

A  
FINAL NOTE

# A FINAL NOTE

**T**he October 26, 1992, federal referendum represented a gratifying and challenging opportunity to participate in a historic Canadian event. The experiences of the referendum will long remain with me, and I am sure they will also remain with the personnel of Elections Canada, the returning officers, and the tens of thousands of others who served the Canadian electorate in various capacities.

These experiences have, of course, great practical as well as historical and personal value. The lessons learned about the administration of the vote were already being applied as Elections Canada readied itself for the 35th general election.

This experience has confirmed my belief that the field of electoral administration, and the electoral process itself, are not static but must constantly evolve in response to the needs of the electorate and to the opportunities afforded by technological innovations and advances in management techniques and communication systems.

This referendum was the first test for the new *Referendum Legislation*. When the review of this legislation is made in a few years' time, I plan to communicate changes we deem important and desirable for the electorate, for interested groups and for the management of the process.

Although the referendum is now part of history, many other challenges still face Elections Canada. If the referendum was a test of the plans, readiness and resources of this agency, electoral reforms and the upcoming electoral consultations represent a further and even more demanding test.

I await the future with anticipation.

### **SPECIAL ACKNOWLEDGEMENTS**

The 1992 federal referendum presented Elections Canada with many unique challenges. That we met those demands was due, in part, to the goodwill and cooperation extended to us by many individuals and organizations, a number of whom have been mentioned in this report. While it is not possible to list everyone who helped make the referendum process a success we value and appreciate the contribution of everyone who participated. There are, however, several whose contribution can be specifically acknowledged.

## **The field of electoral administration must constantly evolve**

I especially appreciated the advice and help of the many groups involved with preparations for voting by Aboriginal peoples: Ovide Mercredi, Grand Chief of the Assembly of First Nations; Rosemarie Kuptana, President of the Inuit Tapirisat of Canada; and Ron George, President of the Native Council of Canada. I would also like to thank Jean Fournier of the Royal Commission on Aboriginal Peoples, Adele Furrie of Statistics Canada, Florence Woolner and Jean Gordon of the former Department of the Secretary of State, and Dan Goodleaf of the Department of Indian Affairs and Northern Development, whose support greatly facilitated our services for Aboriginal peoples.

Organizations who work on behalf of persons with disabilities provided invaluable input to our preparations to make voting easier for persons with special needs. We have benefited greatly from consultations with the Canadian Paraplegic Association, the Canadian Association for the Deaf, the Canadian Association for Community Living, the Coalition of Provincial Organizations for the Handicapped, la Confédération des organismes provinciaux de personnes handicapées du Québec, the Canadian Disability Rights Council, the National Network for Mental Health, the Canadian Association for Learning Disabilities, the Canadian Deaf and Hard of Hearing Forum, the Canadian National Institute for the Blind and the Canadian Association for Independent Living Centres. We owe particular thanks to the Canadian National Institute for the Blind, the Canadian Association for the Deaf, and the Canadian Braille Authority. We also received noteworthy support from Max Yalden,

Chairman of the Canadian Human Rights Commission and members of his staff, and from the then Department of the Secretary of State.

In administering the *Special Voting Rules*, as adapted for the referendum, we received the usual excellent cooperation from officials in the departments of National Defence and Foreign Affairs (formerly External Affairs Canada). I would particularly like to note the work of the individuals from both those departments who served as coordinating officers, as well as the work of the special returning officers and chief assistants.

Our efforts to inform voters were aided immensely by the interest and cooperation of many groups, including the media. In particular, Canada Post provided timely help in delivering important information to voters to meet the strict deadlines imposed by the referendum timetable.

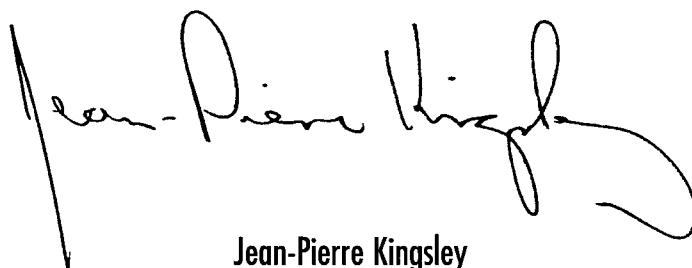
We also owe thanks to Margaret Bloodworth of the Privy Council Office, and to Denise Meloche and Susan Manion of the Department of Justice for their close collaboration. We are grateful to the CBC host broadcaster, the Cable Parliamentary Channel and local cable television companies for their cooperation in making the Parliamentary Channel available for Elections Canada programming. Special thanks are also due to the Public Information Office of the House of Commons for its support and to the Parliamentary pages for their assistance with our community liaison efforts during the referendum.

The former Department of Public Works was most helpful in obtaining much-needed office and warehouse space for our headquarters.

The design and printing of the referendum ballot provided Elections Canada with a noteworthy logistical challenge. In this we are most grateful for the considered advice of Professors Jane Jenson of Carleton University, Lawrence LeDuc of the University of Windsor, and Louis Massicotte of the University of Montreal. The expertise of the Canada Communication Group at the former Department of Supply and Services helped ensure that the ballots were printed and distributed on time.

I should also like to thank our colleagues in the private sector, many of whose firms have been mentioned in this report, and the consultants from the computer and management sectors with whom we established partnerships in purpose and who gave unstintingly of their time and energy.

At every electoral event, Elections Canada requires outside help to ensure smooth operations. In 1992, when we were faced with the unusual demands of the referendum, assistance was in all cases provided willingly and in full measure. Particular thanks are due to our provincial and territorial colleagues for their support. Each group and individual we called upon made a vital contribution to this unique exercise in Canadian democracy. The success of the referendum process owed much to their efforts.



Jean-Pierre Kingsley  
Chief Electoral Officer of Canada

# APPENDICES



## APPENDIX A COURT CHALLENGES

The court challenges of the referendum legislation were all initiated by individuals who, for various reasons, found themselves unable to vote.

In some of their decisions, the judges made it clear that they were reluctant to interfere in the conduct of elections. They did, however, remind us that they have jurisdiction to decide issues related to the *Canadian Charter of Rights and Freedoms* and that where they find a violation, they have the authority to order an appropriate remedy. It is significant that, in the case of *Clifford v. Canada (Attorney-General)* [Ontario Court (General Division); File 1851/92; Nov. 10, 1992], the court recommended that Parliament act to remedy the frailties of the *Canada Elections Act* before the next electoral event. This was accomplished in May 1993 with the adoption of Bill C-114.

### INMATES

As a result of judgements of the Court of Appeal for Ontario [*Sauvé*, (1988) 66 O.R.(3d) 481] and the Federal Court [*Belczowski*, (1992) 2 F.C. 440], the provision of the *Canada Elections Act* that denies inmates the right to vote at an election is declared invalid because it violates section 3 of the Charter. The Supreme Court of Canada [*Sauvé v. Canada*; File #22961; May 27, 1993] affirmed the decisions of the Federal Court of Appeal and the Ontario Court of Appeal on May 27, 1993, concerning the unconstitutionality of paragraph 51(e) of the Act. However, Bill C-114 has since been enacted and the decision of the Supreme Court does not apply to the provisions of the new legislation. Proceedings have since been initiated in the Federal Court of Appeal challenging

the constitutional validity of the current version of paragraph 51(e) of the *Canada Elections Act*.

During the referendum, the Government of Alberta took the view that sentenced inmates incarcerated in provincial correctional facilities could not vote in the referendum. One inmate from Alberta challenged this interpretation in court, citing the Charter guarantee. The court ruled that inmates of Alberta's provincial correctional institutions had the right to vote in the referendum. The decision came perilously close, but the court found that the Charter guarantee of the right of every Canadian citizen to vote can apply to a national referendum. [*Jenkins v. Solicitor General of Alberta et al.* (13 October 1992), Edmonton 9203-20551 (Alta Q.B.), Miller J.]

### CANADIANS ABROAD

A Canadian citizen (Clifford, mentioned above) temporarily working abroad during the referendum found himself unable to vote, as there were no provisions in the *Canada Elections Act* for absentee voting. The applicant had been enumerated and was therefore included on the list of electors.

The court found no Charter violation in this case. It found that, since the person's name was on the list of electors, he was not deprived of his right to vote even though the Act afforded him no practical opportunity to exercise that right. As part of its judgement, the court urged Parliament to correct this situation before the next election. This was done and the recent amendments to the *Canada Elections Act* now provide a special ballot voting mechanism for Canadians abroad.

## RESIDENCY REQUIREMENT

The fact that simultaneous referendums occurred in Quebec and the rest of Canada meant the processes were governed by two different statutes. Certain Canadian electors found themselves effectively disenfranchised, as they did not meet the residency requirements of either legislation.

The applicant in one such case had moved his residence from Ontario to Quebec within the six-month period prior to October 26. Having no residence in any province or territory in which the federal referendum was being held, the applicant was not qualified to vote under the provisions of the *Canada Elections Act*. At the same time, he was not qualified to vote in the Quebec provincial referendum because the provincial *Referendum Act* imposes a six-month residency rule. The applicant argued that his *de facto* disenfranchisement breached his Charter rights.

The majority of the Federal Court of Appeal held that the applicant, as a resident of Quebec, was subject to that province's referendum legislation and it

was solely that legislation which denied him the right to vote. On September 2, 1993, a majority of the Supreme Court of Canada (seven to two) confirmed the decision of the Federal Court of Appeal [*Haig v. Chief Electoral Officer*, Supreme Court of Canada; File #23223].

