

November 11, 1980

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and Co-Chairman

Dear Member of the Joint Senate and Parliamentary Committee:

Mr. Serge Joyal

The constitutional proposals currently under discussion are historically significant for all Canadians. As concerned citizens belonging to a national women's organization, we wish to comment on some aspects of the proposed Constitution Act, 1980.

The Canadian Federation of University Women is composed of member organizations from all provinces and both languages. Our Federation has dedicated itself to Canadian unity for many years - study groups at all levels and in all provinces have involved themselves with examining both the history and the options for the future of this great country.

In our particular group, from the University Women's Club of North York, we have carefully examined the Pepin-Robarts report of "The Task Force on Canadian Unity", and "A New Canadian Federation" adopted by the Quebec Liberal Party. We also followed with interest the proceedings of the First Ministers' conference of September 1980.

Because of the lack of provincial agreement on an amending formula, Canada was unwilling to accept its constitutional documents from the British Parliament in 1931. After fifty years of lack of consensus, we believe this historic deadlock should be broken. The unanimous approval for patriation already given by Parliament in May 1980 further supports this action.

We urge you to give consideration to the following few comments arising from our careful study of proposed constitutional reforms and the current Canada Constitution Act.

We believe that throughout the proposed act, some of the terminology requires clarification: the interchangeable use of "citizen" as in Sections 3, 6, and 23, "everyone", found in Sections 2, 7, 8, 9, 10, 12, 15 & 17, "permanent resident" in Section 6, "person" in Section 19, and "any member of the public" in Section 20, suggest a need for definition.

Part 1. Section 1. Canadian Charter of Rights & Freedoms

We are in agreement with the entrenchment of human rights and freedoms within the constitution, but we would urge the following:

In Section 1, human rights are guaranteed "...subject only to such reasonable

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limits as are generally accepted in a free and democratic society". This is too broad a disclaimer and should be reworded to specify what rights may or may not be abrogated in case of war or threatened insurrection.

Section 15. Non-discrimination Rights.

Providing ".....equality before the law" does not prevent the law itself from being discriminatory. In 1973, Jeanette Lavell claimed that Section 2 l) b) of the Indian Act discriminates on the basis of sex: i.e. her marriage to a non-Indian deprived her of Indian status, although no "statutory excommunication" exists for Indian males. The Supreme Court decision to deny the Lavell claim gave rise to a hearing before the United Nations on this same issue and Canada has been asked by the U.N. to explain this decision.

Similar discriminatory court decisions clearly make necessary a more careful wording in this Section, so that judges will not be obliged to administer unjust laws in contradiction to the intent of the Charter of Rights & Freedoms. We suggest: "Every individual shall have equality of rights under the law...."

Section 16. Official Languages of Canada.

We support those sections establishing the English and French languages as the official languages of Canada and providing for their use in Parliament and the Federal courts. As much of this section is derived from the BNA Act and the Official Languages Act, it is logical to now incorporate these provisions. We commend the addition of the clause allowing for both Federal and Provincial governments to extend the status or use of English and/or French. We also approve the preservation of existing rights and privileges relating to languages other than English and French.

Section 23. Minority Language Educational Rights.

Establishing minority language rights in education throughout Canada, in one of the official languages is a reasonable guarantee for all Canadians to be educated in their mother tongue where numbers warrant. This is a practicable step towards recognizing such rights for all citizens in Canada.

Part II. Section 31. Equalization and Regional Disparities.

We support this section which would entrench the principles of equalization payments and the reduction of regional disparities - policies to which the Federal and to a great extent the Provincial governments are now firmly committed.

We expect that within the two year period allowed for the development of a permanent amending formula, greater debate and consensus between Federal and Provincial governments will occur. We hope the decision will be made to include public participation in this process, at which time we would wish to submit our comments on this very complex issue.

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Jean Dodds

Jean M. Dodds

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Dear Sir:

Would you be kind enough to inform the committee members that additional signatures will be available following a general meeting of the North York University Women's Club on Mon., November 24, 1980.

Yours Sincerely

Jean M. Dodds