Organized women's groups, divisions in the constitutional lobby: One interest or many?

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ORGANIZED WOMEN'S GROUPS, DIVISIONS IN THE CONSTITUTIONAL LOBBY:
ONE INTEREST OR MANY?

by
Joyce Zuk

A Thesis
Submitted to the Faculty of Graduate Studies and Research
Through the Department of Political Science
in Partial Fulfillment of the Requirements for
the Degree of Master of Arts at the
University of Windsor

Windsor, Ontario, Canada
1993
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ABSTRACT

With the advent of the Charter of Rights and Freedoms, came a new era in Canadian constitutional politics. The Charter empowered various organized interests in Canadian society by granting fundamental rights to a number of groups. Given that historically, women have experienced discrimination by the courts, political institutions and decision makers, the combination of sections 15 and 28 of the Charter were considered by many as a victory for women's equality. For women's groups in English Canada the Meech Lake Accord in 1987 represented a serious threat to these equality provisions. Women's groups became divided over the "distinct society" provision of the Meech Lake Accord. Perhaps the greatest rift which developed in the women's movement was that between women's groups in English Canada and in Quebec. As the constitutional amending process continued with the Charlottetown Accord, it became increasingly evident that the interests of women's groups were diverse, and that women's groups desired a formal role in the amending of the constitution.

By examining the actions of various women's groups it is possible to understand why there is no monolithic women's movement in Canada—nor should there be. Indeed women's groups and the women they represent are diverse and divided along many lines including race and region. The problem for Canadian women's groups today is that they seek to represent a sector of the population rather than a spacial area. In doing so, their structures compete directly with the Parliamentary system which is based on geographic representation. While Canadian women have had their concerns advanced through interest groups, in order for women to continue to influence the state, the movement must focus on commonalities and shared experience.
Chapter one provides a historical background of women's relationship to the constitution, and argues that this experience has been one of discriminatory treatment.

Chapter two looks at current constitutional theory and introduces the literature by feminist scholars who identify women's relationship to the state as being different to that of men.

Chapter three compares the lobby by women's groups in 1987 and 1992, and makes the case that women's groups were marginally more successful in influencing the government in 1992 primarily due to public support and that of the Native Women's Association.

Chapter four concludes the paper by acknowledging that there does not exist a monolithic women's movement in Canada. It is important however for women's groups to reach consensus on some issues in order to reshape and redefine the present movement in Canada which is currently still recovering from the divisive rounds in 1987 and 1992.
ACKNOWLEDGMENTS

Without the encouragement and assistance I received from a number of individuals, this thesis would not have been possible. First I would like to thank Professor Boase for her unfailing encouragement and advice in shaping this paper. I would also extend my gratitude to Professor Wagemberg for his constant challenging of my ideas which enabled me to form better arguments. Finally, I would thank Professor Daly for her careful edit of my paper and her comments given the time constraints placed on her.

I would be remiss if I did not mention how important the department of Political Science has been in my development both personally and professionally. The encouragement by all faculty members, and the numerous opportunities afforded students for research and study greatly enhance the Master's study experience.

Finally, I would acknowledge the important work done by women academics such as Jill Vickers and Sandra Burt. These women have made it possible to pursue gender studies in political science as well as to make a significant contribution to our understanding of power relations in society.
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## VITA AUCTORIS
CHAPTER ONE
1.1 Introduction

The Canadian Constitution has become a popular theme of dissertations and a topic of debate amongst students in the social sciences. Interest in constitutional issues was heightened by patriation in 1982, as well as by the creation of a Charter of Rights and Freedoms. The contents of the Constitution Act, 1982, which included the Charter of Rights and Freedoms, and its amending procedure particularly, have been the catalyst for voluminous amounts of political discourse. Unlike other topics of political debate however, the recent constitutional rounds seem to have touched upon a nerve in the Canadian system. Many events in our history have evoked strong feelings and a polarization of groups in society, yet the recent constitutional proposals aroused Canadians because of their content, the process surrounding their creation and because so much time was spent on them during a period of economic recession. Few events in our recent past have elicited such an array of opinion.

One segment of the Canadian population which has become increasingly important in constitutional debates is the organized women's movement. The history of the lobby by an ad hoc group of women to have equality rights entrenched in the Charter commenced a new era in the political participation of women's groups. In 1982, when an ad hoc group of women were successful in pressuring the federal and provincial governments to include section 28 in the Charter\(^1\), many believed that Canadian women had finally achieved full legal equality in

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\(^1\) Section 28 of the Charter of Rights and Freedoms reads: "Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons". Section 15 reads: "Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. (2) Subsection (1) does not preclude any law, program or activity that has as its objective the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability." The Charter of Rights and Freedoms: A Guide for Canadians, Publications Canada (Ottawa: Minister of Supply and Services Canada, 1982), 29.
Canadian society. Indeed, since 1982, women's groups have set out to ensure their place in Canadian society via sections 15 and 28 of the Charter; however, now that much of the euphoria over the claiming of section 28 has died, and time has tested the strength of section 15 in the courts, a qualified picture of the relationship of women to the constitution can be made.

This paper will examine the constitutional demands and approaches of organized women's groups in their attempts to influence the state during the recent constitutional debates. It will also analyze the positions and strategies undertaken by the organized women's movement during the 1987 and 1992 Constitutional Accords. Finally, this paper will suggest reasons why women's groups were more successful with their constitutional lobby in 1992 than in 1987. In examining this issue, it is also important to question why women continue to use the vehicle of interest groups rather than political parties to influence policy-making seventy-four years after obtaining the federal franchise and the right to run for office.

This chapter will look at the historical relationship of Canadian women to the constitution, as well as the development of women as an organized interest in society. It will also discuss why women's groups were successful in influencing the constitutional reform process between 1980 and 1982. In chapters two and three, this paper will discuss the actions of four segments of the women's movement: the National Action Committee on the Status of Women (NAC), Native women's groups, women in the federal Parliament, and finally La Federation des Femmes du Quebec (FFQ). Because there is no monolithic women's movement in Canada, it is necessary to examine a cross-section of women's opinion in Canadian society. In illustrating the diversity of women's interests, this paper will address the question of regionalism and the difficulty women's groups experience as they are divided by ethnicity and culture. This fact is best shown by the actions of NAC and the FFQ. The examination of Native
women's groups will identify the fact that women are also divided by race. Finally, discussing women in Parliament allows one to examine the political position of women in Canada and to understand the role of women who have gained political office in relation to those who represent the mass. In this examination it is possible to understand why there is no monolithic women's movement in Canada, as well as what the divisions in the women's movement are.

1.2 The Literature

Two specific bodies of literature are relevant to this study. First, the literature on interest groups, and second the literature on women and the constitution. In the course of the discussion on the Meech Lake and Charlottetown constitutional rounds, the literature by political scientists such as Alan Cains should also be examined as they give an important perspective into the participation of various self-interest groups in terms of the process surrounding constitutional amendment. It is also necessary to address the issue of the importance of the constitution. Indeed, many Canadians questioned the priority given the Meech Lake Accord and the Charlottetown Accord by the federal government when issues such as the Goods and Services Tax and unemployment affected Canadians more directly.

1.3 Why Study the Constitution?

The Canadian Constitution is important as it is the underlying basis for all laws and it governs all legislation and any action taken by a government. It is highly relevant to our lives as it determines what the government can and cannot do, and as the supreme law of our land, it reflects the philosophic core from which we rule our society.³ The Pepin-Robarts Task Force on Unity defined a constitution as follows, "A constitution is a set of fundamental laws, customs

and conventions which provide the framework within which government is exercised in a state”.

4 Such a definition implies that a constitution has several important powers. Cheffins and Johnson outline the powers of a constitution;

Thus a constitution assigns legal responsibility, defines the limits of authority, and establishes the processes which must be followed before this authority can be exercised. Furthermore, a constitutional document must provide for a method of change, both of political leadership and of the basic constitutional framework, the latter by way of amendment to the constitution.5

Given the importance of the constitution and the powers it defines, the process by which it is amended is equally important. Anne McLellan states;

Constitution-making is like no other political or legal act; it is a process of self-definition and self-realization which forces us to reflect upon who we are and to articulate that which we are about. It causes us to engage each other in debate over the values and beliefs which we believe to be fundamental. It requires us to reach a consensus on those values and beliefs which we hope to have entrenched in our constitution as an enduring statement of our community.6

Eberts identifies the relationship of women to the constitution as "special", and one where victories should be "jealously guarded".7 This "special" relationship is one based on a struggle for constitutional recognition and equality. A historical overview of the relationship between women and the constitution illustrates the fact that women have experienced unequal protection and treatment by the law in Canada. Tracing this struggle for women’s equality from

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the Person's Controversy in 1929, to the Charlottetown Accord, it is clear that women have had
to create their own place in the constitutional renewal process.

Scholars have recorded the struggles of women who sought to find a voice of their own in
a patriarchal and hierarchical society. While much has been recorded about the history of
struggles such as the Women's Suffrage Movement, The Person's Case of 1929, and the fight for
section 28 in the Canadian Charter of Rights and Freedoms, little has been documented about the
relationship of women to government, and the structure of those groups representing women.
To date, the focus of literature on women's groups has dealt with "what women have got", rather
than "how they got it". Sandra Burt states;

Analyses of the overall policy patterns have concentrated
on feminist theory in the general context of policy-making
frameworks, and conclusions have focussed on the end
result of feminist lobbying rather than on the processes
that lead to these results. 8

While it is important to note the accomplishments of women over the years, it is
perhaps critical to discover how women have been able to influence the state through non-
Parliamentary means, given that this has been the major venue for women's demands. Indeed it
is necessary to discover why over half of a country's population has formed into a variety of
interest groups in an attempt to influence public policy-making, rather than directly seeking to
occupy positions of power in society.

1.4 Interest Groups

Today interest groups are an integral part of the policy-making process in Canada, and
thus have become an important topic of study for political scientists. The debate which
surrounds any study of interest groups is that of whether these groups enhance the democratic

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8 Sandra Burt, "Organized Women's Groups and the State," in Policy Communities and
Public Policy in Canada: A Structural Approach, ed. William D. Coleman and Grace
Skogstad, (Mississauga: Copp Clark Pitman Ltd., 1990), 192.
process or hinder it. According to Paul Pross, pressure groups, "are necessary because in an era of highly diffused power the political system depends on special publics-we call them policy communities-to articulate, implement and monitor the general will. Pressure groups contribute vitally to the life of policy communities". Regardless of their membership or their agenda, interest groups perform the same function wherever they are found. They promote the interest of their members, they communicate between members and the state, they legitimate the demands their members make on the state and the public policies they support, and finally they regulate their members and they assist the state to administer policies and programs.

In his report to the Macdonald Commission, Hugh Thorburn agreed with Pross that interest groups were a vital component of the Canadian polity. Thorburn however, believes that interest groups are essential in providing a "counterweight" to the closed process of executive federalism. Given this, the process of cooperation between groups and governments is fundamental to the creation of public policy. Thorburn outlines the relationship between governments and interest groups, "For their part, governments have two primary interests in pressure groups. They value the information that groups are able to provide, and they seek out the legitimacy that interest group support can give to their policies".

In the literature on interest groups, much discussion is devoted to identifying different types of interest groups, and their function within the Canadian polity. Consensus appears to exist that those groups which are highly institutionalized, and which can adapt to a federal

9 Paul Pross uses the term "pressure group" to refer to formal interest groups. A. Paul Pross, Group Politics and Public Policy (Toronto: Oxford University Press, 1986)
11 Ibid., 84.
13 Ibid., 23.
system of government, will be the most successful in Canada. For Pross, institutionalized
groups have access to financial resources and those in power, which allows them to advance
their policy agenda. Institutionalized groups possess organizational continuity and cohesion,
have extensive knowledge of those sectors of government that affect their clients, and enjoy easy
communications with those sectors, have a stable membership, have concrete and immediate
operational objectives and organizational imperatives are generally more important than any
particular objective.14 It is institutionalized groups which will be able to affect policy the
most, as their structure is highly developed and they are most able to conform to a federal
system of government.

Both Pross and Thorburn see interest groups as counters to a political system which
emphasizes territorial representation. This, however, creates a problem for those groups
representing a sector in the Canadian polity rather than a physical space. The Canadian political
system is one based on spacial representation. Parliament is comprised of women and men who
represent a geographic area, not an interest. Those interest groups which represent a sector of
the population will have difficulty coping with the Canadian federal system, and Canadian
political cleavages which are largely regionally based. Many groups are confined to play what
William Coleman and Grace Skogstad have labelled as a "policy advocacy" role. In this role,
"groups approach the state as lobbyists, outside the decision-making circles, seeking to
influence the nature and content of public policy".15 A second possible role is that of policy
participation. To perform such a role, a group must be highly coordinated as well as formalized
in its internal structures and cultivate a distinct identity as an organization, thus meeting

14 A. Paul Pross, Group Politics and Public Policy (Toronto: Oxford University Press,
1986), 114-115.
15 William D. Coleman and Grace Skogstad, "Policy Communities and Policy networks: A
Structural Approach," in Policy Communities and Public Policy in Canada: A Structural
Approach, ed. William D. Coleman and Grace Skogstad, (Mississauga: Copp Clark Pitman
Ltd., 1990), 20.
Pros's criteria of an institutionalized group.

Recent studies on interest groups have focused on the relationship between the state and society. To better understand arrangements at a sectoral level, two concepts are important to our discussion--policy community and policy network. Coleman and Skogstad define a policy community as, "all actors or potential actors with a direct or indirect interest in a policy area or function who share a common "policy focus", and who, with varying degrees of influence shape policy outcomes over the long run". Pross divides a policy community into two segments, the sub-government and the attentive public; the sub-government is normally composed of government agencies, interest associations, and other societal organizations. The attentive public is less cohesive and may include the media, interested individuals, and any body which attempts to influence policy without actually playing a participation role. The term "policy network" is used to describe the "properties that characterize the relationships among the particular set of actors that forms around an issue of importance to the policy community". Using the definitions provided by Pross and Thorburn, and the analysis of interest groups developed by Coleman and Skogstad, it is possible to examine the organized women's movement in Canada as a sectoral interest. It is also possible to determine the policy community which surrounds issues pertaining to this interest.

