



House of Commons
Canada

**REPORT OF THE
SPECIAL COMMITTEE TO STUDY
THE PROPOSED COMPANION RESOLUTION
TO THE MEECH LAKE ACCORD**

May 1990

**The Honourable Jean Charest, M.P.
Chairman**

HOUSE OF COMMONS

Issue No. 21

Tuesday, May 8, 1990
Wednesday, May 9, 1990
Thursday, May 10, 1990
Friday, May 11, 1990
Saturday, May 12, 1990
Monday, May 14, 1990
Tuesday, May 15, 1990

Chairman: Hon. Jean Charest

CHAMBRE DES COMMUNES

Fascicule n° 21

Le mardi 8 mai 1990
Le mercredi 9 mai 1990
Le jeudi 10 mai 1990
Le vendredi 11 mai 1990
Le samedi 12 mai 1990
Le lundi 14 mai 1990
Le mardi 15 mai 1990

Président: L'hon. Jean Charest

Minutes of Proceedings and Evidence of the Special Committee to study

Procès-verbaux et témoignages du Comité spécial pour examiner le

**The Proposed
Companion Resolution
to the Meech Lake
Accord**

**Projet de résolution
d'accompagnement
à l'Accord du lac
Meech**

RESPECTING:

Order of Reference of March 27, 1990, relating to the study of the Proposed Companion Resolution to the Meech Lake Accord

INCLUDING:

Report to the House of Commons

CONCERNANT:

L'Ordre de renvoi du 27 mars 1990, relativement à l'étude du projet de résolution d'accompagnement à l'Accord du lac Meech

Y COMPRIS:

Rapport à la Chambre des communes

Second Session of the Thirty-fourth Parliament,
1989-90

Deuxième session de la trente-quatrième législature,
1989-1990

SPECIAL COMMITTEE TO STUDY THE PROPOSED
COMPANION RESOLUTION TO THE MEECH LAKE
ACCORD

Chairman: Jean Charest

Vice-Chairman: David MacDonald

Members

J.W. Bud Bird
Ethel Blondin
Pauline Browes
Gabriel Desjardins
Dorothy Dobbie
Robert Kaplan
Arnold Malone
Lorne Nystrom
André Ouellet
André Plourde
Ross Reid
Svend Robinson
Bill Rompkey—(15)

(Quorum 8)

François Prigent
Jacques Lahaie
Clerks of the Committee

Other Members who participated:

Warren Allmand
Jack Anawak
Mark Assad
Bill Attewell
Don Boudria
Ronald Duhamel
Phil Edmonston
Jim Edwards
John Harvard
Charles Langlois
Robert Layton
Nic Leblanc
Shirley Maheu
John Manley
Charles-Eugène Marin
Howard McCurdy
Audrey McLaughlin
Dennis Mills
Marcel Prud'homme
George Rideout
Fernand Robichaud
Gilles Rocheleau
Scott Thorkelson
Ian Waddell
David Walker

Published under authority of the Speaker of the
House of Commons by the Queen's Printer for Canada.

Available from the Canadian Government Publishing Center,
Supply and Services Canada, Ottawa, Canada K1A 0S9

COMITÉ SPÉCIAL POUR EXAMINER LE PROJET
DE RÉSOLUTION D'ACCOMPAGNEMENT À
L'ACCORD DU LAC MEECH

Président: Jean Charest

Vice-président: David MacDonald

Membres

J.W. Bud Bird
Ethel Blondin
Pauline Browes
Gabriel Desjardins
Dorothy Dobbie
Robert Kaplan
Arnold Malone
Lorne Nystrom
André Ouellet
André Plourde
Ross Reid
Svend Robinson
Bill Rompkey—(15)

(Quorum 8)

Les greffiers du Comité
François Prigent
Jacques Lahaie

Autres députés qui ont participé:

Warren Allmand
Jack Anawak
Mark Assad
Bill Attewell
Don Boudria
Ronald Duhamel
Phil Edmonston
Jim Edwards
John Harvard
Charles Langlois
Robert Layton
Nic Leblanc
Shirley Maheu
John Manley
Charles-Eugène Marin
Howard McCurdy
Audrey McLaughlin
Dennis Mills
Marcel Prud'homme
George Rideout
Fernand Robichaud
Gilles Rocheleau
Scott Thorkelson
Ian Waddell
David Walker

Publié en conformité de l'autorité du Président de la Chambre
des communes par l'Imprimeur de la Reine pour le Canada.