## BRITISH SUBJECTS


A British subject who was not a Canadian citizen sought an order in the nature of *mandamus* directing the returning officer of his electoral district to take the necessary steps to permit him to vote. The action was dismissed. An order of *mandamus* is an order of the court to compel a public official to act in accordance with his public statutory duty. In this case, the plaintiff sought an order which would compel the returning officer not to act in accordance with his clearly expressed statutory duty, but to act against it by enumerating and extending the vote to a non-Canadian citizen. [*Roach v. The Minister of State For Multiculturalism and Citizenship* (19 October 1992), Toronto T-460-91 (F.C.T.D.), Jerome J.]



**APPENDIX B  
ANNOTATED REFERENDUM CALENDAR**

# KEY REFERENDUM DATES

SUNDAY	MONDAY	TUESDAY
<p><b>43</b> September 13</p>	<p><b>42</b> September 14</p>	<p><b>41</b> September</p> <p>Referendum period This is followed</p>
<p><b>36</b> September 20</p> <p>Last day for issue of Writs by Chief Electoral Officer</p>	<p><b>35</b> September 21</p> <p>Elections Canada local riding offices open</p>	<p><b>34</b> September</p>
<p><b>29</b> September 27</p>	<p><b>28</b> September 28</p> <p>Last day for referendum committees to register to be eligible for free broadcasting time</p>	<p><b>27</b> September</p>
<p><b>22</b> October 4</p> <p>ENUMERATION</p>	<p><b>21</b> October 5</p> <p>ENUMERATION</p> <p>Last day to appoint revising agents and revising officers Last day for Arbitrator to notify committees of free broadcasting time allocated</p>	<p><b>20</b> October 6</p> <p>ENUMERATION</p> <p>Last day to notify networks about days and hours on which the committees wish to have free broadcasting time</p>
<p><b>15</b> October 11</p>	<p><b>14</b> October 12</p> <p>First day to send notice of enumeration cards Voting in RO's Office begins Voting under the Special Voting Rules begins</p>	<p><b>13</b> October 13</p>
<p><b>8</b> October 18</p> <p>Sittings for Revision (urban) of voters list</p>	<p><b>7</b> October 19</p> <p>Sittings for Revision (urban and rural) of voters list Voting in RO's offices reopens</p>	<p><b>6</b> October 20</p> <p>Sittings for Revision (objections) of voters list Last day for voting in RO's offices</p>
<p><b>1</b> October 25</p> <p>Advertising blackout period in effect from 12:01 a.m.</p>	<p><b>0</b> October 26</p> <p>REFERENDUM DAY</p> <p>Advertising blackout period in effect Last day to register as a referendum committee</p>	<p><b>October 27</b></p> <p>Review outstanding applications and advise committees of non-acceptance</p>



**ELECTIONS  
CANADA**

**CHIEF ELECTORAL  
OFFICER  
OTTAWA**

**WEDNESDAY****THURSDAY****FRIDAY****SATURDAY****September 16****39 September 17****38 September 18****37 September 19**

Text of referendum question is approved by Parliament.  
 Declaration of a referendum by the Governor in Council.

**September 23****32 September 24****31 September 25****30 September 26**

Last day to receive names of approximately 64,000 enumerators from political parties

**September 30****25 October 1****24 October 2****23 October 3**

ENUMERATION BEGINS  
 Last day to receive names of approximately 3,200 revising officers and revising agents from political parties

ENUMERATION  
 Midnight is deadline for Broadcasting Arbitrator to allocate free broadcasting time

**October 7**  
ENUMERATION ENDS**18 October 8**  
Beginning of free broadcasting time**17 October 9**  
Last day to receive names of approximately 75,000 DRU's and poll clerks from political parties**16 October 10****October 14**  
Last day to send notice of enumeration  
Chief Electoral Officer to calculate actual referendum committee expense limits and advise committees**11 October 15**  
Last day to receive written requests for lists of electors from registered referendum committees and political parties**10 October 16**  
Inmates Vote**9 October 17**  
Sittings for Revision (urban) of voters list  
Voting under the Special Voting Rules stops  
Voting in RO's office STOPS at 9:00 P.M.**October 21****4 October 22**  
ADVANCE POLL**3 October 23**  
ADVANCE POLL  
Last day to issue proxy certificates**2 October 24**  
End of free broadcasting time period

## APPENDIX C REFERENDUM COMMITTEES

**TABLE C.1**  
**Registered referendum committees**

Location of head office	Committee name	Leader	Registration date	Referendum position	Area of activity*
<b>Newfoundland</b>					
Gander	The Gander and Area YES Committee	Sandra Kelly	92.10.26	Yes	Local
St. George's	Burin—St. George's YES Committee	Benedict F. Alexander	92.10.26	Yes	Local
St. John's	Cable Atlantic YES Committee	Daniel E. Williams	92.10.22	Yes	Local
St. John's	Fishermen, Food and Allied Workers YES Committee	Richard Cashin	92.10.09	Yes	Provincial
St. John's	St. John's East YES Committee	Linda Inkpen	92.10.14	Yes	Provincial
St. John's	St. John's West Canada Committee	Charles White	92.09.24	Yes	Local
St. John's	The Newfoundland and Labrador Canada Committee	Shannie Duff	92.09.23	Yes	Provincial
<b>Prince Edward Island</b>					
Cardigan	Cardigan Canada YES Committee	Allen J. MacPhee	92.10.15	Yes	Local
Charlottetown	Hillsborough YES Canada Committee	Brian Gillis	92.10.15	Yes	Local
Charlottetown	Prince Edward Island YES Canada Committee	M. Lynn Murray	92.09.23	Yes	Provincial
Hunter River	Malpeque YES Canada Committee	Doreen B. MacInnis	92.10.15	Yes	Local
Summerside	Egmont YES Canada Committee	Joe McGuire	92.09.29	Yes	Local
<b>Nova Scotia</b>					
Amherst	Canada Committee in Cumberland—Colchester	Beryl Ann MacDonald	92.10.02	Yes	Local
Antigonish	Canada Committee YES Antigonish	Peggy Gallant	92.10.26	Yes	Provincial
Bridgewater	South Shore Canada Committee	Martin A. Eisenhauer	92.10.08	Yes	Local
Dartmouth	YES Canada Dartmouth Committee	Allan Moore	92.10.01	Yes	Local
Glace Bay	Cape Breton—East Richmond YES Committee	Greg O'Keefe	92.10.16	Yes	Local
Halifax	Canada Committee in Halifax	Barbara Walker	92.10.09	Yes	Local
Halifax	Canada Committee in Nova Scotia	Robbie Shaw	92.10.01	Yes	Provincial
Halifax	Canada Committee in Nova Scotia — Halifax West	Edmund Sullivan	92.10.19	Yes	Local

\* A committee's area of activity is considered national when that committee campaigned in all 220 federal electoral districts for which a referendum writ was issued.

A committee's area of activity is considered provincial when that committee campaigned in each federal electoral district in a given province.

A committee's area of activity is considered local when that committee campaigned in one or more federal electoral districts, within a given province.

Only one committee (the Antarctic Institute of Canada) campaigned locally in two different provinces.

THE 1992 FEDERAL REFERENDUM

TABLE C.1 (cont'd)  
Registered referendum committees

Location of head office	Committee name	Leader	Registration date	Referendum position	Area of activity*
<b>Nova Scotia (cont'd)</b>					
Halifax	Dalhousie Law School Referendum Committee	Ken Greer	92.10.15	Yes	Local
Halifax County	Central Nova NO Committee	Spencer Rob Baker	92.10.12	No	Local
New Glasgow	Canada Committee in Central Nova	Ellen S. McLean	92.10.15	Yes	Local
Port Hawkesbury	Highlands-Richmond YES Committee	Maureen MacKenzie	92.10.09	Yes	Local
Scotsburn	Scotsburn Dairy Committee	James MacConnell	92.10.22	Yes	Provincial
Sydney	Canada Committee in Cape Breton-The Sydneys	Joyce MacDougall	92.10.07	Yes	Local
Windsor	Canada Committee in Annapolis Valley-Hants	Charles Joseph O'Brien	92.10.20	Yes	Local
Yarmouth	South West Nova YES Committee	Shirley I. Bradshaw	92.10.13	Yes	Local
<b>New Brunswick</b>					
Campbellton	Restigouche-Chaleur Committee for Canada	Alida Léveill�	92.10.15	Yes	Local
Edmundston	Association PC Madawaska-Victoria pour le OUI	Larry L. Fyfe	92.10.26	Yes	Local
Edmundston	Comit� Unit� Jeunesse	Jean-Paul Soucy	92.10.26	Yes	Local
Edmundston	Madawaska-Victoria Pro Canada	John Lang	92.10.15	Yes	Local
Fredericton	Fredericton-York-Sunbury Canada YES Committee	J.W. Bud Bird	92.10.07	Yes	Local
Fredericton	NO Campaign Referendum 92, New Brunswick	Danny Cameron	92.09.24	No	Provincial
Fredericton	New Brunswick Aboriginal Peoples Council	Frank Palmater	92.10.26	Yes	Provincial
Fredericton	New Brunswick Committee for Canada	Fernand Landry	92.09.23	Yes	Provincial
Fredericton	New Brunswick YES for Canada	Arthur T. Doyle	92.10.13	Yes	Provincial
Moncton	Greater Moncton YES Committee	Doug MacDonald	92.10.08	Yes	Local
Saint John	The Saint John YES for Canada Committee	David Brown	92.10.14	Yes	Local
Woodstock	Carleton-Charlotte Business Backs Canada Committee	Edward McLean	92.10.14	Yes	Local

