

ALBERTA STATUS OF
WOMEN ACTION
COMMITTEE

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A Submission By
The Alberta Status of Women Action Committee
To The
Special Joint Committee on the Constitution of Canada
On The
Proposed Resolution Respecting the Constitution of Canada

December 29, 1980

The Alberta Status of Women Action Committee is a volunteer, provincial organization whose primary goal is to improve the political, economic, and social status of women in the Province of Alberta. ASWAC is a member organization of the National Action Committee On The Status of Women and has approximately 600 individuals and 6 organizations as members. The organization came into existence in 1975 and has been, essentially, a lobbying group vis a vis the Alberta Provincial Government since that time. It has been incorporated as a Society under the Societies' Act and is guided by a set of By-Laws and a Steering Committee composed of ten members.

ASWAC has chosen to make this presentation because we believe that the issues surrounding Constitutional patriation and the entrenchment of a Charter of Rights will have overwhelming implications for the lives of women in this nation in the years to come, and because it is a time, in our nation's history, when real progress can be made for the protection and advancement of women's rights, and in women's struggle for true equality. In addition, we believe it is important for this Committee to know that the Alberta Government's apparent position on the matter of entrenchment of a Charter of Rights is not that of all Albertans.

Rather than reiterating, in a separate ASWAC brief, the several issues and arguments put forward in the scholarly and comprehensive works submitted to you by the Canadian Advisory Council on the Status of Women and the National Action Committee on the Status of Women, during earlier sessions presided over by this Committee, we have chosen, simply, to endorse the intent of the recommendations put to you by these two groups, and to exhort, even implore you to study their recommendations, and the reasoning behind them, with the utmost attention and care.

The Alberta Status of Women Action Committee supports in principle the entrenchment of a Charter of Rights in a new Canadian Constitution. We have two major reasons for doing this. First, it has been well documented that British common law tradition does not protect the human rights of members of minority or disadvantaged groups, particularly of women; secondly, provincial and federal legislation respecting human rights does not limit the power of these governments to pass discriminatory laws. In Alberta, notwithstanding the Alberta Bill of Rights, Section 11.1(1) of the Individual's Rights Protection Act states that "The Lieutenant Governor in Council may make regulations (a) exempting a person, class of persons or group of persons, or the Crown or any agent or servant of the Crown, from the operation of this Act or any of the provisions in it,".

In the Proposed Resolution respecting the Constitution of Canada, Schedule B, Constitution Act, 1980 deals with a proposed Canadian Charter of Rights and Freedoms. The Canadian Advisory Council on the Status of Women and the National Action Committee on the Status of Women have expressed concerns, particularly regarding Sections 1,3,15,24,26, and 29. As stated earlier, ASWAC shares these concerns and endorses the intent of the recommendations made by these groups. However, we wish at this time, to address more specifically, a number of our concerns regarding the proposed Canadian Charter.

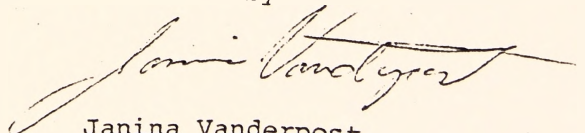
Section 1 of the Schedule B of the Constitution Act, 1980, as worded, represents a "might is right" doctrine respecting the rights and freedoms of individuals in this country. ASWAC recommends, therefore, that Section 1 be amended to read "THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS GUARANTEES TO EVERY PERSON THE RIGHTS AND FREEDOMS SET OUT IN IT".

Of the several recommendations put forward by NAC and CACSW, ASWAC believes that those dealing with Section 15 of the proposed Charter are, perhaps, the most crucial for the guarantee of equality for women in this country. Because the phrase "equality before the law" has been interpreted by the Supreme Court of Canada to mean equality in the administration or application of the law by law enforcement authorities and the courts, ASWAC recommends that Section 15(1) be amended to ensure that every person is guaranteed "EQUAL RIGHTS IN, UNDER, AND BEFORE THE LAW". In addition, in order that equality be expressed as a positive goal, and that women's right to equality be expressed in the clearest of legislative terms, ASWAC recommends that, to the statement of Section 15(2) which deals with affirmative action programs, the words "INCLUDING WOMEN" be added.

Finally, for the reasons expressed by the National Action Committee on the Status of Women, and the Canadian Advisory Council on the Status of Women, ASWAC recommends that:

- a. a new section be added to the Charter of Rights and Freedoms to "GUARANTEE THE APPOINTMENT OF A REPRESENTATIVE NUMBER OF WOMEN TO THE COURTS, INCLUDING THE SUPREME COURT OF CANADA,
- b. the word "EVERYONE" be replaced by "EVERY PERSON" throughout the Charter

Submitted by



Janina Vanderpost
President

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THE HON. SENATOR HAYS CHAIRMAN,

SPECIAL JOINT COMMITTEE ON THE CONSTITUTION OF CANADA

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THE ALBERTA WOMEN FOR CONSTITUTIONAL CHANGE, CALGARY COALITION,
STRONGLY URGES THAT AN EXTENSION OF TIME FOR RECEIVING SUBMISSIONS
BY THE JOINT COMMITTEE ON THE CONSTITUTION BE GRANTED UNTIL DECEMBER
31ST.

① (see) ② (see)

AS A COALITION OF WOMEN'S GROUP CONCERNED ABOUT THE LONG-TERM
IMPLICATIONS OF CONSTITUTIONAL CHANGE, WE WISH TO MAKE A SUBMISSION
TO THE COMMITTEE AND BE HEARD PERSONALLY. WE BELIEVE THAT THE
EXISTING TIME FRAME OF THE COMMITTEE WILL PRECLUDE ADEQUATE

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DISCUSSION AND DELIBERATION OF THE ISSUES INVOLVED, ALL OF
WHICH ARE OF VITAL CONCERN TO WESTERN WOMEN.

DESPITE THE DESIRE TO BRING OUR CONSTITUTION HOME, WE MUST NOT RUSH
INTO CHANGES WHICH SERIOUSLY AFFECT THE PATTERN OF SOCIETY IN
CANADA AND THE FUTURE OF OUR CHILDREN.

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OUR GROUPS HAVE EMBARKED ON AN EXTENSIVE EDUCATIONAL PROGRAM
ON CONSTITUTIONAL MATTERS FOR WOMEN IN ALBERTA. WE ANTICIPATE
THAT THESE EFFORTS WILL PROVIDE SUBSTANTIAL INPUT TO THE COMMITTEES
DELIBERATIONS.

① ALBERTA WOMEN FOR CONSTITUTIONAL CHANGE

② CALGARY COALITION

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