The formation of interest groups has been crucial for women in influencing policy. The 1960's were a busy decade for public-policy formation. The volume and complexity of

16 Ibid., 25.
17 Ibid.
issues being addressed by governments precipitated the formation of various pressure groups and government agencies whose purpose was to aid in the creation of public-policy. During this time, the women's movement began to demand government action. In Canada, women comprise over half of the country's population, and as a disadvantaged group both in the political and economic spheres, it is apparent that women have an enormous stake in policy-making. Those who decide and formulate policy have the power to curtail or strengthen all the legislative victories women have won over the years. Further, a document such as the constitution, which has the power to shape and define our society, and bring about change, is very important to groups seeking to better their position in society.

An early history of women's participation in pressure groups can be traced back to the days of the Women's Christian Temperance Movement. In the late 1800's women did not have a formal political voice or a role in policy making. The development of industrialization in Canada at the turn of the twentieth century saw an increase in the activism of middle-class women throughout the western world. According to Jane Errington;

Across the country, but particularly in the cities, thousands of upper and middle class women, increasingly educated, with their children in schools and new labour-saving devices and servants in their homes, joined the movement to reform. 21

Women's organizations began to form to address various social ills. While these organizations were focused around a variety of issues, one element of commonality was in the religious affiliations. Groups like the Young Women's Christian Association (YWCA) and the Dominion Order of the King's Daughters (DOKD) were broad-based Protestant organizations which

attempted to "guard the spiritual, social and personal integrity of the working girl [sic]".\footnote{22} The Women's Christian Temperance Union (WCTU) was one of the largest women's groups at this time. Founded in Owen Sound, Ontario in 1874, the WCTU was an example of early women's organizations. Focused around the cause of abolishing alcohol, the WCTU was comprised of white, middle-class women who identified more with their class than the plight of the industrial woman.\footnote{23} The ideology of such groups was essentially a maternal feminist one which argued that women's involvement in politics was needed in order to inject a moral element into politics.\footnote{24} Because women were the guardians of the family, they knew best how to legislate in the areas of child care, education and health, not to mention that women were less corrupt than men and hence, could ensure that values and morality were present in the government legislatures. The WCTU was successful in addressing one of the perceived social ills in society—alcohol, and in addition it acted as a significant training ground for women as activists. Indeed leaders of the suffrage movement such as Nellie McClung received much of their "training and inspiration in the WCTU".\footnote{25}

The WCTU was not without its difficulties however. Divisions existed in movements like the WCTU over the best method of influencing government policy. Shortly after the WCTU's creation, a small vocal group of women within the movement began to demand the federal franchise. This created some problems for those women who firmly believed that politics was a male realm and that while women were obligated to advocate for the moral clean-up of society

\footnote{22} Ibid., 66.
\footnote{23} Ibid., 69.
\footnote{24} In her collection of articles, Linda Kealey illustrates that the feminism which characterized Canadian associations at the turn of the century may be described as maternal feminism. Kealey explains it "refers to the conviction that woman's special role as mother gives her the duty and the right to participate in the public sphere. It is not her position as wife that qualifies her for the task of reform, but the special nurturing qualities which are common to all women, married or not". Linda Kealey, ed., A Not Unreasonable Claim: Women and Reform in Canada, 1880s-1920s (Toronto: Women's Press, 1979), 7.
\footnote{25} Ibid., 71.
they still did not have a formal place in politics. To address this division in the movement, the WCTU stressed the single issue of prohibition. The WCTU appealed to women's maternal role, and while the plea for the vote did become an agenda item, it was strictly a means by which women could ensure prohibition. Hence, the WCTU was successful in mobilizing women on a national level and influencing government policy in spite of the division over the federal franchise in the movement. While its members were undoubtedly conservative and believed that women were still best suited to perform the role of wife and mother, their agenda did expand to include the political participation of women.

Even at the turn of the century, women's organizations experienced a problem shared by many interest groups in Canada today. Central Canadian dominance of the movement was evident at this time, and continues to be the case today. While the WCTU boasted a national membership of over 10,000, in fact most of its members were residents of Toronto. Other provincial chapters of the WCTU viewed themselves as autonomous and separate from the Toronto Based WCTU. Hence, the suffrage lobby which followed the temperance movement was largely provincially based. Women in Manitoba, Saskatchewan and Alberta were reluctant to take direction from Toronto, and women in Montreal even more so. While leaders of the WCTU preferred to view the movement as one which was common throughout the country, regional cleavages did exist in the movement. The issue of prohibition was not problematic for women, but rather the issue as to the best method of influencing government was a problem. It was within this context that women's groups became divided as to whether possessing the federal franchise was necessary to address the issue of prohibition or whether other means were more applicable.

The question of regional disparity continues to be difficult for the organized women's

26 Ibid.
27 Ibid., 68.
28 Ibid., 69.
movement today. Pross identifies this problem with interest groups as that of space versus sector. While various individuals belong to different groups and advocate different interests in society, in Canada the strongest affiliation is that of geographic area rather than association. "[L]ocal and regional identity has always been more than unusually prominent in our political institutions." 29 It follows that members of Parliament have always given a high priority to spacial groups rather than sectoral groups. Pross does however qualify his statement by saying that at the same time, pressure groups create a major problem in democratic representation, "by threatening to substitute sectoral representation for the geographically based representation upon which our legislative system depends". 30 For Pross, these two systems of representation can co-exist, but not as equals because the legitimacy of the Canadian state depends on geographically based representation. Sectoral representation must take second place. Given that women's groups are viewed as representing a sector in the Canadian population, Pross' analysis identifies one difficulty women's groups experience in their attempts to influence the formation of public policy.

In examining interest groups, women's groups must be viewed in terms of a sector of the Canadian population. Indeed there are no geographic boundaries which confine women. As women represent over half of the population of Canada, they can be found in any community in any province or territory. While there does not appear to be a single agenda for women's groups, women do represent a clearly defined sector in Canadian society. The fact that women represent a sector in the Canadian population dictates that those groups seeking to represent women experience difficulty in influencing the state. Pross identifies sectoral interests as having to be secondary to spacial interests. As stated earlier, because Parliament was created to represent regional interest, (i.e. each Member of Parliament represents constituents from a

30 Ibid., 17.
specific geographic area) the notion of representing a specific segment of the population directly competes with the notion of regional representation. Thus those groups which seek to speak on behalf of women nationally experience difficulty in legitimizing their voice. The question that arises from Pross' assertion is "who speaks for women in Canada"? It is not surprising that women's groups were most often provincially based and that the provincial franchise was won in many provinces by women before the federal franchise i.e. Manitoba, Alberta, Saskatchewan 1916.31

The lobby to gain the federal franchise was not a complete success in the fight for equality of women.32 In fact in the first fifty years after enfranchisement, women constituted less than 1 per cent of those elected in all federal elections.33 It was this record that prompted women and organized groups across Canada to lobby the federal government under Lester Pearson for a Royal Commission on the Status of Women (RCSW) in 1967. According to Monique Begin, the Royal Commission on the Status of Women was important for women for two primary reasons. First, the RCSW served to legitimate the demands of women's groups. Because the government had created the commission, there ensued a public perception that the concerns of women had merit. If in fact the government was going to spend money on a Royal Commission to probe into the status of women in Canadian society, there must be just cause for the commission. Second, Begin notes that women's organizations in Canada became essentially

32 Ibid., 70.
"feminist" as a result of the publication of the commission in 1970. Because the commission was about making public presentations and developing recommendations for the government, the report was a call for social action. Begin states that it was because of this that women's organizations in Canada have up until recently been feminist whereas in the United States many anti-feminist women's groups exist (i.e. Eagle Forum).

In terms of interest groups, the RCSW established the ground work for state funding of organized women. As previously stated, the perceived legitimacy of the report of the commission translated into a perceived legitimacy of organized women's groups. Pross points out that a key function for an interest group is that of obtaining legitimacy in the eyes of not only the public but also the government. It follows that governments may define their actions as legitimate when consultation is done with those interested groups and persons whom the public perceives to be legitimate.

Begin concludes that the RCSW would not have been created had the federal government not possessed the will to act in the area of the status of women. At the time of the creation of the Royal Commission there was a general belief that equality was desirable. Without such a belief, it would have been extremely difficult for women in Canada to have had their concerns addressed by the Royal Commission. Writing twenty years after the report of the RCSW in

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35 Ibid. In Canada REAL (Realistic, Equal, Active for Life) Women have also emerged as an anti-feminist group, demonstrating that these anti-feminist groups are not unique to the U.S.A. See, Karen Dubinsky, Lament for a "Patriarchy Lost"? Anti-feminism, Anti-abortion, and R.E.A.L. Women in Canada (Ottawa: Canadian Research Institute for the Advancement of Women, 1985).


1990. Begin suggested that many of the Commission's recommendations had not been implemented because while the government may have been committed to the principle of equality, it was not prepared for many of the significant changes called for by the report. The societal changes that the report addressed such as universal day care, had little support amongst those who were in power.38

In an examination of women as a particular sector in the policy community it is important to note two features of women's groups. First, women's groups are historically fragmented and weakly associated. This can primarily be attributed to regional differences. Second, those bodies created by the state to address women's issues are also weak and fragmented.39 Such a finding is not a revelation when one considers the diverse backgrounds from which women come. Jill Vickers has addressed the issue of the government's criticism of the women's movement as having no one singular agenda. Vickers contends that not only does state action affect men and women differently, but more importantly it affects different women differently.40 Women are divided along class, ethnic and regional lines. Such an understanding is key to examining the activity of organized women's groups. Unlike other special interest groups such as the Assembly of First Nations, organized women's groups must continually justify their representation of the concerns of Canadian women (this subject will be pursued in greater depth in chapters 2 and 3).

Since the inception of women's groups, their size and scope have varied. Burt identifies four types of women's groups: (i) service providing groups, (ii) equal rights groups, (iii)

38 Ibid., 36.
social feminist groups, and (iv) traditional role advocating groups. Joyce Gelb and Marian Lief Palley also categorize women's groups. They find that there are two main groups in society: emergent groups and traditional groups. The various types of groups are a further reflection of the diversity of the organized women's movement as well as the competing visions as to the best method of influencing public policy-making.

The literature on interest groups sub-divides policy communities into the "sub-government" and the "attentive public". In the case of women's groups, the sub-government would include groups such as the Canadian Advisory Council on the Status of Women, and Status of Women Canada. Coleman and Skogstad define sub-governments as "normally composed of government agencies, interest associations, and other societal organizations such as business firms, [who] make policy in the given field". The attentive public on the other hand seeks to influence policy, yet does not participate directly in the policy process. The majority of women's groups would fall into the latter category.

Interest groups in Canada can either play a "policy advocacy role" or a "policy participation role". Women's groups have traditionally been outside of the policy making realm, and therefore confined to play an advocacy role. In addition because women's groups have been fragmented and divided by regional concerns, it has been difficult for the Canadian government to call upon any one women's group to voice the concerns of women in general, let

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alone to play a policy participation role.

In looking at the history of women's groups in Canada, Burt hypothesizes that networks linking women's groups to the state have evolved from state-directed in the 1960's to pressure pluralism in the 1980's. According to Coleman and Skogstad, state-directed policy networks, ...include highly autonomous, coordinated state agencies and sectoral interests with a very weak associational system, possibly at a nascent stage. As such, organized interests play neither an important advocacy nor participant role in the policy process. State officials dominate policy-making and are able to impose their solutions, often without even consulting organized interests.

Pressure pluralism refers to a policy network whereby groups "assume primarily a policy advocacy role and state agencies remain autonomous".

Prior to the 1970's, women's groups were few, and the concerns of women were represented by the Women's Bureau of the federal government. Though the Bureau never became an autonomous body, it did significantly intervene on behalf of women throughout government agencies. The creation of Status of Women Canada took the advocacy role away from the Bureau; however, because Status of Women was a new creation, it lacked established links with other sectors of the bureaucracy, and as a result was not very influential in government. Burt states that it only had "nominal power to recommend policies and real power only to promote research and offer advice".

The creation of the Women's Program under the Secretary of State moved the policy advocacy role further away from the federal bureaucracy, by providing women's groups across

46 Ibid., 193.
48 Ibid., 27.
Canada with the resources to lobby government. Today, women's groups operate in a highly pluralistic system in which groups representing women not only compete to influence government, but they also compete with one another for funding from the Secretary of State.

Through this examination of the history of women's groups, it is obvious that organized women have played a significant role in creating the welfare state.50 It follows that women's groups have strongly advocated state action to bring about change. For example the WCTU lobbied the government to better society by abolishing the consumption of alcohol. For women's groups the state has evolved into a deliverer of services including regulation.51 The state has brought forward social change, and has set up funds from which to support women's groups and therefore, the state is perceived as an acceptable vehicle for change. According to Jill Vickers this view of the state has caused women's groups to build co-operative political structures to interact with states but this also creates a tension between autonomy and integration. While the issue of state funding continues to be contentious for organized women's groups, by far the bridging of various cleavages within the movement is most problematic.52

1.5 Women and the Constitution

The women's movement in Canada has been referred to as "the politics of getting things done".53 This expression refers to the fact that the women's movement has been issue driven,

50 By the "welfare state" this paper refers to the increased role of the state in creating national programs as well as the widely-held belief that state intervention is positive. See, Jacinthe Michaud, "The Welfare State and the Problem of Counter-Hegemonic Responses within the Women's Movement", in Organizing Dissent: Contemporary Social Movements in Theory and Practice, ed. William K. Carroll (Toronto: Garamond Press, 1992), 212.