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TABLE C.1 (cont'd)  
Registered referendum committees

Location of head office	Committee name	Leader	Registration date	Referendum position	Area of activity*
<b>Quebec**</b>					
Montreal	Royal Bank of Canada	Allan R. Taylor	92.09.25	Yes	National
Montreal	Canadian Jewish Congress National Unity Referendum Committee	Irving Abella	92.09.26	Yes	National
Montreal	The Council for Canadian Unity	J. René Lemaire	92.09.30	Yes	National
<b>Ontario</b>					
Ajax	The People's YES Committee for Constitutional Renewal	Henry Zaczak	92.09.24	Yes	Local
Barrie	Simcoe Centre YES Committee	Thomas R. Ambeau	92.10.06	Yes	Local
Belleville	Prince Edward—Hastings YES Campaign Committee	Robin Jeffrey	92.10.22	Yes	Local
Brampton	Brampton YES Committee	Dianne H. Sutter	92.10.19	Yes	Local
Burlington	The Burlington YES for Canada Committee	John McGibbon	92.10.07	Yes	Local
Cambridge	Cambridge YES Referendum Committee	Twyla E. Hendry	92.10.15	Yes	Local
Carleton Place	Canadians Together Committee — Lanark—Carleton	Melba Barker	92.09.29	Yes	Local
Cobourg	Northumberland Riding YES Committee	Jack Gibbons	92.09.29	Yes	Provincial
Cornwall	Stormont—Dundas Canada Committee	Katherine Burke	92.10.15	Yes	Local
Downsview	M3 YES Committee	Bob Kaplan	92.10.14	Yes	Local
Dryden	Kenora—Rainy River Canada Committee	Robert D. Nault	92.10.08	Yes	Local
Elliot Lake	The Algoma YES Canada Committee	Joseph L. Sidock	92.10.05	Yes	Local
Etobicoke	Etobicoke YES Committee	John Laurence Seychuk	92.10.09	Yes	Local
Fergus	Wellington—Grey—Dufferin—Simcoe YES Canada Committee	L. Patrick Rafferty	92.10.01	Yes	Local
Fort Erie	Yes Committee Erie	L. Cameron Williams	92.10.14	Yes	Local
Georgetown	Halton—Peel YES to Canada Committee	Kenneth Robert Malcolmson	92.10.15	Yes	Local
Gloucester	Carleton—Gloucester YES Committee	Eugène Bellemare	92.10.06	Yes	Local
Goderich	Huron—Bruce YES Committee	Mark Sully	92.10.14	Yes	Local
Grimsby	YES Committee — Lincoln	W.L. (Bill) Sears	92.10.15	Yes	Local

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\*\* Refers only to those committees registered under the federal referendum legislation and whose head office was in Quebec.

THE 1992 FEDERAL REFERENDUM

TABLE C.1 (cont'd)  
Registered referendum committees

Location of head office	Committee name	Leader	Registration date	Referendum position	Area of activity*
<b>Ontario (cont'd)</b>					
Guelph	Guelph—Wellington Vote YES Committee	John Counsell	92.10.05	Yes	Local
Haliburton	Haliburton County YES to Canada Committee	Harry R. Davis	92.09.30	Yes	Local
Hamilton	Canada Committee — Hamilton East	Sheila Copps	92.10.05	Yes	Local
Hamilton	Hamilton Mountain Canada Referendum Committee	Keith L. McIntyre	92.10.21	Yes	Local
Hamilton	McMaster Alliance for Canada — Hamilton West	Emechete Onuoha	92.10.05	Yes	Local
Huntsville	Parry Sound—Muskoka YES Committee	Curry Humphreys	92.10.13	Yes	Local
Kapuskasing	Kapuskasing and Area YES Committee	Muriel J. Parent	92.10.15	Yes	Local
Kingston	Kingston and the Islands Canada Committee	Nikita James Nanos	92.10.05	Yes	Local
Kingston	Peter Milliken YES Committee	Peter Milliken	92.10.14	Yes	Local
Lasalle	Essex—Windsor Canada Committee	James MacPherson	92.10.14	Yes	Local
Lindsay	Victoria—Haliburton YES Committee	Lorne E. Chester	92.09.28	Yes	Local
London	Together for Canada — London	John H. McNair	92.09.29	Yes	Local
Markham	YES Committee for A United Canada (Markham—Whitchurch-Stouffville)	Michael Larkin	92.09.28	Yes	Local
Mississauga	Mississauga West NO Committee	Sadasivam Sitsabaiesan	92.10.25	No	Local
Mississauga	Mississauga YES Canada Committee	Andrew Timothy Peterson	92.09.29	Yes	Local
Mississauga	Spar Aerospace Limited YES Committee	J. Cliff Mackay	92.10.13	Yes	National
Nepean	Nepean YES Referendum Committee	Beryl Gaffney	92.09.25	Yes	Local
New Liskeard	YES Timiskaming	Robert McChesney	92.10.09	Yes	Local
Newmarket	The York—Simcoe YES Committee	Thomas R.P. Taylor	92.10.01	Yes	Local
Niagara Falls	Know Committee of Niagara	Barry J. Fitzgerald	92.10.05	No	Local
North Bay	Nipissing YES Committee	Paul Richmond	92.10.07	Yes	Local
Oakville	Oakville—Milton Canada Committee	Grant L. Gooding	92.09.28	Yes	Local
Oakville	Ron Joyce Canada Committee	Ronald V. Joyce	92.10.20	Yes	National
Orillia	Simcoe North YES Committee	Doug Little	92.09.22	Yes	Local
Oshawa	Durham YES Committee for Canada	Irwin Allan Hamilton	92.10.15	Yes	Local
Oshawa	General Motors of Canada Limited	George A. Peapples	92.10.16	Yes	National
Oshawa	Oshawa YES Committee	Alastair Simeson	92.10.05	Yes	Local

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<b>Ontario (cont'd)</b>					
Ottawa	Comité de référendum pancanadien Coalition Arc-en-ciel	Marc Brunel Belhomme	92.09.17	Yes	Local
Ottawa	YES Committee Ottawa-Vanier	Jean-Robert Gauthier	92.09.30	Yes	Local
Ottawa	Aboriginal Women's NO Committee	Gail Stacey-Moore	92.09.22	No	National
Ottawa	Aerospace Industries Association of Canada	William C. Weston	92.10.20	Yes	National
Ottawa	Canada Committee	Harold Joseph Near	92.09.17	Yes	National
Ottawa	Canada Employment and Immigration Union NO Committee	Cres Pascucci	92.09.30	No	National
Ottawa	Canada for all Canadians	Deborah Coyne	92.09.18	No	National
Ottawa	Comité du OUI de la Fédération des communautés francophones et acadienne du Canada	Raymond Bisson	92.09.26	Yes	National
Ottawa	Committee to Vote NO on October 26	Hardial S. Bains	92.09.17	No	National
Ottawa	For Canada	Julia Brady	92.10.15	Yes	National
Ottawa	Inuit Committee on the Referendum	Rosemarie Kuptana	92.09.28	Yes	National
Ottawa	Metis Nation YES Canada Committee	W. Yvon Dumont	92.09.29	Yes	National
Ottawa	Minorities-Say-NO Committee	Diane Kilby	92.10.22	No	Local
Ottawa	NO Committee of Ottawa West	Alex Cullen	92.09.29	No	Local
Ottawa	NO-To-Constitutionalized-Racism Committee	Hoan Le	92.10.22	No	Local
Ottawa	New Democratic Party of Canada YES Committee	Nancy Riche	92.09.25	Yes	National
Ottawa	Ottawa Centre YES Committee	Elaine Vacher	92.10.19	Yes	Local
Ottawa	Ottawa South YES Committee	Reuven P. Bulka	92.09.26	Yes	Local
Ottawa	Ottawa West YES Committee	Edwin C. Aquilina	92.10.21	Yes	Local
Ottawa	Ottawa-Carleton YES Committee	Peter D. Clark	92.09.30	Yes	Local
Ottawa	Progressive Conservative Canada Committee	Brian Mulroney	92.10.02	Yes	National
Ottawa	The BCNI YES Committee	Thomas P. d'Aquino	92.09.29	Yes	National
Ottawa	The Canadian Chamber of Commerce YES Committee	Timothy E. Reid	92.10.06	Yes	National

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TABLE C.1 (cont'd)  
Registered referendum committees

