy, which demands equality, and the free market, which demands that money and power be left to find their own equilibrium. Another asserted that the Commission's task was one of fine-tuning an essentially sound system. He said the Commission should look for balance between regulation and deregulation in addressing the three most important issues in the area of media and elections: interest group advertising, leaders debates, and polling practices. He went on to say that the Commission's role is more to educate the public about certain dangers in the process than to regulate it.

Commissioner Gabor observed that all participants – journalists, pollsters and party officials – tended to protest any regulation of their profession but recommend regulation of the others. He wondered how the participants could be persuaded to "lower the veil of self-interest" and appealed for understanding among the participants.

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## SYMPOSIUM ON POLITICAL ETHICS



Hull, Quebec  
April 11–12, 1991

**T**HE SYMPOSIUM WAS organized around six sessions:

- What Is Meant by Fairness and Equity?
- Money and Influence in the Political System
- Codes of Ethics for Political Parties
- Campaign Advertising: The Ethics of Political Marketing
- Problem Areas in Campaign Communication
- Ethics and Elections: Observations and Recommendations

The Commission organized this symposium to give the Commission, its staff, academic researchers, representatives from Canada's political parties, labour and business organizations an opportunity to examine the research findings on political and media ethics. The Commission's research on ethics was designed to assess standards of political behaviour and to identify the directions, values and principles that characterize the highest standards of ethical conduct. The goal was to develop an understanding of ethical concerns and political practices; fairness and equity, the overarching principles of the Canadian electoral system; and the benefits of self-administered codes of ethics. The six sessions began with panel presentations led by moderators, followed by discussion from the floor.

### FAIRNESS AND EQUITY

In the first session, on the implications of evolution in the meaning of fairness and equity for the regulation of elections, Kathy Brock of the University of Manitoba argued that the *Canadian Charter of Rights and Freedoms* has affected Canadians' ethical perceptions significantly and contributed to a new discourse on rights. It introduced fairness, equity, openness and representativeness as public policy criteria. Under the Charter, equality rights reinforce democratic rights. Although parties are technically exempt from the Charter as private associations, their privileged place in Canadian politics makes them subject to scrutiny.

Public bodies and political parties are mechanisms to supplement and correct the inequities that result from market relations, suggested Jane Jenson of Carleton University. Equal access to the electoral system for voters and candidates is a major equity issue today, but the concept of equity has changed over time. Between 1919 and 1939, the concept of equity was based on regional identity; since 1945, equity for individuals and concern about

the influence of financial resources on access to the political system have become more important. The specific concerns of women and minorities have not been considered in this development, however. Jenson downplayed the effect of the Charter, arguing that social change has led to a conception of equity based on social groups such as women, Aboriginal people and persons with disabilities. Concern for equal representation now takes into account many discriminatory barriers

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“Concern for equal representation now takes into account many discriminatory barriers other than poverty.”

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other than poverty. Political parties are expected to accept this new interpretation of equity and modify their activities to reflect it.

Alan Cairns of the University of British Columbia agreed that the Charter can be overemphasized but warned against discounting its impact. He suggested that recent court challenges to disparities in constituency size indicate that the Charter is leading to a mathematical concept of equality that places the emphasis on individuals, rather than territorial communities. The Charter has also given constitutional identity to interest groups attached to certain Charter clauses that feel entitled to participate in changing the Charter. The declining significance of territorial representation conflicts with executive federalism, which gives regional concerns priority over individual equity. For example, the ethnic origin and sex of Supreme Court justices is now as significant as their geographical origin. The idea that “you have to be one to know one to represent one” is growing in importance and focuses more attention on the composition of representative bodies.

In the discussion that followed, participants debated whether the adoption of proportional representation would lead to a broader representative mix in the House of Commons. Some argued that proportional representation, or some variant of it, would bring fairer and more equitable representation than the first-past-the-post system. Others suggested that the Senate could provide more effective representation for marginalized groups and regions. The German model, which consists of proportional and first-past-the-post representation combined in a single chamber, was proposed as an alternative.

Arguments were put forward that such changes do not necessarily ensure equity; increased representation of women in European legislatures

was not produced by proportional representation but by political parties that put women on their electoral lists. Proportional representation would also weaken the attachment of Members of Parliament to their ridings, which is particularly strong for those representing other than large metropolitan areas. Further, many people would resent giving parties control over candidate selection through party lists.

Although consensus was not reached on the strengths and weaknesses of the proportional representation and single-member plurality systems, there was agreement that some measures are needed to ensure better representation of marginalized groups, which in turn would make policy makers more sensitive to the experiences of these groups. The process should not be regulated, but specific affirmative action was felt to be worthy of consideration. Some participants argued that fairness and equity are best guaranteed by competition, not regulation. Competition compels parties to be fair and equitable, so regulation based on "the values of the day" is not necessary. New groups claiming to be more representative of a group or area can contest elections.

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"... fairness and equity are best guaranteed by competition, not regulation."

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Others contended, however, that competition does not always produce fairness because it takes considerable resources to be an effective participant. For example, nomination and election of candidates from a variety of socio-economic backgrounds are hampered in part by the highly decentralized nature of political parties. Central party organizations have limited influence over the choices constituency associations make.

### MONEY AND INFLUENCE

In the second session, on money and influence in the political system, participants focused on whether direct financial involvement by corporations and unions in political parties and elections undermines belief in full and meaningful public participation in candidate selection and representative government.

Speaking on undue influence, Ian Greene of York University stated that since 1981, more than 130 Canadian newspaper stories have tackled this subject. The largest group of print stories focused on the relationship between donations and favours; the second largest group concerned breaches of rules. Greene argued that the public is increasingly concerned about these issues because concern for social equality is growing: the idea of special privilege is repugnant to Canadians. He suggested that a \$3000 limit on contributions from any source would be a good compromise.

Participants were asked by Robert Parker of the Royal Bank of Canada to consider what values are served by corporate or union involvement in the

political process. He suggested that business tries to affect the course of public policy because public policy affects it, not because business is partisan. While not suggesting business interests are identical to the national interest, he argued that their proposals are as legitimate and valuable as those of the political parties or other special-interest groups.

On the question of corporate and union contributions he noted that political funding, in itself, ought to be a positive factor in the democratic process. The current system of corporate and union political fundraising by contrast seems to support the system without advancing it. He advocated banning corporate contributions on the basis that if our political system needs anything at the moment, it is the hearts and minds of Canadians.

Gordon Wilson of the Ontario Federation of Labour argued that there is a place for corporations and unions in the political process, provided there are proper limitations. He emphasized that, for the most part, labour gets involved within the party system rather than outside it. Full financial disclosure, he argued, would allow the public to determine the motives and objectives of contributors.

Participants generally agreed that timely disclosure is critical to ensuring public confidence in the electoral process. Requiring parties to submit quarterly reports of political contributions would give the public useful information. The Commission was advised to think seriously before recommending limits on the source of contributions, however, because the law cannot anticipate changes in normative assumptions about ethical behaviour.

On the question of how money affects politics and who contributes money to campaigns and parties, participants concluded that, depending on policy objectives, financing can be regulated by limiting either contributions or expenditures. Limiting contributions aims at controlling undue influence, whereas limits on expenditures aim at ensuring fairness. Survey data suggest that 80 per cent of Canadians favour limiting expenditures; they consider fairness the most important value. About 50 per cent of Canadians favour banning union contributions, but they are somewhat more accepting of the legitimacy of corporate contributions. Participants were reminded that when all corporations are considered alike, inadequate policy prescriptions result, because most contributions come from smaller enterprises. The validity of many arguments for allowing only individual contributions was questioned; for example, if contributions are limited enough to eliminate the risk of undue influence, why would a corporate contribution buy influence and not an individual contribution of the same amount?

### **CODES OF ETHICS**

The next session addressed the benefits of codes of ethics for political parties and what concerns such codes should address. The efficacy of self-enforcement of codes by parties and media scrutiny of codes were also discussed. Moderator Brian Crowley of Dalhousie University opened the

session by asking David Mac Donald the following question: why should the idea of party codes of ethics be discussed?

Mac Donald replied that parties are quasi-public – rather than totally private – institutions, because they receive public funds and because they are uniquely suited to integrate competing interests, thus performing a vital public function. Increasingly, Canadians ascribe public characteristics to parties. He argued that the current cynicism about parties and other political institutions is exacerbated when the public perceives a discrepancy between what parties do and what they should do. A code of ethics, he said, would not only help parties change unethical behaviour, but would also signal a commitment to change that would be important in rebuilding public confidence.

Indicating he had been sceptical about the utility of codes of ethics for political parties at first, Michael Atkinson of McMaster University said he had begun to rethink his position. His initial concerns about the content of a code have been replaced by apprehension about getting parties to accept the idea of a code. No code of ethics can succeed, he said, unless the party leadership and membership consider the code to be their own. He emphasized that parties need not share a uniform code; indeed, he suggested parties formulate their own, perhaps competing to develop the best code.

There is no precedent for a comprehensive national code for political parties, pointed out William Chandler, also of McMaster, and the unfamiliar nature of the code would make it difficult to enforce. If a code of ethics is to be successful, he said, parties must

accept it voluntarily. He suggested an all-party consultative process to decide its content and meaning. A code of ethics could also produce disputes over enforcement; an ombudsman might therefore be necessary. David Mac Donald pointed out the fundamental conflict between a reflective, value-oriented code of ethics and the dynamic, results-oriented practice of politics. He suggested that politicians would be unlikely to set a high priority on obeying a code of ethics if it meant losing political advantage during election campaigns.

Ian Greene of York University offered three reasons why private organizations have codes of ethics: to increase public credibility, to resolve recurring ethical problems and to avoid government regulation. He noted that they share these goals with political parties. He asserted that parties would benefit from having separate codes because they foster grassroots concern with ethical issues; on the other hand, a party with a strict code of ethics could be outmanoeuvred by a less scrupulous party.

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“No code of ethics can succeed unless the party leadership and membership consider the code to be their own.”

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To address declining public confidence in political institutions, alternative suggestions to a code of ethics included maintaining the status quo and regulating party activity through some kind of comprehensive law. Some party representatives were sceptical of the code of ethics solution, suggesting that it would be merely cosmetic and would not change their behaviour. They argued that a code could become a source of internal party conflict if party members transgressed. In particular, most party representatives questioned the effectiveness and credibility of a single code covering all parties. They suggested that such an approach would deny the parties' distinct internal political cultures, each party being dedicated to a unique set of ideas and values.

Participants were reminded that Commission research shows that Canadians display a high level of cynicism toward political parties. The Commission needed to develop a flexible instrument that allows parties to solve their ethical problems in ways that recognize their ideological distinctiveness. It was noted that leaders of other complex, diverse organizations have used codes of ethics to instil a sense of appropriate behaviour in their members. Parties could also achieve this by adopting their own codes of ethics.

### THE ETHICS OF POLITICAL MARKETING

The fourth session, on campaign advertising, centred on the ethical limits of political advertising content and the fairness of current regulations that allocate advertising time for parties during election campaigns and limit the advertising period. Moderator Christopher Dornan of Carleton University began the session by presenting a videotape of a CBC *Journal* documentary on the rise of negative advertising in U.S. election campaigns and the prospect that such advertising will gain popularity in Canada. The documentary showed that after many years of relative quiet, advertising attacking the policy, record or character of a candidate and paid for by another – or by an advocacy group – is now used heavily in American political campaigns. Similar advertising appeared in the last Ontario provincial election. The documentary argued that once political consultants have introduced this aggressive type of advertising into a campaign, it is so effective that all candidates feel forced to respond in kind or risk defeat.

Dornan then asked Walter Soderlund of the University of Windsor whether this sort of advertising is likely to spread in Canada. Soderlund believes it will, but its importance will be comparatively limited. He said the approach works in the U.S. system because most elections are two-way races based on issues or candidates' personalities; Canada's multi-party system and the importance of party in determining voting behaviour diminish the effect of such advertising. He conceded, though, that negative information is more easily processed, making negative advertising a high-impact campaign tactic.

The ethical issues raised by negative advertising were addressed by Stephen Kline of Simon Fraser University. These issues range from

impairment of the consumer's capacity for rational choice to creation of unfair advantages for candidates supported by outside interest groups.

Dornan asked participants whether negative advertising presents a problem. One panelist suggested that parties tend not to adopt new negative advertising techniques, but are often forced to because of negative advertising by interest groups. Several participants commented that many advertisements are designed to elicit an emotional response. Some argued that the visceral effect achieved by negative ads raises questions of manipulation; others argued that when an ad elicits such a response, it means that it points to a real concern.

Although party representatives showed limited concern about negative advertising per se, they did express dismay over misleading advertising. Definitions of 'unethical' advertising clearly varied between parties, but participants generally agreed that truth is essential in advertising. Many participants recognized attacks on policy positions and leadership capability as legitimate and central to effective campaigning.

It was noted that most American campaign trends migrate to Canada very quickly. Negative advertising has worked well for national parties and individual candidates in the United States, and it could work well in Canada. Americans' high level of cynicism about politics has encouraged negative ads, and similar conditions now prevail in Canada.

Some participants argued for strengthening existing regulatory bodies and increasing public education about political advertising. Others argued that transparency is the ingredient missing from modern advertising campaigns; people ought to be reminded more forcefully about who pays for the ads. Still others cautioned against limiting the parameters of debate too severely. Some said that ethical advertising cannot be legislated but will have to be guaranteed by the parties themselves.

### **CAMPAIGN COMMUNICATION**

In the session on problems in campaign communication participants questioned the relationship between the objectives and conduct of news gathering and dynamic campaigning on one hand, and ethical expectations of the political process on the other.

William Gilsdorf of Concordia University suggested that there are three main concerns regarding campaign communication. First, new technology can be abused, especially to breach poll confidentiality. Second, marginal voters tend to receive more of their campaign information from television, a medium that is not information-driven. Third, campaign coverage is oriented to novelty, events and mistakes, rather than to substantive information and innovation.

Media treatment of ethno-cultural communities and people with disabilities during the 1988 federal election was the focus of comments by Eileen Saunders of Carleton University. Typically, the media did not give these groups a positive image as political actors. The information offered

on ethnic minorities centred on recruitment and nomination of ethnic candidates and the parties' pursuit of the ethnic vote. Coverage tended to imply that the parties were "under attack by a third force." The main con-

cerns of both groups did not figure prominently in media coverage, and they had little opportunity to use the media to advance their concerns.

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"The media confer legitimacy on individuals, parties and groups by imposing their own 'ruthless definition' of news coverage."

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CBC National News Editor Elly Alboim stated that he could not speak for all journalists or for the CBC, but would describe how the media cover election campaigns and how the parties want to be covered. He contended that political parties do not share the democratic need for an informed choice because they want unfettered communication of their agendas. The

media resist this pressure and respond to the pressure of external competition, which does not change during elections.

Journalists have to edit and homogenize their reports in a way that can be destructive to political journalism. Because both media and parties favour packaged information, they collude to produce campaigns that the media can understand and afford to cover. The media confer legitimacy on individuals, parties and groups by imposing their own "ruthless definition" of news coverage. During elections, this definition often has little to do with others' definition of elections because the media are not committed to the election as a process and do not accept that elections create different constraints on reporting.

Campaign coverage offers the public what it wants and expects, including its cynicism about the process. This is because media values are not

driven by public education, but by the audience's wants and needs. Alboim suggested that the main ethical problem is that the media should be more willing to reveal that their purpose in election coverage is not what people think it is.

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"Voters want unmediated information, so they value leaders debates on television."

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The panel were asked whether unethical political marketing is a slippery slope or merely a different strategy. If it is the latter, extensive regulation may not be required. Once interest

group advertising is dealt with, limits on party expenditures should eliminate many marketing abuses. One panelist said we still do not know how direct mail will affect media advertising and the fragmentation of television.

markets. Another participant stated that, like television, direct mail can elicit strong political responses.

Participants were reminded that the objective of a critical examination of media operations in the electoral process was not to see what benefits might accrue to the media, but to see what changes can be made to benefit voters. Voters want unmediated information, so they value leaders debates on television. Media activities should reflect Canadians' values and expectations in the information they seek and the ways they collect it.

### ETHICS AND ELECTIONS

The last session identified key issues raised earlier and examined possible reforms. Hugh Segal of the Progressive Conservative Party expressed concern about regulatory and ethical "overreach", arguing that fairness and equity cannot be legislated. A better approach, he suggested, would be to introduce more transparent and timely disclosure for nominations, groups, leadership campaigns and financial loans to parties. The *Criminal Code* already deals with influence peddling, but more effort could be spent on securing convictions. Segal suggested that negative advertising is a normal marketing technique that thrives on short advertising periods. He also argued that spending limits at the constituency level favour incumbents at the cost of new participants and that making parties beholden to the state through elaborate public funding schemes is a mistake.

David Gotthilf of Viewpoints Research said Canada is now engaged in a very healthy discussion of fundamental issues. He suggested that parties need a mechanism that encourages them to discuss issues. On the subject of campaign advertising, he argued that the media produce some good coverage. He also suggested that parties should get serious about self-regulation or they will pay a heavy price in declining public confidence and support. He suggested that the parties should get together to establish a "Geneva Convention" for campaigns.

