

CONFIDENTIAL

July 17, 1980

Report of the Committee of Officials on the Senate

The Committee of Officials on the Senate met twice on July 16th and once again on July 17. The Committee had for consideration a Ministerial Document entitled "Points of a Senate Consensus". A copy of the Document is annexed to this Report.

The Committee decided to proceed on the basis of the Ministerial Document according to which there is a need for a new second chamber (Point 1) and that it not be an elected body (Point 2). It was agreed that debate should focus initially on Point 6 (power to ratify certain federal actions and the possibility of establishing a category of suspensive powers).

During discussion of Point 6, it became apparent that several of the various delegations held views that were based upon distinct approaches to the question of Upper House reform; that the approaches were quite different; and that the different approaches were all compatible with the broad lines of the "Points of a Senate Consensus".

Four distinct "models" for Upper House reform were isolated for the purposes of discussion. The four "models" were based upon a consideration of what should be the principal purposes of an "Upper House" in the Canadian federation.

Model I

According to this model, the traditional function of the Upper House of providing review for all or most legislation emanating from the Commons should be maintained, with powers of absolute or suspensive veto, but the members of the Upper House should be appointed solely, primarily or on a 50% basis by the provinces. Members appointed by the provinces would be representatives of the provinces, but they would not be delegates voting on instruction by provincial governments.

Model II

According to this model, the "Upper House" should be an institution for ratifying federal action, dealing only with a limited list of specified matters of shared federal-provincial concern. Voting members would be solely or primarily provincial delegates voting on government instruction. Such an institution would not have the additional general power to review legislation within federal jurisdiction, but could have an advisory function.

Model III

This model would combine the main features of Model I and Model II. Membership would be provided solely, primarily or on a 50% basis by provincial governments, and each provincial delegation would include a Cabinet Minister. On a limited list of specified matters of shared federal-provincial concern, each provincial Cabinet Minister would cast a block vote for the province. On all other matters subject to Upper House review, members would be free to vote as they saw fit.

Model IV

During discussion, a fourth approach emerged for consideration. This approach would involve two distinct institutions: a version of Model I to serve as the new Upper House and a version of Model II to serve as a new intergovernmental institution.

In discussion, some governments noted that a final position on the new Upper House would be related to any redistribution of powers.

The Committee agreed that, in Vancouver, it would address itself to matters such as method of selection, representation and powers.

The Committee draws to the attention of Ministers that three of the four models identify a function of general review, and three of the four models identify a function of ratification of federal action on a limited list of specified matters of shared federal-provincial concern.

The Committee seeks instruction from Ministers as to whether they wish only one or both of these functions to be performed by a new or reconstituted body or bodies.

Edward Greathed
Chairman

Attachment

COMMITTEE REPORT

Ministerial Document

Points of a Senate Consensus

In private discussion, the Ministers arrived at the following points of a Senate consensus:

1. on the need for a new second chamber.
2. that the new second chamber not be an elected body.
3. that it be composed of provincial representatives but that consideration be given to the possibility of federal representatives at the same time that the role and powers of the second chamber are discussed.
4. that on representation:
 - a) a majority wanted equal representation on a province by province basis
 - b) some wanted a weighted representation based on an undetermined number per region, using four regions as a basis
 - c) one province wanted equal representation from five regions
 - d) two reserved their position.
5. that the new upper chamber could possibly, but not necessarily, be a substitute for some of the regular federal-provincial mechanisms.
6. that the new chamber have the power to ratify federal actions in such areas as:
 - a) declaratory power
 - b) federal spending power
 - c) amendments to the Constitution
 - d) other powers as contained in the British Columbia proposal

and, that there was a willingness to discuss further the establishment of another category of suspensive powers.

This consensus is to be used as a basis for discussion, after governments have given it further consideration.