Location of head office	Committee name	Leader	Registration date	Referendum position	Area of activity*
<b>Ontario (cont'd)</b>					
Ottawa	The Canadian Labour Congress YES Committee	Robert White	92.09.28	Yes	National
Ottawa	The Green Party of Canada Referendum Committee	Frank de Jong	92.09.29	Yes	National
Ottawa	The Liberal Party of Canada — Canada Committee	Jean Chrétien	92.09.29	Yes	National
Ottawa	The Mary Collins Committee for YES	David Bassett	92.10.09	Yes	Local
Ottawa	Unity in Diversity Committee	Dmytro Cipywnyk	92.09.29	Yes	National
Owen Sound	Bruce—Grey YES Committee	John Kirby	92.10.01	Yes	Local
Paris	Brant YES Committee	Donna Rickard	92.10.13	Yes	Local
Pembroke	Renfrew—Nipissing—Pembroke YES Committee	Andrew Nollestyn	92.09.30	Yes	Local
Peterborough	Peterborough District YES Committee	Isadore Black	92.10.01	Yes	Local
Richmond Hill	The Majority of Canadians	Robert C. Ede	92.09.30	No	National
Richmond Hill	York North YES for Canada Committee	Arnold Thomson	92.10.07	Yes	Local
Rockland	Comité Canada Committee				
	Glengarry—Prescott—Russell	André Tessier	92.09.28	Yes	Local
Sarnia	Sarnia—Lambton YES Committee	Lucy Duncan	92.10.05	Yes	Local
Sault Ste. Marie	St. Mary's Rapids Committee	Laurie Aceti	92.10.09	Yes	Local
Scarborough	Scarborough YES Committee	Carol Cayenne	92.10.13	Yes	Local
Spencerville	Can-Ad	Michael John Charette	92.09.30	Yes	National
St. Thomas	Elgin—Norfolk YES Committee	Jack Ferriman	92.10.14	Yes	Local
Thunder Bay	Thunder Bay—Nipigon YES Committee	Taras Kozyra	92.09.30	Yes	Local
Thunder Bay	YES for Canada! The Thunder Bay Committee	Kenneth H. Moffatt	92.09.30	Yes	Local
Toronto	APEC Referendum Committee	Ronald P. Leitch	92.09.28	No	National
Toronto	Ad Hoc Committee of Canadian Women and the Constitution	Romily Perry	92.09.28	No	National
Toronto	Broadview—Greenwood YES Committee	John Papadakis	92.10.14	Yes	Local
Toronto	Commerce YES Committee	David K. McGown	92.10.26	Yes	National
Toronto	Davenport YES Committee	Luis Branco	92.10.20	Yes	Local
Toronto	Don Valley East Residents YES Committee	Michael Prue	92.10.14	Yes	Local

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TABLE C.1 (cont'd)  
Registered referendum committees

Location of head office	Committee name	Leader	Registration date	Referendum position	Area of activity*
<b>Ontario (cont'd)</b>					
Toronto	Don Valley West YES Committee	Murod Velshi	92.10.15	Yes	Local
Toronto	Greek-Canadians of Greater Toronto YES Committee	Terry Dellaportas	92.10.26	Yes	Local
Toronto	Maclean Hunter Limited	Ronald W. Osborne	92.09.28	Yes	National
Toronto	Mid-Town Organizes To Vote NO (M.O.V.N.)	Hans Modlich	92.10.22	No	Local
Toronto	NAC says NO Committee	Judy Rebick	92.10.15	No	National
Toronto	Ontario New Democratic Party YES Committee	Julie Davis	92.10.02	Yes	Provincial
Toronto	Rosedale YES Committee	John S.M. Turner	92.09.30	Yes	Local
Toronto	St. Paul's YES Committee	Andrea Alexander	92.10.07	Yes	Local
Toronto	The Ontario Chamber of Commerce YES Committee	Stewart Verge	92.10.15	Yes	Provincial
Toronto	The Trinity—Spadina YES Committee	Tomas Ferreira	92.09.29	Yes	Local
Toronto	YES Ontario Canada Committee	Gordon Cressy	92.09.28	Yes	Provincial
Waterford	Haldimand—Norfolk YES Committee	Edward C. McCarthy	92.10.09	Yes	Local
Waterloo	K-W Woolwich YES Committee	R. Blake Hull	92.09.29	Yes	Local
Welland	Welland—St. Catharines—Thorold YES Committee	Melvin L. Swart	92.10.13	Yes	Local
Willowdale	Don Valley North YES Committee	Javed Hashmi	92.10.01	Yes	Local
Willowdale	Willowdale YES Committee	Peter Campbell	92.10.13	Yes	Local
Windsor	Essex—Windsor Liberal Association YES Committee	Richard L. Pollock	92.09.30	Yes	Local
Windsor	Windsor Area YES Committee	Michael Hurst	92.10.07	Yes	Local
Woodstock	Oxford YES Canada	George Czerny	92.09.28	Yes	Local
<b>Manitoba</b>					
Brandon	The Brandon—Souris YES Committee	Ed Mazer	92.10.26	Yes	Local
Thompson	Thompson Canada YES Committee	Juanita Smith	92.10.15	Yes	Local
Winnipeg	Manitoba Canada Committee	Pearl McGonigal	92.09.24	Yes	Provincial
Winnipeg	St. Boniface Committee for the YES	Jean-Paul Boily	92.09.30	Yes	Local
Winnipeg	Winnipeg South YES Committee	Els Kavanagh	92.10.21	Yes	Local
Winnipeg	Winnipeg—Transcona Canada Committee	Glenn Nicholls	92.10.15	Yes	Local

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THE 1992 FEDERAL REFERENDUM

TABLE C.1 (cont'd)  
Registered referendum committees

Location of head office	Committee name	Leader	Registration date	Referendum position	Area of activity*
<b>Saskatchewan</b>					
Christopher Lake	Prince Albert—Churchill River NO Committee	John Paul Meagher	92.09.28	No	Provincial
Estevan	YES Committee of Souris—Moose Mountain	Anthony Austin Gerein	92.10.05	Yes	Local
North Battleford	Referendum Education Committee	Herbert O. Sparrow	92.09.29	No	National
Prince Albert	Prince Albert—Churchill River YES Committee	Jean Moore	92.09.30	Yes	Local
Regina	Saskatchewan Chamber of Commerce Committee for YES	Delmar A. Robertson	92.10.12	Yes	Provincial
Regina	YES Saskatchewan Canada Committee	Dan de Vlieger	92.10.14	Yes	Provincial
Rosetown	YES to Our Future	Lloyd Hock	92.10.19	Yes	Local
Saskatoon	Citizens Concerned about Free Trade — NO to Mulroney's Constitution	Marjaleena Repo	92.09.30	No	National
Saskatoon	Saskatoon—Dundurn YES Committee	Sheila Whelan	92.09.28	Yes	Local
Saskatoon	Saskatoon—Humboldt Canada Committee	Dan Ish	92.09.30	Yes	Local
Saskatoon	YES Saskatoon—Clark's Crossing	John Brockelbank	92.09.27	Yes	Local
Swift Current	Swift Current—Maple Creek—Assiniboia YES Committee	Brian Ward	92.10.23	Yes	Local
Yorkton	NO Yorkton—Melville Constituency Referendum Committee	Garry W. Breitkrevz	92.10.21	No	Local
Yorkton	Yorkton—Melville YES Committee	Colleen Bailey	92.10.15	Yes	Local
<b>Alberta</b>					
Calgary	Al Johnson Committee	Alan Johnson	92.10.19	Yes	Local
Calgary	Calgary Centre YES for Canada Committee	Herbert Gordon Pearce	92.10.22	Yes	Local
Calgary	Calgary North YES Committee	Finley Alexander Campbell	92.10.05	Yes	Local
Calgary	Calgary Northeast YES Committee	David Aftergood	92.10.15	Yes	Local
Calgary	Calgary Southeast YES Committee	John S. McKay	92.10.01	Yes	Local
Calgary	Calgary Southwest YES Committee	Diane Jones Konihowski	92.10.05	Yes	Local
Calgary	Calgary West YES Committee	Kathleen Mahoney	92.10.15	Yes	Local

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TABLE C.1 (cont'd)  
Registered referendum committees

Location of head office	Committee name	Leader	Registration date	Referendum position	Area of activity*
<b>Alberta (cont'd)</b>					
Calgary	Ironhorse Committee	Bob Blair	92.09.30	Yes	Provincial
Calgary	New Canada Referendum Committee	Preston Manning	92.09.17	No	National
Calgary	Reform Party of Canada Referendum Committee	Preston Manning	92.09.17	No	National
Calgary	The Alberta Canada Committee	C. Kent Jespersen	92.09.21	Yes	Provincial
Calgary	Together for Canada — Calgary Association	Brian Felesky	92.09.23	Yes	Local
Calgary	Vote NO People's Committee	Alex Kindy	92.09.28	No	National
Edmonton	Antarctic Institute of Canada	Austin A. Mardon	92.10.01	Yes	Local
Edmonton	Association canadienne-française de l'Alberta	Denis Tardif	92.09.28	Yes	National
Edmonton	Canadians All!	James Dmytro Jacuta	92.09.25	No	National
Edmonton	Edmonton East YES Committee	Cindy Verbonac	92.10.15	Yes	Local
Edmonton	Edmonton North YES Committee	Darcy Tkachuk	92.10.19	Yes	Local
Edmonton	Edmonton Northwest YES Committee	Les Young	92.10.14	Yes	Local
Edmonton	Edmonton Southwest YES Committee	Joseph H. Shocter	92.10.07	Yes	Local
Edmonton	Edmonton—Strathcona YES Committee	Saleem Qureshi	92.10.21	Yes	Local
Edmonton	Metis Nation of Alberta YES Committee	Larry Desmeules	92.09.29	Yes	Provincial
Edmonton	Native Council of Canada (Alberta) YES Committee	Doris Ronnenberg	92.10.01	Yes	Provincial
High River	MacLeod YES Committee	Harold Millican	92.09.28	Yes	Local
Lethbridge	Lethbridge YES Committee	June Hepple	92.10.25	Yes	Local
Medicine Hat	Medicine Hat Riding Canada YES Committee	George Penrose	92.10.15	Yes	Local
Millarville	Can It Committee	Kenneth Robert Johnston	92.09.30	No	Provincial
Red Deer	Red Deer YES Committee	Clifford Soper	92.10.21	Yes	Local
Sherwood Park	Elk Island YES Committee	Randy Fischer	92.10.15	Yes	Local
St. Albert	St. Albert Federal Constituency YES Committee	Donald Wilson Jamison	92.10.15	Yes	Local
Wainwright	Vegreville Federal YES Committee	Adam C. Coleman	92.10.15	Yes	Local