The goal of electoral reform is a healthy democracy, stated Liberal Party president Donald Johnston, and to achieve this we need strong, well-financed political parties and a level playing field. He argued that too few people take advantage of the generous tax credit, that the public does not see corporate contributions as payment for special favours, and he stated that access to power is the centre of that issue. Codes of ethics would be honoured only in the breach, he suggested, adding that dishonest advertising, not negative advertising, is the problem in campaign publicity.

It was suggested that party activists do not know how negatively the public reacts to political parties' ethics. In response to Johnston's comments about the tax credit, a participant suggested that people are unwilling to contribute to parties they consider corrupt. If parties adopted codes of ethics, the public might view them more positively and feel more comfortable about contributing.

The discussion then turned to the usefulness of codes of ethics. Several participants suggested that although there are difficulties in enforcing them, codes can help clarify right and wrong and encourage parties to find the higher ground. One participant suggested that the discussion of ethics focused too narrowly on party competition and that the discussion should be expanded. Donald Johnston responded that too many people criticize parties unfairly and that people should get involved in the parties if they believe they can improve the system.

# SYMPOSIUM ON ELECTION AND PARTY FINANCE



Ottawa, Ontario  
April 18-19, 1991

THE SYMPOSIUM WAS divided into five sessions:

- Developments in Election and Party Financing
- Interest Groups' Election Activities
- Options for Reform: Enhancing Openness and Participation
- Options for Reform: Regulating Political Parties' Spending and Finance
- Symposium Review

The symposium on election and party finance was the last of a series bringing together the Commission and its staff with journalists, academics, politicians and party representatives. It was an opportunity for the Commission to share preliminary research findings and to discuss options for reform in political finance.

## ELECTION AND PARTY FINANCING

The first session dealt with developments in election and party financing. William Stanbury of the University of British Columbia outlined important changes in political fund raising and spending since the adoption of the 1974 *Election Expenses Act*. Before 1974, 90 per cent of the revenues of the Progressive Conservative and Liberal parties came from the corporate sector. The New Democratic Party was dependent on union contributions and small donations from individuals. Since 1974, all parties have come to rely much more on donations from individuals.

Large increases in party revenues and spending have also resulted. Between 1985 and 1989, the Progressive Conservatives had revenues of \$92.9 million, the Liberals \$54.5 million and the New Democratic Party \$63.9 million. In each year since 1977, spending by the Progressive Conservative Party has exceeded that of the other two parties combined.

The most significant development in fund raising since 1974 has been the use of direct mail. The Progressive Conservatives began to use direct mail not long after the 1974 reforms and have since relied on it to raise a

significant portion of party revenues. The Liberals have not found direct mail as lucrative, while the New Democratic Party has been reasonably successful in its use of direct mail since 1983.

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"The most significant development in fund raising since 1974 has been the use of direct mail."

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Stanbury cautioned that the effectiveness of fund raising by direct mail may be compromised if 'donor fatigue' develops and contributors begin to resist the many petitions for money they receive from parties. At present, only a small portion of Canadians (3 per cent in a peak year) make political donations. If the apex of individual contributions has been reached, it may be necessary to adjust the tax credit scale to reflect its lag behind inflation.

These changes in patterns of individual giving have been accompanied by changes in the pattern of business contributions to parties. The parties are less dependent on the top 500 corporations than previously. The parties – especially the Progressive Conservatives – have received more money from a large number of small to medium size companies. Both the Liberals and the Progressive Conservatives make extensive use of fund-raising dinners and donor clubs. The New Democratic Party does not use either of these instruments, but it receives many donations that exceed \$1000.

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"Since constituency associations are not registered entities and have no legal standing, there is no public financial accountability as to how they raise and spend money."

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Since 1974, election spending by all three major parties has moved closer to statutory limits. Election spending by the New Democratic Party grew most rapidly in this period. Broadcast advertising is the single greatest expense for the three largest parties. Other major expenditures include polling and research, election training programs, fund-raising costs, and policy development. Stanbury argued that the definition of election expenses should cover election-related spending that is now exempt.

Constituency associations, he said, are the "black hole of party finance" in Canada. After the 1988 federal general election, constituency associations had a surplus of \$9.6 million, most of which came from the reimbursement candidates received. Since constituency associations are not registered entities and have no legal standing, there is no public financial accountability as to how they raise and spend money.

Herbert Alexander of the University of Southern California noted that political scandals frequently lead to election finance reform. In 1974, both the United States and Canada enacted major party finance legislation. U.S. legislation, enacted in the aftermath of Watergate, reflected the candidate-centred culture of electoral competition, while the Canadian reform package recognized parties as integral participants in the electoral process.

Alexander assessed the consequences of the 1974 party finance laws in the United States. First, limits on the size of contributions mean politicians can no longer secure funds from a small number of sources: they have had to expand their search for contributions. After 1974, the pattern of contributions shifted "from big givers to big solicitors." Second, contribution limits have accelerated the rise and proliferation of Political Action Committees. Third, politicians began using fund-raising techniques such as special breakfasts to reach a large number of individual donors.

In the United States, Alexander said, government can constitutionally impose spending limits only if they are tied to public funding. No spending limits exist for congressional and senatorial races. The cumulative effect of these different regimes is a fragmented electoral regulatory framework. Although there is public pressure to contain the role of money and Political Action Committees in American politics, the Senate and the House of Representatives have been unable to agree on legislation.

In assessing expenditure limits for presidential elections Alexander noted that presidential candidates have several ways to spend money outside the limits. In addition to public funding, candidates can benefit from 'soft' money, independent expenditures, parallel campaigns by unions, and expenditures by the national parties. The number of individuals participating in the tax check-off has declined (and is now at 20 per cent of American taxpayers), and its value has not been adjusted for inflation. Consequently, the public money available may not be enough to cover the costs of the 1992 presidential campaign. Alexander concludes that disclosure has been the most effective policy instrument. The financial information compiled by the Federal Election Commission is well organized and widely used.

David Johnson of McMaster University reviewed the different approaches to election and party finance law in the provinces. New Brunswick, Ontario, the Northwest Territories and Quebec have registration, require disclosure, provide tax credits and other subsidies, and have expenditure and contribution limits. Proposed legislation in Newfoundland would place it in this category; at present, it has disclosure requirements only. Manitoba, Nova Scotia, Prince Edward Island and Saskatchewan oblige parties to register and disclose, provide access to tax credits and/or other public funding, and have expenditure limits. Alberta requires registration and disclosure, gives parties and candidates access to tax credits, and has contribution limits. British Columbia and the Yukon also have tax credits.

Johnson reviewed the factors contributing to the rise of the different systems of party finance law. First, there is partisan politics: the incumbent

government will design party finance laws to advance its electoral interest. Second, parties seek to gain administrative or organizational advantages. Third, party finance laws are frequently adopted in response to political scandal. In this regard, public and media opinion about the state of political ethics may prompt governments to introduce reform packages. Fourth, there is a demonstration effect: legislation adopted by the federal government or by another province may spark a province to enact similar legislation.

Participants debated the effectiveness of expenditure limits as the primary instrument for limiting the role of money in elections. It was suggested that the value of expenditure limits depends on how election expenses are defined and on how numerous and intricate the regulations are. Federally, the presence of an "other expenses" category allows candidates to spend outside the spending limits for certain kinds of expenses.

Two general approaches to expenditure limits were discussed. The first approach calls for a comprehensive definition of election expenses. Such an

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"To be credible, expenditure limits would have to reflect the real cost of electoral competition."

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approach, it was submitted, would be more straightforward and would enhance public confidence in the electoral process. To be credible, expenditure limits would have to reflect the real cost of electoral competition. Severe penalties would have to be in place to deter violations, although it was suggested the adjudication process should be civil, not criminal. The potential pitfalls of a comprehensive definition of election expenses were highlighted. No precise criteria

exist to determine what activity or expenditure could be credibly classified as an election expense. However, those who defended this approach noted that it would ensure that all significant electoral activities were regulated.

The alternative approach to expenditure limits would limit spending on those activities primarily responsible for pushing up election expenses. Media advertising would be the prime candidate for such limits; secondary activities such as travel and administrative costs would not be subject to limits. One participant suggested such limits would not be workable. Participants agreed that either approach to expenditure limits would have to be accompanied by comprehensive disclosure requirements.

The discussion shifted to appropriate levels and formulas for the public funding of parties. Some participants criticized the existing system of reimbursements in Canada, which rewards parties and candidates for spending money during elections, favours existing players and creates barriers to new ones. Some suggested that parties and candidates should receive public funding based on the share of votes received, using either national or regional results.

The potential value of a tax check-off system for Canada was discussed. Although the use of the tax check-off is declining in the United States, the percentage of American taxpayers using the system far exceeds the percentage of Canadian taxpayers claiming political tax credits. The role of money in American politics has altered popular perceptions of the values that dominate political life. Politicians are seen as selling out to the highest bidder, and fewer individuals are joining parties or volunteering as fundraisers.

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“... negative perceptions are reinforced by relentless media scrutiny of the way campaigns are funded.”

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One intervener said negative perceptions are reinforced by relentless media scrutiny of the way campaigns are funded. Adroit reform of election and party finance laws could be a first step in recasting the popular image of politics and politicians. Overall, participants emphasized the importance of ensuring that party finance regulations and public funding provisions are fair but realistic.

### INTEREST GROUPS AND ELECTIONS

The second session dealt with the election activities of interest groups. Janet Hiebert of the Commission said that the spending by interest groups in the 1988 election was estimated to have exceeded \$4.7 million – 40 cents for every advertising dollar spent during the election by the three major parties combined. Seventy-six per cent of this spending was to promote free trade, while 14 per cent of the total was to oppose it.

Hiebert pointed out that the *Canadian Charter of Rights and Freedoms* must be considered in any effort to regulate the role of interest groups in federal elections. The 1983 prohibitions on independent advertising were struck down as contrary to the Charter in the 1984 National Citizens' Coalition case. These prohibitions allowed interest groups to advertise on issues but not to target candidates or parties. The Supreme Court of Canada would have to be satisfied that any new regulation impairs freedom of expression as little as possible. Some submissions to the Commission suggested that interest groups should be subject to the same kinds of spending limits and other regulations as candidates and parties. In Hiebert's view, however, this would not address the fundamentally different nature of parties and interest groups and the capacity of interest groups to multiply into new organizations, each with the ability to spend up to any limit set.

A commonly suggested solution is to return to the intent of the 1983 legislation. But experience in Canada and other jurisdictions has demonstrated how difficult it is to establish a meaningful distinction between issue and partisan advertising. Hiebert suggested that the best alternative would be to allow a modest amount of spending by interest groups.

Brian Tanguay of Wilfrid Laurier University presented research on the activities of 89 interest groups, in 12 ridings in four provinces. Generally, these groups were not involved in political activity. At the last election, only 5 per cent of them endorsed or targeted candidates, and about 20 per cent undertook an activity such as publishing a newsletter on election issues. Labour and anti-abortion groups were the most active. Groups that received government funding, particularly those with a charitable status, tended to remain non-partisan. Groups with limited resources contacted their Members of Parliament more frequently and used unconventional media and political strategies. Paradoxically, the most dissatisfied groups, and those with the most limited resources, tended to be most in favour of unrestricted spending by interest groups.

According to Richard Johnston of the University of British Columbia, interest group advertising had a significant bearing on the 1988 federal election result. The timing of advertisements was particularly important. Most advertisements in favour of free trade began the week after the leaders debate, which had been followed by a drop in the voting intentions in favour of the Progressive Conservatives in the opinion polls. The recovery of the government's popularity was remarkably sudden and occurred as interest group advertising began to increase. Johnston estimated these advertisements were worth four or five percentage points – and perhaps as much as seven points – in the vote difference between the Progressive Conservatives and the Liberals.

---

“... interest groups perform the healthy role of urging politicians and the public to deal with certain issues.”

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Participants discussed whether the scale of intervention by interest groups seen in 1988 was unique or the beginning of a trend. According to one intervener, interest groups became involved in the 1990 Ontario provincial election because they had seen how effective such activity was during the federal election. Another participant pointed out that Canada still does not have the same magnitude of interest group involvement as the United States.

One participant suggested that interest group advertising during the 1988 election pertaining to issues would have been legal because of the good faith defence in the 1974 legislation. But that defence would not have allowed the advertisements opposing a party, which came mostly from those opposing free trade. Another participant indicated that in the United States the only organizations barred from making independent expenditures are political parties, because they are assumed incapable of doing so without co-operating with the candidates.

Some pointed to Quebec's ban on interest group advertising as a model; however, it was suggested there is some doubt whether the ban would

survive a Charter challenge. Several interveners said that interest groups perform the healthy role of urging politicians and the public to deal with certain issues. Another participant said that there is ample opportunity for these groups to intervene outside election periods but that money can skew the fairness of electoral contests. Participants generally agreed that unfettered interest group advertising during elections would put political parties at an unfair disadvantage. However, there was also general concern that free speech not be unduly diminished. Participants differed on the relative importance of each, however.

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"... unfettered interest group advertising during elections would put political parties at an unfair disadvantage."

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### ENHANCING OPENNESS AND PARTICIPATION

In session three, options for reform to enhance openness and participation were considered. Michael Pinto-Duschinsky of Brunel College, England, explained that the German party foundations are charged with party building, research and public education. They hold political education courses; sponsor about 3500 scholarships at any given time; annually carry out \$250 million in foreign political aid operations in more than 100 countries; and conduct long-term research. The foundations cost about \$400 million per year to operate and receive 97 per cent of their funds from the German government.

The foundations have been effective in promoting democracy and German national interests in their international operations. Domestically they have been useful in building national unity in what was post-war West Germany. Reviews are mixed on the utility of the foundations' political education function. Pinto-Duschinsky criticized the foundations for not being member-based, transparent or accountable. He added that heavy public funding for both foundations and political parties has made German parties almost indistinguishable from the state.

In contrast, Jane Jenson of Carleton University suggested there are lessons to be learned from Western Europe. She said the European parties in the 1970s experienced some of the problems that Canadian parties face today in sustaining their representational capacity. In Europe, however, these problems diminished during the 1980s.

Looking at Canada, Jenson noted that the 1983 changes to the provisions for reimbursing parties a portion of their election expenditures mean public funding for parties depends on ability to spend; this provision sends a message that new parties are not welcome. The present public funding regime concentrates most funding on the election period and creates a

public perception of parties as election-oriented. That the preponderance of public funding goes to candidates instead of parties, Jenson said, is inconsistent with the crucial importance of parties in the Canadian political system.

All these characteristics contrast starkly with the characteristics of European funding regimes, which emphasize parties over candidates. Parties there are seen as playing an important role outside election periods. Public funding for parties depends upon the level of popular support they can achieve, not on the amount spent. Jenson recommended that Canada reward votes instead of spending.

Carole Campolo of the New York City Campaign Finance Board described that city's experience with campaign finance legislation. The *Campaign Finance Act*, passed in 1988 in an atmosphere of frustrated public demands for reform, aimed to remove money as a barrier to running for public office and to encourage small contributions from a large number of sources. The public funding program is voluntary, covers both primary and general elections, and links public funding to compliance with certain rules. The program's central features are matching grants of up to \$1000, full disclosure, and contribution and spending limits. Public funding payments and disclosure reports are made public frequently during the campaign itself, allowing timely media coverage of both. Computerization of the system allows for quick processing of donations and matching grants, as well as easy access by reporters.

Lisa Young evaluated several options for reforming disclosure provisions. Inclusion of the contributor's address and the date of the contribution is mandatory in many U.S. jurisdictions, she said, and ought to be considered for Canada. The disclosure of a contributor's employer's name, necessary in the United States because of legislation governing contribution limits, would not be as important in Canada. However, Young favoured shortening the reporting period and the time lag between contribution and disclosure. These improvements are desirable because reporters, academics and the public rarely have access to the information disclosed under the present system. Fuller and more accessible disclosure – perhaps aided by computerized records – could spark greater public interest.

During the ensuing discussion, participants supported fuller and more frequent disclosure. Some emphasized the virtues of pre-election disclosure; others expressed concern that the nature of current campaign practices would make disclosure during the campaign difficult. Unlike the situation in New York before the 1988 reforms, contributions greater than \$2000 are rare in Canada, and options for reform ought to be kept in perspective. A participant suggested that disclosure by constituency associations and more prompt disclosure rules would be two practical forward steps.

David Taras of the University of Calgary focused on free-time advertising. He characterized such ads as weak, tedious and ghettoized out of prime time. Recent innovations such as cable and satellite television and the videocassette recorder have freed viewers from the schedules imposed on

them by broadcast advertisers. Given such a wide range of options, few people will choose to watch free-time political advertisements. Taras concludes that free-time ads are not an effective means of communication.

