

NAME

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MANITOBA LAW UNION

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November 24, 1980

Joint Clerks,
Special Joint Committee on
the Constitution of Canada,
Postal Box 1044,
South Block,
Parliament Buildings,
OTTAWA, Ontario
K1A 0A7



Dear Sirs:

I am writing on behalf of the Manitoba Law Union, an organization of lawyers and law students in Manitoba.

Firstly, we are strongly of the view that a Charter of Human Rights should be entrenched into the new constitution.

Secondly, we deeply regret the very short period of time that has been given to individuals and groups in order to make submissions to you-committee. We are of the view that there has not been sufficient time to properly analyze the proposed Charter of Rights and prepare a more thorough submission. We also regret that the Committee is just sitting in Ottawa and not travelling throughout the country, so that organizations such as ours are unable to appear in person to present our submission.

Thirdly, we joint with other organizations, such as The Canadian Association for Civil Liberties and Canadian Jewish Congress in condemning the proposed Charter of Rights and Freedoms, as being insufficient and inadequate.

We are of the view that Section 1 should be amended, by deleting the clause...

"subject only to such reasonable limits as are generally accepted in a free and democratic society with a Parliamentary system of government."

This clause is too vague and will make it possible for courts to justify all the limits which have been previously invoked against human rights in Canada.

In terms of Section 3, we believe the words "without unreasonable distinction or limitation" should be deleted, and that with the exception of age and nationality, there should be no restriction of the right to vote or hold office. We feel, as well, that the following clause should be added to Section 3:

"Everyone has the right of equal access to public service in his province and country."

We feel that those Sections dealing with "legal rights" can be strengthened, among other things, by imposing a duty on law enforcement officials to advise every person, upon arrest or detention, of their right to counsel.

We are of the opinion that Section 15 is not nearly as extensive as it ought to be. Even the U.N. Charter of Human Rights prohibits discrimination based on "language...political or other opinion, property, birth or other status". We urge Parliament to add the classes of "sexual orientation" and "physical handicap" to those classes against which there should be no discrimination. We are concerned that the courts might refuse to grant relief to members of the above noted groups, simply because they are not specifically included. As well, we feel that Women and Native rights are not adequately protected by Section 15.

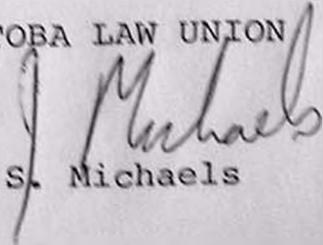
We are very critical of Section 26 which in effect gives Parliamentary approval to the decision of R. vs Wray which holds that evidence illegally obtained is nevertheless admissible in evidence. We feel that Parliament is in effect condoning breaches of the law, by law enforcement officials, by proposing that Section 26 be included in the Charter.

Finally, we feel that the proposed Charter is deficient in not dealing with basic social and economic rights and would urge that these be included. In particular, we would urge the inclusion of those rights included in Articles 22 to 27 inclusive, of The United Nations Declaration of Human Rights, which are reproduced and enclosed herewith.

All of which is respectfully submitted.

MANITOBA LAW UNION

Per:


John S. Michaels

JSM:es
Enclosure

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.