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THE 1992 FEDERAL REFERENDUM

TABLE C.1 (cont'd)

Registered referendum committees

Location of head office	Committee name	Leader	Registration date	Referendum position	Area of activity
<b>British Columbia</b>					
Aldergrove	Fraser Valley West YES Committee	David L. Silver	92.09.30	Yes	Local
Burnaby	Chinese Canadian National Committee for Canada	Victor Yukmun Wong	92.10.01	Yes	National
Burnaby	New Democratic Party of British Columbia YES Referendum Committee	Ian Aikenhead	92.09.28	Yes	Provincial
Castlegar	West Kootenay YES for Canada Referendum Committee	Bruce J. Ketchum	92.10.09	Yes	Local
Chilliwack	Fraser Valley East YES Committee	Vera Nickel	92.10.14	Yes	Local
Courtenay	Comox—Alberni NDP YES Committee	Leta Luchsinger	92.10.07	Yes	Local
Kelowna	Okanagan Centre YES Committee	Ken J. Sarnecki	92.09.28	Yes	Local
Nanaimo	Nanaimo—Cowichan Canada YES Committee	Dave Stupich	92.10.14	Yes	Local
New Westminster	Loyal Canadians Voting NO	Judith Georgetti	92.10.05	No	Provincial
New Westminster	New Westminster—Burnaby YES Committee	Bob Buzza	92.10.15	Yes	Local
North Vancouver	North Shore YES for Canada Committee	Marilyn Baker	92.09.29	Yes	Local
Prince George	Canada YES Committee of Prince George	Anne Jeffrey	92.09.30	Yes	Local
Prince Rupert	Committee for NO on Referendum in Prince Rupert	Lanette Vawter	92.09.30	No	Local
Richmond	Richmond YES for Canada	Olive Bassett	92.09.24	Yes	Local
Surrey	Ad-Hoc Committee of Canadian Tax Payers	Eric Duncan McIntosh	92.09.28	No	National
Surrey	Surrey—White Rock—Langley YES Committee	Fred Diehl	92.10.26	Yes	Local
Surrey	Vote NO — Save Canada Committee	Robert Adams	92.10.21	No	National
Van Anda	Texada NO Committee	Phillis C. Soles	92.10.25	No	Local
Vancouver	A Group of Independent Women	Sarah McAlpine	92.10.26	Yes	Local
Vancouver	B.C. YEA (YES Encouragement by the Arts) Referendum Committee	Miriam Bennett	92.09.29	Yes	Provincial
Vancouver	British Columbia — Canada Committee Foundation	Jerry Lampert	92.09.24	Yes	Provincial
Vancouver	Conscientious Objectors of B.C.	Jud Cyllorn	92.09.29	No	National

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TABLE C.1 (cont'd)  
Registered referendum committees

Location of head office	Committee name	Leader	Registration date	Referendum position	Area of activity*
<b>British Columbia (cont'd)</b>					
Vancouver	Friends of Canada	Gerry Podersky-Cannon	92.09.29	Yes	Provincial
Vancouver	Les francophones de la Colombie-Britannique pour le OUI	Marie Bourgeois	92.09.29	Yes	Provincial
Vancouver	Loyal United Canadians	Lawrence Iverson	92.10.01	No	Provincial
Vancouver	Stand Up for Canada	John Stewart	92.10.02	No	National
Vancouver	The British Columbia Chamber of Commerce — YES Committee	Ian C. MacLeod	92.09.29	Yes	Provincial
Vancouver	The Friends of British Columbia Committee	Stafford Bradley Armstrong	92.09.28	No	Provincial
Vancouver	Vancouver Greens	Ira Zbarsky	92.10.01	No	Local
Vancouver	Vancouver YES Committee	W.W. Lyall Knott	92.10.26	Yes	Local
Victoria	Victoria YES Committee	Murray Rankin	92.09.30	Yes	Local
Victoria	Vote NO for Canada	Roger J. Rocan	92.09.27	No	Provincial
Williams Lake	YES Canada Committee Williams Lake and District	Indra Grainger	92.10.20	Yes	Local
<b>Yukon</b>					
Whitehorse	YES Yukon Canada Committee	Bill Weigand	92.10.09	Yes	Provincial

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## APPENDIX D

# REPORT OF THE BROADCASTING ARBITRATOR

### INTRODUCTION

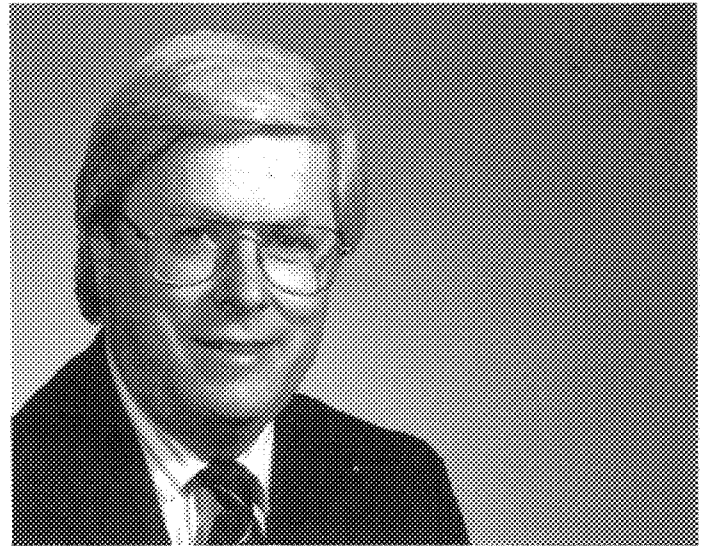
This report sets out my comments on the 1992 federal referendum and in particular how the provisions of the *Referendum Act* relating to free broadcast time worked out in practice. In addition, I have added some comments on other aspects of the referendum that affected the broadcast media.

Under the *Referendum Act*, every qualifying AM, FM and television network in Canada was required to make available up to three hours of free time to registered referendum committees. My role was to determine, taking into account the factors set forth in the Act, which committees would be awarded such free time, to establish guidelines for such use, and to mediate disputes between committees and the networks as to the placement of the time.

### THE APPLICATION PROCESS

#### Application Form

In order to assist prospective applicants for free time, I assisted Elections Canada in developing an application form for referendum committees interested in being awarded free time. The form constituted Part II of the application of such committees to be registered under the Act. In the form, some 24 questions were asked of an applicant, ranging from the nature, structure and size of the committee (or its sponsoring organization), what interests it represented, how it was affected by the question and how its interests were distinct from those of other organizations, and other questions. The form was completed and printed in August of 1992.



The Broadcasting Arbitrator, Peter S. Grant

#### Guidelines

Under the *Referendum Act*, I was required to issue "guidelines" to all networks affected by the Act within five days of the issuance of the writs of referendum. In order to facilitate the preparation of applications for free time, and to provide as much advance notice as possible, I issued my guidelines on September 17, 1992, in the form of a brochure in question and answer form. The brochure was distributed widely by Elections Canada to referendum committees and the media.

#### Networks Obligated to Provide Free Time

Based on information provided by the CRTC, I had included in the application form a list of the networks licensed under the *Broadcasting Act* that would be obligated to provide free time to referendum committees. The original list included some 17 networks. However, when the federal referendum was finally



announced, the writs only extended to provinces and territories outside the province of Quebec. With this factor in mind, I concluded that the free-time obligation for referendum committees organized under the federal *Referendum Act* would apply only to networks with operations outside Quebec. Seven of the seventeen networks had stations only in Quebec. I therefore included in my guidelines the clarification that only the remaining 10 broadcast networks — those with operations outside Quebec — were obliged to provide free time for the federal referendum being held on October 26, 1992. The networks are listed in Table D.1.

### Deadline for Requests

By virtue of subsection 22(2) of the Act, applications for free time were required to be filed on or before September 28, 1992, together with a deposit of \$500. In the end, some 61 committees sent in completed applications together with the necessary deposit and were able to be considered. Of the 61 committees, 39 supported the "YES" side of the question, while 22 supported the "NO" side.

### MAKING THE ALLOCATION DECISION

Under the Act, I was required to reach my decision by October 3 and to notify the parties by October 5, 1992. I reviewed each of the applications carefully as they came in; however, most of them arrived only hours before the deadline. In addition to my own consideration, Elections Canada also had to process the applications for the purposes of registering the committees. In the end, I was able to issue my decision to all the committees and the networks on October 2, 1992. See Table D.2 for a complete listing of the allocation to each referendum committee.