At the same time, he lamented the lack of communication between voters and their Members of Parliament. The focus of campaign coverage in the media is on national issues, ignoring local issues; candidates are virtually locked out of commercial television airtime. Meanwhile, door-to-door canvassing has become less effective with changes in Canadians' lifestyles and schedules. This severing of ties between Members of Parliament and constituents increases public cynicism. A new form of free-time advertising for candidates could successfully address these problems, Taras argued. Candidates should receive vouchers for a certain value of airtime, to spend as they wish. In return, candidates should have to produce ads locally, discuss local issues and appear in the advertisement.

In the brief discussion that followed, a participant suggested that the Parliamentary Channel and local cable channels are under-used resources for candidates. He went on to suggest that the content and demeanour of advertisements ought not to be regulated, leaving judgement on such matters to viewers.

### PARTY SPENDING AND FINANCE

The next session dealt with regulating parties' spending and finances. David Butler of Nuffield College, Oxford University, discussed the effectiveness of spending limits, restrictions on television advertising and the issue of independent expenditures in Britain. Regarding candidates' spending limits, the consensus is that most people abide by the laws. Because of high postage costs and charges for local telephone calls, direct mail and telephone canvassing are not a significant part of British election campaigns.

Candidates and parties are not allowed to buy radio or television advertising time in Britain. Although this is a limit on freedom of expression, Butler said that free time is allocated fairly. The Americanization of British campaigns has increased expenses significantly, however. In the last four days of the 1987 general election in Britain, the Conservative Party bought 11 full pages of advertising in daily newspapers at a cost of £9 million. Butler noted that opinion polls are very important tools for political parties and candidates and that they are quite expensive. Interest group advertising is not a big problem in Britain, however, because the law prohibits any outside advertising aimed at promoting the election of a candidate.

Réjean Pelletier of Université Laval discussed the evolution of election finance laws in Quebec, the effects of the system of *financement populaire* and the potential for Quebec's system to be exported to other jurisdictions. He said the 1963 election finance law in Quebec came about in the wake of a number of scandals and unethical activities. The Quebec Liberal party included election finance reform in its platform in the early 1960s, and in 1963 a new *Election Act* was adopted that restricted election expenses of parties

and candidates and provided for the reimbursement of candidates. The Parti québécois introduced new legislation in 1977 that included disclosure requirements for parties, constituency associations and independent candidates, as well as a political contribution tax credit system. As a result of these reforms, only qualified voters are allowed to contribute to parties and candidates. Following passage of the law, political parties began to encourage members to become more active in fund raising and to broaden their membership to assure themselves of adequate financing.

Pelletier contended that the legislation could be exported, but that political will is necessary. He suggested that the source of political contributions be as clear as possible, but that the \$100 threshold for disclosure at the federal level is too low. Unions and businesses should be allowed to contribute to political parties and candidates, and the limit should be lower than \$10 000. The tax credit system should encourage modest contributions rather than large contributions.

William Stanbury noted that the Quebec tax credit is much less generous than the federal system. He described potential problems in the Quebec system. First, at public rallies when the hat is passed for contributions it is difficult to determine how much a single anonymous donor has given. Second, the ban on contributions from anyone but electors may be circumvented by businesses that reimburse individuals contributing to parties.

Stanbury noted that the regulatory regime can alter the ability of parties and candidates to raise money. Consumer Price Index adjustments do not adequately reflect rapidly increasing campaign costs. He suggested a more comprehensive definition of election expenses, an increase in election expense limits, and a more precise definition of candidates' personal expenses. He suggested reducing the level of candidate reimbursement for election expenses to 33.3 per cent from 50 per cent and increasing the party reimbursement from 22.5 per cent to 33.3 per cent.

---

"... there is no clear relationship between spending limits and competitiveness in Canadian elections."

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Donald Blake of the University of British Columbia discussed his research on party competition in Canada over the last 20 years. In Canada approximately 20 per cent of Members of Parliament are replaced from one election to the next, compared with 10 per cent in the United Kingdom and just 5 per cent in the United States. Members of the Canadian House of Commons are very vulnerable, because about 30 per cent of the ridings are won by a margin of only 10 per cent of the

vote. Blake added that there is no clear relationship between spending limits and competitiveness in Canadian elections.

Leading off the symposium review, David Angus, chairman of the P.C. Canada Fund, said, "I think the mandate of this Commission is to try to give Canadians confidence in our system of democracy. I have been very impressed with the fact that exhaustive studies by those who are not intimately involved in politics on a day-to-day basis have concluded that our system is a very good system." Turning to specifics, he suggested the Commission must convince the public that political fund raising is a necessary element of a democratic system. He expressed satisfaction with the three parts of the existing political finance laws: modest public funding, campaign spending limits, and disclosure of spending and revenue sources. For registration of constituency associations, Angus noted that the current law allows the chief agent of the national party to designate regional or local agents to issue tax receipts. He therefore questioned whether there was a need to register local associations or allow them to issue tax receipts.

Noting the need for fiscal restraint, Angus spoke against increasing the public funding available to parties and candidates, although he agreed that the value of the tax credit has been eroded by inflation. Because direct mail is an effective means of soliciting small contributions from individuals, he was against any regulation of direct mail. He also opposed any restriction on contributions from businesses, suggesting that businesses should be encouraged to make contributions to political parties as an act of corporate citizenship. He added that there is no need to limit the size of contributions as long as there is full disclosure.

Angus suggested that only those expenditures that directly promote the party in electoral competition should be included in the definition of election expenses. He also advocated reconsideration of the 15 per cent threshold for candidate reimbursement and removal of the criminal penalties for violations of spending limits or disclosure.

Michael Robinson of the Liberal Party noted, "I personally have been able to attend all of the seminars except one. I have found them tremendously informative. I think we all come away ... with a great deal of confidence and respect for this system that we have developed here in Canada. I also think we benefited enormously from the research that has been done for the Commission." He perceived two major threats to the integrity of the Canadian electoral system: the definition of election expenses and interest group advertising during elections. He noted that technological change has jeopardized the integrity of the expenditure limits. Specifically, if polling and direct mail are not included in the definition, he predicted the increased use of polling, followed up by targeted direct mail in every riding. He also supported restriction on interest group activities sufficient to not impair competition between parties.

Parties and candidates already receive sufficient public funds, and rather than increasing the funds available, Robinson suggested, some of these funds from the local level should be reallocated to the national level.

He also suggested basing funding on votes received, rather than on the amount of money spent. Maintaining that business donations are essential sources of funding, he advocated no ban on business or union contributions. He recommended that the use of the tax credit for leadership and nomination campaigns be allowed explicitly in the law. It should be voluntary, however, and accompanied by full disclosure.

Finally, Robinson endorsed the idea of party foundations, arguing that political parties perform their election and brokerage functions well but are weak on articulating their values and underlying ideology. To enable parties to do this, party foundations should be created and publicly funded for their first 10 years.

Cliff Scotton of the New Democratic Party said, "We have been treated to a range of solid information. The papers ... have detailed the hopes and aspirations of the draftees of the original *Election Expenses Act* and subsequent amendments. The practical experience of party officials and electoral officials has brought about the inputs for consideration of change. There is a great deal of common concern." He noted that the 1974 legislation was drafted by members of the party elites and tends to alienate volunteers, from whom the parties now ask money instead of time. The definition of election expenses should be expanded to include polling, and spending limits should be increased commensurately. Scotton also argued for better disclosure, penalties for electoral law infractions, speedy publication of disclosed information, and restrictions on interest group advertising during elections – whether on time or on dollars spent.



PART 3

*THE PATH  
TO  
ELECTORAL  
EQUALITY*



Reprinted from  
the report of  
**The Committee for  
Aboriginal Electoral Reform**

# ACKNOWLEDGEMENTS



ON BEHALF OF the Committee for Aboriginal Electoral Reform, I would like to extend special thanks to the many individuals and organizations involved in the work leading up to this report.

I commend the efforts of the Royal Commission on Electoral Reform and Party Financing which recognized the problems encountered by Aboriginal people in the electoral system and understood the need for improved representation of Aboriginal peoples in Parliament. Its Chairman, Mr. Pierre Lortie, deserves praise for elevating Aboriginal electoral reform to the top of the Commission's working agenda.

I commend the contributions of the Committee members who shared their invaluable insights and experience as MPs of Aboriginal ancestry in shaping and refining the proposal for Aboriginal Electoral Districts. I regret that our colleagues from the NDP could not participate in our work due to prior commitments; however, I am confident that this report will reflect the cooperative, non-partisan spirit in which Committee members tackled the challenge of making the electoral system responsive to the interests of Aboriginal people.

A special word of appreciation should be extended to staff members for their ability to organize and bring to fruition an extensive consultative process in such a tight timeframe. Marc LeClair played a pivotal role from the beginning, conducting the preliminary research, conducting the coast to coast consultations under the auspices of my office in January and then repeating this tireless performance during the latest round of consultations under the auspices of the Committee. His efforts were greatly appreciated.

Rob Milen of the staff of the Royal Commission joined Marc in this extraordinary effort and also played an invaluable liaison role between the Committee and the Royal Commission. John Weinstein made a significant contribution to the report and its many drafts as editor. A special word of thanks should go to Margaret Bartle and Lorraine Rochon for their strong support services.

Finally, I wish to thank the many Aboriginal organizations from coast to coast that provided us with a forum for the Aboriginal Electoral Reform concept through their assemblies and private meetings. Without their interest and insights, this report would not have been possible.

Senator Len Marchand  
Chairman, Committee for  
Aboriginal Electoral Reform

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# Committee for Aboriginal Electoral Reform

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Chairman Senator Len Marchand

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Mr. Pierre Lortie  
Chairman  
Royal Commission on Electoral Reform  
and Party Financing  
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Dear Mr. Lortie:

We have the honour to submit the following report on behalf of the Committee for Aboriginal Electoral Reform. As a group of Aboriginal MPs, both sitting and retired, the Committee is committed to reforming the federal electoral system to redress the structural inequalities which have blocked the effective participation and representation of Aboriginal people in the process of Canadian electoral democracy. Within the confines of the existing constitutional structure, we believe our goals can best be achieved through the creation of Aboriginal Electoral Districts.

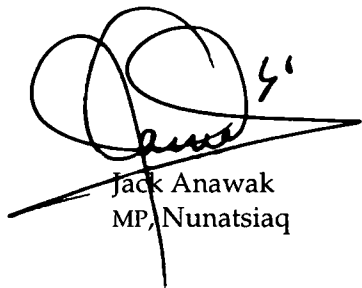
Since its inception in May 1991, the Committee has canvassed the views of Aboriginal people on its proposal for Aboriginal Electoral Districts. Consultations were conducted across the country with national, regional and local Aboriginal leaders by way of on-site visits and correspondence. The views of Aboriginal individuals were solicited by way of an advertisement containing the Committee's proposal which appeared in Aboriginal newspapers across the country. The Committee also heard from Parliamentarians and the media on its proposal.

This report documents the response of Aboriginal people to the proposal for Aboriginal Electoral Districts. It sets out recommendations to make the electoral system responsive to the Aboriginal community of interest and to overcome impediments to Aboriginal participation in the federal electoral system.

Our consultations confirmed that self-government is the priority issue of Aboriginal people. The Committee supports the constitutional recognition of self-government and has developed the AED concept so as not to detract from this fundamental objective. However, our Committee consultations have revealed a deep-seated conviction among many Aboriginal leaders that the electoral system since Confederation has weakened and marginalized the Aboriginal position in the Canadian political process and hence needs reform to accommodate Aboriginal interests.

It is our firm belief that Aboriginal electoral reform should be a priority recommendation of the Royal Commission in its report to Parliament. The Committee is prepared to continue its work with the Royal Commission and the Aboriginal community to ensure that the final report to Parliament contains concrete measures to put Aboriginal Electoral Districts into effect.

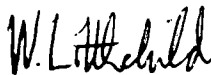
Yours sincerely,

A stylized handwritten signature in black ink, featuring large loops and a long horizontal stroke extending to the right.

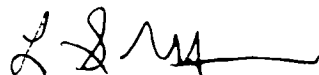
Jack Anawak  
MP, Nunatsiaq

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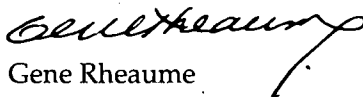
Ethel Blondin  
MP, Western Arctic

A handwritten signature in black ink, with a cursive style and a long horizontal stroke at the end.

Willie Littlechild  
MP, Wetaskiwin

A handwritten signature in black ink, with a cursive style and a long horizontal stroke at the end.

Len Marchand  
Former MP  
Kamloops-Cariboo

A handwritten signature in black ink, with a cursive style and a long horizontal stroke at the end.

Gene Rheaume  
Former MP,  
Northwest Territories

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# 1

## THE COMMITTEE AND ITS PURPOSE



THIS DOCUMENT EMBODIES the findings and recommendations of the Committee for Aboriginal Electoral Reform. The Committee is a group of current and former Aboriginal Members of Parliament who have joined together to increase the participation and representation of Aboriginal people in the process of Canadian electoral democracy.

We propose to do this by means of Aboriginal Electoral Districts (AEDs). Accordingly, Aboriginal voters would elect Members of Parliament who would represent them and be accountable directly and exclusively to them through the electoral process. The proposal would provide a mechanism whereby upwards of 4% of the members of the House of Commons could be Aboriginal people, a number that corresponds to our proportion of the Canadian population.

The Government of Canada has signalled its intention to reform the electoral system, appointing the Royal Commission on Electoral Reform and Party Financing to recommend change. The Royal Commission's report is to be submitted to the government in the fall of 1991. It is our hope that the recommendations of the Committee will form an integral part of the Royal Commission's report and that Parliament will act to redress a fundamental inequality within the Canadian electoral system – the systematic under-representation of Aboriginal people in the House of Commons.

In pursuing Aboriginal electoral reform, it is not our purpose to detract in any way from the attainment of Aboriginal self-government. We recognize the concern of some Aboriginal leaders that the proposal for AEDs could divert the attention of governments and the public away from self-government or could, if implemented, exhaust public support for self-government.

We emphasize that AEDs are not a substitute for Aboriginal self-government but a complementary form of political representation. Our proposal is not designed specifically to address the special place of Aboriginal nations within Canada but is designed to take advantage of the opportunity created by the work of the Royal Commission to redress the inequality of Aboriginal people within the electoral system. In this sense, we were buoyed by the opinion of many Aboriginal leaders that although the attainment of self-government must remain their primary pursuit, structural inequalities in the electoral system as it affects Aboriginal people is a long-standing and fundamental problem that must be acted upon.

## THE WORK OF THE COMMITTEE



THE IDEA OF increasing Aboriginal participation in Parliament is not new. The Maori in New Zealand have had four guaranteed electoral districts since 1867. The late George Manuel, one of the driving forces behind the National Indian Brotherhood (now the Assembly of First Nations), proposed guaranteed Aboriginal representation in Parliament more than 30 years ago. Guaranteed representation in Parliament also formed a central part of the Native Council of Canada's constitutional report in the early 1980s and was one of the agenda items in the 1983 political and constitutional accord reached with First Ministers.

The recent establishment of the Committee for Aboriginal Electoral Reform and its proposal for Aboriginal Electoral Districts evolved out of earlier efforts by Senator Len Marchand of British Columbia. Senator Marchand appeared before the Royal Commission on Electoral Reform on March 13, 1990, outlining the case for electoral equality of Aboriginal people and AEDs. His office also conducted research into impediments to Aboriginal participation in the federal electoral system.

As a result of Senator Marchand's submission and those of Aboriginal organizations, the Royal Commission asked Senator Marchand to lead a series of consultations with Aboriginal leaders on the AED concept. These consultations, conducted during January 1991 by the office of Senator Marchand with national and regional Aboriginal leaders, found considerable support for establishing AEDs as a way of achieving more effective Aboriginal representation in the House of Commons.

A recurring theme heard from Aboriginal leaders in these discussions was the need for further, more in-depth consultations as a vehicle for validating community support and for developing a model that could serve as a basis for draft legislation in the Royal Commission's report. The leaders also viewed the Royal Commission's response to an ongoing process as an indication of its seriousness in pursuing the issue.

The Royal Commission responded to the report on the Marchand round of consultations by asking for the continued assistance of the Senator in guiding further consultations with the Aboriginal community. These consultations would be directed to determining whether there was sufficient support for an AED proposal that could be included in the Royal Commission's recommendations.

The Royal Commission and Senator Marchand agreed that a most effective instrument for guiding further work on AEDs would be a non-partisan

committee of Aboriginal people who have served or are currently serving as members in the House of Commons. The Committee for Aboriginal Electoral Reform was established in May of 1991 to advise on and evaluate the consultative process.

In response to the Aboriginal leadership's desire for a more concrete AED proposal, the Committee developed a consultative paper on AEDs, proposing a design for AEDs and a process for implementing the concept. This consultation document, "Aboriginal Electoral Districts: The Path to Electoral Equality", was featured as a four-page advertisement in Aboriginal newspapers across Canada. It invited written responses from readers and also provided a toll-free telephone number for verbal responses.