En vente: Centre d'édition du gouvernement du Canada,
Approvisionnement et Services Canada, Ottawa, Canada K1A 0S9

ACKNOWLEDGEMENTS

The Committee wishes to gratefully acknowledge the dedication, diligence and valued assistance of the following people who arranged its meetings and travels and who spent countless hours in the preparation of its Report:

The Clerks: Jacques Lahaie and François Prigent

Sandy Birch

Tranquillo Marrocco

Richard Dupuis

Eugene Morawski

Private Consultant: Gary Levy

Library of Parliament: Jacques Rousseau

Office Staff:

Benoît Aubry

Fiona Bladon

Hélène Cousineau

Hélène D'Aoust

Lena L'Écuyer

Sophie Montsion

Sylvain Paquette

Diane Philippe

Miriam Pincovich

Pierrette Robert

Cathie Rockburn-Pilon

Sharron Scullion

Karen Tourangeau

Humphreys Public Affairs Group:

Réjean Hallée

Catherine Lawson

David Small

David Humphreys

Jim MacLean

ORDER OF REFERENCE

Tuesday, March 27, 1990

Mr. Mulroney, seconded by Mr. Clark (Yellowhead),—That a Special Committee of the House of Commons to Study a Proposed Companion Resolution to the Meech Lake Accord be appointed to consider the document annexed hereto;

That 15 Members of the House of Commons be appointed to serve on the Special Committee, to be appointed no later than 3 sitting days after the adoption of this motion, upon report of the Striking Committee;

That the Committee have the power to appoint from among its members such sub-committees as may be deemed advisable and to delegate to such sub-committees all or any of its powers except the power to report directly to the House;

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

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

That the Committee be empowered to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings or the proceedings of its sub-committees, pursuant to the principles and practices governing the broadcasting of the House of Commons, when in the parliamentary precincts, and to the extent possible when outside these precincts;

That the Committee have the power to travel within Canada;

That the Committee submit its report no later than May 18, 1990, provided that, if the House is not sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the House of Commons, in which case the Clerk shall immediately notify each Party Leader of the receipt of such report;

That substitutions be authorized according to normal procedures for Legislative Committees; and

That the quorum of the Committee be eight Members, whenever a vote, resolution or other decision is taken.

(For text of Companion Resolution see Appendix "D" of Committee's Report)

And the question being put on the main motion, it was agreed to.

ATTEST

ROBERT MARLEAU

The Clerk of the House of Commons

ORDRE DE RENVOI

Le mardi 27 mars 1990

M. Mulroney, appuyé par M. Clark (Yellowhead), propose,—Qu'un comité spécial de la Chambre des communes soit institué pour examiner le projet de résolution d'accompagnement à l'Accord du Lac Meech ci-annexé;

Que 15 députés soient nommés pour siéger au comité spécial à désigner au plus tard trois jours de séance après l'adoption de la présente motion sur rapport du Comité de sélection;

Que le comité ait le pouvoir de constituer les sous-comités qu'il juge souhaitables et de déléguer à ces sous-comités la totalité ou une partie de ses pouvoirs, sauf celui de faire rapport directement à la Chambre;

Que le comité ait le pouvoir de se réunir pendant que la Chambre siège et pendant les périodes d'ajournement;

Que le comité ait le pouvoir de convoquer des personnes et d'exiger la production de documents et dossiers, d'interroger les témoins et de faire imprimer au jour le jour les documents et témoignages dont il peut ordonner l'impression;

