

GAY AND LESBIAN AWARENESS SOCIETY OF EDMONTON
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Ident: 53060

October 16, 1991
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Joe Clark, MP
House of Commons
Ottawa, Ontario
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O/M.R.C.A.

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B/M.R.A.C.

Deaf Hon. Mr. Clark;

Mr. Justice Joseph McDonald of the Ontario Court, General Division recently commented in Birch vs Her Majesty:

'To put the case in its simplest terms "should any Canadian who perceives discrimination on sexual grounds not have some recourse to a legislative tribunal"? If the Charter purports to give him such a right then is sec 3 (1) of the Canadian Human Rights Act not under inclusive and therefore discriminatory as being contrary to the guarantee of equal benefit of the law set out in section 15 of the Constitution Act 1982.

I have concluded in the affirmative and I am therefore declaring that the absence of sexual orientation from the list of proscribed grounds of discrimination in section 3 of the Canadian Human Rights Act, 1976-77, c.33, s.1 is discriminatory as being contrary to the guarantee of equal benefit of the law set out in sec 15 of the Constitution Act 1982'

In "Toward Equality For All", the all parliamentary committee concluded that

...'sexual orientation' should be read into the general open ended language of section 15 of the Charter as a constitutionally prohibited ground of discrimination. (October 1985, page 29)

The then Minister of Justice promised to "take whatever actions are necessary" in response to the all parliamentary report. Now a court has ruled that the whole Canadian Human Rights Act is deficient because the government HAS NOT ACTED. The current Minister of Justice could of course appeal the ruling. When the Supreme Court concurs with Justice McDonald, then the House of Commons will have to act and amend the Canadian Human Rights Act.

However the government does not need to wait for the Supreme Court. It could "take whatever action is necessary" NOW and introduce the amendments to the Canadian Human Rights Act. Or does this government wish to be seen as believing that all citizens (taxpayers and voters) should NOT have "equal protection and equal benefit of the law" as guaranteed by Section 15 of the Charter?

The members of Gay and Lesbian Awareness Society of Edmonton, as citizens, taxpayers and voters urge you to encourage this government to introduce immediately the amendments required to make the Canadian Human Rights Act consistent with the existing constitution.



Gay and Lesbian Awareness Society of Edmonton