52 Ibid., 60.

53 Jill Vickers, Getting things Done: Women's Views of Their Involvement in Political Life (Ottawa: Canadian Research Institute for the Advancement of Women, 1988), 3.
rather than driven by the demand for a sexual equality clause in the constitution. Chaviva Hosek points out that the reason Canadian women have left the constitution off their agenda is largely due to fact that historically the fight for legal equality has been a disappointment for women.54

One of the earliest attempts by women for "inclusion" was the struggle for "political inclusion". In the late 1800's, women realized that the ability to vote and choose elected officials was essential if women ever hoped to better their position in Canadian society. As the victims of alcohol abuse and domestic violence, women believed that if they were participants in politics they could "clean things up". The suffrage movement fought many years for the federal franchise against determined opposition. It was not until 1917, toward the end of World War One that Prime Minister Borden and his Conservative government realized that granting women the vote would add to their electoral support. Conscription had taken its toll on the government's popularity, and the Conservative government was seeking new sectors of support amongst the Canadian electorate. Hence, partial suffrage was granted in 1917, to close women relatives of servicemen under the Wartime Elections Act—not for reasons of democracy and equality—but for political reasons. It was not until the following year in 1918, women were granted the federal franchise in the Women's Franchise Act.55 In 1921, women exercised their new right for the first time by voting in a federal election. 1921 also saw the first woman elected to the House of Commons when Agnes MacPhail became the member for Grey Simcoe.56

1.5 (i) Persons Case

Inspired by the suffrage victory and vacancies in the Canadian Senate, in 1919,

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56 Terry Crowley, Agnes MacPhail and the Politics of Equality (Toronto: James Lorimer and Company, 1990), 47.
organizations such as the Federated Women's Institutes of Canada, and the National Council of Women pushed the federal government to appoint a woman to the Senate. Arguing that the Senate dealt with issues concerning women and children, and female representation was necessary to address these issues, women unsuccessfully pressed the government to act on this issue. While the government did not object to the "rightness" of women's representation in the Senate (women could hold elected office as of 1919), they did not believe that the word "person" in section 24 of the British North America Act (BNA Act) applied to both men and women. A change in governments in 1920, coupled with a lack of political will to act on the issue, saw the death of the "Persons" debate at this time.

It was not until 1927, when Emily Murphy, a prominent advocate of women's rights, was informed by her brother, an Ontario lawyer, that a section of the federal Supreme Court Act existed which allowed "interested persons appealing as a unit, to ask for the interpretation of a constitutional point raised under the British North America Act". Shortly thereafter Henrietta Edwards, Nellie McClung, Louise McKinney and Irene Parlby, all activists in the women's movement, delivered the following three questions to the Minister of Justice to be forwarded to the Supreme Court:

1. Is power vested in the Governor-General of Canada, or the Parliament of Canada, or either of them, to appoint a female to the Senate of Canada?

2. Is it constitutionally possible for the Parliament of Canada, under the provisions of the British North America Act, or otherwise, to make provisions for the appointment of a female to the Senate of Canada?

3. If any statute be necessary to qualify a female to sit in the Senate of Canada, must this statute be enacted by the Imperial Parliament, or does power lie with the

58 Ibid., 103.
The petitioners were careful to word the questions so that an affirmative response was ensured. They did not use the word “person” in their questions, as this was the term used in section 24 of the BNA Act, and undoubtedly the fathers of Confederation did not intend society to progress to the point where women would one day demand seats in the Senate, let alone the right to vote in elections. Unfortunately, the Minister of Justice interpreted the three questions and condensed them into one question. The following question was sent to the Supreme Court. “Does the word “Persons” in section 24 of the British North America Act, 1867, include female persons?”

After a long wait, on April 14, 1928, the Court handed down its unanimous decision:

Women are not ‘qualified persons’ within the meaning of section 24 of the British North America Act, 1867, and therefore are not eligible for appointment by the Governor General to the Senate of Canada.

The arguments used by the Court to uphold their decision centered around the use of the words “fit and qualified” persons in section 24 of the BNA Act. While the word “persons” was used throughout the constitution to include both men and women, the words “fit and qualified” were not used in all contexts. If females were considered “fit and qualified”, the Court argued, then an explicit reference to female persons would have been used. Hence, the drafters of the constitution did not intend for women to be appointed to the Senate. Such interpretations of the constitution and law were what Judge Emily Murphy of British Columbia once referred to as examples that women were only considered to be persons in “the matter of pains and penalties, but not in the matter of rights and privileges”.

King’s Liberal government gave in to pressure that this ruling presented a serious inequality in the constitution, and vowed to enact an amendment to the BNA Act that would make

59 Ibid., 104.
60 Ibid.
61 Ibid., 106.
62 Ibid., 101.
women eligible to sit in the Senate. Having little faith in the government to act quickly on the issue, Emily Murphy decided to appeal the ruling of the Supreme Court to the highest decision body for the British Empire—the Judicial Committee of the Privy Council (JCPC). On May 2, 1928, Murphy sent copies of the appeal to the JCPC located in London, England. On October 18, 1929, Lord Sankey of the JCPC announced the historic decision:

Their Lordships are of the opinion that the word "persons" in section 24 does include women, and that women are eligible to be summoned to and become members of the Senate of Canada.63

Soon thereafter, Cairine Wilson became the first woman appointed to the Senate.

The "Persons" case identifies three key problems in the relationship of women to the constitution. First, the drafters of constitutional legislation and amendments have been, and largely remain, men. The fathers of Confederation did not intend that one day women would sit in Parliament. Society in 1867 could not anticipate such an event any more than they could the increase in importance and cost of education. Women in 1867 were considered second class citizens, and as such were awarded this status by being excluded from sections of the constitution.

Second, the "Person's" case illustrates the problem of neutral or generic language in the constitution. Because constitutions must remain flexible to accommodate an ever-changing society, specific language is not used. For disadvantaged groups in society, the use of vague language means relying on the interpretation of sections of the constitution by bodies such as the House of Commons and the Supreme Court. While women have increased in number in Parliament and on the Supreme Court over the years, men remain the majority in decision-making roles. Thus, women have had to rely on men to protect their rights. Finally, the "Persons" case represents the first example of an unfavourable ruling women have been given

63 Ibid., 110.
by Canadian courts. It was the decision of the JCPC, a foreign body, which deemed women "persons". The Supreme Court of Canada had denied women this status.

1.5 (ii) The Bill Of Rights

The next development for women in relation to the constitution was the creation of a Bill of Rights. The Bill of Rights in 1960, while heralded by some, did little to benefit women in Canada. The document set out to record political conventions representing fundamental rights and freedoms; however, the Bill of Rights failed to have any real political teeth. Because it was not entrenched in the BNA Act 1867, and was only a statute of Parliament, it could only affect matters within federal jurisdiction.64 For women, section 1 (b) of the Bill of Rights was of significance. It stated;

It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms namely, ...(b) the right of the individual to equality before the law and the protection of the law.65

Women had hoped that section 1 (b) would guarantee their equality, yet the drafters of the bill had little intention of the document extending equality rights to women. The Justice Minister who proposed the bill, Mr. Davie Fulton, stated to a committee hearing on the bill;

I do feel the expression...would not be interpreted by the courts so as to say we are making men and women equal, because men and women are not equal: they are different.66

Exactly how the courts would interpret the concept of "equality" as outlined in the bill was soon

65 Statutes of Canada, 1960, c. 44, Part I.
to be seen.

In the famous case of the Attorney General of Canada vs Bedard and Lavell in 1973, two native women appealed to the Supreme Court of Canada when their Indian status was revoked upon their marriage to non-Indian men. The Indian Act allowed native men to maintain their status upon marriage to non-Indians, but the reverse was true for women. The Supreme Court ruled that Bedard and Lavell were not treated contrary to the Bill of Rights. According to the Court, equality in the Bill of Rights meant equality in the administration and enforcement of the law, and that the actual substance of the law could discriminate between men and women.67

In the case of Stella Bliss 1978, Bliss upon becoming pregnant in 1976, was fired from her job. After the birth of her child, Bliss applied for unemployment insurance, only to find that her pregnancy disqualified her for unemployment benefits, and she would have to apply for maternity benefits. Unfortunately, Bliss did not have enough weeks of work to claim the maternity benefit, yet she did have enough to claim the unemployment benefit. In the appeal to the Supreme Court, Bliss argued that she was entitled to the unemployment benefit and had been discriminated against because of her sex. The Supreme Court ruled against Bliss and argued that she was refused benefits "not because she was a woman, but because she had been pregnant".68 Although Bliss' lawyers tried to convince the Court that because only women can get pregnant, denial of unemployment benefits to Bliss did constitute sex discrimination, the Court refused to accept this. The Supreme Court of Canada offered the argument that if Stella Bliss was a man the ruling would have been the same.

Perhaps the greatest problem with Diefenbaker's Bill of Rights was that the bill failed to address the issue of constitutional reform. The Bill of Rights was a federal statute which


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instructed judges to make decisions regarding federal law in a liberal way. No new machinery was created for the enforcement of rights, hence, the bill did not put the rights of any Canadians, let alone disadvantaged groups, on a secure foundation. Putting this stage of our constitutional history in perspective, however, the Bill of Rights did serve to commence the investigation of a constitution with an entrenched declaration of rights and freedoms.

1.5 (iii) The Charter of Rights and Freedoms

The Bill of Rights in the 1970s gave the impetus for future debate on rights and freedoms. When the draft proposal of the Canada Act, 1982, was first tabled in the House of Commons, women's groups were shocked to discover that sexual equality rights were not explicitly and separately included in the Charter of Rights and Freedoms. Women further questioned the actions of the government when Doris Anderson, President of the Canadian Advisory Council on the Status of Women (CACSW), resigned her position because she was advised by the Minister responsible for the Status of Women, Lloyd Axworthy, that a conference planned by CACSW to discuss the Constitution Act should be postponed until debate on the legislation in the House of Commons died down. It became obvious to many that the government was not concerned with the issues that were important to women. Further, the direct infringement on the autonomy of CACSW due to the Minister's demand that the conference be cancelled called into question the ability of the organization to criticize government freely and openly.69

Frustrated by the government's handling of the situation, on February 14, 1980, a conference was held in the West Block on Parliament Hill in spite of the fact that CACSW's conference had been cancelled. This conference had not been organized by any women's group in particular, but by an ad hoc group of women concerned with the implications of the proposed

legislation. The purpose of the conference was to discuss the proposed constitution with an entrenched Charter and its implications for women. Women's groups had not been consulted by the government when the proposed Charter was drafted, and the conference took the opportunity to give women a voice on their future.

At the conference women from across Canada gathered to discuss the proposed Charter. Many of these women had been involved in the political process in the past, others were novices to politics. This meeting was unprecedented. No other group in Canadian history had managed to rally so quickly and effectively to debate an issue. Thus the event sent a strong message to the politicians that women wanted and were prepared to work for constitutional inclusion. A weekend of debate produced several resolutions which called for amendments to the proposed Charter of Rights and Freedoms, and these concerns were submitted in a brief to the government.

The concerns of women were not unlike the issues brought up in past constitutional debates. The problem of vague language in the Charter was raised at the conference. The Ad Hoc Committee stated, "It is of paramount importance to ensure that the wording used in the Charter will provide such clear directions to judges that they cannot possibly misinterpret the intended content and meaning".70 Remembering the "Persons" case, women sought to ensure that their constitutional guarantee of equality rights would never be left to the interpretation of decision-making bodies that were unsympathetic to the situation of women in Canadian society.

Another fundamental problem with the Charter was section 15 (1). This section involved what was known as "Non-Discrimination Rights". While this section guaranteed equal application of the law in a non-discriminatory manner, it did not guarantee that discriminatory laws would be abolished. The original draft of the Charter also used the term "disadvantaged

groups” in section 15 (2). The Ad Hoc Committee felt that it was necessary to specifically list disadvantaged groups by name. This section of the Charter dealt with affirmative action programs, and it was felt that in order to ensure that the government would make these programs indiscriminately available, the words sex, race, and religion etc... should replace disadvantaged groups.71

Finally, the Charter varied in language, it varied from using the words "every person" to "everyone". Women recognized the importance of their struggle in 1929, to become recognized as fit and qualified "persons", and therefore felt it necessary that the Charter be consistent in the use of the words "every person".

For the most part women were victorious in having many of the aforementioned concerns addressed as amendments to the Constitution Act 1982, but the greatest victory for women was the inclusion of section 28 guaranteeing equality rights to male and female persons. As Flora Macdonald pointed out to the House of Commons;

...Section 28, as honourable members will remember, was not in the original constitutional proposals introduced into the House in October of 1980. Neither was it the product of the weeks and months of the hearings of the Joint Parliamentary Committee on the Constitution. The hard-working committee produced many amendments, but section 28 was not among them. No, that section was the creation of hundreds—indeed, thousands of Canadian women who converged on Ottawa last spring to speak their minds about what they considered their fundamental rights.72

Section 28 was not easily won by women in Canada however. After lobbying hard for its inclusion, and showing the federal government that a sexual equality clause had support (a public opinion poll done for the Canadian Human Rights Commission showed that 77% of Canadians supported such a guarantee of rights), section 28 became part of the government's

71 Ibid.
72 Macdonald, Speech to the House of Commons, 24 November 1981. Parliamentary Debates (Commons), vol. XII (1981), 13195. 28
revised constitutional package. 73

As Lise Gotell points out, this initial victory for women was "short lived";

On November 5, 1981, in a last ditch attempt to secure provincial agreement on the constitution, the federal government and its provincial counterparts put together a new section which would allow governments to override Charter provisions by explicitly declaring laws outside their scope. By November 9, it was confirmed that section 28, the sexual equality guarantee, would fall under this override provision. 74

With the assistance of Judy Erola, the Minister responsible for the Status of Women, and the support of the federal government, the Ad Hoc group began their lobby a second time, but this time at the provincial level. The pressure on the premiers was intense, and eventually they agreed to the removal of the override on section 28.

Indeed, women had developed a highly effective lobby to ensure their inclusion in the constitutional process. Section 28 was a sacred, long-sought covenant not to be broken, not even to be hindered by section 33 of the constitution. According to Gotell, the Ad Hoc Committee was successful largely due to the broad base of support for sexual equality rights; support which could be measured in a number of ways. First, the women who attended the Ad Hoc Committee's conference represented a wide range of women. While many of these women were from women's groups and organizations, a substantial number of these participants were new to feminist politics. Second, the Ad Hoc Committee was able to raise a fair sum of money given the short preparation time. 15,000 dollars in institutional donations and 10,000 dollars in individual donations was collected for the committee. Finally, 1300 women attended the February 14th conference on only three weeks notice. 75 With this support, governments took the Ad Hoc Committee and their recommendations seriously.