Que le comité soit autorisé à permettre, s'il le juge nécessaire, la radio-télédiffusion d'une partie ou de la totalité de ses délibérations ou des délibérations de ses sous-comités, conformément aux principes et pratiques régissant la diffusion des délibérations de la Chambre des communes lorsque le comité siège dans l'enceinte du Parlement et, autant que possible, lorsqu'il siège à l'extérieur;

Que le comité ait le pouvoir de se déplacer au Canada;

Que le comité présente son rapport au plus tard le 18 mai 1990; si la Chambre ne siège pas, le rapport sera réputé avoir été présenté le jour où il sera déposé auprès du greffier de la Chambre des communes, et que ce dernier informe aussitôt les chefs de Partis de la réception dudit rapport;

Que les changements dans la liste des membres du comité soient autorisés, selon les règles applicables aux comités législatifs; et

Que le quorum du comité soit fixé à huit membres lorsque le comité doit voter, se prononcer sur une résolution ou prendre une autre décision.

(Le texte de la Résolution d'accompagnement figure à l'Annexe «D» du rapport du Comité.)

La motion principale, mise aux voix, est agréée.

ATTESTÉ

Le Greffier de la Chambre des communes

ROBERT MARLEAU

Table of Contents

The Committee's Mandate	1
Why A Quebec Round?	3
The New Brunswick Companion Resolution	5
A. The Process	5
B. The Content	6
The Concerns of Manitoba and Newfoundland and Labrador	11
Conclusion	13
Appendix A — List of Witnesses	17
Appendix B — List of Submissions Received	33
Appendix C — <i>Constitution Amendment, 1987 (Meech Lake Accord)</i>	61
Appendix D — New Brunswick Companion Resolution	69
Minutes of Proceedings	75

The Committee's Mandate

Canada is in the midst of a political deadlock revolving around a package of Constitutional amendments known as the Meech Lake Accord. It was signed by the Prime Minister and Premiers of all ten provinces in 1987 but in order to become law it must be adopted in every legislature by June 23, 1990. Parliament and eight provincial legislatures subsequently adopted the Accord. In two provinces, New Brunswick and Manitoba, governments changed before ratification. The new Premiers expressed reservations about certain parts of the Accord. In Newfoundland and Labrador, the Accord had already been adopted, but following an election a new government also expressed reservations.

Discussions among First Ministers failed to produce a compromise. However, on March 21, 1990 Premier McKenna introduced in the New Brunswick Legislative Assembly two resolutions intended to break the deadlock. The first was the Meech Lake Accord (*Constitution Amendment, 1987*). The second, Premier McKenna referred to as a Companion Resolution. It proposed a number of additional Constitutional amendments to take effect after the Meech Lake Accord was proclaimed. Adoption of the Meech Lake Accord by New Brunswick was made conditional upon some progress towards adoption of the Companion Resolution by other legislatures and the Parliament of Canada.

On March 26 Prime Minister Mulroney requested time on national television to address the nation. He suggested the New Brunswick Companion Resolution be referred to a special Committee of the House of Commons. Leaders of the federal Liberal and New Democratic Parties agreed and a motion to this effect was adopted in the House of Commons the following day with instructions to report to the House by May 18, 1990.

On April 6, the Newfoundland and Labrador House of Assembly proceeded to revoke its approval of the Accord. The same day the Quebec National Assembly adopted a resolution reaffirming its desire that the Meech Lake Accord be ratified.

Thus at the moment your Committee began its work the political situation was very difficult. From the outset your Committee faced different sets of expectations. Some dismissed it as irrelevant to the process. Others expected it to solve a dilemma that had eluded both politicians and constitutional experts.

Your Committee was convinced that the solution began by listening. From April 9 to May 4, we heard some 160 witnesses in Yellowknife, Whitehorse, Vancouver, Winnipeg, St. John's and in the National Capital Region. Eight governments including five present and two former provincial premiers appeared as did constitutional experts, and representatives of aboriginal groups, business groups, women's groups, official language minority groups, multicultural groups, labour organizations, groups representing the disabled as well as other groups and interested citizens. Opinions ranged from unconditional support of

Meech Lake to absolute rejection of both the Accord and the Companion Resolution. Committee hearings were televised and attracted a good deal of media attention. We received, in addition, over 800 written submissions from a wide variety of individuals and organizations across Canada.

