

Appendix 3B: A Summary of the Proposal by the Native Council of Canada for a House of the First Peoples

The Native Council of Canada (now the Congress of Aboriginal Peoples) has proposed its vision of a more powerful and constitutionally entrenched House of the First Peoples, which would be a third chamber of Parliament and as such require a constitutional amendment. The proposal, developed in 1992 during the Canada round of constitutional negotiations, described a body of between 75 and 100 representatives.³⁰⁴ Each nation or people would choose representatives, with adjustments made to acknowledge the influence of provincial and territorial boundaries. The primary function of the House of the First Peoples would be in relation to federal legislation, since it is assumed that Parliament will continue to legislate for Aboriginal peoples, as Aboriginal peoples, under section 91(24) of the *Constitution Act, 1867* (“Indians, and Lands reserved for the Indians”), as well as in other areas that will affect them, such as spending power, the environment, and the offshore. This assumption underlies all proposals for a third chamber or an Aboriginal parliament.

The Native Council proposed that the House of First Peoples have the power to veto certain legislation put before it, or that passing such legislation require a double majority of the House of Commons and the House of First Peoples, or that the House of Commons might refer certain legislation to the House of First Peoples for review. The House of First Peoples would be permitted to review or override Parliament initiatives concerning matters that “directly affect areas of exclusive Aboriginal jurisdiction ... or where there is a substantial impact of a particular law on Aboriginal peoples”.³⁰⁵

The Native Council of Canada also saw a role for a third chamber in ratifying constitutional amendments, particularly those affecting the rights and interests of Aboriginal peoples, although it did not see the House of the First Peoples becoming involved in constitutional negotiations and intergovernmental relations.

A number of options were proposed for selection of representatives to the House of the First Peoples:

1. by electoral districts representing all Aboriginal peoples within that district;
2. by electoral districts representing each Aboriginal people (that is, separate representation for First Nations, Inuit and Métis people);
3. through appointment by Aboriginal organizations or Aboriginal governments;
4. through indirect elections in which Aboriginal associations or Aboriginal governments represent each Aboriginal people; or
5. through indirect elections in which an electoral college mechanism is established composed of delegates of each Aboriginal people.

As the proposal noted, the method of selection would have to reflect Aboriginal principles of democracy within their own institutional framework. In many instances representatives would be elected directly, but in a number of nations indirect representation might reflect more accurately traditional Aboriginal ways, in which consensus decision making is favoured over the more adversarial approach of non-Aboriginal Canadian politics.

Notes:

1 Native Council of Canada [Congress of Aboriginal Peoples], “House of the First Peoples”, paper tabled in Working Group II of the Continuing Committee on the Constitution, 31 March-2 April 1992, Canadian Intergovernmental Conference Secretariat document 840-614/015.

2 “House of the First Peoples”, p. 3.