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MEMORANDUM FOR THE PRIME MINISTER

Proposals to Amend the Canadian Human Rights Act

At Ms. Campbell's request, on March 26, 1992, the Cabinet Committee on Human Resources, Social and Legal Affairs had an extensive political discussion on whether to bring forward a package of amendments to the Canadian Human Rights Act (CHRA).

Ms. Campbell's Presentation

The overall package of amendments is intended to meet the government's 1986 commitment in Toward Equality and to ensure that the Human Rights Commission and tribunals operate in a fair manner by recognizing the needs of both complainants and respondents. Ms. Campbell views amendments on sexual orientation and reasonable accommodation as being integral components of the package. In her view, if they are not both included, it would be better to take no action at all.

Ms. Campbell indicated that she had been working with Caucus members on the sensitive issue of sexual orientation. She advised that the concerns of some Caucus members related more to the possible distortion of traditional definitions of the family and the extension of benefits to homosexual lifestyles than to the protection of homosexuals from discrimination. Accordingly, she is proposing that a general prohibition against discrimination on the basis of sexual orientation be added to the CHRA but be accompanied by statutory definitions of marital status, family status and spouse which would exclude same-sex couples. This would limit the scope of protection provided.

On the issue of reasonable accommodation to meet the needs of the disabled, cultural and religious minorities, Ms. Campbell stated that concerns relate to the financial implications of such an amendment. She believes that wording can be found which will satisfy Treasury Board and Finance.

On timing, Ms. Campbell said that she saw this Spring as the last window of opportunity for the Government to meet its outstanding commitments to amend the CHRA. If the Government chooses not to act, it will be criticized. Moreover, [REDACTED]

[REDACTED]

Committee Discussion

In the discussion of this issue, Ms. Campbell received support for moving forward with a package of amendments from Ministers Lewis, Bouchard, Winegard, McDermid, Landry and Cadieux. They believed that Ms. Campbell's balanced approach to sexual orientation was reasonable and that it would be more difficult for the Government to justify not taking action, than to justify why it was including sexual orientation as a prohibited ground of discrimination. Ministers noted that the federal government would not be breaking new ground here, as a number of provinces already include sexual orientation in their Human Rights legislation. Mr. Siddon expressed a preference for not proceeding with legislation, on the basis that this is not the time to bring additional divisive issues before the country. [REDACTED]

[REDACTED]

Ministers recognized that sexual orientation would be a very contentious issue with Caucus. They agreed that there should be a Caucus discussion on the subject and that it would be important for Ministers to participate in the discussion in support of Ms. Campbell. Ministers noted the need for policy coherence between this initiative, DND's proposed policy on sexual orientation. [REDACTED]

[REDACTED] Some Ministers felt that if Ms. Campbell could win Caucus support for her proposals, this could help to persuade Caucus to agree to changing the DND policy [REDACTED]

[REDACTED]

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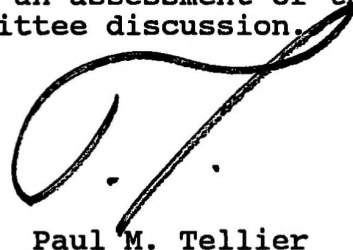
Mr. Andre advised that if it was agreed to proceed with these amendments, he strongly favoured making this a free vote.

On the issue of timing, Ministers agreed with Ms. Campbell that it would be better to get these amendments out of the way as quickly as possible. The Deputy Minister of Justice advised that if P&P granted drafting priority, it would take about a month to draft the legislation.

Next Steps

On the basis of the discussion, it was agreed that Ms. Campbell should proceed with presenting a formal Memorandum to Cabinet on the complete amendment package to the Cabinet Committee on Human Resources, Social and Legal Affairs. This memorandum has been circulated and is scheduled for discussion on Thursday, April 2.

I will provide you with an assessment of the entire package following the Committee discussion.



Paul M. Tellier