Our task has not been easy but despite the variety of conflicting evidence and contradictory opinion, we are convinced there are solutions.

This report is our attempt to use the information we received to assist Canadians in understanding the nature of the problem and to suggest both immediate solutions to the present impasse and a longer term process whereby future generations of Canadians can add to whatever we have been able to accomplish at this time.

We realize that for historical, political and legal reasons not everyone is going to agree with our analysis or recommendations. However, we have tried to address the problems to the best of our ability. Having done so we acknowledge that, in practical terms, the solution to the present impasse is in the hands of others and we respectfully submit the following report for consideration.

Why a Quebec Round?

The issues under discussion in the present constitutional debate go back many years. Quebec's distinct society can be traced to the *Quebec Act* of 1774, nearly a hundred years before Confederation; discussion of Senate reform began in 1867 and has been going on ever since. The debate between supporters of greater provincial autonomy and those who believe in a more centralized federation has also been going on since 1867. And there are other issues: the quest of the aboriginal people for recognition; gender equality; the place for Canadians of multicultural heritage in the definition of the fundamental character of the country; and the impact of the *Canadian Charter of Rights and Freedoms* on our traditional approach to civil liberties.

The present round of constitutional discussion must be understood in the context of what happened in the province of Quebec on May 20, 1980. A referendum was held on the question of whether the Quebec government should be given a mandate to negotiate sovereignty association. During the referendum debate the people of Quebec were promised constitutional reform if they voted NO. The federal victory was widely celebrated across Canada and led to constitutional discussions between Ottawa and the provinces over the precise nature of the changes.

The culmination of this process was the patriation of the Canadian Constitution from Westminster in 1982 and adoption of the *Canadian Charter of Rights and Freedoms* and of a new amending formula. After extensive debate, every province except Quebec endorsed the 1982 constitutional change. Quebec did not agree with the process and maintained that substantial changes to the Canadian Constitution had been made without its consent. As a result, Quebec refused to participate in constitutional conferences except as an observer and would not vote on amendments such as those dealing with the rights of the aboriginal people.

This position has no legal effect since the Constitution was patriated legally and the *Constitution Act, 1982* applies to Quebec despite its disagreement. But the political consequences are very real.

Following the 1985 election a new government took office in Quebec. In contrast to the twenty-two conditions of its predecessor it agreed to support the constitutional reform of 1982 if five conditions could be accommodated in its place. These were:

- (i) explicit recognition of Quebec as a distinct society;
- (ii) guarantee of increased powers in matters of immigration;
- (iii) limitation of the federal spending power;
- (iv) recognition of a right of veto;
- (v) Quebec participation in appointing judges to the Supreme Court of Canada.

In August 1986 the 27th Annual Premiers Conference took place in Edmonton. At that time the Premiers unanimously agreed "*that their top constitutional priority is to embark immediately upon a federal-provincial process, using Quebec's five proposals as a basis for discussion, to bring about Quebec's full and active participation in the Canadian federation. There was a consensus among the Premiers that then they will pursue further constitutional discussions on matters raised by some provinces which will include, amongst other items, Senate reform, fisheries, property rights, etc.*" This subsequently became known as the *Edmonton Declaration*.

It should be noted that the process of aboriginal constitutional conferences started in 1983 and concluded in March 1987 without an agreement. Thus the process of these aboriginal constitutional conferences had not been completed successfully at the time of the *Edmonton Declaration*.

Between August 1986 and April 1987 intensive discussion took place among ministers and officials on Quebec's proposals. At a meeting at Meech Lake, on April 30, 1987 the First Ministers worked out an agreement in principle on Quebec's five proposals. Officials were directed to draft a legal document to incorporate the agreement. On June 2 and 3, the First Ministers met at the Langevin Building in Ottawa and reached agreement on the precise wording of the Accord. On June 23, 1987 the Quebec National Assembly became the first legislature to approve the Meech Lake Accord which, as set out in Section 39(2) of the *Constitution Act, 1982*, triggered the three year period for ratification.

