

J. ROBERT KELLERMANN, LL.B.,

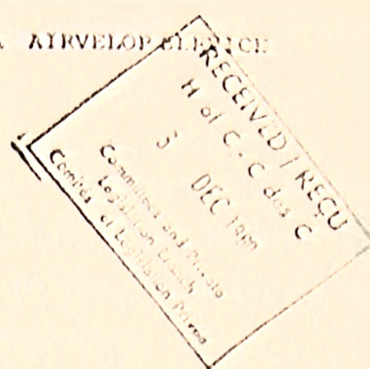
Barrister & Solicitor

100 BROADVIEW AVENUE E.
SUITE 30, TORONTO
ONTARIO M5E 1B4
TEL. (416) 928-4001

December 7, 1980

VIA AIRVELOPELÉANCE

Mr. Richard Prégent
Joint Clerk
Joint Clerks of the Committee
P.O. Box 1044
Room 517, South Block
House of Commons
180 Wellington Street
Ottawa, Ontario
K1A 0A6



Dear Mr. Prégent:

RE: Submission to the Special Joint Committee of
Senate and House of Commons on the Constitution
of Canada, by Canadian Abortion Rights Action
League (C.A.R.A.L.)

Enclosed please find a brief which has been prepared for the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada. This brief is prepared on behalf of the Canadian Abortion Rights Action League (C.A.R.A.L.). We would appreciate your placing this brief before the Committee.

Thank you for your attention to this matter. The mailing address for C.A.R.A.L. is: P.O. Box 935, Station "O", Toronto, Ontario, M4T 2H1, Phone No. (416) 961-1507. The phone contact in Ottawa is: Dr. John Baglow, days 995-9330, evenings 235-0678.

Yours truly,

CANADIAN ABORTION RIGHTS ACTION LEAGUE

Shelley Gager

Per: Robert J. Kelleman
Ellen Murray
(signed in their absence)

JRK:sg

Encl:

BRIEF TO THE SPECIAL JOINT COMMITTEE OF SENATE
AND OF HOUSE OF COMMONS ON THE CONSTITUTION OF
CANADA SUBMITTED BY CANADIAN ABORTION RIGHTS
ACTION LEAGUE

The primary concern of the Canadian Abortion Rights Action League (C.A.R.A.L.) is to achieve for women in Canada, the right to choose to have a medically safe abortion.

C.A.R.A.L. considers this to be a fundamental right of women and one that is essential to women's freedom and health. Part I of the Constitution Act 1980, makes no mention of this right, and for that reason alone it is seriously deficient.

C.A.R.A.L. is generally concerned with reproductive rights. We are concerned not only to guarantee women the right to choose a medically safe abortion but as well to guarantee to women the right to choose to have children should they so desire. Also we are concerned that men and women have access to information concerning contraception and medically safe contraceptive methods.

It is the view of C.A.R.A.L. that the proposed Charter of Rights and Freedoms is a poorly drafted document. It may ultimately serve to deprive rather than guarantee people in Canada of various rights and freedoms.

In part its deficiencies can be explained by the fact that it is being rushed through Parliament without any significant opportunity for popular or parliamentary participation in the legislative process. The Joint Committee for which this brief is

prepared has not been given nearly enough time to fulfill its historically important task. It would be unfortunate if the Committee were to merely provide the appearance of democracy while the reality was denied.

It is therefore the view of C.A.R.A.L. that the Committee would best serve the people of Canada by refusing to sanction, in whole or in part, the Constitution Act, 1980.

Of course, the Committee may choose to do otherwise. Therefore C.A.R.A.L. would like to refer to the specific inadequacy which is of most concern to our organization.

Section 7 of the Charter reads as follows:

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

This section uses language which could provide the basis for litigation directed at depriving women of the right to choose an abortion. Specifically, it could be argued that "the right to life" is meant to extend rights to the embryo or fetus and that therefore the sections of the Criminal Code which allow women to have an abortion (for reasons of life or health when approved by a therapeutic abortion Committee and performed by a doctor in a hospital) are "ineffective and of no effect" in that they are "inconsistent with the provisions of this Charter".

[The likelihood of such litigation is great. Even today there is a case pending before the Supreme Court of Canada in which

Without such an amendment there will be a continued stream of litigation aimed at frustrating Parliament's will concerning the right of women to therapeutic abortion.

Submitted by the Canadian Abortion Rights
Action League (C.A.R.A.L.)

Tuesday, December 2, 1980

CANADIAN ABORTION RIGHTS ACTION LEAGUE (C.A.R.A.L.)

Mailing Address:

Phone Contact :

C.A.R.A.L.
P.O. Box 935
Station "Q"
Toronto, Ontario
M4T 2P1

Toronto - (416) 961-1507