The Committee wrote directly to Aboriginal communities and regional leaders and arranged on-site meetings with provincial, regional and national organizations; these meetings were held in May, June and July. (See Appendix 1 for the list of organizations consulted.) As the discussions progressed, the Committee was able to produce and distribute among Aboriginal leaders a question and answer summary addressing some of the key Aboriginal concerns and priorities emerging from the talks. (See Appendix 2.)

The consultative document was also sent to Members of Parliament, Senators and the news media, prompting considerable response. In addition to extensive media coverage of the Committee's participation in Aboriginal organizations' assemblies, a number of newspaper editorials focused on the AED concept, prompting Committee responses that were also published.

# IMPEDIMENTS TO ABORIGINAL PARTICIPATION IN THE FEDERAL ELECTORAL SYSTEM



THE FAILURE OF the existing electoral system to provide for equal and effective Aboriginal representation in Parliament is clear. Since Confederation, only 12 self-identifying Aboriginal people have occupied seats in Parliament, out of approximately 11 000 available seats. Three Métis, including Louis Riel, were elected in Manitoba in the 1870s when Métis electors were the majority. Of the nine Aboriginal people elected this century, only three have been elected in districts where Aboriginal people do not constitute a majority. The remaining six Aboriginal people have come from the Northwest Territories, where Aboriginal people form a majority in the constituency.

In exploring the root causes of Aboriginal underrepresentation in Parliament, the Committee reviewed the findings of earlier research conducted by the office of Senator Marchand. This research identified four major factors contributing to negative Aboriginal perceptions of Parliament and to Aboriginal underrepresentation:

- the historical use of the federal franchise as a means of assimilation;
- the failure of the federal electoral system to recognize the Aboriginal community of interest;
- impediments to Aboriginal participation in political parties; and
- the failure of federal electoral administration to meet the needs of Aboriginal electors and to practise employment equity.

## HISTORICAL FACTORS

The skepticism and suspicion with which Aboriginal people view the electoral franchise can be traced to the historical use of the federal franchise as a means of assimilating Aboriginal people. In order to exercise the federal franchise, Indians were expected to surrender their distinct identity and status and to assimilate into settler society. Appendix 3 sets out the terms of surrender required of Indians in order to vote in federal elections until 1960, including the loss of their right to be registered under the *Indian Act*, their treaty rights, and their statutory right to property tax exemption. The Inuit did not receive the right to vote until 1950. However, no ballot boxes were placed in Inuit hamlets until 1962.

The arguments advanced in parliamentary debates to deny the franchise to Indians from Confederation until 1960 provide valuable insight into the treatment of Aboriginal people in the electoral system. Parliamentarians took aim at four elements of Aboriginal distinctiveness:

- Aboriginal socio-economic conditions were cited as a reason for denying the franchise to Aboriginal people. This included arguments that Aboriginal people were not "civilized" or "literate", that they were "wards" of the government and susceptible to voter manipulation by the government in power and thus not worthy of the right to vote.
- The distinct legal status of Indian people under the *Indian Act* and the treaties were also cited as reasons for withholding fundamental citizenship rights. In particular, treaty payments and annuities, exemption from taxation, and the prohibition on Indians entering into contracts or buying and selling were all used to deny Aboriginal people the right to vote.
- The distinct land tenure system on reserves was a concern in the early part of the century, particularly when the franchise was viewed as an incident of proprietary ownership (reserve lands were designated as federal lands).
- Finally, the distinct political consciousness of Aboriginals was used by non-Aboriginal politicians to deny Aboriginals the right to vote on the self-serving grounds that Indian sovereignty was inconsistent with any Aboriginal participation in Parliament.

The problems with the electoral system cannot be viewed in isolation from the historical difficulties that Aboriginal peoples have had with Canadian political institutions. The failure of the Canadian government to work out constitutional accommodations recognizing inherent collective Aboriginal and treaty rights, coupled with Canada's history of assimilationist policies, have had an adverse impact on Aboriginal perceptions of Parliament and the value of participating within it. This has created a dilemma for many Aboriginal Canadians. Not wanting to legitimize the constitutional structure in place in Canada, many Aboriginal leaders have argued against assuming voting rights.

#### **FAILURE OF THE ELECTORAL SYSTEM TO RECOGNIZE THE 'ABORIGINAL COMMUNITY OF INTEREST'**

The primary reason for Aboriginal underrepresentation in Parliament stems from the failure of current electoral laws to recognize the Aboriginal community of interest. While current electoral law allows for group interests to be taken into account in the drawing of electoral boundaries and has worked to the benefit of official language minority groups and geographically concentrated ethnic communities, the existing law is not capable of accommodating the broad geographic distribution of Aboriginal peoples.<sup>1</sup>

While Aboriginal peoples constitute upward of 4% of the overall Canadian population, their population distribution across the country has left them numerical minorities in all but the two territorial ridings. As a result, it makes it difficult for Aboriginal people to influence the outcome of an election. According to the Federal Electoral Districts – 1987 Representation Order, there are only two ridings south of the 60th parallel where Aboriginal peoples constitute more than 20% of the federal electoral district: Churchill, Manitoba (42%) and Prince Albert–Churchill River, Saskatchewan (25%). Of the remaining federal electoral districts, only seven have more than 10% of the population identified solely as Aboriginal: Kenora–Rainy River, Ontario (14%); Abitibi, Quebec (16%); Labrador, Newfoundland (10%); the Battlefords–Meadow Lake, Saskatchewan (17%); Athabaska, Alberta (12%); and Skeena, B.C. (16%). An additional seven electoral districts have an Aboriginal population of more than 5% but less than 10%.

In fact, federal electoral boundaries have served to dilute the strength of the Aboriginal vote in the hinterland. This results from the north-south axis on which the boundaries of northern electoral districts have been drawn, allowing the non-Aboriginal population in the more populous towns in the southern parts of a constituency to outvote the Aboriginal population forming the majority in the rest or most of the constituency.

The result of this structural problem was confirmed by the 1988 federal election. Leaving aside the two territorial ridings, there is only one Member of Parliament of Aboriginal descent south of the 60th parallel. When one considers that more than 900 000 Aboriginal people live south of 60, it is no surprise that Aboriginal people question the legitimacy of the electoral system and the capacity of Parliament to deal effectively with Aboriginal issues. Clearly, the application of electoral boundaries legislation has served to partition the Aboriginal community of interest into different electoral districts, thereby diluting the Aboriginal vote and rendering it ineffective.

### **IMPEDIMENTS WITHIN THE PARTY SYSTEM**

The electoral system is dominated in large part by the three main political parties which have not been notably receptive to Aboriginal people. Low Aboriginal participation rates within the parties are especially important when considering the large role played by the parties in getting voters to the polls. A major impediment to increased Aboriginal participation in the parties has been the perception that Aboriginal people do not vote, a perception that has discouraged political activity in the Aboriginal community and the nomination of Aboriginal candidates. As long as the Aboriginal vote remains diluted and partitioned, political parties have little incentive to field Aboriginal candidates to win the Aboriginal vote.

Of the three main political parties, the Liberal Party of Canada has gone furthest in increasing Aboriginal participation, amending the party constitution to guarantee proportional representation of Aboriginal peoples within the Party. At the 1990 Liberal leadership convention, this resulted

in approximately 4% of delegate positions (182 delegates) being reserved for Aboriginal Liberals. These structural adjustments were made because the existing riding association structure failed to produce Aboriginal delegates in proportion to their number.

The Progressive Conservative Party recognizes the National Aboriginal Progressive Conservative Caucus as one of its national associations, but the party's Constitution guarantees only two delegate positions for Aboriginal peoples at conventions. The party does, however, attempt to encourage Aboriginal participation at the riding level.

The New Democratic Party encourages Aboriginal people to participate at the riding level, but makes no structural accommodation for Aboriginal peoples within the party constitution.

### THE FAILURE OF FEDERAL ELECTORAL ADMINISTRATION

The administration of the federal electoral system has not been responsive to the special needs and problems of Aboriginal electors. The enumeration of Aboriginal electors has been impeded by transience, homelessness, reliance on Indian band lists, and the tendency of single parents on social assistance to hide the presence of co-habitants for fear of losing their social assistance benefits. Participation in elections is impeded by distance from polling stations and the lack of public transportation on reserves, by insufficient awareness because of poor communications, particularly in isolated communities lacking electricity, and by the fear of political retribution on the part of poor communities dependent on federal fiscal transfers. In addition, the disenfranchisement of inmates in federal penal institutions under the *Canada Elections Act* has had a particular impact on Aboriginal peoples who are disproportionately represented in federal penitentiaries.

The Chief Electoral Officer is responsible for the administration of federal elections and reports directly to Parliament. The administration of an election involves approximately 450 000 people and costs approximately \$100 000 000, yet few Aboriginal persons participate in the process. This is particularly the case with senior positions such as the returning officer who is responsible for administering the electoral machinery within his or her electoral district and for subdividing the district into polling divisions. Research was unable to identify any returning officer, past or present, of Aboriginal descent.

Research did uncover some representation of Aboriginal people among subordinate election officers. These include the deputy returning officers responsible for polling stations within an electoral district, election clerks, and enumerators. It can be argued that the absence of Aboriginal representation among returning officers results from a paucity of skills to undertake the functions of that position, but the fact is that 253 of the 295 returning officers appointed for the 34th General Election had no previous experience managing elections.

**NOTE**

1. The *Electoral Boundaries Readjustment Act* provides for the creation of 11 electoral boundaries commissions, which are responsible for readjusting federal electoral boundaries in each province and the Northwest Territories. To ensure that each constituency in a province has a roughly equal number of voters, the Commission determines the electoral quotient for that province by dividing the total population by the number of constituencies allocated to the province under the formula set out in the *Constitution Act*.

The commissions are allowed to deviate from this electoral quotient by 25% in order to respect the "*community of interest or community of identity in the historical pattern of an electoral district*" and to maintain a "manageable size for districts in sparsely populated, rural and northern regions of the province." They may exceed the 25% variance rule under "extraordinary circumstances" which have now been invoked five times by boundaries commissions.

# THE CASE FOR ABORIGINAL ELECTORAL DISTRICTS



**W**HEN A COMMUNITY of interest or identity is spread out geographically, as Aboriginal people are in most of Canada, it is unlikely that their interests will be represented directly or that candidates of their identity will be elected. This is because their numbers in each constituency are too small to form a majority – or even a significant minority – of the population in any given area.

## WHY AEDs?

This is the situation facing Aboriginal people in Canada today. The proposal for AEDs aims to overcome the effects of the geographic dispersal of Aboriginal people. There has been a general feeling among Aboriginal people that the electoral system is so stacked against them that AEDs are the only way they can gain representation in Parliament in proportion to their numbers.

Direct representation of Aboriginal people would help to overcome long-standing concerns that the electoral process has not accommodated the Aboriginal community of interest and identity. Aboriginal electors would elect Members of Parliament who would represent them and be directly accountable to them at regular intervals. MPs from AEDs would understand their Aboriginal constituents, their rights, interests, and perspectives on the full range of national public policy issues.

MPs from AEDs could pursue the concerns and interests of Aboriginal people with concentrated attention and vigour. Moreover, they could do so without fear of alienating non-Aboriginal constituents, a problem that sometimes arises for Aboriginal people elected under the current system.

MPs from AEDs would help to educate non-Aboriginal MPs and the Canadian public on issues of direct concern to Aboriginal people. No longer would Aboriginal leaders have to spend time and energy educating non-Aboriginal MPs on Aboriginal issues – only to have to start again when those MPs are replaced in the House of Commons.

## REDRESSING STRUCTURAL INEQUALITY

The proposal to create Aboriginal Electoral Districts is designed to redress the structural inequality within the present electoral system. Aboriginal people are not looking for special rights in the electoral system. They are merely seeking equality within the electoral system.

If Aboriginal people were represented in Parliament in proportion to their numbers, they would be entitled to approximately 12 members or 4% of the current 295 members; yet there are only three current Aboriginal MPs, two of them elected in the Aboriginal majority constituencies in the Northwest Territories. In short, the proposal for AEDs is designed to place Aboriginal electors on an equal footing with non-Aboriginal Canadians.

Some would argue that there is no discrimination because the electoral law treats everybody equally. But the Supreme Court of Canada, in its landmark equality ruling, recognized that "identical treatment may frequently produce serious inequality" and that "a bad law will not be saved merely because it operates equally upon those to whom it has application". The Court indicated that "in approaching equality issues, the main consideration must be the impact of the law on the individual or the group concerned." In examining areas of discrimination, the Court suggested:

I would say then that discrimination may be described as a distinction, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, which has the effect of imposing burdens, obligations, or disadvantages on such individual or group not imposed upon others, or which withholds or limits access to opportunities, benefits and advantages available to other members of society.<sup>1</sup>

Although Aboriginal people are not singled out explicitly in the current electoral law, the impact of electoral legislation creates burdens and disadvantages for Aboriginal people. The electoral law withholds and limits Aboriginal access to the opportunity to participate in Parliament and deprives them of benefits and advantages available to other members of Canadian society. The principles underlying the Supreme Court's decision apply to the situation of Aboriginal people in the electoral system. This is why the Canadian Human Rights Commission, while not offering a definitive legal opinion on the compatibility of AEDs and the Charter of Rights and Freedoms, was of the opinion that the current electoral system has not resulted in the effective or equal representation of Aboriginal people.

One of the fundamental tenets of liberal democracy is to ensure that numerical minorities are represented in legislative assemblies in proportion to their number. This principle was recognized and set out by John Stuart Mill in an article entitled "Of True and False Democracy: Representation of All, and Representation of the Majority Only". Mill argued that

In a representative body actually deliberating, the minority must of course be overruled; and in an equal democracy (since the opinions of the constituents, when they insist on them, determine those of the representative body) the majority of the people, through their representatives, will out-vote and prevail over the minority and their representatives. *But does it follow that the minority should have no representation at all? Because the majority*

*ought to prevail over the minority, must the majority have all the votes, the minority none? Is it necessary that the minority should not even be heard? Nothing but habit and old association can reconcile any reasonable being to the needless injustice.*

In a really equal democracy every or any section would be represented, not disproportionately, but proportionately. A majority of electors would always have a majority of the representatives, but a minority of the electors would always have a minority of the representatives. *Man for man, they would be as fully represented as the majority. Unless they are, there is not equal government, but a government of inequality and privilege: one part of the people rule over the rest; there is a part whose fair and equal share of influence in the representation is withheld from them, contrary to all just government, but, above all, contrary to the principle of democracy which professes equality as its very root and foundation.* (emphasis added)<sup>2</sup>

Mill's argument is as forceful today as it was more than a century ago. Should Aboriginal people have virtually no representation at all? Because the majority ought to prevail over the minority, must the non-Aboriginal majority have all the votes, the Aboriginal minority none? Aboriginal people must, person for person, be as fully represented as the majority. This is not the case today. As a result, we do not have equal government, and we do not have equal government because the electoral system does not promote equality – only habit, old associations and privileges.

Some opposition to the AED proposal is based on a fear that it would open the floodgates for ethnic minorities to seek similar measures. However, as the Canadian Ethnocultural Council has stated, ethnocultural minorities are addressing the issue of political representation through integration and increased inclusion in political parties. The Council does not foresee ethnocultural communities pursuing provisions similar to the ones in the AED proposal – a proposal which it supports for Aboriginal people.

### WHY NOW?

There are a number of reasons why now is the time to move on the creation of AEDs.

- First, AEDs can be established by Parliament alone, without the consent of the provinces.
- Second, the Royal Commission on Electoral Reform will submit its report to the federal government this fall and will be recommending reform of the electoral system; our proposal could become part of that report.
- Third, we should act before the process of redefining the boundaries of electoral districts gets under way.

**NOTES**

1. *Andrews v. Law Society of British Columbia*, S.C.C. 1989 34BCLR (2nd. Edition) pp. 273–319.
2. John Stuart Mill, *Considerations on Representative Government*, Bobbs-Merrill, Indianapolis 1958. pp. 103–104.

# THE PROPOSAL FOR ABORIGINAL ELECTORAL DISTRICTS



## **I NON-DEROGATION FROM ABORIGINAL SELF-GOVERNMENT**

IN THE CONSULTATION document, the Committee suggested that Aboriginal Electoral Districts be established to redress the imbalance and inequality experienced by Aboriginal people in the federal electoral system and not as an alternative to Aboriginal and treaty rights, including the inherent right of Aboriginal people to self-government. The Committee suggested that effective parliamentary representation and self-government were complementary forms of representation. The approach of the Committee was to suggest that specific measures be taken to ensure that the legislative enactment of AEDs in no way derogates from the Aboriginal and treaty rights of Aboriginal people.

## **REFORM WITHIN THE EXISTING CONSTITUTIONAL STRUCTURE**

In undertaking its work, the Committee chose to pursue the creation of AEDs without having to resort to amending the Constitution. The Committee proposes that Aboriginal Electoral Districts be established by the Parliament of Canada acting on its own constitutional authority. This act of Parliament would not require the formal agreement of the provinces, but it would require that three conditions be met. First, AEDs must be contained within provincial boundaries. Second, no additional House of Commons seats could be created. Third, the number and size of Aboriginal electoral districts would have to be determined by the electoral quotient (there must be a minimum number of Aboriginal people residing in the district).