During the course of our hearings witness after witness, even those most critical of the Meech Lake Accord expressed support for Canadian unity and the need to make Canada's second most populous province an active participant in federal-provincial negotiations and a participating member of the Canadian constitutional family. There was general agreement that Quebec's five proposals were reasonable for that purpose.

The New Brunswick Companion Resolution

A. The Process

The objective of the New Brunswick Companion Resolution is to encourage ratification of the Meech Lake Accord by all provinces on or before June 23 by offering assurance that other priorities will be advanced. Premier McKenna noted that in putting together his Companion Resolution he had been careful to *add to* and not to *subtract from* the Meech Lake Accord. He also noted that unlike the Accord his Resolution was not “a seamless web” that had to be adopted or rejected as a package. He pointed to the need for flexibility to accommodate other concerns around which there is a wide degree of consensus.

Questioned as to what would constitute substantive support for his Resolution he said: “We in New Brunswick will be the judge of what represents that commitment. We believe, even at some cost to our credibility if necessary, we absolutely must keep our flexibility.”

Before considering the substance of the McKenna Companion Resolution your Committee had to determine if the June 23 deadline was, in fact, a real one. We heard a number of learned witnesses on this point. Your Committee acknowledges that there is a legal debate over the significance of this date.

Some argued that given political will the June 23 deadline could be extended. The First Ministers could agree to introduce resolutions in their respective legislatures to allow for more time to consider the Accord. While possible in theory, the question is whether all governments and legislatures would agree to act quickly and unanimously on such a Resolution.

Having carefully considered the various options, your Committee has drawn the following conclusions:

1. **Your Committee is of the opinion that June 23, 1990 is a political reality.**
2. **Your Committee recognizes that if the elements of the Companion Resolution we have proposed are to provide an opportunity to break the Meech Lake impasse, the question of “certainty” will have to be addressed and unequivocally resolved.**
3. **It is our view that timing and process leading to additional amendments to the Constitution of Canada can only be negotiated by First Ministers. We believe our recommendations may form the basis for agreement if First**

Ministers move quickly to resolve the question of the timing of additional changes.

Your Committee then looked at the specific concerns of the New Brunswick, Manitoba and Newfoundland and Labrador governments keeping in mind the concerns identified by others who felt their interests were left out in the process that led to the Meech Lake Accord.

B. The Content

New Brunswick would like to see an addition in the Meech Lake Accord to the clause respecting Canada's linguistic duality and Quebec's distinct society, namely that within New Brunswick, the English linguistic community and the French linguistic community have equality of status and equal rights and privileges. This would entrench a principle presently stated in a New Brunswick statute.

- 4. Your Committee recommends that the clause respecting the equality of New Brunswick's two official linguistic communities is an appropriate subject for a Companion Resolution.**
- 5. Similarly your Committee agrees with the New Brunswick proposal to affirm a role for the legislature and government of New Brunswick to preserve and promote the equality of status and equal rights and privileges of that province's two official linguistic communities.**

The Meech Lake Accord affirms the role of Parliament to preserve one of Canada's fundamental characteristics—linguistic duality. Premier McKenna has proposed in his Companion Resolution to affirm as well Parliament's role to promote our linguistic duality.

Testimony from constitutional experts is unanimous in affirming that the promotion of linguistic duality as proposed is limited to federal jurisdiction. This is also clearly understood by minority language groups who testified before the Committee.

Although the promotion role suggested by Premier McKenna is now demonstrated in law in the revised *Official Languages Act* (R.S.C. 1985, 4th Supp., 31), your Committee has been persuaded by the repeated argument made by minority language groups to the effect that even though a promotion clause may not add anything legally it would have a dynamic effect on these groups.