73 Toronto Star (Toronto), 30 November 1981.
74 Lise Gotell, The Canadian Women's Movement, Equality Rights and the Charter (Ottawa: Canadian Research Institute for the Advancement of Women, 1990), 16.
75 Ibid., 14.
Never before in Canadian politics had a women's group executed such a successful political lobby. The women's movement was able to solicit the opinions of women from across Canada and reach a consensus. The Ad Hoc Committee of Canadian women was recognized by governments as legitimate and representing the concerns of Canadian women. This was also the first time that women members of the House of Commons left partisan politics behind to support the Ad Hoc Committee in their fight, thus forming a cross-party coalition to benefit women as a whole.

1.6 Evaluation

The lobby by women for the federal franchise and status as "persons" represents women's fight for the "right" to exist. According to Gotell, these "milestones were achieved without any consideration of women's "right" to equality within the public sphere".76 As demonstrated earlier, the Bill of Rights was not intended by its crafters to guarantee equality rights to women. What is apparent in this examination is a "predominance of an ideology of sexual difference within Canadian law". As the Bedard and Lavell and Bliss cases have illustrated, different treatment of men and women was upheld by the courts. In fact, the Bill of Rights failed to recognize gender-based inequality and an ideology of sexual difference was widely accepted and practiced throughout the legal system.77

Given this history, it is not surprising that women's groups have been wary of any guarantee of legal equality. In fact Chaviva Hosek makes the case that the Charter was "thrust" upon women's groups.78 Women entered the 1979 constitutional round when the issue of transferring jurisdiction over divorce to the provinces was proposed. Sandra Burt goes on to state that the lobby surrounding the Charter was essentially a negative experience for women's

76 Ibid., 6.
77 Ibid., 8.
groups for three reasons. Burt points out that first, the lobbying strategies employed by women of the Ad Hoc committee were "strategies borrowed from traditional male-dominated interest groups". Hence the usual model adopted by the women's movement of consensus reaching was passed over.79 Second, there were regional groups who did not support an entrenched Charter. Relations between NAC and the FFQ were strained when the FFQ sided with other Quebecois on this issue. Finally, the Charter was viewed by some to be no more than a statement about a country and not an issue which required a great deal of time or effort. Some believed that the women's movement would have been better off in advocating for abortion, day care or pensions for homemakers.80

The inclusion of sexual equality in the Charter has led to important changes in the political environment in Canada. There is no doubt that an anti-discriminatory message is clear in the wording of the Charter. This is evident in three ways. First, the Charter moves a step beyond the Bill of Rights to include equality "under the law". Second, unlike any other sexual equality clause in the world, our Charter provides for "equal benefit and protection of the law". This provision makes it possible for the Charter to be used not only in situations of disadvantage, but also in situations of unequal advantage. Hence, section 15 (2) protects affirmative action programs which seek to address the conditions of disadvantaged groups.81 Finally, sections 15 and 28 combined work to enhance one another thereby strengthening the guarantee of sexual equality.

Some critics of Charter litigation however, argue that the fight by women for equality

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80 Ibid.
rights is perhaps not so relevant. The Canadian legal tradition has been saddled with a
definition of equality which means "sameness". As K.A. Lahey points out, "almost all women are
not equal to men in terms of financial wealth or social status". Hence, to strive for equality
with men is not a pragmatic goal for women, for a strict ideology of equality rejects maternity
leave and affirmative action as they grant special status to one group and not another. This does
not refute the need for sexual equality in the law. Zillah Eisenstein points out, "Although
formal legal equality is a necessary precondition to sexual equality, by itself it is not an
adequate strategy for liberation".

The real test of the Charter however, was time. In 1989, the Canadian Advisory Council
on the Status of Women commissioned a report on the results of court cases regarding women
and equality. Their report, "Canadian Charter Equality Rights for Women: One Step Forward or
Two Steps Back?" was disappointing. The authors of the report stated:

The news is not good. Women are initiating few cases, and
men are using the Charter to strike back at women's hard-
won protections and benefits. At the time of writing, the
Supreme Court of Canada had not delivered its first
judgment concerning the equality guarantees. But the
theories of equality and interpretive tests that, to date,
have been applied by other courts in Canada will not
improve women's conditions.

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82 See for example, Lise Gotell, The Canadian Women's Movement, Equality Rights and the
Charter (Ottawa: Canadian Research Institute for the Advancement of Women, 1990).
Zillah R. Eisenstein, The Radical Future of Liberal Feminism (New York: Longman,
83 Kathleen Lahey, "Equality and Specificity in Feminist thought," unpublished paper,
Windsor, 1983, pp.4-5. Quoted in Lise Gotell, The Canadian Women's Movement,
Equality Rights and the Charter (Ottawa: Canadian Research Institute for the
Advancement of Women, 1990), 9.
84 Zillah R. Eisenstein, The Radical Future of Liberal Feminism (New York: Longman,
85 Gwen Brodsky and Shelagh Day, Canadian Charter Equality Rights for Women: One Step
Forward or Two Steps Back? (Ottawa: Canadian Advisory Council on the Status of
Indeed sections 15 and 28 have not offered a solution to the problem of inequality in Canadian society. In fact the findings of the Advisory Council's report are that men have initiated more than three times as many sex equality challenges as have women.86 Further there is indication that the courts are treating women's sex equality claims and men's sex equality claims as if both groups were equal.87

More recently the Supreme Court of Canada's ruling on the Rape Shield Law further builds the case for women's groups to not solely rely on the legal system to ensure equality in Canadian society. For this reason, political lobbying in conjunction with litigation is important. By attacking the system from many directions, women increase their chances of establishing equality. Until women's paper rights (i.e. The Charter) are matched with political representation of women's rights (i.e. in the House of Commons, and on the benches of the Courts), women may continue to have equality rights challenged.

The organized women's movement began actively pursuing the idea of representation in the 1980's. Groups such as NAC and the "Committee for '94" began to offer workshops for women to encourage them to run for elected office.88 In the 1988 federal election NAC conducted an advertising campaign to encourage women to use their vote and ensure that the candidate they selected was sensitive to issues pertaining to women. Thus legal action coupled with political action appears to be a powerful combination for women's groups.

1.7 Conclusion

Throughout this chapter it has been argued that women's groups in Canadian society

86 Ibid., 66.
87 Ibid., 93.
often have difficulty in relating to the state because they represent a sector in the population rather than a spacial group. In spite of this, women's organizations operate within a liberal feminist ideology which adheres to the belief that the state is key in delivering services to women, including regulation. In short, the liberal feminist practices of these groups allow for operation within the present political system rather than apart from it.

In addition to identifying the liberal feminist character of the women's movement in Canada, this chapter also traced the evolution of women's groups from the late 1800's. Women's groups continue to face similar problems as did the early movement. According to Jill Vickers, this is largely due to the fact that regional cleavage is entrenched in Canadian political culture. "This preliminary exploration of the forces for continuity in Canadian feminism suggests that our general political culture has exerted considerable force". While regionalism is an important element of the Canadian political culture, so is a "commitment to the ordinary political process [and] a belief in the efficacy of the state". Thus we find an organized women's movement in Canada that continues to grow and evolve with the ever-changing political climate in the country. As Sandra Burt has pointed out, it is this very link to the state which has provided the women's movement with legitimacy.

The second half of this chapter traced the historical relationship of women to the constitution. In making the case for the relationship of inequality of women to the constitution, this chapter pointed out the problems with legal action as a means of ensuring equality. Thus the connection between interest group activity and the constitution is clear. It has not been Charter intervention cases which have delivered equality guarantees to women in society, but

90 Ibid., 60.
rather effective lobbies by organized women's groups. Given the legitimate role women's groups play in representing segments of the women's population perhaps it would be in the best interest of the movement to continue to pursue political action. However, if Vickers is correct in that political culture has a role in shaping the women's movement, it is inevitable that legal intervention will continue to be a strong element of their efforts. Indeed Charter litigation has become an integral part of the Canadian political culture. While this may be the case, it is difficult to say how the abolition of the Charter Challenges fund will affect women's groups. Groups like the Women's Legal Education and Action Fund (LEAF) relied heavily on this federal funding to test section 15 of the Charter. One thing that has become apparent however, is the growth of the women's movement in addressing all aspects of the constitution and not just those which pertain to sections 15 and 28 of the Charter.

It would probably be safe to assume that politicians were surprised when the criticisms by women's groups of the Meech Lake Accord went beyond the threat to sections 15 and 28. Women's groups did not confine their criticisms to any one section of the Accord, but rather addressed traditionally "male" areas of jurisdiction such as the division of powers between the federal government and the provinces. Women's groups, whether initially reluctant participants in the constitutional process or not, had found the voice to speak on women's equality. It was their effective lobby for section 28 in 1982 that secured them a position in future constitutional debate.

Chapters two and three will examine the Meech and Charlottetown Accords in respect to the organized women's movement. Throughout these chapters the theme of diversity within the women's movement will be developed and argued. Chapter two will focus on the rift in the women's movement in French and English Canada over the Meech Lake proposal, and chapter three will focus on the success of women's groups, specifically NAC, in defeating the
constitutional referendum in October of 1992. As a result of this discussion, it is possible to determine what the major cleavages are within the women's movement, in order to prescribe a future course of action for women as an organized interest in the Canadian polity.
CHAPTER TWO
2.1 Introduction

In 1982, when Canada’s Constitution was proclaimed, most people involved in the process were euphoric about what they saw as women’s new-found political clout. Eleven years later a more qualified picture of the Charter is evident. Ironically, section 15 of the Charter has been used more often by men than it has by women.1 Further, Charter interpretations by provincial courts of appeal have been inconsistent.2 Hence, the Charter has its critics who suggest that legal action has not been the "deliverer of goods" to women in Canadian society.3 In addition, women’s groups continue to be concerned by questions such as those pertaining to which level of government has jurisdiction in areas key to women throughout Canada. It is for this reason that the Meech Lake Constitutional Proposals in 1987 were problematic for the women's movement. While some women's groups saw the Accord as threatening the equality provisions of the Charter, others contended that the Accord did not affect the Charter.4 What became clear during the Meech debate was that rather than being a single, cohesive, organized interest group in society, women were divided on this constitutional issue. Beyond a doubt, the deepest cleavage evident was that between the women in English and French Canada.

This chapter will offer insight into the relationship of women to the constitutional regime. It will also seek to illustrate how different groups of women have different relationships with the state. By examining the proposals and the process surrounding the Meech Lake Accord, this chapter will show first, that the victory of obtaining section 28 in the

2 Ibid., chap. 3 passim.
4 The National Action Committee on the Status of Women opposed the Meech Lake Accord for a number of reasons, but primarily because they believed the Accord threatened equality provisions of the Charter. The Federation des Femmes du Quebec supported the Accord, and did not believe that the “Distinct Society” provision adversely affected the Charter.
Charter is a qualified one, second, that women experience divided loyalties, third, that women still continue to experience exclusion from the political system and fourth, divisions within the women's movement can only be heightened by deeper constitutional probing.

2.2 Constitutional Theory

The Meech Lake Constitutional Accord of 1987, was an attempt by the federal government to reach an agreement on the constitution between the federal government and the provinces, but especially the province of Quebec given that Quebec failed to sign the Canada Act in 1982. For this reason, Prime Minister Mulroney and the ten Premiers met at Meech Lake in 1987, for what became known as the "Quebec Round". Hence the preamble of the Meech Lake Accord read;

On April 30, 1987, First Ministers met at Meech Lake Quebec, to consider proposals intended to bring Quebec’s full participation in Canada’s constitutional evolution and to enable governments to begin a "second round" of discussions on further constitutional change.5

While public support was present for the Accord at first, criticism by various interest groups and a closer examination of the Accord’s contents soon witnessed the growth of public dislike for the agreement. This fact coupled with the general dissatisfaction of many Canadians by the process surrounding the Accord, challenged the academic community to develop new theories for explaining the intense public backlash to the traditional method of constitutional amendment through the process of executive federalism. Perhaps the most popular explanation for the outcry by interest groups and the general public is that offered by Alan Cairns. Cairns argues that the creation of the Charter of Rights and Freedoms created a new group of constitutional players in Canadian politics. According to Cairns the Charter;

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...bypassed governments and spoke directly to Canadians by defining them as bearers of rights, as well as by according specific constitutional recognition to women, aboriginals, official language minority populations, ethnic groups through the vehicle of multiculturalism, and to those social categories explicitly listed in the equality rights section of the Charter. The Charter thus reduced the relative status of governments and strengthened that of the citizens who received constitutional encouragement to think of themselves as constitutional actors.

The advent of the Charter of Rights and Freedoms represented a significant step in the evolution of constitutional politics in Canada. By entrenching fundamental rights in the constitution, the Trudeau government sought to make the Canadian constitution a personal, and highly relevant statement of rights and freedoms for all Canadians. By conferring on all Canadians basic individual rights, there was a general perception that the Charter moved the constitutional debate beyond the level of just interactions between governments, and that ordinary citizens had a role to play in the discussion of rights. In fact, the Charter of Rights and Freedoms went so far as to create what Cairns has called "Charter groups". The groups Cairns recognizes as playing an important role in the debate over the Charter are women, aboriginals, multicultural groups, and linguistic-minority groups.

The premise of Cairns' argument lies in his belief that the constitutional process in 1980-82 resulted in the creation of a "Citizens' Constitution". Cairns asserts that the Charter gave various groups in Canadian society (specifically those groups mentioned in the Charter, i.e. women, aboriginals, multicultural groups, and linguistic minorities) a constitutional identity and thus these "new Charter Canadians see themselves as legitimate actors, not spectators, in constitutional change". At odds with this "Citizens' Constitution" is the "Government's Constitution". The "Citizens' Constitution" co-exists uneasily with the "Government's

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7 Ibid., 117.
8 Ibid, 121.
Constitution", and the tension is highlighted by the amending formula, a government-dominated process, which may affect parts of the constitution of interest to specific groups. Cairns' primary focus involves investigating to whom the constitution "belongs" and who is entitled to participate and in what way.9

According to Cairns, these organized interests believe they have a legitimate role in constitution-making as a direct result of the Charter. The Meech Lake debate fostered this belief among the general public, thus demonstrating that the constitution has become a symbolic document, and hence one which holds great significance:

As the constitution reaches down selectively into Canadian society it has become a social document of great symbolic value, the supreme instrument of social recognition and its denial.10

The opposition to the process surrounding the creation of the Meech Lake Accord was an expression of this new constitutional reality. Today Canada's political culture is one which is sympathetic to constitutional participation by players other than government elites.