## **DETERMINING THE NUMBER OF AEDs**

The committee believes that the best way to achieve equality within the electoral system is to guarantee a process where Aboriginal people would be represented in Parliament in proportion to the Aboriginal population. Recalling Mill's words, "In a really equal democracy every or any section would be represented, not disproportionately but proportionately." The Committee's proposal is designed to achieve proportionality.

With the exception of the Atlantic provinces, the number of AEDs to be created in a province would depend on two factors: the number of Aboriginal people that choose to participate in AEDs and the size of the province's electoral quotient. The process would be as follows:

1. The number of electoral districts are allotted to the provinces according to the formula set out in the Constitution;
2. The electoral quotient of the province is determined by dividing the total population of the province by the number of electoral districts allotted to the province under the Constitution;
3. After a province's electoral quotient is determined, this quotient is used to calculate the number of AEDs in the province.
4. The number of AEDs would be equal to the number of self-identifying Aboriginal people divided by the electoral quotient. For example if there were 150 000 Aboriginal people in a given province and that province's electoral quotient was 75 000, then two AEDs could be created ( $150\,000 \div 75\,000 = 2$ ).

It should be noted that, as AEDs would cover large geographic areas, it is expected that the population in AEDs would generally be lower than the province's electoral quotient.<sup>1</sup> This is because electoral boundaries commissions can exceed or fall short of the electoral quotient by 25% in any district in order to accommodate a community of interest or to maintain a manageable size for districts in sparsely populated rural and northern regions. Boundaries commissions may even deviate further in extraordinary circumstances (usually related to geography). For instance, in the above example, if the population size of AEDs were allowed to deviate from the provincial electoral quotient, then more AEDs could be created. If the AED quotient was lowered from 75 000 to 50 000, then three AEDs could be created ( $150\,000 \div 50\,000 = 3$ ).

The Committee's proposal would guarantee the right of Aboriginal people to have one or more Aboriginal Electoral Districts in each province when the number of self-identifying Aboriginal people reached the required threshold. To avoid the New Zealand situation, where the number of Maori seats has been frozen since 1867, the number of AEDs would vary in step with the growth of the Aboriginal population.

### DETERMINING AED BOUNDARIES

To avoid difficulties in managing the electoral process, the Committee suggested that the procedure for establishing Aboriginal Electoral Districts should fit as closely as possible with the general framework in which elections are conducted in Canada. This approach assures Aboriginal people, as well as others in Canada, that the integrity of the electoral process will be preserved.

The Committee's proposal suggested that if a province were to have more than one Aboriginal Electoral District, then the boundaries of the districts would have to be determined by the electoral boundaries commission for that province. In such cases, the Committee suggested that the boundaries commission would be required to consult with the Aboriginal people concerned and give significant consideration to the criteria of comparable population and community of interest and identity.

The Committee suggested that boundaries criteria could include geographic boundaries or take into consideration the cultural and political differences between Aboriginal peoples. The Committee noted the example of a province with two Aboriginal districts and two distinct Aboriginal peoples. Rather than creating two districts covering separate geographical regions (for example a northern and a southern district), the Committee suggested that two province-wide districts could be established, one for each Aboriginal people, if this were the expressed wish of these peoples.

The law creating Aboriginal Electoral Districts would state this criterion – the existence of distinct Aboriginal people – as an example of the general criterion of community of identity.

### **THE REGISTRATION PROCESS**

The conduct of elections requires an electoral list on which voters' names appear. This practice is the norm in every democracy. Establishing the voters list for Aboriginal Electoral Districts would be part of the general voter registration process carried out by Elections Canada. Aboriginal people would not be required to initiate or manage the voter registration process on their own. But Elections Canada would be expected to involve Aboriginal people and their associations in the process.

The Committee noted that the establishment of AEDs would not in itself overcome the difficulties associated with enumerating Aboriginal voters who are poor, homeless or transient, or who are engaged in the traditional pursuits of hunting and trapping in remote areas. However, the Committee suggested that the participation of Aboriginal organizations would permit greater and more meaningful Aboriginal involvement in the electoral process. Aboriginal people could advertise in Aboriginal media, conduct voter registration drives, and involve Aboriginal people conversant in Aboriginal languages to assist in the process.

Under the Committee's proposal, those who wish to vote in an Aboriginal Electoral District would be required to self-identify as Aboriginal persons. If challenged, they would have to be able to provide proof of Aboriginal ancestry or community acceptance. The Committee's reliance upon this criterion stemmed from the growing national and international recognition of this approach to Aboriginal identification. An appeals body, composed of Aboriginal people and governed by the principles of natural justice, would also be necessary. Its decisions could be appealed to the Federal Court of Canada.

Individuals would have the right not to identify themselves as Aboriginal persons for electoral purposes. They would then vote in the general electoral district in which they live. Aboriginal people could not vote in both the Aboriginal Electoral District and the general electoral district during the same election.

### **ABORIGINAL CANDIDATES AND POLITICAL PARTIES**

Under the Committee's proposal, voters in Aboriginal Electoral Districts would have the right to nominate as candidates and elect anyone they wished,

provided they met the usual conditions for candidacy. Candidates in Aboriginal Electoral Districts could be official candidates for recognized political parties or independent candidates. The choice would be one for Aboriginal candidates and Aboriginal voters to make. However, it was suggested that Aboriginal candidates would have the same rights and privileges as non-Aboriginal MPs with regard to public funding and the reimbursement of election expenses.

### **ATLANTIC CANADA AND THE TERRITORIES**

The Committee's suggested approach would not change the situation of the electoral districts already established for the Northwest Territories and Yukon. These seats are provided for in the Constitution and would remain as they are.

The Committee's proposal would not result in Aboriginal Electoral Districts in any of the four Atlantic provinces at this time. This is because the Aboriginal population in each province falls short of the threshold required to establish an Aboriginal Electoral District under existing constitutional arrangements. For Aboriginal people in these four provinces, the Committee suggested that a special constitutional provision, such as exists for the Northwest Territories and Yukon, would be required.

Given the Aboriginal population in Atlantic Canada, the consultative paper suggested that one approach would be to create one Aboriginal Electoral District for the entire region. However, the Committee noted that establishing this approach would require a constitutional amendment and hence the consent of some of the provinces.

### **PROCESS FOR IMPLEMENTATION**

Appendix 4 sets out a proposed process for implementing AEDs. Essentially, it is suggested that the legislation to create AEDs could be in place prior to the next election. However, AEDs would not come into effect until after the next election. The delayed implementation is caused by the need to wait for Statistics Canada to publish census results (expected in 1992) and by the fact that it takes boundaries commissions two years to complete the process of boundaries readjustment.

The Committee also suggested Canada's electoral system is likely to see fundamental change as a result of the report of the Royal Commission on Electoral Reform and Party Financing, expected in the fall of 1991. The Committee anticipates that the Royal Commission will change the process for determining electoral district boundaries to make it more responsive to patterns of population growth and migration in Canada. The process set out in Appendix 4 is built on this anticipated change in the overall process for determining electoral district boundaries.

### **NOTE**

1. In the consultative paper, the Committee left open the question of the size of the maximum allowable deviation from provincial electoral quotients. The consultative paper suggested that the maximum allowable deviation is likely to change as a result of the Royal Commission's report.

# THE CONSULTATIVE PROCESS

## *Findings and Recommendations*



**T**HIS SECTION PRESENTS the findings of extensive consultations with Aboriginal leaders across the country on the key elements of the AED proposal. The findings are followed by the Committee's recommendations.

### **AED IMPACT ON SELF-GOVERNMENT**

During the first phase of consultations in January 1991, Senator Marchand found that most leaders took the position that Aboriginal parliamentary representation can complement self-government and would be helpful in supporting Aboriginal self-governing institutions. This general view continued during consultations conducted by the Committee.

In its consultation paper, the Committee drew an analogy with the European Community where strong sovereign governments have believed it proper and effective to give their people the ability to elect representatives to the European Parliament. Elected representatives from each member country are thus in a position to advance their common interests and to deal effectively with issues that cut across their individual boundaries. This suggestion hit a responsive chord with Aboriginal leaders, even with those leaders who appeared to be concerned about the potential negative impact of AEDs on the recognition of self-government. Several respondents suggested that future Aboriginal Members of Parliament would act as ambassadors for their nations and would facilitate their needs in Ottawa.

During the Royal Commission's public hearings in the summer of 1990, Ovide Mercredi, then Manitoba Regional Vice-Chief of the Assembly of First Nations, told the Commission that it was possible to have collective rights while participating in the political life of the state. Phil Fontaine of the Assembly of Manitoba Chiefs also told the Commission that First Nations sought a distinct order of government, while at the same time being able to participate and have greater influence in the electoral process. The former National Chief of the Assembly of First Nations, Georges Erasmus, said in a recent interview with the *Globe & Mail* that he doesn't believe that electoral reform conflicts with Aboriginal sovereignty and self-government.

Some representatives from the Métis National Council and the Native Council of Canada clearly see AEDs complementing their right to self-government. The Métis have long endorsed guaranteed parliamentary

representation as a historical position dating back to Riel's provisional governments which sought political autonomy for the Métis as well as representation in Parliament.

Although the vast majority of leaders do not believe that AEDs are inconsistent with self-government, some leaders were concerned that the creation of AEDs might exhaust public support for Aboriginal issues or be falsely portrayed to the Canadian public as a 'solution' to the political marginalization of First Nations. Others suggested that although there was significant merit in the Committee's proposal, the timing of the proposal is not appropriate and that it should wait until further constitutional recognition of Aboriginal and treaty rights.

The Committee does not share this view. The Committee believes that Canadians understand the need to settle long-standing Aboriginal issues, including the need to make fundamental changes in the way Canada's political institutions are structured. The fact that two-thirds of Canadians support setting aside seats for Aboriginal people is strong evidence for this view. (Angus Reid poll, October 1990)

The Committee believes that if Canadians are going to learn to live together, the Canadian federation must recognize Aboriginal self-government and must also provide an opportunity for Aboriginal people to share in the governing of Canada. Moreover, denying Aboriginal people effective voting rights at this time makes about as much sense as denying Aboriginal people effective social and economic benefits and programs until constitutional accommodations are made.

Moreover, Aboriginal people stand to benefit if there were more Aboriginal MPs. They would be in a position to press the case for Aboriginal self-government. Aboriginal MPs would be in a position to promote the Aboriginal position on issues that go beyond the boundaries of Aboriginal lands but have a particular impact on Aboriginal people. Aboriginal MPs can help in the appointment of qualified Aboriginal people to the approximately 3000 Order in Council appointments made through parliamentary institutions. Aboriginal people have much to offer in the transportation, communications and resource sectors, in the field of art and cultural policy, as well as in many other areas.

### **Recommendation 1**

**There is a genuine concern among some Aboriginal people that the achievement of AEDs could be used by non-Aboriginal politicians as an excuse not to deal with the Aboriginal priority of self-government. This concern must be addressed by making it clear in federal legislation that the creation of AEDs does not abrogate or derogate from Aboriginal and treaty rights and other rights or freedoms of Aboriginal peoples, including the inherent right of Aboriginal self-government.**

The principle that existing rights are not to be abrogated or derogated from is a recurring one in the Canadian Charter of Rights and Freedoms and was acknowledged during the First Ministers Conferences on Aboriginal Constitutional Matters. It is also an approach which the Right Honourable John Diefenbaker pursued in extending the franchise to all Aboriginal people. He stated:

I say this to those of the Indian race, that in bringing forward this legislation the Minister of Citizenship and Immigration (Mrs. Fairclough) will reassure, as she has assured to date, that existing rights and treaties, traditional or otherwise, possessed by the Indians shall not in any way be abrogated or diminished in consequence of having the right to vote. That is one of the things that throughout the years has caused suspicion in the minds of many Indians who have conceived the granting of the franchise as a step in the direction of denying them their ancient rights.<sup>1</sup>

### DETERMINING THE NUMBER OF AEDs

Throughout all phases of the consultative process, a recurring theme was the desire of Aboriginal groups to have AEDs established in a manner that recognizes the diversity of Aboriginal peoples and that respects their traditional territories. Suggestions ranged from tying the number of AEDs to the number of treaties to establishing one AED for each of the 53 distinct linguistic and cultural groups. It would be impossible to accommodate fully the diversity of Aboriginal identities and political interests in the electoral system within the existing limited number of parliamentary seats. After careful consideration, the Committee believes that a generous allowable deviation from the electoral quotient is the most effective way of recognizing the diversity of the Aboriginal peoples.

Under the Committee's proposal, the number of AEDs would depend upon both the size of the Aboriginal population and the size of the allowable deviation from the electoral quotient. The higher the allowable deviation, the greater the possibility of accommodating Aboriginal political boundaries and interests.

The Committee supports a generous allowable deviation from the electoral quotient in determining the number of AEDs and is buoyed by the recent decision of the Supreme Court of Canada. The Committee was concerned that the Supreme Court might reduce the allowable deviation, but just the opposite occurred. In the recent decision *Carter v. Saskatchewan* (Attorney General), the Supreme Court reaffirmed the legality of a broad deviation principle and acknowledged, among other things, the ability to recognize minority interests in applying it.<sup>2</sup>

In that case, the Court was faced with a constitutional challenge to Saskatchewan electoral legislation, which pre-allocated seats to urban and rural areas. It is to be noted that the Court did not rule unconstitutional the 50% deviation for the two northern ridings in the province. In determining

whether the legislation violated section 3 of the Charter, which guarantees every citizen the right to vote, the Court examined the fundamental principles of parliamentary democracy. In the examination, the majority of the Court decided as follows:

- the purpose of the right to vote enshrined in section 3 of the Charter is not equality of voting power per se, but the right to “effective representation”;
- while a citizen’s vote should not be unduly diluted, it is a practical fact that effective representation often cannot be achieved without taking into account countervailing factors like geography, population growth, community history, community interests and minority representation;
- the purpose of section 3 is not to effect perfect voter equality insofar as that can be done, but the broader goal of guaranteeing effective representation;
- the values and principles animating a free and democratic society are arguably best served by a definition of the section 3 right that places effective representation at the heart of the right to vote.

The Committee believes that a generous deviation for AEDs is necessary to achieve effective representation for Aboriginal people. Reducing the deviation and/or abolishing the extraordinary circumstances exception would result in inequities within the AED system. For example, a reduction in the deviation would result in larger ridings and make it difficult to recognize the distinct political differences between Aboriginal peoples and the cultural differences between various Indian nations.

Métis and Indian leaders on the Prairies spoke to the need for each people to have its own representatives. They suggested that only through separate representation would they be able adequately to pursue their distinct agendas in Parliament. Without a generous deviation, these political differences would not be accommodated.

Finally, a reduction in the deviation could very well result in AEDs with inordinately high populations, thus denying effective representation in Parliament. It would also make it difficult to accommodate rising growth rates in the Aboriginal population. Accordingly, only with more generous deviation rules can effect be given to the factors that, in aggregate, go to the heart of effective representation:

- geographical differences;
- political differences between Aboriginal groups (e.g., Indians and Métis) and within Aboriginal peoples (e.g., different Indian Nations);
- Aboriginal population growth; and
- ensuring that Aboriginal people on a national level are represented in Parliament in proportion to their numbers.

## **Recommendation 2**

**Given the population distribution of Aboriginal people, the size of the AEDs and the recent Supreme Court decision, the Committee recommends that the existing allowable deviation rule be retained or increased.**

### **DETERMINING AED BOUNDARIES**

A recurring theme among respondents was that the Aboriginal community of interest must be respected when drawing federal electoral boundaries. A number of leaders cited the practice of electoral boundaries commissions in respecting the community of interest of official language and other minorities, but not Aboriginal peoples, in drawing electoral boundaries.

During the Royal Commission hearings, Treaty 7 and the Grand Council of the Crees suggested that electoral boundaries should coincide with treaty and land claims boundaries. The Grand Council of the Crees in Quebec and the Métis Society of Saskatchewan recommended the establishment of northern electoral districts with Aboriginal majorities even though the population would fall below the electoral quotient by more than the allowable deviation.

In the context of AEDs, concerns were raised during the consultations conducted by Senator Marchand about the criteria for determining AED boundaries in provinces that would be entitled to more than one AED. On the Prairies, Métis provincial leaders sought separate AEDs for Métis and Indians, a view shared by Indian leaders.

Concerns about the criteria for determining boundaries also surfaced during the Committee consultations. Several treaty groups wanted their treaty boundaries respected if seats were to be established in their traditional territories. One Chief from New Brunswick suggested that it was a “non-Indian thought process” to suggest that all of the Aboriginal people in Atlantic Canada could participate in one Aboriginal Electoral District.