- 6. Your Committee endorses the clause in the New Brunswick Companion Resolution which calls for promotion of Canada's linguistic duality by the Parliament and Government of Canada.**

On this important issue other proposals have been put forward that merit the attention of First Ministers. These include the question of "where numbers warrant" and the control and management of schools in section 23 of the Charter; and an examination of the concept of a "Code of Minority Language Rights" put forward by witnesses and the Government of Quebec.

- 7. In any event, your Committee suggests that minority language rights require continuing deliberation and should be included on the agenda of the Annual First Ministers Conferences on the Constitution.**

The Meech Lake Accord provides for provincial involvement in the appointment of Senators and Judges of the Supreme Court. The First Ministers who signed the Accord took the position that it should be passed, unchanged, unless there was some "egregious error". The body of evidence presented to your Committee is that most Canadians perceived at least one such oversight and that was the failure to include the Yukon and the Northwest Territories in the selection process.

- 8. The New Brunswick Companion Resolution would address the Meech Lake Accord's omission of the Yukon and Northwest Territories in the selection of Senators and Judges of the Supreme Court by involving the two territories in the selection process. Your Committee is convinced this oversight should be corrected.**

The Meech Lake Accord would also change the amending formula required for the creation of new provinces from the 2/3 of the provinces with 50% of the population to unanimity. Prior to 1982 the process for admission of new provinces was the sole responsibility of the federal government. New Brunswick has proposed a return to the pre-1982 situation thereby ensuring that the two territories could aspire to provincehood under the same conditions as other provinces created since 1867. Your Committee has heard compelling evidence on this issue as it travelled throughout Canada and more particularly in the northern territories.

- 9. Your Committee agrees with the position of New Brunswick and the territories on the creation of new provinces and recommends this be dealt with in a Companion Resolution.**

New Brunswick also proposes to add an agenda item to the Annual First Ministers Conference on the Constitution. It would deal with constitutional matters that directly affect the aboriginal peoples of Canada, including the identification of the rights of those people. Representatives of aboriginal groups testified that instead of being one of the items on the agenda of annual First Ministers Constitutional Conferences, a separate process be devoted specifically to aboriginal matters. They recommended that these conferences would be held every three years.

- 10. Your Committee agrees with the suggestion of the leadership of the aboriginal groups and recommends that a Companion Resolution should provide for a separate process of constitutional conferences every three years. The first such conference should be convened no later than one year after such a Resolution comes into force.**

A concern addressed in the New Brunswick Companion Resolution in relation to section 16 of the Meech Lake Accord is to the effect that the Charter is overridden by the distinct society clause. This concern has been expressed by representatives of women's groups and other equality seekers.

There is a debate about the impact of the distinct society clause on the interpretation of the *Canadian Charter of Rights and Freedoms*. The thrust of expert legal testimony would suggest that the issue is more a matter of perception. For example a legal and constitutional expert, Roger Tassé QC, Deputy Minister of Justice under a Liberal administration when the Charter was adopted and, later, in his then capacity as legal advisor to the present government, was present at discussions at the Langevin Building. He has testified:

“This is because the distinct society clause, like the Canadian duality clause which is an integral part of it, is an interpretive clause which does not in any way change the dynamics of the Charter of Rights and the protection it guarantees. Within the framework of the Charter, the only scope of this clause is to implement section 1. You will recall that this section stipulates that the rights and freedoms guaranteed by the Charter are subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. This extremely rigorous test was made even stricter by subsequent rulings of the Supreme Court.

No one has ever seriously claimed that the rights and freedoms guaranteed by the Charter are absolute. Section 1 stipulates the conditions under which they can be restricted. I ask you, on what principle should the special situation of francophone as a minority group in Canada, in North America, be excluded from the scope of section 1? Our courts including the Supreme Court of Canada in the notorious sign law case, had already agreed to take that situation into account even before the Meech Lake Accord was passed.

The rights and freedoms guaranteed by the Charter are in no way compromised by the distinct society clause and, in my opinion, the adoption of this clause would only confirm that the distinct society of Quebec is a legitimate fact that should be taken into consideration in applying section 1”.

Some First Ministers are themselves on the record on this point. In the interpretation of our Constitution, courts give weight to such statements of intention.