While Cairns' theory offers some insight into the enhanced role of organized interest groups such as women's groups in the constitutional debate of 1987, it does have its critics. Jill Vickers states that Cairns' analysis is both "inaccurate and condescending" to women.11 Vickers points out that Cairns sees "Charter Canadians" and women in particular as being connected only to the Charter and, especially to "their" section of the Charter. Further, Cairns states that the Charter was the "most important stimulus to citizen constitutional

participation". This analysis misses two important points. First, not all engaged women supported the Charter and not even all feminists supported its inclusion in the constitutional regime. Second, it was the issue of which level of government should have jurisdiction over divorce that initially mobilized women's groups in the late 1970's, not the pursuit of a Canadian-style Equal Rights Amendment. Chaviva Hosek states:

Thus the drive for equal legal rights did not spring spontaneously from within the women's movement. Rather, it developed in response to the determination of the federal government to entrench a Charter of Rights and Freedoms during the patriation process.13

Throughout Cairns' account of the lobby by women's groups for inclusion of section 28 in the Charter, he cites Penny Kome's book, The Taking of Twenty-Eight.14 Cairns is on shaky ground because while Kome's description of the proceedings of the lobby by an ad hoc group of women in 1982 is colourful, her account is not an academic one, and should not be cited as the definitive work on the events of this time. Works by Hosek, Vickers and Burt, address the issue of women's participation in the constitutional process during this time and offer a more solid analysis of the lobby. Indeed it is clear after an examination of the literature that women's groups were not looking for an ERA type equality provision in the constitution. The agenda of the feminist movement in Canada up until this time was issue oriented, not rights oriented. Hosek states:

Until 1980, formal legal rights did not figure largely on this list [feminist agenda]. Indeed, insofar as Canadian

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14 For example see articles by Cairns in After Meech Lake: Lessons for the Future and in Canadian Public Policy, September 1988.
women have worked for legal equality, they have been sorely disappointed.  

Some would argue that Cairns' creation of a polarization between the "Citizens' Constitution" versus the "Government's Constitution" is too general. As Vickers points out, organized women are concerned with the Charter and its application, but women's groups were also concerned with what level of government legislated over various matters.  

Cairns' theory therefore becomes too narrow and does not explain the host of concerns women's groups expressed over the Meech Lake proposals. Further, Cairns' theory places interest groups into very rigid categories, and limits the concerns that any group may have. Because women's groups entered the constitutional fold to address the issue of which level of government should legislate over divorce, it is apparent that the scope and range of concerns of the organized women's movement reach far beyond protection of sections 15 and 28 of the Charter. Indeed women's groups have stated that they must be vigilant in guarding their Charter provisions; however, never has there been a narrowing of the feminist agenda to focus solely on the issue of legal rights.

In her analysis of the women's movement in addressing Meech Lake, Barbara Roberts clearly challenges Cairns' theory which identifies women as "Charter Citizens". Of the nine major women's groups which presented briefs to the Special Joint Committee of Parliament on the Accord, six dealt with issues which went beyond the debate concerning the "distinct society" clause and its potential impact on the Charter. These groups focused on the power of the federal

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17 Because this paper has chosen to examine only those women's groups which adhere to feminist principles, the terms "women's movement" and "feminist movement" are used interchangeably, and therefore, a "feminist agenda" is the agenda of the women's movement.
government to spend in provincial jurisdictions to achieve national social programs. 18

Critiquing Cairns' theory of constitutionalism allows one to develop a more qualified picture of the relationship of women to the constitution. This does not refute Cairns' theory completely. Indeed, it may be more accurate for other "Charter Groups", but in the case of women, it is not the best framework for analysis.

It is important to develop an alternative to Cairns' analysis because, if women's groups are solely examined as Charter Citizens how then does one explain why women's groups have disagreed over the Charter from its inception, and today even disagree as to its effectiveness in protecting women? Vickers states:

This sort of analysis, which only recognizes the importance of women's interest in the Charter, carefully divides up the constitution into a governments' constitution focused on federalism and a citizen's constitution focused on the Charter. If we were to accept this as a definitive explanation of why women should care about constitutional reform, we would fail to understand how women and men are differently affected by the basic constitutional regime—that is, the division of powers within a federal state. We would also fail to understand why women, who are equally concerned about improving the status of women, can disagree profoundly about all aspects of the constitutional regime, including whether the existence of sections 15 and 28 of the Charter are actually effective in improving the status of women in their lives. 19

Further, it is necessary to address the unique constitutional position women throughout Canadian society share. In her analysis of the relationship of women to the constitution Vickers argues that women are differently related to the state than are men. For this reason

18 Barbara Roberts, Smooth Sailing or Storm Warning? Canadian and Quebec Women’s Groups and the Meech Lake Accord (Ottawa: Canadian Research Institute for the Advancement of Women, 1988), 26-46.
constitutional reform is important to women, and women must relate to the constitution in terms of federalism and not just in terms of the Charter.20

In making a case for women's different relationship with the state to that of men, Vickers raises two major points. First, she identifies the fact that women as a group are consumers of government programs more often than are men. Caroline Andrew for example has written extensively about the Canadian welfare state and the role of women's groups in developing it. Vickers sums up Andrew's analysis;

In substance, therefore, most Canadian women are more oriented to the state than Canadian men, in the sense of accepting a need for government programs from medicare and supported housing to pay equity.21

If indeed Vickers and Andrew are correct in their position that women are more inclined to accept social programming from the state, and to lobby the state to maintain and create such programs, it follows that women as a group would be concerned with which level of government has control over issues such as spending.

The second point Vickers makes is that there is a fundamental difference between women in English and French Canada—in the degree of their attachment to the federal government.22 It was apparent from the briefs presented to the Special Joint Committee that English Canadian women's groups favored a strong federal role in terms of control over the spending power, whereas Francophone women's groups were opposed or suspicious of the use of federal spending to introduce federal involvement in provincial jurisdictions. Vickers explains this by arguing that women in English Canada are far more likely to change jurisdictions in Canada and therefore have a stronger federal affiliation than do women in Quebec who are less likely to

20 Ibid., 20.
21 Ibid.
22 Ibid., 21.
move from that province. Because women still earn less than men do, women are often required to follow their male partners for career reasons. Women's mobility needs rarely take precedence over men's, because of their lower salaries, and the still widely held societal belief that women should follow their spouses. Francophone women on the other hand, if they wish to live their lives in French are forced to remain within the province of Quebec. While Francophones may move around the province, they are less likely to leave their provincial jurisdiction. Thus there is a greater attachment on the part of Quebec women to their provincial regime than to the federal regime.

Women academics in Quebec have agreed with Vickers that Francophone women are more inclined to the provincial level of government, yet have disagreed that this fact is based on mobility. Micheline Dumont states that the development of Quebec nationalism went "hand in hand" with feminism. She argues then that feminism is very much a part of the Quebec political culture. In building her case, Dumont points to the fact that Quebec had a provincial declaration of rights long before Canada had the Charter of Rights and Freedoms and that the Quebec Charter of Rights is much more liberal than the Charter of Rights and Freedoms, as it includes freedom of sexual orientation. Further, she points out that women in Quebec enjoy some of the most liberal laws in terms of access to abortion services, child care etc. Finally, she identifies the fact that Quebec elected more women to the House of Commons in 1988 than any other province.

Quebec political scientist Micheline de Seve contends that often Quebec feminism, because it does not always correspond with the agendas of women in English Canada, is labelled

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23 Ibid.
24 Ibid.
26 Ibid.
as "nationalism":

In such a context, every objection from Quebec women is discussed as Quebec nationalism, as if being federalist was not another form of nationalism, asserting a monolithic conception of Canadian unity based on the domination of English Canada neither more nor less suited as much to one's feminist convictions.27

It becomes difficult for women's groups to address the constitution given that the issue of federalism is as contentious for the women's movement as it is for the provinces. While there has been a strong focus on constitutional reform in the past decade by women's groups, there has also been a great deal of hesitancy over using constitutional reform to rectify the social imbalance of power between men and women in Canadian society.

2.3 The Meech Lake Round

The organized women's movement was not very successful in having its concerns addressed during the Meech Lake constitutional round. Unlike the effective lobby in 1980-82, women's groups were unable to get the politicians to listen to their concerns. This was largely attributable to three reasons. First, there was a substantial disagreement between women in English and French Canada over the implications of the contents of the Accord, thus dividing the women's movement further on this issue. Second, women's groups received little or no support from women Members of Parliament in addressing their concerns. Third, the government intended to pass the Accord whether there was strong opposition to it or not, hence, the political will to solicit public input was not present. In order to understand the failure of women's groups to affect the policy process at Meech Lake it is necessary to compare the activities of the movement to that surrounding the constitutional lobby of 1980-82.

When the Trudeau government first introduced the idea of an entrenched Charter of Rights and Freedoms in a White Paper entitled "A Time for Action" in 1978, it did not include equality rights for men and women. According to Sandra Burt this was surprising, given that the proposed rights package was similar to that found in the 1960 Bill of Rights. Later in 1978, when the government introduced its first Constitution Bill in the House of Commons, sex had been added to the list of equality provisions. Section 9 of this Bill read:

The rights and freedoms declared by sections 6, 7, and 8 of this Charter shall be enjoyed without discrimination because of race, national or ethnic origin, language, colour, religion, age or sex.29

The fact that sexual equality rights were mentioned almost from the original proposal of the Charter, illustrated that the idea of sexual equality was acceptable to the government from the beginning.

The 1978 bill was not accepted by the provinces, and was defeated in the House of Commons in 1979. The Liberals led by Prime Minister Trudeau returned to power in February of 1980, and in October of that year a new bill was placed before the Commons calling for unilateral federal action in patriating the constitution. In the 1980 document, equality rights could be found in section 15 which read:

Everyone has the right to equality before the law and to the equal protection of the law without discrimination because of race, national or ethnic origin, colour, religion, age, or sex.30

It was at this point that women's groups became involved in the constitutional proceedings.

Concerned with the federal government’s decision to transfer jurisdiction over divorce to the

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29 Ibid.
30 Ibid.
provinces, women's groups quickly organized to resist this shift of power. As argued previously in this paper, women were spurred to action not by the desire for the attainment of an American style Equal Rights Amendment, but because shifting power over divorce to the provinces would make it more difficult to collect support payments from former husbands, not to mention possibly ensure that divorce could be easier to get in some provinces than in others.31 Thus the issue of federalism was at the centre of the agenda of feminist organizations.32

It was at this point in the proceedings that a rift developed in the women's movement. The Federation des Femmes du Quebec opposed an entrenched Charter in the Constitution while the National Action Committee on the Status of Women was prepared to endorse a Charter which protected women's rights. In spite of this division, twenty women's groups made presentations to the Special Joint Committee;

Their briefs were remarkably similar, and their demands included replacing the words "every one" with "every person" throughout the Charter; equality for women under the law as well as before it; proportional representation for women and men on the Supreme Court; and equal rights for native women.33

The fact that there was a consensus amongst the women's groups who presented briefs forced the government to acknowledge the issues they raised. In January of 1981, the Justice Minister announced revisions to the Charter which reflected some of the proposals of women's groups. While the words "every one" were not replaced with "every person" and proportional representation on the Supreme Court was not part of the revisions, women and men were made equal before and under the law by the wording of section 15.34

33 Ibid., 76.
34 Ibid., 77.
Up until this time the Canadian Advisory Council on the Status of Women had taken a leadership role in mobilizing women's groups around the Charter. However, shortly after the revisions were announced, the CACSW decided to cancel a conference on the constitution planned for February 14. The CACSW's executive believed that the government had made substantial concessions to women's groups and that hosting a conference on the constitution would only embarrass the government.\textsuperscript{35} This move precipitated the resignation of Doris Anderson as President of the Council, and created a significant gap in the leadership of women's groups. The National Action Committee which was still dealing with the Fédération des Femmes du Quebec split over an entrenched Charter, and was unable to fill the leadership hole left by the Advisory Council. Out of this vacuum arose an ad hoc group of about thirty women from Toronto and Ottawa who came together to ensure that a conference on women and the constitution would indeed be held.\textsuperscript{36} This new group who became known as the Ad Hoc Committee, was not autonomous from other women's groups; in fact ties existed with NAC which were used to inform women from across Canada about the conference that was to be held in Ottawa.

The conference which took place raised many of the issues that were already brought up by groups to the Special Joint Committee. In addition, a resolution came forward which called for a statement guaranteeing the rights in the Charter equally to men and women without limitations.

The Ad Hoc Committee not only staged a successful conference, but the organizers were able to convince the Trudeau government to add a statement guaranteeing the rights of the Charter equally to men and women (section 28). Section 28 did however have a difficult time in avoiding the notwithstanding clause (section 33). It was only through an effective lobby that provincial Premiers were convinced to leave section 28 unthethered.

