

045002

10/1

PRIVY COUNCIL
OFFICE

JAN 16 9 38 AM '86

Jan 16/86

SECRETBUREAU DU
CONSEIL PRIVE
MEMORANDUM TO PAUL M. TELLIER

FROM: Ray Protti [REDACTED]
Assistant Secretary to the Cabinet
(Social Development)

SUBJECT: The Government's Response to the Report of
Parliamentary Committee on Equality Rights

Background

On December 30, 1985, the Deputy of Minister Justice provided you for comment with drafts of the Government's proposed response to Equality for All, which Mr. Crosbie hopes to present for discussion at CCSD's January 15 meeting. (As you know, the Government's response must be tabled in the House by February 21, 1986.) Attached at Annex 1 are highlights from the Committee's recommendations.

In particular, Mr. Iacobucci sought your comments on ten recommendations for which the Privy Council Office had lead responsibility. These include: agreement to amend the Canada Elections Act to allow the mentally disabled to vote; agreement, subject to House approval, for a Standing Committee on Human Rights, and expanded powers for the Standing Committee responsible for matters related to the disabled; agreement to continued and enhanced support to the disabled within the Government without machinery changes; agreement for GIC appointments to reflect the composition of Canadian society and changes in selecting judges; agreement to limitations on political rights of public servants that are no greater than necessary to maintain a neutral public service; and rejection of the recommendation that the Canadian Human Rights Commission report directly to Parliament. In view of Justice's deadlines, Ward Elcock provided advance comments to senior Justice officials which are attached at Annex 2.

Status of the Issue

While Justice is ready to present a comprehensive response, based on intensive interdepartmental consultation, a number of contentious issues remain to be resolved.

In particular, the Minister and Associate Minister of National Defence recently have raised significant and substantive concerns about elements of the Minister of Justice's approach and suggest that there is an absence of a conceptual framework to key responses. They object particularly to certain amendments to the Canadian Human Rights Act (CHRA). Their questions pertain to the CHRA's primacy and relationship to the Charter and to the consequences of the amendments for individual rights as opposed to the collective rights of society. They oppose specifically including sexual orientation as a prohibited ground of discrimination and eliminating the rules which permit mandatory retirement in spite of proposed exemptions for the Canadian Forces in both cases. In addition, they do not accept the proposed response on women in combat, which leaves open the possibility of a future combat role for women. These Ministers submit that such complex issue require more study before the Government moves to accept the recommendations of the Parliamentary Committee even in principle.

Mr. Crosbie and his officials will make every effort to reach an understanding on these questions before the Government response is discussed at Committee, but we anticipate the proposed responses in these areas will be the subject of strong debate among Ministers. (Other contentious issues include rejecting further extension at this time of the Spouses Allowance (OAS) because of the potential \$1.5B costs and the lack of a consistent definition of common law relationships applicable throughout the Government's programs and policies.)

As Mr. Crosbie is likely to advise P&P this week, the current response proposals accept some 80% of the Parliamentary Committee's recommendations, in whole or in part, and either commend the balance to future study or reject them, in whole or in part, on well substantiated grounds. His assessment is that the response, as proposed, must and does lend credibility to the Government's commitment to advancing equality rights in federal legislation and policies. If he is unable to maintain the tenor of the current package, the response to the Parliamentary Committee report may not be strong enough to play a central part in the social justice theme.

Letter of Reply to the Deputy Minister of Justice

The reply to Mr. Iacobucci drafted for your signature (at Annex 3), while recognizing the positive direction of the cumulative response refrains from commenting on any substantive issues, except in the case of the recommendations for which PCO had lead responsibility. However, it does signal the importance of resolving any remaining conflicts, if not before Committee, then certainly before P&P confirmation of the response is sought. It also acknowledges the need for strong coordination in the execution of the communications strategy.

J. Cohen Sulzenko/R. Protti/mfo