As required by subsection 22(1) of the Act, the 180 minutes of available time on each network were

TABLE D.1

Broadcast networks subject to free-time obligation

Network	Medium	Language
Canadian Broadcasting Corporation	AM Radio	English
Canadian Broadcasting Corporation	FM Radio	English
Canadian Broadcasting Corporation	Television	English
Société Radio-Canada	AM Radio	French
Société Radio-Canada	FM Radio	French
Société Radio-Canada	Television	French
CTV Television Network Ltd.	Television	English
Television Northern Canada Inc.	Television	Inuktitut <i>et al.</i> *
Wawatay Native Communications Society	FM Radio	Cree, Oji-Cree
Wawatay Native Communications Society	Television	Cree, Oji-Cree

\* Television Northern Canada broadcasts in Inuktitut, Inuvialuktun, Dene, English and French.

Source: Broadcasting Arbitrator, Guidelines, September 17, 1992.

allocated equally to committees supporting the question and to committees opposing it. Subsection 22(3) of the Act sets out the following considerations, which I also took into account:

22(3) The Broadcasting Arbitrator shall allocate broadcasting time in a manner that is fair to all the registered referendum committees entitled to be considered for the allocation and that is not contrary to the public interest, and, in considering the allocation of broadcasting time to a particular registered referendum committee, the Broadcasting Arbitrator shall consider whether

- (a) the committee represents a significant regional or national interest;
- (b) allocation to the committee would be equitable having regard to the different views





**TABLE D.2 (cont'd)**  
**Free broadcasting time allocated to registered referendum committees**  
 (minutes)

	Networks											
	Television						Radio					
	CTV	CBC	SRC	TCN	WAWATAY FM	WAWATAY AM	CBC FM	CBC AM	SRC FM	SRC AM	SRC FM	
<b>YES committees</b>												
B. C. YEA (YES Encouragement by the Arts) Referendum Committee							1.0	1.0				1.0
The Trinity—Spadina YES Committee							1.0	1.0				1.0
Rosedale YES Committee							1.0	1.0				1.0
YES for Canada! The Thunder Bay Committee							1.0	1.0				1.0
Thunder Bay—Nipigon YES Committee							1.0	1.0				1.0
Mississauga YES Canada Committee							1.0	1.0				1.0
Saskatoon—Dundurn YES Committee							1.0	1.0				1.0
Saskatoon—Humboldt Canada Committee							1.0	1.0				1.0
YES Saskatchewan—Clark's Crossing							1.0	1.0				1.0
Haliburton County YES to Canada Committee							1.0	1.0				1.0
Victoria—Haliburton YES Committee							1.0	1.0				1.0
Canada YES Committee of Prince George							1.0	2.0				1.0
Okanagan Centre YES Committee							1.0	1.0				1.0
Renfrew—Nipissing—Pembroke YES Committee							2.0	1.0				1.0
Prince Albert—Churchill River YES Committee							1.0	1.0				1.0
Friends of Canada							1.0	1.0				1.0
Can-Ad							1.0	1.0				1.0
Canadians Together Committee — Lanark—Carleton							1.0	1.0				1.0
Fraser Valley West YES Committee							1.0	1.0				1.0
Victoria YES Committee							1.0	1.0				1.0
<b>Total</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>	<b>90.0</b>



- expressed on the referendum question;  
and  
(c) the referendum announcements and other programming proposed by the committee would be directly related to the referendum question.

The decision explains the basis of my allocation. In brief, I awarded at least two minutes of free time to each of the committees that applied for time. However, time on the national television networks was generally reserved to committees with a national or regional organization. Committees organized purely at a local riding level were given free time on the four national radio networks operated by the CBC/SRC. I tried to ensure that a real diversity of views — both from a geographical perspective and in relation to the various issues raised by the Charlottetown Accord — could be presented in free time.

A sense of how the time was distributed among the committees may be garnered from Table D.3, which shows how many committees received various amounts of free time on the national television and radio networks.

### SCHEDULING THE FREE TIME

Once my decision was rendered, the committees were required to notify the respective networks by October 6 of the particular days and hours when they wanted their allocated time to be aired. To assist the committees in this exercise, I attached to my decision a short statement from each of the networks setting out various scheduling considerations in this regard.

As noted above, my duties included the task of arbitrating any disputes that might arise between the networks and the committees on the actual selection of time periods and the use of time. While a number of committees did contact me on this issue, it was possible to negotiate acceptable arrangements for each of them without it being necessary for me to

**TABLE D.3**  
Distribution of free time among  
referendum committees

Number of minutes allocated* (out of 90-minute maximum per side)	YES committees	NO committees
20–30 minutes	1	1
11–19 minutes	2	1
6–10 minutes	0	3
3–5 minutes	6	8
30 sec.—2 minutes	10	2
Local committee (radio time only)	20	7
<b>Total</b>	<b>39</b>	<b>22</b>

\* Number of minutes allocated refers to minutes on national television networks, i.e., CBC, Société Radio-Canada, or CTV. One of the three YES committees shown under "11–19 minutes" sought only and was awarded time on the Société Radio-Canada French language network. Local committees were all awarded two to four minutes on the national CBC and/or Société Radio-Canada radio networks. The above data is not an accurate depiction of the allocation on the native language networks, where only a few of the committees sought and were granted free time.

Source: Broadcasting Arbitrator, Allocation Decision, October 2, 1992.

issue a binding decision. In that regard, I am grateful to both the networks and the committees for the flexibility that they brought to the exercise.

If there was a single problem that created difficulties, it was the short time frame in which it was necessary for the committees to prepare and produce the free-time messages. Many of the committees had been created expressly for the referendum and even those that had an existing sponsoring organization had no experience in preparing or running radio or television announcements. Inevitably, many committees were late in preparing their messages, and therefore sought to reschedule them in the last few days of the 16-day period within which the messages could run. The networks made considerable

efforts to accommodate these requests but there were a number of cases where this could not be done.

Recognizing this difficulty, both CTV and CBC recommended to me that in any future referendum the time period for scheduling, producing and distributing the free-time announcements to the networks be extended from two days to seven days following the announcement of the allocation decision. This would particularly benefit committees inexperienced in preparing and producing such material.

### LENGTH OF FREE-TIME MESSAGES

Most of the free-time messages were prepared in 30-second or one-minute lengths, even where the committee had been allocated five minutes or more of free time. This reflected a tendency towards shorter free-time lengths that was also noted in the 1988 federal election, where the larger parties used two-minute free-time units instead of the longer units formerly employed.

There is a difference of opinion on whether this tendency is in the public interest. In the Guidelines, I indicated that I would not award less than 30 seconds to any committee. In fact, I generally awarded at least one minute of time to every committee on any particular network, and most of the national or regional committees received three to five minutes or more. There was no minimum time unit per message set forth in the Act, and where a committee was awarded, say, five minutes of time, it was left entirely to that committee to decide if it wanted to use a single five-minute message, five one-minute messages, or ten 30-second units scheduled at different times in different programs.

Given the greater reach and impact of shorter messages broadcast more frequently, and the fact that short units were much more easily produced

and scheduled, it is hardly surprising that most committees, even when they were allocated five minutes or more, decided to produce short-form (typically 30-second or one-minute length) free-time announcements. The result was that the announcements ended up looking very similar to conventional advertising; in fact, many committees referred to them as "ads" and viewed them in that light.

The argument for longer-form messages is based on a hope that such messages will contain more substance and less sloganeering than may be true for short-form messages. However, I am reluctant to recommend that, say, a minimum of two minutes be utilized. First, given the number of committees that wish to be accommodated within the three-hour free-time requirement, it is implicit that many will be allocated relatively short periods of time, and it would be a major impediment to their reach if they were precluded from dividing their time into short but effective units which could be scheduled in a number of different time periods. Second, the use of one-minute and 30-second units made it far easier for the networks to schedule the messages without cutting into program time or displacing commercials.

Moreover, part of the criticism of short-form messages is really a criticism of radio and television as a medium. It is obvious that even a two-minute or three-minute message cannot begin to explore all the arguments for and against a complex constitutional package. However, even a short-form radio or television message can focus on one or two issues, make a number of succinct arguments, dramatize those issues by putting a human face to them, and conclude with an exhortation to vote in a particular way. There were a number of shorter-form messages that accomplished this more limited expectation, and I believe that it is unrealistic to expect much more.

## CONTENT OF THE MESSAGES

Once a referendum committee was allocated free time, there were relatively few restraints on what it could say in its messages. In my Guidelines, I noted that network operators were entitled to refuse to broadcast a free-time message where

- ▶ the announcement is not in the language for which that network was licensed (Table D.1 shows the applicable language(s) for each network);
- ▶ the announcement contains any obscene or profane language or pictorial representation;
- ▶ the announcement contains any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability; or
- ▶ the broadcast of the announcement would otherwise be in contravention of the law.

In order to allow the networks to pre-screen the message to ensure compliance with the Guidelines, I indicated that committees should deliver a copy of the message to the network before the actual broadcast time, "preferably at least 48 hours in advance". There were many cases where the messages did not make this deadline; however, all the messages managed to be pre-screened.

In the result, no messages were rejected by the networks.

There was one committee message which included a suggestion at the end that contributions should be sent to a particular address. This elicited a concern from one network that this was really not the purpose of a free-time message.