\textsuperscript{35} Ibid.
\textsuperscript{36} Ibid.
Sandra Burt points out that the lobby staged by the Ad Hoc Committee would not have been as successful had women members of Parliament not supported the inclusion of section 28. Judy Erola, the Minister responsible for the Status of Women strongly supported section 28 and was instrumental in getting the government to agree that the override provision should not apply to this section.37 Monique Begin also stated that the conference by the Ad Hoc Committee brought together women from across Canada as well as women from across the floor in the House of Commons. This was the first time in Canadian politics that women members of Parliament exhibited a gender solidarity and broke the ties of party discipline for the betterment of women in Canada.38

The Ad Hoc Committee was successful in advancing the concerns of women and having these concerns addressed in a substantial way. Burt believes that the committee was successful for four reasons. First, there was a desire on the part of the federal government to include equality rights in the Charter. According to Burt this is evident in the fact that the initial proposals put before the House by the Trudeau government mentioned sexual equality rights.39 Second, the actions of the Ad Hoc Committee were viewed as legitimate by the government as they were not radically different from the government's agenda. Burt states:

In 1981 the notion of legal equality rights for women was acceptable to the federal government, even before the Ad Hoc Committee launched its campaign.40

Third, the Ad Hoc Committee adopted the tools of pressure politics in order to win equality rights. It ignored the concerns of women from Quebec and western Canada, and set full speed ahead to implement its goals. Finally, there was support from Members of Parliament

37 Ibid., 80.
38 Monique Begin, interview by author, notes taken, Ottawa, Ontario, 27 February 1990.
40 Ibid., 78.
throughout the lobbying process. Judy Erola as Minister responsible for women was key in advancing the Committee's concerns.41

Because of the successful lobby by the Ad Hoc Committee, Canadian women secured the inclusion of sexual equality rights in the Charter. There is no doubt that a clear anti-discriminatory message exists in the wording of sections 15 and 28 of the Charter. This is evident as the Charter does three things. First, the Charter moves a step beyond the 1960 Bill of Rights to include equality "under the law". Second, unlike any other sexual equality clause in the world, the Charter provides for "equal protection and benefit of the law". This provision makes it possible for the Charter to be used not only in situations of disadvantage, but also in situations of unequal advantage. Hence, section 15 (2) protects affirmative action programs which seek to address the conditions of disadvantaged groups. Finally, sections 15 and 28 combined work to enhance one another thereby strengthening the guarantee of sexual equality.

Women worked and lobbied very hard in 1982, to be included in the constitutional process. While a constitutional sexual equality guarantee was not pursued by the women's movement prior to 1979, when it became apparent that the government intended to introduce a Charter of Rights and Freedoms, women's groups set out to ensure such a document would address their concerns. Women's groups took charge of their constitutional destinies, and forced the governments to listen to their concerns. Women's groups have used terms like "taking" and "seizing" to describe their self-created role in the process in 1982.42 Needless to say women felt a sense of ownership of the constitution, and sought to jealously guard their guarantee of rights. In spite of the fact that some have argued that the Charter provisions of sections 15 and 28 have not been entirely beneficial to women, they none the less represent a clear guarantee of equality rights. Given this, the events at Meech Lake, five years later were nothing short of an

41 Ibid.
affront to women's groups. Not being consulted prior or during the round in 1987, served to remind women that they were still outsiders to politics.

Since 1982, the constitutional agenda of women's groups had developed, and while the Meech Lake Accord did not directly pertain to sections 15 or 28 of the Charter, women's groups had expanded their scope of constitutional concern. Issues such as the composition of the Supreme Court and the selection of justices were and remain highly relevant to the interpretation of section 15. In addition, women's groups in English Canada were concerned that the recognition of Quebec as a "distinct society" within Canada could be used to erode the position of women in that province.

Many women's groups believed that significant gains had been made in the area of the constitution. The Constitutional Amendment 1987, reminded women that paper rights without political representation could be provisional. Women's groups believed that they had established themselves as legitimate participants during the constitutional debate in 1982, yet in 1987 women were left out of the constitutional process altogether. The return to an entirely executive federalism model of decision-making in 1987, reinforced for women that in spite of their victories, their relationship to the constitutional process was still that of exclusion. The "honeymoon" of 1982, was over, and now it appeared that the government expected women to return to the constitutional sidelines.

Women's groups were particularly dismayed by the process by which the Meech Lake Accord was reached. Once again monumental decisions had been made without the consultation of over half the country's population. When women's groups questioned the process, the Prime Minister told Canadian women to "trust the politicians".43 Women found the response of the Prime Minister to be unacceptable given the record of past governments on issues concerning

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Perhaps the most serious problem for the women's movement was the fact that the women of Quebec supported the Accord. This rift in the women's movement between French and English Canada hindered the credibility of the women's movement in the eyes of the government. The opinions of the women in Quebec were taken as the only legitimate opinions held by women. The Federation des Femmes du Quebec was heralded by the federal government as the only women's group who understood the Accord. In fact Lysianne Gagnon stated that "Anglo-Canadian women were a Trojan-Horse for the foes of Quebec's enhanced participation in Confederation". More devastating for the women of English Canada than Gagnon's statement was the Prime Minister's criticism of English Canadian women. Susan Riley sums up the reception of female opponents to Meech:

Women lost. The organized women's movement lost. On Parliament Hill its representatives ran into indifference more chilling than hostility. Women asked for a serious hearing and they got "trust me, sweetheart". When they persisted, they were accused of being hostile to Quebec's desire to become a "distinct society", of being anti-French. Their motives were questioned, their legal arguments ignored and their political clout called into question.

When public discontent forced the federal government to establish a Special Joint Committee on the Constitution, it was flagrantly obvious that the government was not about to take the committee process seriously. The lack of commitment to the committee process has been documented by Alan Cairns. Cairns points out that the ill timing of the hearings, as well as

44 It was this same Conservative government who cut funding to women's groups, and cancelled the lobby day between NAC and politicians.
46 Ibid., 288.
the short time given to groups to prepare their briefs, denigrated the democratic process.47

On July ninth an advertisement appeared in major Canadian newspapers soliciting submissions to the Joint Committee. The briefs were to be submitted by July twenty-second. Such a short time period presented a grave problem for women's groups. Inadequately funded, and reliant on volunteer staff, it was especially difficult for women to prepare well argued briefs on an issue of such magnitude as the constitution. The fact that the hearings would be held in the mid-summer of 1987, also presented a problem unique to women. As the principal caregivers in our society, women were, and remain, primarily responsible for the care of children. During the summer months when most children are out of school, women have less time to devote to volunteer groups. In addition, the Committee only heard presentations in Ottawa. Not only did women find travelling to Ottawa difficult due to family responsibilities, but the cost of such a mission was often beyond the budgets of many women and provincial women's organizations.48

Meech Lake did not represent the first time in Canadian history in which the women's movement had been split over an issue.49 It did however, reinforce the commonly held belief by women's groups throughout Canada that women still lacked significant political representation. While women's groups throughout Canada agreed that the closed process at Meech Lake was unacceptable, they were divided over the implications of the contents of the Accord. The largest rift in the movement was that between the National Action Committee on the Status of Women and the Federation des Femmes du Quebec. Further, the fact that all three political parties in the

House of Commons supported the Accord, including women members of Parliament, stifled debate on the topic.

Most Canadian women’s groups were opposed to a number of aspects of the Meech Lake Accord. The concerns of groups such as The National Action Committee on the Status of Women, the National Association of Women and the Law, and the Canadian Advisory Council on the Status of Women dealt with a range of issues including the application of the “distinct society clause” to the process by which the deal was struck. The contents of the Accord were criticized in several ways. First, section 16 stated that the Accord did not derogate from those rights guaranteed to aboriginal peoples and multi-cultural groups as laid out in the Charter. Of the nine groups who appeared before the Special Joint Committee of Parliament on the Accord, four (NAC, NAWL, LEAF, Ad hoc) of these groups stated that section 16 should be expanded to include equality rights.50

Section 7 which dealt with the federal spending power provided for a province’s opting out of future federal/provincial cost-shared programs and receive compensation providing that a provincial program that is compatible with national objectives is implemented. Again of the nine groups addressing the Committee, six groups expressed concerns with provincial control over the matter of spending. The two briefs from Quebec groups (FFQ and CSF) called for a continued strong provincial role in the creation of social programs, and therefore a weakening of federal control over the spending power.51

Other concerns which were raised by English Canadian groups were the power of the provinces to recommend Senate and Supreme Court appointments. Again the English Canadian women’s groups argued for a strong federal role in this area.52

50 Barbara Roberts, Smooth Sailing or Storm Warning? Canadian and Quebec Women’s Groups and the Meech Lake Accord (Ottawa: Canadian Research Institute for the Advancement of Women, 1988), 32-46.
51 Ibid.
52 Ibid.
These findings support Vickers' statements about the relationship of women in English and French Canada to the state. It is quite evident that the attachment of Francophone women is to the provincial regime, while for English-speaking women it is to the federal government. In spite of the fact that women's groups were divided over the contents of the Accord, they did agree that the process of negotiation was a flawed one. All women's groups who addressed the Committee condemned the constitutional amendment process for being secretive and exclusionary. Thus the statement that women share a common experience of exclusion from the political process can be aptly made.

Using Burt's criteria which categorized a successful lobby in 1982, it is possible to see why women's groups were relegated to the sidelines during Meech Lake. First, in the 1980-82 round there was a desire on the part of the federal government to include sexual equality rights in the Charter. In 1987, when the Meech Lake Accord was announced, it was presented as a "fait accompli". Alan Cairns states;

The proposed changes were not presented as tentative proposals but as a firm agreement subject to change only if egregious errors—as defined by first ministers who had a concern for not seeing any—were to be discovered in the controlled and limited hearings process that could not be entirely avoided.

There was no desire on the part of the federal government to listen to the concerns of interested Canadians. When public discontent forced the federal government to establish a Special Joint Committee on the Constitution, it was obvious that the government did not take the committee process seriously. The lack of commitment to the committee process has also been documented by Cairns. As Cairns points out, the ill timing of the hearings, as well as the short time given to

53  Ibid.
groups to prepare their briefs, denigrated the democratic process.

Burt’s second criteria on success is whether or not the actions of a group are perceived as legitimate. The opposition by some women’s groups was labelled as "anti-Quebec" and "anti-Canada" by the government. In fact, only the point of view of the Federation des Femmes du Quebec was considered to be legitimate as speaking on behalf of women. The fact that there was a division in opinion on the Accord between women in French and English Canada provided the validation governments needed to refute the claims by some women’s groups that the Accord was not in the best interest of Canadian women.

Finally, one crucial element of the 1982 lobby was the support given to the Ad Hoc Committee by women Members of Parliament. Burt has stated that Judy Erola was key in getting her government to act on the concerns of women’s groups. With the Meech Lake round democratic debate was hindered because all three federal parties in the House of Commons supported the deal. Key women in the three federal parties who were known supporters of women’s groups did not break ranks with party discipline to condemn the Accord. In fact the Special Joint Committee of Parliament which contained members from the three parties reported after hearing the briefs from women’s groups that;

Although the Charter of Rights may conceivably be affected by the accord, the committee concluded that neither is automatically subordinate to the other. The courts are entrusted with the task of maintaining a proper balance. The outcome will depend on the particular circumstances of the cases.56

NDP constitutional critic Pauline Jewett, a noted feminist, stated that she herself would support

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the accord, even if equality rights were not ensured.57

Without the support of this very influential group of women, women’s groups had little recourse for action. In the past women members of Parliament had been essential in bringing women’s concerns to the backrooms of the political parties’ meetings. With Meech Lake, women in the House of Commons were unwilling to aid groups like NAC in the same way.

It has been argued that the real issue at Meech Lake was not the division between the women in English and French Canada, but rather the issue of representation at the constitutional tables. While some may question the necessity of women being included in any future constitutional debate, unlike men, women do not experience a degree of political participation which ensures that their interests are always being represented. The relatively few women elected to provincial and federal parliaments keep women concerned with the protection of their rights.58 Men do not share this experience of non-inclusion, for in fact, they dominate the political process. Beverly Baines in her analysis of Meech Lake states that women and their interests were not represented. She says that Canadians “have a constitutional past, present and it would appear future in which it is taken for granted that men can and should represent the interests of women not just politically but also constitutionally”.59 Baines goes on to point out it is even more disturbing that none of the political scientists writing on the issue of the constitution have addressed this fact as being problematic. Instead, political scientists have focused on the question of whether women’s groups truly represent the concerns of women throughout Canada. Why then is the same question not asked of the Assembly of First Nations?

57 Ibid.
58 In the 1988 election 40 women were elected to the House of Commons, representing 13.5% of Parliament. Provincially, the Yukon has the highest percentage of women elected to a legislature with 24% of its territorial legislature being women. P.E.I. follows with 21.8%. Chantal Maille, Prized for Power: Women in Canadian Politics (Ottawa: Canadian Advisory Council on the Status of Women, 1990), 6, 12.
Baines points out that while many Canadians believed that native groups spoke on behalf of the native population, there was a perception both public and by governments, that certain women's groups only represented their members. 60 Cairns has addressed the question of representation at Meech Lake from the perspective that the process by which the accord was reached was secretive and exclusionary. While Baines credits him with raising the important question of representation, she is quick to point out that his analysis does not question the fact that women who have unique concerns to men, have their issues raised by men.61 If constitution amending continues to be determined by the political executive, women will be forced to rely on men to protect their right to equality. Hence, women have a vested stake in a document which has the power to curtail or strengthen all of the victories won over the years. As long as women are absent from elected office, it will be necessary for constitutional conferences to include those groups speaking on behalf of over half the country's population.

After three years at attempted ratification, and three long summers of debate, Meech Lake died. Women's groups breathed a momentary sigh of relief. Fundamental rights as guaranteed in the Charter had not been eroded during this three year ordeal. Meech Lake had however, heightened the constitutional debate and most political scientists agreed that Canadians would not escape future constitutional rounds without the transfer of significant powers to the provincial governments. The belief by some women's groups that the Charter's equality provisions had been threatened, served as a powerful reminder that equality rights without representation was precarious. For those women's groups who supported the Accord, primarily in French Canada, the defeat of Meech Lake was a message to them that they did not know what was in their best interest. For the women's movement in general, the constitutional round had created a rift in the movement—a rift which mirrored the oldest and deepest cleavage in

60 Ibid., 210.
61 Ibid., 208.
Canadian political history. One certainty was that any future constitutional probing would only heighten existing tensions.
CHAPTER THREE
3.1 Introduction

On June 27, 1990 the Meech Lake Accord died at the hands of Elijah Harper in the Manitoba legislature. The Manitoba MLA refused to give the unanimous consent necessary to open debate on the Accord in the legislature. With this action, the three year deadline for ratification expired, and women's groups who believed that the Meech Lake Accord threatened equality rights in the Charter, breathed a temporary sigh of relief. However, the tensions caused by the Meech Lake constitutional round were still evident. For women's groups in English Canada, the Accord had threatened equality provisions in the Charter, not to mention the future of any national programs, thus illustrating the tenuous provisions of legal equality guarantees.¹ For women's groups in Quebec, the rejection of the Accord not only represented a rejection of Quebec, but also a rejection of the Quebec women's movement by women's groups in English Canada who strongly opposed the Accord. For the organized women's movement in Canada, the constitutional debate had exposed a rift in the movement, heightened tensions amongst women's groups, and emphasized the minimal role women still played in formal politics. Given this, it was not surprising that women's groups came out of the debate reeling with the burden of conflict, as well as divided and frustrated by their inability to make any substantial inroads in the constitutional renewal process.