During the consultation process, it became clear that many Aboriginal people had given up on making presentations to electoral boundaries commissions. Several northern leaders expressed frustration that their proposals to redraw boundaries to create Aboriginal majority districts in the northern parts of their provinces had fallen on deaf ears. For the most part, however, Aboriginal leaders knew very little about the composition and mandate of boundaries commissions.

## **Recommendation 3**

**The Committee recommends that the following criteria be set as guidelines for the establishment of AED boundaries:**

- recognition of treaty boundaries;
- recognition of regional council boundaries;
- recognition of the composition of the Aboriginal population, i.e., Indian, Métis, Inuit; and
- recognition of the local Aboriginal history and relationship to the land.

It is further recommended that the rules now in place for setting federal constituency boundaries in the Northwest Territories also be applicable to AEDs. These rules require that special consideration be given to the following factors:

- ease of transportation and communication within constituencies;
- geographical size and shape of the constituencies relative to one another; and
- community or diversity of interests of the inhabitants of the various regions.

#### **Composition of Boundary Commissions**

The application and interpretation of the boundaries criteria are also important. Under the existing *Electoral Boundaries Readjustment Act*, each boundaries commission consists of three members, with the chairman appointed by the provincial Chief Justice and the other two appointed by the Speaker of the House of Commons. The Committee believes that Aboriginal people can assist in the determination of boundary criteria and makes the following recommendations concerning the composition and process for boundaries commissions.

#### **Recommendation 4**

**The Committee recommends that the Speaker of the House of Commons appoint two additional Aboriginal people to sit on boundaries commissions for the purpose of determining the Aboriginal boundaries in provinces that have more than one AED.**

#### **Procedures to be Followed in Setting AED Boundaries**

The *Electoral Boundaries Readjustment Act* sets out a procedure providing for public input and the Committee believes that it is essential for Aboriginal people to be involved in this process.

## Recommendation 5

The Committee recommends the following changes to the electoral boundaries determination process:

- a requirement that AED boundaries commissions hold a reasonable number of public hearings and that submissions in writing may be given within a prescribed period of time;
- a requirement that a preliminary report be prepared by the boundaries commission that cannot be sent for approval by Parliament unless and until the Aboriginal community has had an opportunity to respond and input from the Aboriginal community has been considered;
- a requirement that public hearings be held over a sufficiently long period of time to allow accessibility by a population burdened by distance and communication problems;
- generous requirements for the giving of notice of public hearings and of the opportunity to submit written briefs and make oral presentations; and
- consideration should be given to providing funding for witnesses where appropriate.

The Committee believes that this approach would ensure real public involvement in the boundary-setting process, with the desired result that the final resolution would more closely approximate the views of those to be represented by members elected from AEDs.

### THE REGISTRATION PROCESS

The Committee's consultations with Aboriginal leaders did not produce disagreement over the premise in the AED proposal that Aboriginal self-identification must be a requirement for registration on the Aboriginal electoral list and that those whose identity is challenged would have to provide proof of Aboriginal ancestry or community acceptance. The Committee did discover a stronger emphasis on the self-identification qualification from organizations whose members had suffered in the past from arbitrary definitions of who is an Aboriginal person.

Women's associations felt strongly that the onus for disqualifying an elector on the basis of identity or ancestry should be on those making the challenge rather than on those being challenged. These associations suggested that the handling of challenges and the appeals process included in the AED proposal must be controlled by Aboriginal communities. These groups also wished to leave open the question of whether non-Aboriginal women who gained Indian status through marriage to Indians would be entitled to participate in Aboriginal Electoral Districts.

## Recommendation 6

**The Committee recommends that Aboriginal self-identification be the critical factor in qualifying as an Aboriginal elector in addition to the standard electoral qualifications of all Canadian voters.**

**The burden of proof in challenges to those seeking to register on an Aboriginal voters list should rest with those making the challenge.**

**Furthermore, the Committee recommends that an appeals body or tribunal should be controlled by Aboriginal people and should consist of Aboriginal men and women together with eminent elders.**

There appeared to be a general acceptance of the AED proposal's provision for Aboriginal individuals to have the right to vote in AEDs or in general electoral districts but not both. However, a concern was raised that effective Aboriginal participation in the electoral system required two votes for Aboriginal electors: one in AEDs and one in the general electoral district in which they reside. The Committee cannot accept this latter view as it infringes on the "one-person, one-vote" principle underlying our electoral democracy. Our AED proposal is designed to correct an existing inequality, not create a new one. It also ensures freedom of choice for those Aboriginal electors who may not wish to participate in AEDs.

## ABORIGINAL CANDIDATES AND POLITICAL PARTIES

### The Party System

An important issue for all respondents was whether Aboriginal candidates would become part of the conventional party system or run as independents in the House of Commons. In the Marchand round of consultations, several leaders strongly favoured party alignment so as to have the opportunity to participate in the governing caucus and Cabinet decisions if the party to which they belonged formed the government. Some leaders suggested that Aboriginal people should form their own political party, while others were concerned that the existence of an Aboriginal party could generate a backlash against Aboriginal people.

Some leaders expressed the opinion that Aboriginal candidates would lose credibility with their electors by associating with a mainstream party. Others were more blunt, suggesting that because of the poor treatment of Aboriginal people, none of the parties was worthy of Aboriginal support. Some leaders even suggested that the Committee recommend a legislative ban on political party activity within the AED system.

The Committee does not agree with this suggestion. One of the fundamental rights of people is to choose their political representatives freely. To water down this principle or to restrict this right in any way would not be in the best interests of Aboriginal people.

Other Aboriginal leaders said they could live with or without party alignment. It was generally agreed that the Aboriginal electorate would decide whether party affiliation was an asset or a liability. However, most leaders agreed that party affiliation would not be the main selection criterion and suggested that individuals would be elected on the strength of their character and their commitment to the community. No clear consensus has emerged on this issue.

### **Relationship between Aboriginal MPs and Non-Aboriginal MPs**

Several leaders were concerned that non-Aboriginal MPs could disregard Aboriginal issues if Aboriginal people had their own MPs and that Aboriginal people would be ignored by non-Aboriginal MPs. Others were concerned that Aboriginal MPs might become second-class MPs. Still others suggested that the existence of Aboriginal MPs would limit Aboriginal people from lobbying other MPs and ministers of the Crown.

There was a more widely held view that rather than alienating non-Aboriginal MPs, having a larger number of Aboriginal people in Parliament would sensitize and educate non-Aboriginal MPs and the public through their promotion of an Aboriginal agenda and their common sense approach on other issues. Many respondents believe that even though there have been non-Aboriginal MPs who have been helpful in the past, they were no substitute for an increased number of Aboriginal MPs.

Several leaders in western Canada noted that Aboriginal MLAs from northern ridings were very helpful in communicating their needs and advancing their concerns in provincial legislatures. Other respondents noted that Aboriginal MPs in Parliament did make a difference in terms of the rights of Aboriginal people. Several leaders believed that the establishment of AEDs would greatly facilitate the process of communicating the concerns of Aboriginal associations representing Aboriginal people living in urban and off-reserve rural areas.

The Committee does not have a concrete recommendation to address this concern; the Committee anticipates, however, that all MPs will work together to ensure that the needs of all constituents are met. No prescription can force MPs to work with one another, but all representatives must understand that the reason for creating Aboriginal Electoral Districts is the failure of the present system to produce effective representation for all Aboriginal people. Cooperation is required to ensure that the entire democratic process is responsive to the needs of all Canadians, whether Aboriginal or non-Aboriginal.

Moreover, MPs from Aboriginal Electoral Districts would have the same rights and privileges as other Members of Parliament and would participate in the full range of issues before Parliament. This common denominator

ought to ensure, as it has in the past, that MPs will continue to work together on the wide range of public policy issues facing Parliament, including Aboriginal issues.

### **Relationship between Aboriginal MPs and Aboriginal Organizations**

There was some concern that Aboriginal MPs could usurp the role of Aboriginal organizations. This view was not shared by a majority of respondents. Nor does the Committee share this view. The Committee believes that the non-derogation provision set out in Recommendation 1 addresses these concerns.

The Committee believes that even after our inherent right of Aboriginal self-government is recognized in the Constitution, the socio-economic conditions of Aboriginal communities will require the federal government to provide continuing financial support (similar to support for have-not provinces). While some Aboriginal communities would be self-supporting, their number would be limited. Thus it can be expected that Aboriginal governing institutions will have a continuing and long-term relationship with the Government of Canada. It makes sense to ensure that there are as many Aboriginal representatives as possible in the House of Commons, to ensure that resource appropriations are secured for Aboriginal governments as well as to ensure that Aboriginal people have a voice in the affairs of the country.

### **FINANCING OF ABORIGINAL ELECTORAL DISTRICTS**

The subject of election financing in AEDs raises the concerns of how to facilitate meaningful campaigns over vast areas by people largely of limited means. Leaders' concerns revolved around the smaller pool of resources within the Aboriginal community and the absence of meaningful tax incentives to fuel the electoral process. (Tax credits are of little value when there is no income to declare.) During the consultations, the smaller pool of resources was a particular concern to those who believed that AEDs would generate a significant number of candidates, all of whom would have to draw upon this limited pool. It also raised the concern that one candidate with a financial backer could unduly influence the electoral process. This was of particular concern to Aboriginal women.

Several leaders suggested that increased levels of public financing would offset the impact of candidates supported by a financial backer and the better-endowed political parties. Others, particularly in the hinterland areas, wanted to guard against third-party interests (primarily the resource industries) influencing the outcome of elections. Still others wanted to ensure that the system would not impede elders and young Aboriginal people from running for election to the House of Commons.

The current legislation limits a candidate's election expenses based on the population of the electoral district, with exceptions made in sparsely populated areas to take into account the geographic size of the constituency. Given the size of the proposed AEDs and the diverse locations of voter

populations, existing expense ceilings may have to be increased. This view has also been expressed to the Royal Commission by various parties in connection with rural and northern constituencies.

### **Recommendation 7**

**To encourage Aboriginal people with diverse views and economic backgrounds to become candidates without the fear of financial ruin, the Committee recommends that consideration be given to increasing the expense limitations and financing available for all larger electoral districts, including Aboriginal Electoral Districts.**

**In addition, the Committee recommends that the winner and all losing candidates gaining a specified percentage of the vote be reimbursed. The percentage of the vote required for reimbursement would have to be on a sliding scale, taking into consideration the number of candidates, the number of ballots cast, and the total vote garnered by a particular candidate.**

This latter provision is required to discourage frivolous candidates and to ensure that when a number of candidates run for elected office in an AED, they are not punished financially if the vote is significantly split among all candidates.

### **ATLANTIC CANADA**

The Committee's proposal suggested that a special constitutional provision be made for a single Aboriginal Electoral District for the Aboriginal people of Atlantic Canada. This proposal met with a mixed response.

There was no consensus on the number of seats to be created in Atlantic Canada but all leaders felt that more than one seat was necessary. Atlantic leaders felt that population figures should not be the sole determining factor in determining the number of seats. As one leader stated, "We're tired of being told that we can't have a street light because our population is too small."

Representatives from the Métis and non-status Indians argued that at least four seats should be created – one for each of the four peoples: the Micmacs, Maliseet, Innu and Métis. Several leaders pointed out that creating more than one AED in Atlantic Canada would conform with the historical practice of providing Atlantic Canadians with effective voting strength (the Senate floor rule). Aboriginal leaders were firmly of the view that the number of future seats should not be fixed, but should be capable of growth as the Aboriginal population in Atlantic Canada grows.

The majority of leaders felt that, because the creation of AEDs in Atlantic Canada requires a constitutional amendment, the matter should be left open for further negotiation between the Government of Canada, Aboriginal leaders and the provinces.

## Recommendation 8

**The Committee recommends that the number of seats to be created in Atlantic Canada be the subject of further discussion between Atlantic Aboriginal leaders and the federal and provincial governments. The Committee firmly believes that a strong case can be made for more than one AED in Atlantic Canada.**

### CONSULTATION AND PROCESS FOR IMPLEMENTATION

The consultations did not generate detailed suggestions on the more technical aspects of the proposal. At this stage, Aboriginal people are still focusing on the fundamentals and merits of the AED concept. It is not anticipated that comprehensive suggestions on the more technical aspects will be forthcoming until the legislative stage.

The Committee's proposed process for implementing AEDs is premised on a shift in the method of determining the size of electoral districts, from one based on total population to one based on registered electors only. The Committee sees some advantages in this shift because it reduces the size of the electoral quotients and makes the system more responsive to Aboriginal population growth. This latter point is particularly important given the comparatively higher Aboriginal birth rate and the relatively young age of the Aboriginal population. Moving to an electors-based system, coupled with a voter registration process sponsored by the Aboriginal community, would also help overcome the problems Aboriginal people have had with the enumeration and census process.

Several Aboriginal leaders suggested that should the Royal Commission or Parliament decide not to change the boundaries readjustment process to an electors-based system, a system for creating AEDs within the current boundaries readjustment process should be developed.

## Recommendation 9

**The Committee recommends that the boundaries readjustment process be conducted more often to be more responsive to population growth and migration.**

**In the event that Parliament does not move to establish a boundaries readjustment process based on registered electors, the Committee recommends that legislation establish AEDs within the existing boundaries readjustment process.**

Throughout the consultation process Aboriginal leaders spoke of the need for increased participation in the legislative and administrative design and implementation of the AED concept. Several leaders suggested that there should be a further opportunity for Aboriginal input at the legislative stage. Some leaders believed it necessary to have another round of

consultations before the proposal is recommended to Parliament. The Committee takes the view that further consultation is necessary and that this should be undertaken in the context of the legislative process.

### **Recommendation 10**

**The Committee recommends that the parliamentary committee charged with considering new electoral legislation actively solicit Aboriginal involvement in the review of legislation creating AEDs.**

#### **ELECTORAL ADMINISTRATION**

The creation of AEDs and Aboriginal voters lists would not in themselves overcome the barriers that many Aboriginal people encounter in the administration of federal elections. The Committee therefore paid special attention to concerns about electoral administration expressed during the consultations. The Committee's interviews with respondents revealed major barriers to Aboriginal participation in enumeration, revision of voters lists and voting and confirmed earlier research findings. Among the barriers cited are

- homelessness, transience, and the tendency of single parents on social assistance not to report a companion resident for fear of losing benefits;
- distance from polling stations and lack of public transportation;
- absence of Aboriginal officials in electoral administration;
- language and literacy; and
- lack of public education and awareness.

The Committee has addressed these concerns with several proposed changes to the electoral law designed to overcome impediments to Aboriginal participation in the enumeration and voting process.

### **Recommendation 11**

#### **1. Homelessness**

**The Committee endorses submissions to the Royal Commission advocating that the concept of residency contained in the *Canada Elections Act* be broadened to incorporate homeless persons including the suggestions that**

- homeless persons be entitled to identify a local shelter or hostel as their residence; and
- voters who have not been enumerated be allowed to register on election day.

The Committee recommends that homeless Aboriginal people also be entitled to identify a local Aboriginal community office, such as a band office, Métis local or friendship centre, as their place of residence.

## **2. Transience**

The Committee recommends that an Aboriginal person be able to be enumerated in the AED where he or she is living at the time of enumeration. However, once enumerated, the Aboriginal elector would be able to vote in another district, provided he or she was in the riding for a specified period of time. Given the size of AEDs, voter lists for an entire AED should be provided to all polling stations in the AED in order to facilitate voting by the traveller.

## **3. The Failure to Enumerate Co-Habitants of Persons on Social Assistance**

The Committee recommends that addresses on enumeration lists be kept confidential for purposes of the election only and not be allowed to be used for the purpose of denying social assistance or other benefits.

Though such a provision would be useful, it may fail to account for the distrust and fear of people in such a situation, most of whom will in all likelihood not know of the prohibition and not believe it even if they were told.

The Committee recommends that any Aboriginal person could give as his or her address any Aboriginal community office.

## **Recommendation 12**

### **4. Distance**

The Committee recommends the following measures to overcome the problem of distance from polling stations in AEDs:

- allow for proxy voting in any case where a voter lives beyond a pre-determined distance from the nearest polling station;
- provide self-explanatory proxy materials to all voters beyond such distance, such materials to be in both official languages as well as the local Aboriginal language where requested by the Aboriginal community;
- hold voting over a longer period;
- make advance polling available over a longer period of time than is now allowable;

- expand the availability of advance polling to all voters who live beyond the pre-determined distance from the nearest polling station, or who intend on election days to be beyond such distance from the nearest polling station;
- allow for mobile polling stations during the election period, with the itinerary posted well in advance in conspicuous public facilities, published in community newspapers, and broadcast over local radio (itinerary should be required by the Act to provide for stops at communities beyond a specified distance from the nearest polling station and having a minimum aggregate population);
- polling stations should be located by a returning officer only after consulting local groups and officials, thus avoiding potential trouble spots and identifying accessible locations; and
- to ensure an adequate number of convenient polling stations, a legislative provision should require that polling stations be located so that a certain percentage of the voting population does not live beyond a set distance from the nearest polling station (for purposes of population location, the most recent census figures should provide the necessary information).

