

Submission
to the
Committee on
Equality Rights

by the

Canadian Human Rights Commission

June 1985

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To put it bluntly, the arguments advanced by the Forces are so speculative and unpersuasive and so out of synch with today's Canadian society that the Commission must urge the Sub-committee to recommend that the Forces' orders and regulations in this area be amended.

6. RELIGION

a) The Customs Act

Under the Customs Act the General Preferential Tariff lists examples of religious objects which may be brought duty free into Canada. This list includes only items from the Jewish and Christian faiths. The Commission urges the Sub-committee to recommend that that list provide exemptions for religious objects in general rather than cite objects associated with specific religious faiths.

7. SEXUAL ORIENTATION

a) The Canadian Armed Forces (policy to exclude homosexuals from employment) and the Royal Canadian Mounted Police (proposed policy to exclude homosexuals from employment)

The Canadian Human Rights Commission finds it unacceptable, and contrary to the very spirit of human rights legislation, that an individual should be denied employment, or be terminated from employment, simply for being what he or she is. It is for this reason that the Commission has recommended in every annual report since 1979 that sexual orientation be made a ground of discrimination under the Canadian Human Rights Act.

It is absurd that a homosexual could be successfully employed in virtually every walk of life and yet be automatically excluded from service within the Forces and the RCMP. The policy is even more absurd given that homosexuals are not restricted from employment within Canada's new security service.

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The Armed Forces and the RCMP attempt to justify their practice by relying on a view of the military and police milieu which is vastly different from that of the "outside" Canadian society. The Commission contends that this difference has been vastly overstated. Both also are willing to let the presumed prejudices of their members, and of certain communities which they serve, dictate policy. This is akin to justifying differential treatment because of customer preference and is not acceptable.

The Armed Forces and the RCMP also raise the "blackmail" argument. As the Chief Commissioner noted when he appeared before the Sub-committee, this argument is clearly circular and must be broken.

The Commission is convinced that the policy of denying homosexuals employment in the Forces is discriminatory and cannot be justified on the basis of a bona fide occupational requirement. The Commission strongly urges that the Sub-committee recommend to Parliament that such discriminatory employment practices cease. The Commission also strongly urges that the Sub-committee recommend to Parliament that the RCMP be instructed not to establish a similar policy.

8. GENERAL

a) The Canadian Human Rights Act (section 2)

Section 2 of the Canadian Human Rights Act currently provides protection against discrimination based on explicitly defined grounds. The Charter provides an open-ended list. The Commission believes that, given the broader protection provided by the Charter and Canada's international commitments, the grounds listed in the Canadian Human Rights Act may need to be expanded to include sexual orientation, political belief and criminal conviction or charges, or, failing this, that the list of grounds be made open-ended.

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