In the application form, I had asked each committee whether it intended to include any fund-raising

messages in its announcement, with a view to treating such a committee less favourably than ones proposing to devote their entire message to a discussion of the constitutional question. However, the Act does not prohibit the inclusion of content unrelated to the question, and I took the view that apart from the statutory rules noted above, there should be no censorship of committee messages whatever.

## VALUE OF THE FREE TIME

A frequently asked question during the referendum process was the value of the free time given to referendum committees. I asked the national television networks to estimate the value of that time had it been purchased in the normal course of events at the lowest applicable commercial rates. The result is shown in Table D.4, which shows that the time was worth approximately \$4.7 million. (The time granted on the CBC/Radio-Canada radio networks

TABLE D.4  
Commercial value of free-time messages on national television networks

	Outside Quebec*	Quebec*	Total*
CBC	2 000 000	160 000	2 160 000
CTV	2 639 800	392 200	3 031 000
Société Radio-Canada	26 226	500 494	526 720
<b>Total</b>	<b>4 666 026</b>	<b>1 052 694</b>	<b>5 717 720</b>

\* Amounts are in Canadian dollars. Note that the ads ran only outside Quebec; thus the actual value of the time allocated is indicated in the first column. The second and third columns indicate the value of such time had the messages been run on Quebec stations as well. The commercial value of time on CTV included \$1 127 900 of free time outside Quebec scheduled during baseball playoffs, including the World Series, when advertising rates were at a premium; this accounts in part for the difference between the CBC and CTV valuation.

Source: Reports of networks to Broadcasting Arbitrator.



was not valued since these networks do not sell commercials and do not have a rate card.)

In assessing the implications of this for the networks, it is important to note that subsection 24(2) of the *Referendum Act* stipulates that free broadcasting time shall not be considered to be commercial time. Further to this provision, the CRTC confirmed in Circular No. 387, September 22, 1992, that for the period from September 17, 1992, to October 26, 1992, any advertising material of a partisan political character with regard to the referendum, regardless of length, could be logged as program material by licensees not prohibited from carrying advertising by regulation or conditions of licence.

This ruling meant that referendum messages were not subject to the provision in section 11 of *Television Broadcasting Regulations: 1987* that no television station or network may broadcast more than 12 minutes of advertising material during each clock hour in the broadcast day. Had this provision applied, the referendum messages might have pre-empted regular commercial advertising, requiring the networks to issue refunds or make-goods. However, I was informed by the networks that they managed to organize the use of free time so that no regular advertisers had to be pre-empted. Thus no advertising revenue was lost during the period in question.

## REFUNDS OF DEPOSITS

Under the *Referendum Act*, the deposit of \$500 which was required from referendum committees seeking free time was returned to the committee if no broadcasting time was allocated or if it was allocated and fully utilized. However, if a committee was allocated free time but did not use all of it, the deposit was forfeited under section 22(6)(a) of the Act. The purpose of the non-return of the deposit was to provide

some discipline so that valuable airtime which could have been allocated to other committees would not be wasted.

As noted above, all 61 committees which applied for free time were allocated at least two minutes of time. Following the referendum, I received reports from each of the networks as to which committees fully utilized their time. Based on these reports, I determined on a preliminary basis that 22 out of 39 YES committees and 9 out of 22 NO committees had utilized all the time allocated to them and were entitled to the return of their \$500 deposit. I concluded that the remaining committees were not entitled to the return of their deposit.

Subsequent to this determination, eight committees asked me to review my conclusion that their committee had not fully utilized their time. In two cases, I reconfirmed my original determination. In six cases, however, I concluded that the committees should receive their deposit back. In most of these cases, the committees had a technical shortfall of 30 or 60 seconds, caused by a network failing to run a particular spot because it was delivered late or misplaced, and was not rescheduled. Where I was persuaded that these shortfalls were due to circumstances beyond the control of the committee, I concluded that the committee should be deemed to have utilized its time and should be refunded its deposit.

In the result, a total of 27 of the 39 YES committees and 10 of the 22 NO committees were refunded their deposits.

The fact that some 24 referendum committees, or almost 40% of the committees, lost their deposit is obviously a matter for concern. In many cases, the cause for the shortfall was lateness or non-delivery of the ad, so that the time originally scheduled for it was missed, and it was too late to reschedule it. Another factor which caused certain committees to



lose their deposit was the fact that they had applied for and been granted time on networks broadcasting in languages other than English, but were unable to or lacked the funds to produce an ad in the other language(s) within the time frame involved. Many of the committees also relied entirely on volunteer efforts to comply with the obligation to utilize the time they were allocated and this undoubtedly added to the problem.

### BLACKOUT PERIOD

Subsection 27(1) of the *Referendum Act* states that "no person shall, for the purpose of supporting or opposing a referendum question, advertise on the facilities of any broadcasting undertaking . . . on polling day or the day preceding polling day", i.e., October 25 or 26, 1992. This did not apply, however, to a notice of a function, meeting or other event that a registered referendum committee intended to hold or to a notice of invitation to meet or hear a representative of a registered referendum committee at a specific place.

This provision, which replicates similar provisions in the *Canada Elections Act*, is intended to allow a full day within which partisan ads are not broadcast. Apart from allowing a period of reflection, the provision also has the effect of averting last-minute ads raising new questions or arguments that would not be able to be responded to prior to polling. The provision proved to be effective and no breaches were reported to me.

### PRE-RELEASE OF REFERENDUM RESULTS

Subsection 328(1) of the *Canada Elections Act*, made applicable to the referendum by section 7 of the *Referendum Act*, provides that "no person, company or corporation shall, in any electoral district before the hour fixed by or pursuant to this Act for the clos-

ing of the polls in that electoral district, publish the result or purported result of the polling in any electoral district in Canada by radio or television broadcast, by newspaper, news-sheet, poster, billboard or handbill or in any other manner".

This provision, also applicable in federal elections, was intended to protect the integrity of the voting process by ensuring that all voters can cast their ballots throughout the polling day without being affected by early, incomplete, possibly misleading, or general results from other districts. If advance knowledge of the results in one area of the country were available before the polls closed in another region, there would be an incentive for voters in the latter region to delay their vote until the last possible moment in order to be able to vote "strategically". Alternatively, some voters might decide not to vote at all on the basis of incomplete results from other regions.

The problem of ensuring the integrity of the process was complicated by certain factors. One difficulty was that section 328 did not by its terms clearly apply to the results from the referendum being held in Quebec under provincial law on the same date and on the same question. Conversely, it was arguable that results from the Atlantic provinces where polls closed earlier might be reported in Quebec before local polls closed there.

In order to resolve this problem, the Chief Electoral Officer, pursuant to subsection 7(1) of the *Referendum Act*, made a regulation adding the following subsections to section 328(1) of the *Canada Elections Act* on October 12, 1992:

(1.1) For the purposes of subsection (1), "polling in any electoral district in Canada" is deemed to include polling carried out within such district on the same question and on the same day under the *Referendum Act of Quebec* (R.S.Q., c. C-64.1).



(1.2) No broadcasting undertaking shall in the province of Quebec, before the hour fixed by or pursuant to the *Referendum Act of Quebec* for the closing of the polls in Quebec, publish the result or purported result of the polling carried out on the same question and on the same day in any other electoral district in Canada.

Once the rules were clarified, there was then the problem of ensuring compliance. Broadcasters and cable television operators across Canada were advised of the amended regulation in CRTC Circular No. 389, issued on October 15, 1992.

Canadian stations and networks, which were all subject to the terms of the *Referendum Act*, observed the prohibition by refraining from carrying news reports of referendum results before polls closed in their local coverage areas. In the case of CBC Newsworld, which is received as a single signal through cable systems across Canada, this meant that the national service did not include coverage of results until the polls closed in B.C.

A more difficult problem was presented by U.S. networks and their border station affiliates, which were not subject to the *Referendum Act*. There was a considerable interest in the referendum in the U.S. media, and ABC, CBS, NBC and PBS affiliated stations as well as U.S. cable networks like CNN and Headline News carried reports of early polling returns. Final polling results from areas in the Eastern and Atlantic time zones were thus reported on dinner-hour newscasts on West Coast U.S. stations.

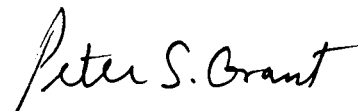
In order to address this issue, cable television operators across Canada, which were subject to the *Referendum Act*, monitored the dinner-hour newscasts on the U.S. stations carried by their systems and systematically deleted any coverage of referendum results prior to the close of local polling. In most

cases, such coverage was replaced with a slide stating that this blackout was required under the *Referendum Act*. In the case of the four Detroit U.S. signals retransmitted by CANCOM on a Canadian satellite, the carriage of these signals by cable television systems across Canada was able to be controlled by the coding system under CANCOM's control. (It may be noted that section 19 of the *Cable Television Regulations: 1986*, generally prohibits a cable system from altering or curtailing any programming service in the course of its distribution but makes an exception in the case of an alteration or curtailment done for the purpose of complying with section 328 of the *Canada Elections Act*.)

In the end, this system proved to be surprisingly effective. From all reports, the efforts of cable licensees were largely successful in maintaining the integrity of the voting process and ensuring that results were not prematurely received from U.S. television stations or networks.

## ACKNOWLEDGEMENTS

I would be remiss if I did not express my thanks to the officials at Elections Canada who assisted me in discharging my obligations under the Act. I would particularly like to thank Jean-Pierre Kingsley, the Chief Electoral Officer, who ensured that the resources were available to enable my work to be accomplished. I would also like to single out for special thanks Gregory Tardi, Legal Counsel at Elections Canada, who acted as my legal advisor and executive assistant during the allocation process.