- 11. Therefore, your Committee recommends that First Ministers affirm in a Companion Resolution that the operation of the fundamental characteristic clause, recognizing the linguistic duality/distinct society, in no way impairs the effectiveness of the Charter of Rights. As an interpretive clause it works with the Charter and does not override the rights and freedoms contained in it. Similarly, that Companion Resolution should affirm that the clauses providing roles for Parliament and the provincial legislatures do not accord legislative powers.**

Your Committee also considered the New Brunswick proposal that every five years the Senate carry out an assessment of the results achieved by governments and legislative bodies in relation to the commitments in section 36 of the *Constitution Act, 1982* on equalization and reduction of regional disparities, and that a report be presented to the first annual Conference of First Ministers on the economy following each such assessment.

- 12. We see merit in the idea of the Senate carrying out an assessment of the results achieved in pursuance of the commitment on equalization and the reduction of regional disparities but we would recommend it be addressed in the context of a reformed Senate.**

New Brunswick has also proposed an amendment that would require the House of Commons and legislative assemblies to hold public hearings before adopting any measures related to a constitutional amendment. This would include revocation of a constitutional resolution. Your Committee agrees with this idea. Under the amending formula adopted in 1982 legislatures and not governments have ultimate responsibility for approving constitutional amendments. This may seem like a subtle distinction but the lesson of Meech Lake is that the Canadian people want a say in the development of their Constitution.

- 13. We believe that, in a parliamentary democracy, public participation in constitutional reform can best be accomplished by means of public hearings by Parliament and legislative assemblies and we recommend such a process for Canada's future constitutional development.**
- 14. Your Committee recommends that a Companion Resolution process that adds, without subtracting, to the provisions of the Meech Lake Accord has the best prospect of solving the current constitutional impasse.**
- 15. Your Committee recommends the New Brunswick Companion Resolution, with the suggested changes and additions contained in our report, as the basis from which the First Ministers and the country can address the present constitutional impasse.**

Premier McKenna has asked for some assurances that there is support for his Companion Resolution.

16. Your Committee recommends the House of Commons should provide assurance of support for a Companion Resolution at an appropriate time.

However, this may be academic unless New Brunswick is satisfied and the provinces of Manitoba and Newfoundland and Labrador address their concerns by adding to the New Brunswick Companion Resolution or by proposing their own Companion Resolutions.

*

Addressing the Concerns of Manitoba and Newfoundland and Labrador

Critical to a report that would respond appropriately to the*outstanding issues related specifically to this round of constitutional development was keen and sensitive understanding of the concerns expressed at the hearings in Winnipeg and St. John's. Your Committee listened carefully, searching for answers to help get through this constitutional impasse.

The provinces of Manitoba and Newfoundland and Labrador have both expressed very strong concerns about the unanimity requirement for Senate reform. While the Committee heard persuasive testimony asserting that practical political considerations underscore the desirability of unanimous consent, we are sensitive to the point of view of Manitoba and Newfoundland and Labrador.

- 17. Your Committee is convinced that to avoid constitutional impasse the unanimous consent rule for Senate reform should be moderated after a limited period, say three years, if it has not produced success. We should then adopt a less restrictive amending formula with some form of regional approval.**

Your Committee was also interested by Manitoba's suggestion of a "Canada Clause" which would include recognition for the aboriginal people and recognize the multicultural dimension of our heritage. A similar idea was eloquently advanced by the government of Newfoundland and Labrador.

- 18. With respect to the recognition of aboriginal peoples and of our multicultural heritage, we encourage the First Ministers to respond to these fundamental elements of Canada by recognizing them in the body of the Constitution.**

The Manitoba Task Force recommended that an invitation to participate in First Ministers' Constitutional Conferences be extended to the elected leaders of the governments of the Northwest Territories and Yukon by the Prime Minister whenever he was of the opinion that agenda items would directly affect them. Testimony reinforcing this idea was presented to your Committee during the course of our hearings across Canada but particularly in Yellowknife and Whitehorse.

