

DND / MND

Referred to  
Révisé par

*M. S. Col Mignault*

Minister of Justice  
and Attorney General of Canada



CANADA

Ministre de la Justice  
et Procureur général

Canada

The Honourable L'honorable

Doug Lewis, P.C., F.C.A., Q.C., M.P./C.P., F.C.A., C.R., Député

File No.  
Dossier No.

290-1 702443

Charged to / Charge a

*Room 28-3-89*  
*085 16-3-85*

SEP 27 1989

The Right Honourable Brian Mulroney, P.C., M.P.  
Prime Minister of Canada  
Room 309-S, Centre Block  
House of Commons  
Ottawa, Ontario  
K1A 0A6

RECEIVED / REÇU  
SEP 27 1989  
HOUSE OF COMMONS  
CHAMBRE DES COMMUNES

Dear Prime Minister:

I am writing with respect to the Government's policy on sexual orientation as a prohibited ground of discrimination.

As you know, in Toward Equality, the Government's response to Equality for All, the following position was stated:

"The Government believes that one's sexual orientation is irrelevant to whether one can perform a job or use a service or facility. The Department of Justice is of the view that the courts will find that sexual orientation is encompassed by the guarantees in section 15 of the Charter. The Government will take whatever measures are necessary to ensure that sexual orientation is a prohibited ground of discrimination in relation to all areas of federal jurisdiction."

Because the federally regulated private sector is not covered by the Charter, the preceding would indicate an amendment to the Canadian Human Rights Act. You will recall personal discussions you had in June with Svend Robinson to this effect. He, no doubt, gave you an indication of the strong feelings on this subject within the gay community, and, indeed, among human rights groups in general. He has also had certain discussions in this regard with members of all three party caucuses.

On another front, I met earlier this month with our colleagues, Bill McKnight, Mary Collins and Don Mazankowski to discuss the proposed Canadian Forces Administrative Order on inappropriate sexual conduct. We agreed at this meeting that Justice lawyers would work with DND to ensure that the Forces' policy is one which meets its

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operational objectives, while respecting, to the extent possible, individual rights.

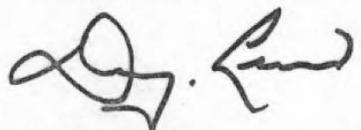
As the proposal now stands, it provides that persons who acknowledge being homosexuals or who are shown to have engaged in homosexual conduct would not, except in specified and limited circumstances, be enrolled or retained in the Canadian Forces. This has important implications for the proposed amendments to the Canadian Human Rights Act.

I think that it would be desirable to consider the proposed Canadian Forces Administrative Order when Cabinet reviews my proposal on whether or not to add sexual orientation to the Canadian Human Rights Act. In this way, we will not be dealing with the issue in the abstract and we will be able to have a discussion of the Canadian Forces policy in the context of the whole Government policy for the federally regulated sector. This approach would ensure that both aspects of this issue would be dealt with at the same time.

One of the proposals that I am considering is to add sexual orientation to the Canadian Human Rights Act, but at the same time exempt the Canadian Forces from its application. There are a number of Charter issues which must still be resolved before this could be advanced, but it is an area which bears serious consideration. I am hopeful that I will be ready to proceed to Cabinet soon with my proposals for amending the Canadian Human Rights Act.

I should also add as a final comment that there are various cases before the courts dealing with homosexuals, concerning both the Armed Forces' policy and other of the federal government's programs and policies. A definitive statement on our part would, in my view, be preferable to having government policy set by the courts on an ad hoc basis.

Yours truly,



Doug Lewis

cc Hon. Don Mazankowski  
Hon. Bill McKnight  
Hon. Mary Collins

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