  
Peter S. Grant

## **APPENDIX E**

### **AUTHORIZATIONS GRANTED DURING THE REFERENDUM UNDER SUBSECTION 9(1)**

During most electoral events, the Chief Electoral Officer is called upon to invoke powers provided for under subsection 9(1) of the *Canada Elections Act* to deal with problems arising by reason of any mistake, miscalculation, emergency, or unusual or unforeseen circumstances. In general, these authorizations deal with extending the period for completing tasks and appointing more than the specified number of officers to undertake certain duties. Several authorizations were granted during the referendum period.

#### **SPECIAL VOTING RULES**

Under subsection 9(1), Canadian Forces electors and public service electors were permitted to update their statement of ordinary residence during the referendum period rather than waiting until January or February 1993.

#### **EARLY ENUMERATION**

Returning officers in five electoral districts were authorized to begin enumeration at 6 p.m. on October 1, 1992, instead of on the morning of October 2, in order to enumerate electors in areas with a high concentration of Jewish population. This authorization was necessary because the enumeration period coincided with several important Jewish holidays.

#### **EXTENDED ENUMERATION**

The enumeration period was extended in 22 polling divisions in 13 electoral districts, in order to register electors who were missed during the regular enumeration period for similar reasons.

#### **ENUMERATORS**

In five polling divisions in four electoral districts, returning officers were authorized to recruit enumerators from outside the electoral district, as no additional resources were available from within.

#### **EXTENDED REVISION PERIOD**

At the request of the returning officer, the revision period was extended from 10 p.m. on October 19, 1992, until noon on October 20 in 29 electoral districts, until 6 p.m. on the same date in one other electoral district, and until 2 p.m. on October 21 in one additional electoral district. These requests resulted from the unexpectedly large numbers of electors who applied to have their names added to the preliminary lists.

#### **APPOINTMENT OF SECOND ASSISTANT RETURNING OFFICER TO ASSIST WITH VOTING IN THE OFFICE AND OTHER DUTIES**

A second assistant returning officer was authorized in each of 164 electoral districts to assist returning officers for the period of voting in the office of the returning officer, the revision of the voters lists and preparations for polling day.

#### **SECOND DEPUTY RETURNING OFFICERS**

The returning officer in one riding was authorized to appoint a second deputy returning officer to count the votes cast in the office of the returning officer because of the large number of votes cast.

## **SUPERVISORY DEPUTY RETURNING OFFICERS**

Returning officers in 10 electoral districts were authorized to appoint a supervisory deputy returning officer in 10 central polling places containing fewer than five polling stations because of heavy voter response.

An additional supervisory deputy returning officer was authorized in each of four very large central polling places in three electoral districts for the same reason.

## **DEPUTY RETURNING OFFICER**

Because of a shortage of available personnel, seven deputy returning officers had to be appointed from outside the boundaries of four electoral districts.

One returning officer was authorized to appoint a second deputy returning officer at one polling station because of a much higher than expected turnout, from 1 p.m. to 8 p.m. on polling day.

## **POLL CLERKS**

A second poll clerk was added at one advance polling station in one electoral district, and at all advance polling stations in another electoral district, because of heavy voter turnout.

At ordinary polls on October 26, 1992, returning officers were authorized to add an additional poll clerk to speed up the voting process at 676 polling stations in 66 electoral districts.

In electoral districts where the number of electors who voted in the returning officer's office was high, returning officers were authorized to appoint one or two additional poll clerks to assist in the verification of the outer envelopes. This resulted in 38 additional poll clerks being appointed in a total of 29 electoral districts.

Because of a shortage of available resources, three poll clerks had to be appointed from outside the boundaries of two electoral districts.

## APPENDIX F

### LANGUAGES REPRESENTED IN COMMUNICATIONS PROGRAM

TABLE F.1  
Aboriginal languages represented in communications program

Language	Publications					Media ads		
	Brochure	Flyer	Poster	Tent card	Cassette	Print ad	Radio ad	TV ad
Algonquin			X	X	X			
Attikamek							X	
Blackfoot			X	X	X			
Carrier			X	X	X		X	
Chilcotin			X	X	X		X	
Chipewyan	X		X	X	X	X	X	
Dakota	X		X	X	X			
Delaware		X						
Dogrib			X	X	X		X	
Gitskan			X	X	X		X	
Gwich'in			X	X	X			
Haida							X	
Haisla (Kitimaat Village)							X	
Han							X	X
Heiltsuk		X					X	
Innuinaqtun	X		X	X	X			
Inuktitut	X		X	X	X	X	X	X
Inuvialuktun	X		X	X	X	X	X	
James Bay Cree	X		X	X	X		X	
Kaska			X	X	X		X	X
Kwagwuiith			X	X	X		X	
Labrador Inuktitut	X		X	X	X		X	
Loucheux							X	X
Manitoulin Ojibway	X		X	X	X			
Micmac	X		X	X	X	X		
Mohawk	X		X	X	X	X		
Montagnais	X		X	X	X		X	
Naskapi		X					X	
N Cree	X		X	X		X		
Nisga'a			X	X	X		X	
North Slavey		X	X				X	
N. Tutchone							X	X
Ojibway	X		X	X	X	X	X	X
Oji-Cree	X		X	X	X	X	X	X
Plains Cree	X		X	X	X	X	X	
Saulteaux			X	X	X		X	X



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TABLE F.1 (cont'd)

Aboriginal languages represented in communications program

Language	Publications					Media ads		
	Brochure	Flyer	Poster	Tent card	Cassette	Print ad	Radio ad	TV ad
Shuswap	X		X	X	X	X	X	
South Slavey	X		X	X	X	X	X	
S. Tutchone							X	X
Swampy Cree	X		X	X	X			
Thaitan							X	
TH (Woods) Cree	X		X	X				
Tlingit			X	X	X		X	X
Tsimshian			X	X	X		X	
Wet'suwet'en			X	X	X		X	

TABLE F.2  
Heritage languages represented in communications program

Language	Publications					Media ads		
	Brochure	Flyer	Poster	Tent card	Cassette	Print ad	Radio ad	TV ad
Arabic		X	X			X	X	
Armenian		X	X			X	X	
Cambodian		X	X					
Chinese		X	X			X	X	X
Créole		X	X					
Croatian		X	X			X	X	
Czech		X	X			X		
Danish		X	X					
Dutch		X	X			X	X	
Estonian		X	X			X		
Farsi (Persian)		X	X					
Finnish		X	X			X	X	
German		X	X			X	X	
Greek		X	X			X	X	X
Hindi		X	X			X	X	X
Hungarian		X	X			X	X	X
Italian		X	X			X	X	X
Japanese		X	X			X	X	
Korean		X	X			X	X	
Laotian		X	X					
Latvian		X	X			X	X	
Lithuanian		X	X			X	X	
Macedonian		X	X			X	X	
Norwegian		X	X					
Polish		X	X			X	X	X
Portuguese		X	X			X	X	X
Punjabi		X	X			X	X	X
Romanian		X	X			X	X	
Russian		X	X			X	X	
Serbian		X	X			X	X	
Slovak		X	X			X		
Spanish		X	X			X	X	X
Swedish		X	X					
Tagalog		X	X			X		
Tamil		X	X					
Ukrainian		X	X			X	X	X
Urdu		X	X			X	X	X
Vietnamese		X	X			X	X	
Yiddish		X	X					

## APPENDIX G

### NEW MATERIALS PRODUCED FOR THE COMMUNICATIONS PROGRAM

**TABLE G.1**  
**New communications materials**

<b>General information about the referendum</b>	
Referendum Legislation Referendum vs. Elections: Differences and Similarities – Major Points All About the Federal Referendum The Federal Referendum: What's Available	Book Table Book Leaflet
<b>The referendum process</b>	
Registration and Voting Procedures for Inmates in a Referendum The <i>Special Voting Rules</i> in a Referendum Key Referendum Dates The Role of the Broadcasting Arbitrator During a Referendum Free Broadcasting Time – Broadcasting Arbitrator's Guidelines Under the <i>Referendum Act</i> Referendum Committees: Questions and Answers Enumeration Voting Process Referendum Committees	Background information Background information Calendar Background information Booklet Pamphlet Video Video Video
<b>Information for voters</b>	
Referendum '92 – You Have a Say in the Matter Voting – It's Simple, Secret and It Counts! Voting – It's Simple, Secret and It Counts! Voting in a Federal Referendum (in 41 languages) The Referendum Question Promo Sheet – Parliamentary Channel Voting's a Breeze – Important Dates Voting's a Breeze – And the Rest Is History Voting's a Breeze – Student Voter's Guide	Pamphlet Poster Pamphlet Pamphlet Booklet Information sheet Bookmark Poster Pamphlet
<b>Information for Aboriginal voters</b>	
The Referendum Question (Aboriginal languages) The Referendum Question (Aboriginal languages) Poster (for Aboriginal organizations)	Booklet Audio-cassette Poster
<b>Information for voters with special needs</b>	
Accessibility in the Electoral Process Voting Is Accessible Voting Is Accessible (for homeless voters) Voting Is Accessible Voting Is Accessible	Background information Poster Poster Pamphlet Video