Therefore as suggested by the Manitoba Task Force:

- 19. We recommend that the Prime Minister of Canada should invite elected representatives of the governments of the Yukon Territory and the Northwest**

Territories to participate in the discussions on any item on the agenda of a First Ministers' Constitutional Conference that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories.

This would obviously include any discussion of changes to territorial boundaries.

- 20. We also recommend that the Prime Minister of Canada should invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of a First Ministers' Annual Economic Conference that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories.**

Manitoba further suggested that the Meech Lake provisions dealing with immigration be reviewed every five years.

- 21. While your Committee agrees that a review mechanism of the immigration provisions is desirable, we believe that this is an administrative matter that may better be dealt with as required by circumstance.**

Manitoba, recognizing very early that this generation of Canadians would want to participate in constitutional reform, was the first province to require public hearings prior to ratifying amendments negotiated by its Premier with the other First Ministers. This interest is held in common with other Canadians including Premier Wells of Newfoundland and Labrador who expressed concern about the need for more public participation in the constitutional amendment process. Since the proclamation of the *Canadian Charter of Rights and Freedoms*, many Canadians see the Constitution as belonging to themselves to a greater extent than ever before.

We have therefore endorsed the recommendation that public hearings become an integral part of future constitutional change. (See recommendation no. 13)

The Premier of Newfoundland and Labrador in testifying before your Committee also expressed his government's concerns relating to the issue of the federal spending power. Your Committee is particularly sensitive to the deeply rooted feeling of Canadians in the less developed areas that federal attention to their concerns might be reduced.

- 22. Your Committee urges the First Ministers to provide in a Companion Resolution reassurance that the federal spending power to promote equal opportunities for the well being of Canadians and to further economic development to reduce disparity and to provide essential public services of reasonable quality to Canadians (as set out in Section 36 of the *Constitution Act, 1982*), will not be impaired by the Meech Lake Accord.**

Conclusion

The agreement reached at Meech Lake envisaged a First Ministers conference on Senate reform to take place within months of proclamation of the Accord. Several governments are anxious to get on with the process. The province of Newfoundland and Labrador has a very detailed proposal for Senate reform, the government of Ontario and Manitoba have already established legislative Committees to look into this subject, the Prime Minister of Canada has stated his intention to create such a Committee to conduct hearings this summer on the basis of a comprehensive discussion paper. We continually come back to the point that unless we get over the present constitutional impasse, the prospects for Senate reform or any other constitutional change appear to be remote.

The New Brunswick Companion Resolution did not deal with Senate reform because, as Premier McKenna noted, it was an issue of more immediate interest to other provinces. We have attempted to address this priority through the idea of a sunset clause for the amending formula for Senate reform. We believe Senate reform is also of fundamental importance to the country.

23. Your Committee recommends that Senate reform should be a priority item for the next constitutional round.

There is less consensus than we expected about the shape and function of a reformed Senate and there is little chance of building a consensus as long as the present deadlock continues. We have proposed a way to get us over the initial impasse and to get talks started.

Once that happens we are convinced that Canadians will turn their attention to Senate reform and other outstanding items.

Finally, your Committee wants to thank all Canadians who testified or submitted briefs for their contribution. We have been profoundly affected by what we have heard during the course of our hearings. We have witnessed the extent to which Canada has been irrevocably changed by the entrenchment of the *Canadian Charter of Rights and Freedoms* and the patriation of our Constitution. Canadians, obviously, want to get on with their constitutional development. That responsibility starts, but does not end, with First Ministers. It extends to all legislators, to interest groups and to every Canadian.

FOR / POUR

Jean-L. Charost
 Jean-Marc Pail
 J.-W. Buis Buis
 Bob Kopl
~~Ampratom~~
 Kerne Nystrom
 August Dier
 Andre Claude

Andre Lyallet
 Nancy Cahic
 Laurence Brown
 Song Feid
 Gaby Sengier
 Dick Komperky
 Alul D. Bond

AGAINST / CONTRE

ABSTENTIONS