Thus far, this paper has examined the role of interest groups in Canadian society, as well as the methods used by organized women's groups to influence the state. Within the context of the 1982 and 1987 constitutional lobbies, this paper has addressed women's self-created role in the policy process, as well as the reluctance of the state to address the concerns of women during the 1987 constitutional round. The failed constitutional lobby in 1987 was a product of a lack of government commitment to the principle of equality as well as a perception that

divisions in the women's movement substantiated the claim that the women's movement lacked legitimacy. Within this context women's groups were once again drawn into the constitutional fray by the Charlottetown Accord in 1991. The Charlottetown Accord was the federal government's second attempt to bring Quebec "back into the constitutional family". The lessons of 1987 had played a strong role in convincing the federal and provincial governments that public input into the constitution was essential, thus, the final word in the debate over Canada's constitution was to be had by Canadians the following October via a national referendum.

This chapter will examine why women's groups were perceived as being more legitimate actors in 1992 than in 1987, and thus were instrumental in ensuring the defeat of the Accord through the referendum. Second, it will examine the strategies employed by the organized women's movement to influence public opinion during the debate. Finally, the chapter will again discuss the divisions within the women's movement, and identify how they affected the Charlottetown constitutional round.

3.2 After Meech Lake

When the Meech Lake Accord was not ratified on June 23, 1987, the federal and provincial governments decided to delve deeper into constitutional issues, this time through public consultation and legislative committees. Quebec's Liberal Party established the Allaire Commission and the National Assembly established the Belanger-Campeau Commission, both of which reported in the spring of 1991. To counter these committees, Ottawa created the Royal Commission on National Unity better known as the "Spicer Commission" to travel across the country and consult with Canadians. The Beaudoin-Dobbie Commission also examined Canada's constitution in an attempt to balance the need for consensus between Ottawa and the provinces, as well as the need for public input into the constitution. Out of these committees and public meetings came the Charlottetown Accord on August 28, 1992. For organized women's groups,
the content of the Charlottetown Accord did not differ greatly from the Meech Lake Accord, and while the government of Canada did consult Canadians in developing the Charlottetown Accord through public meetings across the country and by presentations to the Special Joint Committee of Parliament, it was felt by many that the input of Canadians who reported to the government was not reflected in the final agreement reached by Ottawa and the provinces.

3.3 Women's Groups and the State

The federal government was intent on developing constitutional proposals that would satisfy the electorate as well as meet with the approval of the Premiers. After a somewhat arduous consultation process through the "Spicer Commission" and hearings by the Special Joint Committee of Parliament, the First Ministers along with the Prime Minister developed the Charlottetown Accord. Canadians were promised that this constitutional round would be different and that they would have the opportunity to vote on the constitutional amendment in the form of a referendum. The federal government was committed to seeing the Accord pass and began a powerful campaign to encourage Canadians to vote "yes".

According to Burt, the first ingredient for the success of any group is government will.2 It cannot be disputed that the federal government was committed to the success of the Charlottetown Accord; however, the federal government either chose to ignore the concerns of women's groups, or truly believed that equality rights in the Charter were not threatened by both the Meech Lake and Charlottetown Accords. As chapter one has discussed, the Trudeau government in 1982 was committed to the concept of equality, thus the inclusion of section 15 of the Charter saw a debate over wording, and not whether equality rights should or should not exist in the Charter.3 In 1987, there was no desire on the part of the federal government to ensure equality provisions in any new constitutional agreement. Some feminist scholars have

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3 Ibid., 75.
argued that the absence of equality guarantees from section 16 of the Meech Lake Accord and the relatively weak wording of section 2(g) of the Charlottetown Accord, was done so intentionally by the federal government. With the election of the Conservatives in 1984, the importance of issues pertaining to women and equality did not feature foremost on the government agenda. As Mary Eberts has pointed out, the political desire to ensure equality rights for women was not present in 1987 or in 1992. Since their arrival in government in 1984, the Conservatives not only made cuts to the Secretary of State’s budget, thereby reducing funding to women’s groups, but they began funding the anti-feminist group REAL Women in spite of the fact that the mandate of REAL Women violated the funding criteria outlined by the Secretary of State.5 The Conservative government also ended annual lobby days between the National Action Committee on the Status of Women (NAC) and Members of Parliament and the Prime Minister in 1989.6 According to Mary Eberts, the federal government was not committed to equality or the protection of equality guarantees in the Charter; nor was it committed to soliciting constructive criticism on its policies;

It is no accident, in fact, the same federal government which so fiercely sponsors the Meech Lake Accord has also slashed funding to the native press, multicultural programs, and women’s centres, as well as to those centres of research and writing in the women’s community that were making possible and effective critique of Canadian social structure.7

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4 Section 2 (g) of the Accord read, “Canadians are committed to the equality of female and male persons”, whereas other sections of 2 read, “Canadians and their governments are committed to...”.  
6 Ibid.  
The rejection of the claims by women's groups that Meech Lake threatened sections 15 and 28 of the Charter therefore, did not appear to have much merit with the Conservative government. In 1992, the same scenario existed, and women's groups saw little in the way of changes to the provisions for distinct society. The federal government was recalcitrant when women's groups stated in well-argued briefs that the Meech Lake Accord was detrimental to their interests. Hence, the federal government either did not have the desire or felt it unnecessary to address what women's groups found to be egregious errors and omissions in the Accord. Again with the Charlottetown Accord, women's groups found the federal government unwilling to act on their concerns. Given the lack of commitment on the part of the government to protecting equality, Burt's second criterion for the success of an interest group's lobby was not met. Because the federal government believed that the Accord did not affect equality rights, or were unwilling to address this issue, they were unwilling to make any changes to the Accord.

Another important factor contributing to the success of the constitutional lobby by women in 1982, was the support women's groups received from women in Parliament. Like Meech Lake, Charlottetown had the support of all three parties in the House of Commons, thereby limiting any substantial debate in Parliament. Even prominent feminist Members of Parliament such as Sheila Copps and Audrey McLaughlin did not feel that the agreement threatened women.8 Once again those women who had attained the positions of political elites in Canada did not agree with those groups claiming to represent the concerns of Canadian women.

While it is impossible to determine whether party discipline or an ardent belief that the Charlottetown Accord was indeed the best deal for Canada, the fact remains that women in politics did not support other women's groups on the constitution. Only twice in our political history have women MPs not voted along party lines and advocated for women. In 1982 when

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8 Edison Stewart, "Female MPs insist deal will protect sex equality," Toronto Star, 15 September 1992, p. 1.
the Charter was being debated and during the abortion debate, women in the House of Commons voted their conscientious, and put up a united front. While women's groups advocate that gender is a fundamental cleavage in Canadian society, for women in Parliament, territorial representation is often more important. As this paper has discussed earlier, Parliament is set up to represent spacial interests and not sectoral ones. Because women Members of Parliament must rely on a male electorate as well as a female electorate, it is impossible for them to advocate gender issues on a regular basis. Further, many women believed that the Charlottetown Accord would not threaten equality rights of women, and that the Accord was essential in redefining federalism in Canada. If Jill Vickers is correct in that women must be concerned with those issues pertaining to federalism, then it could be argued that women in the House of Commons acted in a manner consistent with this belief. Gender issues were not foremost in the minds of these women while issues of division of power appeared to be more important for all members of Parliament.

Where Charlottetown did differ from Meech however, was in the fact that the stand which NAC took on the referendum had popular support amongst the electorate. In addition, the reluctance of the Federation des Femmes du Quebec (FFQ) to speak out for or against the Accord directly, also provided the women's movement with a more cohesive appearance. In spite of fundamental differences about the distinct society clause, the question of federalism, and the lack of support from women in the House of Commons, there was perhaps a more widely held perception that women's groups were more united on the constitution in the 1991-92 debate. Hence, popular support empathized with women's groups.

One of the reasons for the more widely held support of women's groups may have been their complete exclusion from participating formally in the process at Meech Lake or Charlottetown. Reg Whittaker has argued that one of the problems for Native Canadians during

the Charlottetown round was that they were actually successful in winning a seat at the constitutional table. Because the process of closed negotiations was seen by many Canadians as undemocratic, those associated with the process were condemned along with the process itself. While NAC asked for a seat at the constitutional table, they were denied this request. The fact that they were denied access to this process may have gained them greater public empathy and support.10

Perhaps the most poignant lessons of Charlottetown are those which reflect the tenuous relationship women's groups have with the state. Women's groups were also labelled by the federal government as self-interested and were not recognized as being legitimate spokespersons for women throughout Canadian society. These factors contributed to the increase in public support for women's groups in their attempt to influence the constitutional process.

3.4 Groups and Their Strategies

Organized women's groups such as the National Action Committee on the Status of Women (NAC) had prepared and presented well-argued briefs before the special Joint Committee of Parliament on the Meech Lake Accord. Of primary concern to women's groups at this time was the omission of equality rights in section 16 of the Accord. Section 16 outlined that the distinct society clause (section 2) did not affect section 25 (multicultural rights) or section 35 (aboriginal rights) of the Charter. Women's groups were also concerned with the ability of the federal government to develop future national programs because of the opting out formula offered in section 106 of the Accord. Women's groups also wanted a greater role in Senate and Supreme Court appointments.11 In addition to the content of the constitutional proposals, women's groups were also critical of the process whereby the First Ministers amended the

11 Barbara Roberts, Smooth Sailing or Storm Warning? Canadian and Quebec Women's Groups and the Meech Lake Accord (Ottawa: Canadian Research Institute for the Advancement of Women, 1988), 39.
While most women’s groups in English Canada were opposed to the Accord, women in Quebec advocated the distinct society clause as well as a limited federal government role in the area of shared-cost programs. Hence the agenda of the women’s movement was clear from the onset of the Charlottetown Accord. Women’s groups wanted a strong guarantee of sections 15 and 28 of the Charter, as well as a significant role in determining Canada’s constitutional destiny. The Charlottetown proposals which were to be ratified in a referendum, saw the National Action Committee on the Status of Women (NAC) take a solid “No” stand on the debate. Given the agenda as set out by the women’s movement, NAC came to the conclusion that the Charlottetown Accord did not meet the demands of women.

NAC called upon its membership to vote the Accord down in the October referendum. In a letter to its membership, NAC stated:

We have taken this difficult decision to oppose the Charlottetown Accord, because:

• It is a serious setback to equality rights,
• It does not protect aboriginal women under self-government;
• It will erode new and existing social programmes;
• It provides no guarantees for better representation of women and minorities in political institutions.

This decision made by the executive of the NAC after consulting with its membership during the summer of 1992, was “difficult” because while NAC believed that the Charlottetown Accord was detrimental to women, they also supported the Federation des Femmes du Quebec (FFQ) in advocating recognition of Quebec’s distinctiveness. In Quebec the FFQ chose to remain silent on the issue and not campaign on either side for fear of being linked to any particular political

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12 Ibid., 18.
13 Ibid., 40.
party, however; the FFQ made it clear that they firmly advocated sovereignty for Quebec.15

NAC's campaign against the Accord was a grassroots one. The experience of the Ad Hoc Committee in 1982 was essentially a grassroots movement for the simple reason that women lacked the financial resources and the access to power that governments possessed. NAC's monthly newsletter to its members stated:

NAC's campaign will be a grassroots effort. The YES side has the political weight of all three parties, and with that vast financial and material resources. To counter their multi-million dollar advertising campaign, we have to do what we do best in the women's movement—organize at grassroots level.16

The grassroots campaign was an interesting juxtaposition to the million dollar campaign launched by the federal government. Personal pleas to Canadian women for funding to the "NAC says NO to this Constitutional Deal" campaign by Judy Rebick were politically powerful acts, from a group which lacked the resources to launch a national campaign, in the print media.

Both NAC and the FFQ are funded through Secretary of State money, and according to spokespersons for both groups, their stand on the referendum caused the federal government to threaten their funding.17 Allegations and taped phone conversations supposedly had the government forcing NAC and the FFQ to remain neutral or support the referendum. Women's groups who did not support the Charlottetown Accord were portrayed as being anti-Quebec and anti-Canada.18 Thus democratic debate on the issue was stifled yet again. The threats to women's groups funding represent the difficulty of women's groups in receiving funding from the state, when at the same time their role is to criticize the state. Burt addresses the issue of

control of women's groups agenda due to their government funding. For women's groups during the referendum this was the case, as in the province of Quebec, women's groups were not allowed to spend any government money on the referendum. While government funding provides women's groups with stability and "improves their claim to legitimacy," without these funds, women's groups would be better able to criticize government. However, the loss of funding could potentially cause women's groups to lose their position with the bureaucracy. It is imperative for women's groups to begin to look elsewhere for funding, and to date they have not actively pursued this route.

NAC's "no" position also put the women's movement in a precarious position, as they were on the same side as the Reform Party and the Parti Quebecois in urging a "no" vote. There is no doubt that NAC and the Reform Party had little if anything in common given that the Reform Party is essentially anti-feminist. Sheila Copps stated:

> The coalition is allying itself with Reform party leader Preston Manning, an enemy of the women's movement. And I'm sorry that they're going to be campaigning with Preston Manning—maybe not on the same stage but on the same side. I would feel very uncomfortable having to share the stage on the No side with a man whose avowed purpose, in my mind, will undermine everything that the women's movement is fighting for.