### Recommendation 13

#### 5. Aboriginal Employment in Electoral Administration

The Committee recommends that new legislation incorporate strong employment and appointment equity provisions, together with the training necessary to ensure that Aboriginal people have the opportunity to participate in all facets of the administration of the electoral system.

### Recommendation 14

#### 6. Language and Literacy

The Committee recommends that:

- all AED election materials (notices, brochures, ballots, etc.) be provided in both official languages and in the local Aboriginal language where requested by the Aboriginal community; and
- symbols be printed on ballots, a practice used in other countries, such that political parties and/or candidates are represented by symbols.

## Recommendation 15

### 7. Public Education and Voter Registration

If the fundamental goal of Aboriginal voter participation is to be achieved, the changes we recommend must be implemented, together with a legislatively mandated community-based voter registration and education campaign by Elections Canada during each election. History has shown a vast array of reasons for the lack of Aboriginal awareness of the electoral system; only through such efforts can this problem begin to be addressed. Public education is needed to dispel the tremendous amount of suspicion and frustration resulting from generations of exclusion in the political process.

**The Committee recommends that a joint public education and awareness program be implemented by Elections Canada and Aboriginal organizations.**

## Recommendation 16

### 8. Report of Chief Electoral Officer

**Any suggested changes must be monitored to assess their effectiveness. The Committee therefore recommends that the Chief Electoral Officer be required to report after each election as to the effectiveness of the electoral system in getting the Aboriginal vote out and suggesting any recommendations to improve the situation.**

## NOTES

1. The Right Honourable John Diefenbaker, *Hansard*, January 18, 1960.
2. *A.G. for Sask. v. Roger Carter*, Q.C. SCC Court Site 22345, June 6, 1991.

# CONCLUSION



THE COMMITTEE BELIEVES that increased Aboriginal participation in Parliament can make a major difference in the lives of all Canadians. Parliament is a place to exchange information and ideas, to learn from one another, and to reinforce Canadian unity. Parliament and all Canadians have been short-changed by the electoral system's failure to provide for effective Aboriginal representation. Increasing the number of Aboriginal people in Parliament is not the full answer to all Aboriginal issues, but it can be an effective means to promote many Aboriginal aspirations.

The absence of Aboriginal voices in the House of Commons undermines the Canadian commitment to pluralism and forces Aboriginal concerns and opinions onto the lawns of the Parliament buildings where more often than not they are heard but not heeded. Aboriginal views will continue to be expressed by Aboriginal leaders and their organizations and through Aboriginal governments. But Aboriginal people are also citizens of Canada and have as much right as any other citizen to participate freely in the parliamentary process on an equal footing with other Canadians.

If Canadians are serious about building bridges with the Aboriginal community, the electoral process must be designed to ensure that Aboriginal people not only have the opportunity to participate, but also the right to participate effectively. The Committee believes that Canadians will agree that the adoption of its recommendations will provide for effective Aboriginal voting rights. They are long overdue.

# SUMMARY OF RECOMMENDATIONS



## **Recommendation 1**

There is a genuine concern among some Aboriginal people that the achievement of AEDs could be used by non-Aboriginal politicians as an excuse not to deal with the Aboriginal priority of self-government. This concern must be addressed by making it clear in federal legislation that the creation of AEDs does not abrogate or derogate from Aboriginal and treaty rights and other rights or freedoms of Aboriginal peoples, including the inherent right of Aboriginal self-government.

## **Recommendation 2**

Given the population distribution of Aboriginal people, the size of the AEDs and the recent Supreme Court decision, the Committee recommends that the existing allowable deviation rule be retained or increased.

## **Recommendation 3**

The Committee recommends that the following criteria be set as guidelines for the establishment of AED boundaries:

- recognition of treaty boundaries;
- recognition of regional council boundaries;
- recognition of the composition of the Aboriginal population, i.e., Indian, Métis, Inuit; and
- recognition of the local Aboriginal history and relationship to the land.

It is further recommended that the rules now in place for setting federal constituency boundaries in the Northwest Territories also be applicable to AEDs. These rules require that special consideration be given to the following factors:

- ease of transportation and communication within constituencies;
- geographical size and shape of the constituencies relative to one another; and
- community or diversity of interests of the inhabitants of the various regions.

## **Recommendation 4**

The Committee recommends that the Speaker of the House of Commons appoint two additional Aboriginal people to sit on boundaries commissions

for the purpose of determining the Aboriginal boundaries in provinces that have more than one AED.

### **Recommendation 5**

The Committee recommends the following changes to the electoral boundaries determination process:

- a requirement that AED boundaries commissions hold a reasonable number of public hearings and that submissions in writing may be given within a prescribed period of time;
- a requirement that a preliminary report be prepared by the boundaries commission that cannot be sent for approval by Parliament unless and until the Aboriginal community has had an opportunity to respond and input from the Aboriginal community has been considered;
- a requirement that public hearings be held over a sufficiently long period of time to allow accessibility by a population burdened by distance and communication problems;
- generous requirements for the giving of notice of public hearings and of the opportunity to submit written briefs and make oral presentations; and
- consideration should be given to providing funding for witnesses where appropriate.

### **Recommendation 6**

The Committee recommends that Aboriginal self-identification be the critical factor in qualifying as an Aboriginal elector in addition to the standard electoral qualifications of all Canadian voters.

The burden of proof in challenges to those seeking to register on an Aboriginal voters list should rest with those making the challenge.

Furthermore, the Committee recommends that an appeals body or tribunal should be controlled by Aboriginal people and should consist of Aboriginal men and women together with eminent elders.

### **Recommendation 7**

To encourage Aboriginal people with diverse views and economic backgrounds to become candidates without the fear of financial ruin, it is recommended that consideration be given to increasing the expense limitations and financing available for all larger electoral districts, including Aboriginal Electoral Districts.

In addition, the Committee recommends that the winner and all losing candidates gaining a specified percentage of the vote be reimbursed. The percentage of the vote required for reimbursement would have to be on a sliding scale, taking into consideration the number of candidates, the number of ballots cast and the total vote garnered by a particular candidate.

**Recommendation 8**

The Committee recommends that the number of seats to be created in Atlantic Canada be the subject of further discussion between Atlantic Aboriginal leaders and the federal and provincial governments. The Committee firmly believes that a strong case can be made for more than one AED in Atlantic Canada.

**Recommendation 9**

The Committee recommends that the boundaries readjustment process be conducted more often to be more responsive to population growth and migration.

In the event that Parliament does not move to establish a boundaries readjustment process based on registered electors, the Committee recommends that legislation establish AEDs within the existing boundaries readjustment process.

**Recommendation 10**

The Committee recommends that the parliamentary committee charged with considering new electoral legislation actively solicit Aboriginal involvement in the review of legislation creating AEDs.

**Recommendation 11****1. Homelessness**

The Committee endorses submissions to the Royal Commission advocating that the concept of residency contained in the *Canada Elections Act* be broadened to incorporate homeless persons including the suggestions that:

- homeless persons be entitled to identify a local shelter or hostel as their residence; and
- voters who have not been enumerated be allowed to register on election day.

The Committee recommends that homeless Aboriginal people also be entitled to identify a local Aboriginal community office, such as a band office, Métis local or friendship centre, as their place of residence.

**2. Transience**

The Committee recommends that an Aboriginal person be able to be enumerated in the AED where he or she is living at the time of enumeration. However, once enumerated, the Aboriginal elector would be able to vote in another district, provided he or she was in the riding for a specified period of time. Given the size of AEDs, voter lists for an entire AED should be provided to all polling stations in the AED in order to facilitate voting by the traveller.

3. The Failure to Enumerate Co-Habitants of Persons on Social Assistance  
The Committee recommends that addresses on enumeration lists be kept confidential for purposes of the election only and not be allowed to be used for the purpose of denying social assistance or other benefits.

The Committee recommends that any Aboriginal person could be entitled to give as his or her address any Aboriginal community office.

### **Recommendation 12**

#### **4. Distance**

The Committee recommends the following measures to overcome the problem of distance from polling stations in AEDs:

- allow for proxy voting in any case where a voter lives beyond a pre-determined distance from the nearest polling station;
- provide self-explanatory proxy materials to all voters beyond such distance, such materials to be in both official languages as well as the local Aboriginal language where requested by the Aboriginal community;
- hold voting over a longer period;
- make advance polling available over a longer period of time than is now allowed;
- expand the availability of advance polling to all voters who live beyond the pre-determined distance from the nearest polling station, or who intend on election days to be beyond such distance from the nearest polling station;
- allow for mobile polling stations during the election period, with their itinerary posted well in advance in conspicuous public facilities, published in community newspapers and broadcast over local radio (itinerary should be required to provide for stops at communities beyond a specified distance from the nearest polling station and having a minimum aggregate population);
- polling stations should be located by a returning officer only after consulting local groups and officials, thus avoiding potential trouble spots and identifying accessible locations; and
- to ensure an adequate number of convenient polling stations, a legislative provision should require that polling stations should be located so that a certain percentage of the voting population does not live beyond a set distance from the nearest polling station (for purposes of population location, the most recent census figures should provide the necessary information).

**Recommendation 13****5. Aboriginal Employment in Electoral Administration**

The Committee recommends that new legislation incorporate strong employment and appointment equity provisions, together with the training necessary to ensure that Aboriginal people have the opportunity to participate in all facets of the administration of the electoral system.

**Recommendation 14****6. Language and Literacy**

The Committee recommends that:

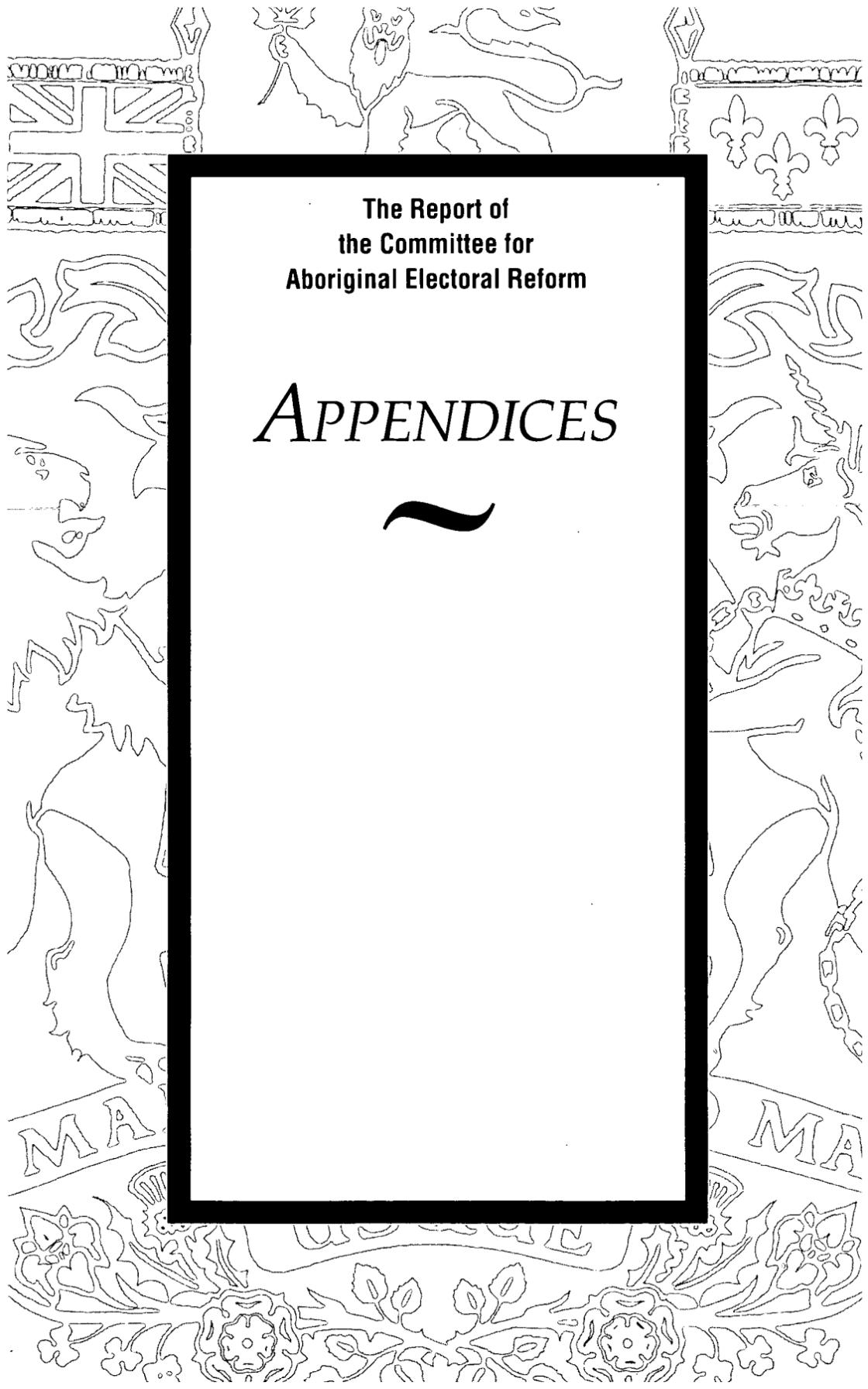
- all AED election materials (notices, brochures, ballots, etc.) be provided in both official languages and in the local Aboriginal language where requested by the Aboriginal community; and
- symbols be printed on ballots, a practice used in other countries, such that political parties and/or candidates are represented by symbols.

**Recommendation 15****7. Public Education and Voter Registration**

The Committee recommends that a joint public education and awareness program be implemented by Elections Canada and Aboriginal organizations.

**Recommendation 16****8. Report of Chief Electoral Officer**

Any suggested changes must be monitored to assess their effectiveness. The Committee therefore recommends that the Chief Electoral Officer be required to report after each election as to the effectiveness of the electoral system in getting the Aboriginal vote out and suggesting any recommendations to improve the situation.



**The Report of  
the Committee for  
Aboriginal Electoral Reform**

*APPENDICES*



# APPENDIX 1

## *Consultation List*



### FIRST ROUND CONSULTATION LIST

John Amagoalik Inuit Tapirisat of Canada	Dwight Dorey Native Council of Nova Scotia
J'net August Aboriginal Youth Council of Canada	Yvon Dumont Manitoba Métis Federation Inc.
Roger Augustine Union of NB Indians	Ruby Durno Labrador Métis Association
Gary Bohnet Métis Association of the NWT	Adam Eneas First Nations Congress
Réal Boudrias Native Alliance of Quebec	Georges Erasmus National Chief, Assembly of First Nations
Paul Chartrand Dept. of Native Studies, University of Manitoba	Phil Fontaine Assembly of Manitoba Chiefs
Bentley Cheechoo Nishnawbe-Aski Nation	Phil Fraser Native Council of Canada (NB)
Matthew Cooncome Grand Council of the Crees	Ray Funk Member of Parliament
Regina Crowchild Indian Association of Alberta	Ron George United Native Nations
Roland Crowe Federation of Saskatchewan Indian Nations	Keith Goulet Member of Saskatchewan Legislative Assembly
Larry Desmuelles Métis Association of Alberta	Joe Hare Union of Ontario Indians
Russell Diabo Algonquins of Barrière Lake	Many Jules Kamloops Indian Band

Andrew Kirkness  
Indian Council of First Nations  
of Manitoba

Chris Lafontaine  
Gabriel Dumont Institute

Harry Laforme  
Indian Commission of Ontario

Joe Miskokomon  
Union of Ontario Indians

Chief Bill Monture  
Six Nations

Dave Nawegahbow  
Indigenous Bar Association

Ron Rivard  
Métis National Council

Viola Robinson  
Native Council of Canada

Doris Ronnenberg  
Native Council of Canada (Alta)

Konrad Sioui  
AFN Regional Vice Chief

Saul Terry  
Union of BC Indian Chiefs

Ken Thomas  
SIAP

Graham Tuplin  
Native Council of PEI

Gerard Webb  
Federation of Newfoundland  
Indians

Bill Wilson  
First Nations Congress

Don Worme  
Indigenous Bar Association

Chief Peter Yellowquill  
Dakota Ojibway Tribal Council

Harvey Young  
Native Council of Saskatchewan

### SECOND ROUND CONSULTATION LIST\*

Alliance Tribal Council  
Athabasca Tribal Council  
Atlantic All Chiefs Assembly  
Atlantic Regional Vice-Chiefs  
Pearl Calahassen, MLA  
Cariboo Tribal Council  
Carrier Sekani Tribal Council  
Council of Haida Nation  
Dakota Ojibway Tribal Council  
Edmonton *Journal* Editorial  
Board

Federation of Saskatchewan  
Indian Nations  
Battlefords Treaty #6 Tribal  
Council  
Beardy-Okemasis Band #96  
& 97  
Confederation of Tribal  
Nations  
Meadow Lake Tribal Council  
Prince Albert District Tribal  
Council

\* Organizations where the Committee made presentations and/or held *in camera* meetings. Meetings included discussions at annual general meetings, board meetings or discussions with the executive(s) of the organization.

