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MEMORANDUM/NOTE DE SERVICE

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Date
November 12, 1980

TO/A: DEPUTY MINISTER

FROM/DE: MISS E. I. MACDONALD  
Senior Counsel, Public Law

SUBJECT/OBJET: National Advisory Council on the Status of Women -  
Position on Constitution

Comments/Remarques

I attach for your information a preliminary draft of the brief of the National Advisory Council on the Status of Women that they are preparing for submission to the Joint Parliamentary Committee on the Constitution. The points raised in the brief were discussed at our meeting last night. The brief was prepared by the executive of the Council and is being considered by the whole Council today. They hope to have it ready with any amendments that may be decided upon by the Council for presentation to the Committee early next week.

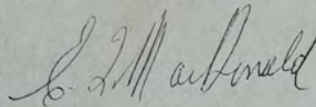
The Council has expressed concern in respect of the following sections:

1. Section 15: You are familiar with the arguments on this section. They take the position that matters such as race and sex should be subject to strict scrutiny tests whereas matters such as age should be subject to reasonability tests. They think that subsection 15(2) should be directed to positive action programs for groups disadvantaged for reasons set out in subsection (1).
2. Section 29: They object to the three year delay in the application of the Charter. Mr. Goldenberg informed them that it is highly unlikely that this section could be changed.
3. Section 24: They think this section should limit the continuation of native rights and freedoms to such rights and freedoms that pertain equally to men and women.
4. Section 26: They think this section should be subject to both sections 13 and 15.
5. Section 3: They think this section should be subject to section 15.

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Comments/Remarques:

6. They would prefer to see the draft refer to "every person" or "every individual" rather than to "everyone".
7. They think that section 1 is too broad. They would like to see it simply state that the Charter guarantees the rights set out in it and to state exceptions for emergencies in a later provision such as section 29.



E. I. MacDonald.

c.c. Mr. B. Strayer  
Mr. F. Gibson  
Mr. F. Jordan  
Mr. Goldenberg  
Mrs. B. Reed

[Salutation]:

We welcome this opportunity to place before you these submissions on the Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada. Patriation of the Canadian Constitution is a significant landmark in the history of our nation. We hope that this expression of our concerns and interests will aid in your deliberations.

The Canadian Advisory Council on the Status of Women was created in 1973, pursuant to a recommendation made by the Royal Commission on the Status of Women. It has four full-time members and 27 part-time members chosen from all parts of Canada, with a varied background of professional and volunteer concerns. Its mandate is to bring before the government and the public matters of interest and concern to women and to advise the Minister on such matters relating to the status of women as the Minister may refer to the Council or as the Council may deem appropriate. In furtherance of its responsibilities, the Council has published over \_\_\_\_\_ studies, including briefs and comments on the federal legislative program in areas of human rights, criminal law, federal appointments, and Indian women<sup>1</sup>-- all areas which will be affected by the proposed charter of Human Rights and Freedoms.

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1. Footnote references for these Council studies.

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2. Footnote references for these Council studies.