Saskatoon District Tribal Council	Native Council of Saskatchewan
Touchwood/File Hills/Qu'Appelle District	NB Aboriginal Peoples Council
Gitksan Wet'suet'en Tribal Council	United Native Nations
Grand Council Treaty #3	Native Women's Association of Canada
High Level Tribal Council	Nicola Valley Tribal Council
Indigenous Bar Association	Nisga'a Tribal Council
Interlake Reserve Tribal Council	North Coast Tribal Council
Inuit Tapirisat of Canada	Nuu-Chah-Nulth Tribal Council
Island Lake Tribal Council	Okanagan Tribal Council
Kaske Dena Tribal Council	Ontario Métis and Aboriginal Association
Keewatin Tribal Council	Quebec Chiefs Assembly
Ktunaxa/Kinbasket Tribal Council	Regina <i>Leader Post</i> Editorial Board
Kwakiutl District Council	Saskatoon <i>Star Phoenix</i> Editorial Board
Lesser Slave Lake Indian Regional Council	Shuswap National Tribal Council
Manitoba Keewatinowi Okimakanaks	Mary Sillett, Inuit Women's Association
Manitoba Métis Federation	Mary Simon, Inuit Circumpolar Conference
Métis Association of Alberta	South Island Tribal Council
Métis Association NWT	Sto:Lo Tribal Council
Métis Society of Saskatchewan	Swampy Cree Tribal Council
Mid Island Tribal Council	Toronto <i>Globe &amp; Mail</i> Editorial Board
Musgamagw Tribal Council	Tribal Chiefs' Association
National Association of Native Friendship Centres	Tsilhqot'in Tribal Council
National PC Aboriginal Caucus	Tsimshian Tribal Council
Native Council of Canada	Union of BC Indian Chiefs
Labrador Métis Association	Union of NB Indians
Native Alliance of Quebec	Union of Ontario Indians
Native Council of Alberta	Senator Charlie Watt, Makivik Corporation
Native Council of Manitoba	Whe-La-La-U Tribal Council
Native Council of NS	Women of the Métis Nation
Native Council of PEI	Yellowhead Tribal Council

### WRITTEN AND ORAL RESPONSES AND COMMENTS

Philip Adams, Government of Yukon	George Eckalook, Resolute Bay, NWT
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# APPENDIX 2

## *Questions and Answers*



### **Are Aboriginal Electoral Districts a substitute for self-government?**

No. A voice in the House of Commons is not inconsistent with the goal of self-government. One form of representation does not preclude the other. Rather, they are complementary forms of representation. For example, in Europe the citizens of sovereign states elect their own representatives to the European Parliament. Representatives from each sovereign state speak to matters of common interest and deal with issues that cut across state boundaries.

### **Are Aboriginal Electoral Districts a form of apartheid?**

Even to suggest that Aboriginal Electoral Districts are a form of apartheid is misleading and inflammatory. First, the proposal works within the existing framework of electoral laws. In its essence, the proposal is intended to include Aboriginal people more effectively in the political system, not to exclude them. Second, the proposal does not guarantee separate seats; it puts in place and guarantees that a process will be available whereby Aboriginal people can be represented more effectively in the House of Commons. Finally, the proposal is premised on full freedom of choice for Aboriginal people about where and how they participate in the electoral process.

### **Wouldn't implementation of this proposal result in a flood of requests from other groups for similar consideration?**

First, let's be clear. Aboriginal people have a defined status under the Constitution of Canada. But when it comes to achieving fair representation of Aboriginal people in the political institutions of our country, we have a particular difficulty: we have the numbers, but our numbers are geographically dispersed across the country.

This proposal attempts to redress that situation by adding flexibility to the current system to allow for the creation of Aboriginal Electoral Districts based on our numbers. The underlying principles of the current legislation already recognize the need to reflect communities of interest and identity in establishing electoral districts and to promote the efficacy of the vote. Our proposal aims to allow Aboriginal people to benefit from these principles in a way that we have not done before because of our geographic dispersal.

**Will Aboriginal *seats* be guaranteed in legislation or in the Constitution?**

No. The proposal seeks to establish a process in federal legislation whereby Aboriginal Electoral Districts could be created if this is the wish of Aboriginal people. Aboriginal people will decide whether they want Aboriginal Electoral Districts.

**Couldn't we just redraw the boundaries of federal electoral districts to create districts with an Aboriginal majority?**

This does not appear to be possible because Aboriginal people are dispersed across vast geographic areas. Currently there are only four electoral districts with an Aboriginal population greater than 25% of the total.

**How many Aboriginal Electoral Districts could be created?**

The number of electoral districts that could be created depends upon the number of Aboriginal people in a given province and the size of the province's electoral quotient. There will be at least one in each province except in Atlantic Canada. In those provinces with large Aboriginal populations, British Columbia, Ontario and the Prairies, it may be possible to create two Aboriginal Electoral Districts. The final determination will depend upon obtaining more accurate and reliable statistical information.

**Can Aboriginal Electoral Districts be created before the next election?**

Probably not. New electoral boundaries cannot be drawn until release of the required 1991 census information in late 1992. The redrawing of electoral boundaries, under existing legislation, then takes approximately two years to complete. We do believe, however, that the proposal can be implemented for the general election immediately following the next one.

**Are the Aboriginal people in Atlantic Canada excluded from this proposal?**

The size of the Aboriginal population in these provinces would not permit the creation of an Aboriginal Electoral District in each province. We therefore recommend a constitutional amendment to create one Aboriginal Electoral District covering all of Atlantic Canada.

**Will the number of seats in the House of Commons increase as a result of creating Aboriginal Electoral Districts?**

No. Under present constitutional arrangements seats are allocated to the provinces. Aboriginal Electoral Districts would come out of these allocations.

**Will Aboriginal Electoral Districts cross provincial boundaries?**

No. The Constitution requires that electoral districts be contained within provincial boundaries. We do propose, however, that there be a single electoral district covering all the Atlantic provinces. This will require a constitutional amendment.

**If Aboriginal Electoral Districts are established, will an Aboriginal person have two votes?**

No. Aboriginal voters will have the right to choose whether they wish to vote in an Aboriginal Electoral District or in the general electoral district in which they live. This kind of choice is already available in the law to students who move away from home to attend college or university and to members of the Armed Forces and the foreign service posted abroad. Therefore a precedent already exists.

**Will Aboriginal people have a say in establishing the boundaries of each Aboriginal Electoral District?**

Yes. Where more than one Aboriginal Electoral District is to be created in a province, the independent electoral boundaries commission will consult with Aboriginal people in determining the boundary. This could mean that separate electoral districts could be created within a province for Indian and Métis people, for example, provided both have the number of electors that meet the province's electoral quotient.

**Will Aboriginal people have to participate in political parties?**

They may choose whether to do so. Aboriginal people in an Aboriginal Electoral District would have the right to nominate and elect anyone they choose. Candidates could be independents or could be official candidates from a recognized political party.

**Will Aboriginal Electoral Districts create incentives for aboriginal people to participate in the electoral system?**

It stands to reason that the participation of Aboriginal people will be enhanced if they know that the system may result in Aboriginal MPs being sent to the House of Commons. There are a number of examples of increased Aboriginal participation in the electoral system where there are Aboriginal candidates running for elected office. The level of Aboriginal participation in federal elections in the Northwest Territories is testimony to that effect.

**Will a system of Aboriginal Electoral Districts have the effect of politically isolating Aboriginal people?**

Given the number of Aboriginal representatives elected to date, it is obvious that Aboriginal people are isolated now. The creation of Aboriginal Electoral Districts will be a step towards eliminating the political isolation of Aboriginal people and encouraging greater participation in the governance of Canada.

**Will the system isolate MPs elected from Aboriginal Electoral Districts?  
Will other MPs ignore Aboriginal constituents? Will they tell them to see  
their Aboriginal MP?**

It is anticipated that all MPs will work together to ensure that the needs of all constituents are met. While no prescription can force MPs to work with one another, all representatives must understand that the rationale for creating Aboriginal Electoral Districts is the failure of the present electoral system to produce effective representation for Aboriginal people. Co-operation is required to ensure that the entire democratic process is responsive to the needs of all Canadians, whether Aboriginal or non-Aboriginal.

**Will Aboriginal MPs deal only with Aboriginal issues?**

No. MPs from Aboriginal Electoral Districts would have the same rights and privileges as other Members of Parliament and would participate in the full range of issues before Parliament. Aboriginal people are citizens of Canada, and their MPs will deal with all issues that are of interest to Canadians.

**Will the limited number of Aboriginal Electoral Districts accommodate  
the interests of less numerous aboriginal groups within an Aboriginal  
Electoral District?**

This is an important consideration which will be discussed by the leadership across the country. Aboriginal people have a history of making decisions by consensus and it is likely that this will continue.

**How will this proposal benefit the small number of Inuit in northern Quebec  
and northern Manitoba?**

Inuit people would have the right to vote in an Aboriginal Electoral District along with all other Aboriginal people who wished to participate. It would be necessary for the MP elected to represent and work on behalf of all Aboriginal constituents. An MP elected in an Aboriginal Electoral District should be sensitive to the aims and aspirations of all Aboriginal people within the Aboriginal Electoral District.

**Won't Aboriginal Electoral Districts be too large to manage?**

Aboriginal Electoral Districts may indeed cover large areas. There are already special provisions in federal electoral legislation for the expenses of MPs in constituencies with large geographic areas. It is our understanding that the Royal Commission on Electoral Reform and Party Financing is reviewing those provisions.

**If the electoral system is to treat everyone equally, why should Aboriginal  
people receive special treatment?**

There is no special treatment. Aboriginal Electoral Districts deal with structural discrimination in the electoral system. All electoral rules would apply to Aboriginal Electoral Districts. The proposal is designed to ensure that

Aboriginal people will be represented in the House of Commons in proportion to our share of the Canadian population. Such is not the case today. Only 12 self-identified Aboriginal MPs have ever sat in the House of Commons out of the 10 966 available seats in all general and by-elections since Confederation.

**How would the proposal be implemented?**

An important advantage of this proposal is that it could be implemented by Parliament through amendments to existing electoral legislation.

**Is the consultation paper a "take it or leave it" document?**

No. The purpose of the consultative document is to seek Aboriginal views on a comprehensive proposal for Aboriginal representation in Parliament. The Committee invites suggestions on ways to improve the proposal. The Committee is seeking consensus in the Aboriginal community and invites the active participation of all interested Aboriginal people and other Canadians.

**Will Aboriginal people be consulted on this proposal?**

Yes. In January Senator Len Marchand led a round of consultations with the leadership of national and regional Aboriginal organizations. These organizations requested further and more in-depth consultations. These are now being launched.

**Who will be undertaking these consultations?**

The consultations will be undertaken by a group of current and former Aboriginal Members of the House of Commons. These individuals have formed the Committee for Aboriginal Electoral Reform.

**What will be the nature of these consultations?**

There will be a direct mailing of the proposal to Aboriginal First Nations and representatives of Aboriginal service delivery organizations. The Committee will be placing an advertisement in Aboriginal newspapers to inform individuals and organizations. The views of the executive of Aboriginal political organizations at the national and regional levels will be sought through on-site visits.

**What will the Committee do at the end of the consultation process?**

A final report with recommendations will be prepared. The report will incorporate the views of Aboriginal individuals and organizations expressed during the consultation process. The report will be presented to the Royal Commission on Electoral Reform and Party Financing for its consideration.

**Is this an initiative by the government or one of the political parties?**

Neither. This initiative is being led by current and former Members of the House of Commons who are seeking to change the electoral system to ensure that Aboriginal people have the opportunity to be represented in the House of Commons in proportion to their numbers.

**What is the position of the Royal Commission on Electoral Reform and Party Financing in this proposal?**

The Committee for Aboriginal Electoral Reform has met with the Royal Commission. The Royal Commission is providing technical support to the committee and awaits with interest our report on the level of consensus in the Aboriginal community on our proposal.

# APPENDIX 3

## *Chronology of Aboriginal Electoral Voting Rights*



- 1867 Parliamentarians elected in accordance with electoral laws of the provinces. All provinces exclude Indians from voting.
- 1875 British Columbia expressly disqualifies "Indians and Chinamen" from voting.
- 1876 Ontario expressly prohibits on reserve Indians from voting.
- 1881 NWT disqualifies enfranchised Indians.
- 1884 Ontario prohibits off reserve Indians from voting where individuals receive treaty payments, annuities or money from the band.
- 1885 *Electoral Franchise Act* provides Indians in Eastern Canada with right to vote provided that they meet a low property test.
- 1886 Manitoba disqualifies Indians and persons of Indian blood from receiving any annuities from voting.
- 1889 New Brunswick enacts legislation disqualifying Indians from voting.
- 1898 *Electoral Franchise Act* is repealed and the electoral laws of the provinces are reinstated. All provinces exclude Indians from voting.
- 1908 Saskatchewan disqualifies Indians from exercising the franchise.
- 1909 Alberta disqualifies all persons of Indian blood who belonged or reported to belong to any Indian Band.
- 1915 Quebec disqualifies Indians and mixed bloods domiciled on lands reserved for Indians.
- 1917 *War-Time Elections Act/Military Voters Act* extend franchise to Indians in active military service.
- 1919 Yukon disqualifies Indians from voting.
- 1920 *Dominion Elections Act* – On reserve Indians disqualified unless the Indian served in the Navy, Military, or the Air Force in the First World War.
- 1922 PEI disqualifies Indians on reserve from voting.
- 1934 Esquimaux (Inuit) disqualified from federal franchise (no exemption for Armed Forces service).

- 1944 An Act to Amend the *Dominion Elections Act* provides voting rights to Indians who participated in World War II and their spouses.
- 1949 British Columbia extends provincial franchise to Indians.
- 1950 An Act to Amend the *Dominion Elections Act* provides voting rights to Indians who waive their tax exempt status with respect to personal property.
- Inuit receive unqualified right to vote in federal elections.
- 1952 Manitoba extends provincial franchise to all Indians.
- 1954 Ontario extends provincial franchise to all Indians.
- 1960 Saskatchewan extends provincial franchise to all Indians.
- Federal Universal Indian Suffrage granted to Indians.
- 1963 PEI and New Brunswick extend provincial franchise to all Indians.
- 1965 Alberta extends provincial franchise to all Indians.
- 1969 Quebec extends provincial franchise to all Indians.
- 1982 Liberal Party of Canada establishes 12 member Standing Committee for Native and Original Peoples.
- 1983 Progressive Conservative Party recognizes a National Progressive Conservative Aboriginal Association.
- 1989 The National Executive of the Liberal Party of Canada endorses the establishment of an Aboriginal Peoples' Commission within the Liberal Party.

# APPENDIX 4

## *Scenario for Implementation*



The following scenario provides an overview of how Aboriginal Electoral Districts could be implemented within this context of electoral reform:

1. The decennial census has been conducted in 1991.
2. After the census results are published in 1992, each province will be allocated its seats in the House of Commons.
3. Later that year, the potential number of Aboriginal Electoral Districts would be announced when census figures on Aboriginal people become available.
4. Calling of the next general election will trigger the compilation of a list of all citizens of voting age by Elections Canada through the usual enumeration method.
5. To overcome historical difficulties in enumerating Aboriginal people, Elections Canada would work jointly with Aboriginal organizations in the next election to ensure that Aboriginal electors are registered.
6. Following the election, a new electoral quotient for each province would be determined as a basis for allocating seats to the province.
7. An electoral boundaries commission for each province will be established for the purpose of drawing a new electoral map.
8. The first order of business for the commissions would be to determine how many Aboriginal Electoral Districts would be formed in each province.
9. The commissions will rely on the number of Aboriginal electors registered on the Aboriginal electoral list for the previous election and on the results of a special registration drive co-ordinated by Elections Canada in conjunction with Aboriginal organizations.
10. Once the list of registered Aboriginal electors is completed and submitted to the electoral boundaries commissions, they would establish the number of Aboriginal Electoral Districts by dividing the number of registered Aboriginal electors by the provincial electoral quotient. (For example, if the electoral quotient for the province was 40 000 people and there were 81 000 registered Aboriginal electors, then the electoral boundaries commission would be required to create two Aboriginal Electoral Districts.)

11. If more than one Aboriginal Electoral District can be created in a province, the boundaries of each district would be determined through consultations between the electoral boundaries commission and the Aboriginal people concerned.
12. After each general election, Elections Canada would determine whether electoral boundaries should be redrawn as a result of population changes.
13. In making this determination, Elections Canada would consider whether there was an increase in the number of registered Aboriginal electors sufficient to create new Aboriginal Electoral Districts.
14. If Elections Canada determined that boundaries of electoral districts in a province had to be redrawn after an election, a new electoral quotient would be calculated for the province.
15. The Electoral Boundaries Commission for the provinces affected would proceed to draw boundaries for general and Aboriginal Electoral Districts, hold public hearings and report to the Speaker of the House of Commons as under the present system.