Again as in 1987 with Meech Lake, the women's movement was not supported by women in the House of Commons over the issue of the constitution. While federal NDP leader Audrey

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20 Sue Montgomery, "Quebec women's group will get its grant," Gazette, 18 September 1992, p. 1.
22 Edison Stewart, "Female MPs insist deal will protect sex equality," Toronto Star, 15 September 1992, p. 1.
McLaughlin agreed with NAC that the Charlottetown Accord would have been better for women had the Canada clause committed Canadians and their governments to gender equality and not just Canadians, she stated that the recognition of aboriginal self-government and reconciliation with Quebec made the package worthwhile.23 Hence, without the support of key women in government, NAC had no choice but to encourage a grassroots rejection of the Accord and hope for public support.

Another important group in the Charlottetown lobby were native women. While native women were not vocal during the 1987 round, the demands by other native groups for self-government provided the catalyst for native women to become involved in the 1992 debate. Native women's groups supported the concept of self-government, but they wanted to ensure that any model of self-government would be governed by the Charter of Rights and Freedoms.24 In advocating this position, the Native Women's Association of Canada (NWAC) broke rank with the Assembly of First Nations who desired self-government unhindered by the federal government. When the decision was made to invite native leaders to the constitutional tables in March of 1992, three groups were invited to send representatives: the Assembly of First Nations, the Inuit Tapirisat, and the Metis National Council. Arguing that none of these groups represented their concerns, the Native Women's Association went to the Federal Court to make the case that they too were entitled to federal funding and a seat at the constitutional table. On August 20, 1992, the Federal Court of Appeal came back with a unanimous ruling which stated the Charter of Rights and Freedoms had been violated and that the NWAC were entitled to be a part of the constitutional negotiations. The Court found that; "NWAC is a bona fide, established and recognized national voice of and for aboriginal women". And furthermore the Court held that

23 Ibid.
the Inuit Tapirisat, the Metis National Council and the Native Council of Canada "do not speak for the women of the First Nations whose interests are not only unlikely to be properly represented by the AFN [Assembly of First Nations] but are likely to be injured if AFN's position prevails: NWAC does represent those women".25

In addition to being excluded from the constitutional discussion on self-government, native women were also concerned with the provisions for self-government discussed by the Prime Minister, First Ministers and Native Leaders. The NWAC ultimately decided to work to defeat the Accord along with NAC. Heightened by the court ruling which said they should have been asked to participate in the constitutional talks, the NWAC then proceeded to seek a court injunction to end the negotiations over self-government and put an end to the referendum in October.26

Native women were a powerful ally for non-native women opposed to the Charlottetown Accord. As a group which has historically experienced double discrimination in Canadian society, there was a great deal of public support for native women. Unlike 1987, the organized women's movement appeared to have a greater amount of consensus on the constitutional question. With women in Quebec not as vocal on this second round of constitutional talks and the Native Women's Association of Canada on side, the National Action Committee appeared more representative of Canadian women than in did in 1987. However, this public acceptance did not necessarily translate into perceived legitimacy on the part of the political elite. The Prime Minister's and Premiers' virtual non-recognition of the concerns raised by women's groups, coupled with the lack of support from women members of Parliament, did not provide the women's movement with any substantial political backing. Ethel Blondin, the only native woman in the House of Commons, did not support the NWAC. According to Blondin, she was willing to

26 Ibid., 2.
"take her chances under the inherent right to self government rather than forsake it by voting No". As mentioned earlier, Sheila Copps and Audrey McLaughlin were also willing to support the Accord and hope for improvements later. Thus the support of Members of Parliament, which had proved crucial in the past, was also absent in 1992.

3.5 Impact of Women's Groups on the Charlottetown Accord

Women's groups were marginally more successful in advancing their position during the Charlottetown round than in 1987. One factor that was instrumental for women's groups was the public perception that women's groups had a reasonable claim, and advocated for a valid interest in Canadian society. With the exception of Alan Cairns, few academics have discussed the issue of interest representation at the constitutional tables. For many the Meech and Charlottetown Accords were not documents which reflected the sentiments of Canadians but merely of eleven white men.27 There was a widely held public perception that the process surrounding the constitutional proposals at Meech Lake was not legitimate.28 The question which came out of the past two constitutional debates was whether or not the First Ministers spoke or can speak on behalf of their constituents. Did the politicians act in the best interest of those they represented? For women's groups the answer to this question in 1987 and again in 1992 was a resounding "no". The fact that the process of constitutional amendment was exclusionary to women as a whole and virtually closed to public input was essential in developing a public perception that women's groups were legitimate actors at the constitutional tables. In spite of the fact that public support may have existed for women's groups, the fact

remains that the federal and provincial governments were unwilling to allow women a seat at the constitutional table. Women's groups were not perceived to be legitimate spokespersons by the Premiers.

Beverly Baines and Annalise Acorn address the issue of why women's groups are not seen as legitimate representatives of women, and why many believe that men can represent the interest of women. According to Acorn, the fundamental problem with women as a group is that they do not have "a competing independent system of political obligation". Acorn states:

There is no other pre-existing women's social contract that can be set up in competition to the new social contract that the dominant group is attempting to forge through the process of constitutional reform.29

Native Peoples are perceived to have a legitimate role to play at the constitutional tables as historically they are self-governing, and thus offer a competing structure to the social order as offered by the First Ministers. Women cannot make this same claim, because women are and have never been self-governing, and therefore women's groups do not possess a compatible structure for governing as do native groups.30

A second reason for the belief that women's representation is not necessary is that the need for women's consent has always been seen as questionable. Acorn points out, "The consent of women is always presumed to have been given by men who are presumed to represent them".31 The inclusion of equality rights in the Charter is viewed as having rectified all the social ills which historically relegated women to the status of second class citizens.32 Finally,


30 Ibid.

31 Ibid., 26.

32 Ibid.
Acorn states that women raising women's concerns is perceived as women "exercising private judgment and looking out for themselves rather than the good of the country". For these reasons Acorn believes that the exclusion of women from the constitutional agenda does not result in a widely-held feeling that there is something wrong with the constitutional amending process.33

For Beverly Baines the real issue surrounding the constitution is that of representation.34 Whether one group of women supported the accord or did not is secondary to the role women played in shaping the agenda for constitutional reform. Like Acorn, Baines acknowledges that men believe they represent the concerns of women. She states, 'We have a constitutional past, present and future in which it is taken for granted that men can and should represent the interests of women, not just politically but also constitutionally". 35 Baines also asks the question why it is disputed whether women's groups truly speak on behalf of women, yet the same is not raised of Native groups? Like Acorn, Baines notes that the lack of legitimacy women's groups are perceived to possess reflects the patriarchal nature of constitution making.

Many scholars have used the juxtaposition of Native groups with women's groups in addressing the question of participation in constitutional debates, however, not all agree with Baines and Acorn. Jennifer Smith argues that women's groups do not speak on behalf of Canadian women and do not have a legitimate role to play in constitution making. According to Smith, Native groups should be included in constitutional discussions, but not women's groups;

Since Native peoples possess their own political organizations and have their own ways of deciding who will speak for them, it makes sense to say that they are not

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33 Ibid.
35 Ibid., 208.
represented if their leaders are not present. 36

For Smith women's groups are not entitled to this same participatory role;

The leaders of women's groups who presented briefs on the proposed Accord before legislative committees, or gave media interviews, do not represent "women" in any procedural, electoral way. They represent themselves, and the members of the particular organization with which they are associated-altogether the smallest fraction of Canadian women. Therefore, the only general claim of representation that leaders of these organizations can make is a mirror claim, which amounts to the idea that they can speak for women [sic] (on what? women's issues? other issues?) because they are women—an idea unacceptable to any independent-minded citizen. 37

Smith's analysis may be correct given that women are a diverse group in society. It is difficult to find consensus amongst women for they are divided by colour, religion, region etc.

However, women's groups believe that they do speak on behalf of women, and have attempted to structure their organizations in a way which reflects the diversity of women throughout Canada. Smith fails to appreciate the fact that women's groups are recognized as somewhat legitimate by the federal government based on the sheer fact that they are funded by the Secretary of State. Further, it was the federal government who established the Canadian Advisory Council on the Status of Women and Status of Women Canada, to keep the government updated and informed on issues pertaining to women. Hence, women's organizations are perceived by governments to represent the concerns of women.

A second criticism of Smith would be her failure to discuss the structure of women's groups. NAC for example is a democratically structured organization. NAC holds an annual meeting every year in Ottawa in which delegates from across Canada attend to set the

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37 Ibid.
organization's agenda and policies for the year. Delegates are selected from nearly 600 member
groups representing a variety of women across Canada. Almost every major feminist
organization in this country is a member of NAC. In spite of the democratic election process
under which NAC operates, Smith still contends that the organization cannot possibly represent
women in Canada. Smith also states that the Assembly of First Nations (AFN) speaks on behalf of
aboriginal peoples. For Smith, the fact that the AFN is comprised of chiefs who represent
governing bodies makes them legitimate spokespersons for Natives. This argument does not
seem consistent. Indeed the delegates at a NAC conference have as much authority to speak on
behalf of the women they represent as do chiefs of the AFN. The Charlottetown round illustrated
that the AFN did not speak on behalf of all native groups. The rift between the Native Women's
Association of Canada and the AFN clearly illustrated that the AFN was not representative of all
native people.

Alan Cairns is far more generous to women's groups in acknowledging their role in
constitutional reform. Cairns says:

The constitutional politics of the Assembly of First nations
and the national Action Committee on the Status of Women
deserve some of the attention we have previously devoted to
executive federalism, courts, and amending formulas. The
organizers of Meech Lake ignored these new constitutional
players to their serious detriment. It is an unhelpful form
of flattery for scholars to imitate the errors of those
temporary office-holders who are our servants.38

While academics have written on both sides of the issue of representation, and debate still rages
as to whether groups speaking on behalf of women are reflective of women in Canadian society,
the real issue according to feminist scholarship rests in the fact that women's concerns are not

38 Alan Cairns, "A Decade of Constitutional Reform: The Charter, Interest Groups,
Executive Federalism, and Constitutional Reform," in After Meech Lake: Lessons for the
Future, ed. David E. Smith, Peter MacKinnon and John C. Courtney (Saskatoon: Fifth
being represented by men, and that in order to ensure representation women must be present at future constitutional talks. During the summer of 1992, NAC demanded a seat at the constitutional table with First Ministers and native leaders, but was denied this request. Instead, constitutional affairs minister Joe Clark said he would "recommend" to his provincial counterparts that they hear from women when they met in Ottawa to discuss the constitution.

It would appear that a widely-held opinion by most politicians is that women do not require representation by women at the constitutional table. Feminist scholars have pointed out that while consensus amongst women may be difficult to reach, surely, there is some common ground for which women must join together to fight. Acorn writes,

How can one woman, or one woman speaking from the point of view of one particular group of women, define what should be on a women's agenda for constitutional reform? Even if I could find some women or some groups of women who agreed with me, certainly there would be other groups who did not. It would be impossible, for example, to get a women's consensus on the issue of pornography. What do we— who must be the champions of difference—do about this difference? I would suggest that we must seek some consensus. In order to assert ourselves as a political force we must at least try to come up with certain things that we can agree on so that the failure to include them in the process of constitutional reform will become a destabilizing and undermining of the legitimacy of that process. Could we perhaps agree on the need to reform the political process so that different voices could be heard? Could we perhaps agree that it would be a better world for women if the eradication of violence against women were to be embraced by the constitution as a basic public good?

Not unlike Acorn, Vickers writes, that "women must examine their commonalities" instead of

39 Marie Cocking, "When will women get a seat at the table?," Globe and Mail, 8 October 1992, p. 12.
emphasizing the differences.42

The analysis of scholars such as Vickers and Acorn is important not only for understanding division in the women’s movement over the constitutional question, but also for providing direction for the women’s movement. Indeed feminist scholarship is in agreement that the women’s movement has too often focused on differences amongst women rather than shared experience. The division over the Meech Lake Accord between women in English and French Canada provided the federal government with just cause to dismiss any criticisms of the Accord by women. Ginette Busque writes;

This difference of opinion must be acknowledged, but, in my view, we cannot allow it to be used to set us against one another. This same difference existed during the Meech Lake debate, and the message which I received then, as a Quebec woman, was that I was falling into the trap set by Ottawa politicians, who would like nothing better than to create division amongst us. Many of us saw this as an attempt to unite us behind a common position, as if the credibility of the women’s movement depended more on the uniformity of its political positions than on the coherence of its feminist approach.43

3.6 The Results

On October 26, 1992 Canadians did have the final say on the Charlottetown Accord. In a narrow vote, the Charlottetown agreement was defeated at the polls. Thus, women’s groups were marginally more successful in advancing their agenda than in 1987—“marginally” more successful because, women’s groups accomplished their goal of defeating the Accord, but the

process by which the agreement was reached in the first place still did not include women. NAC and the NWAC's goal was to win a seat at the constitutional table. In this respect, the organized women's movement was not successful.

A case cannot be made that the organized women's movement single-handedly orchestrated the demise of the Charlottetown Accord; however, the strong opposition to the agreement by NAC and the Native Women's Association probably did have a great deal of influence in persuading Canadian women and men to vote "no". A poll taken just prior to the referendum indicated that women were evenly split for and against the deal, but 21 per cent were undecided, compared with only 11 per cent of men.44 In speculating how women would vote, a spokesperson for Angus Reid reported that women tend to be less risk takers, and because the idea of Quebec going independent was risky, women would probably vote in favour of the Accord. Other analysts argued that women vote as a minority—they do not trust any government to look after their concerns, and would vote against any government deal.45 While gender breakdowns are not available as to how women voted, two important points emerge from the referendum outcome. First, the organized women's movement was on the "winning" side of the constitutional debate. Second, the federal government did not view the support of women's groups as crucial in the constitutional debate. The Conservative government under Mulroney decided that the concerns raised by NAC and the Native Women's Association were either not important or valid, to render any changes to the Charlottetown Accord. While it cannot be disputed that women were divided on the constitution, it also cannot be denied that the combined membership of NAC and NWAC comprised a powerful influence amongst women. The federal government misjudged the importance of these players in the constitutional debate, and this was perhaps their fatal error.

3.7 Conclusion

45 Ibid.
This chapter has discussed the reasons why women's groups said "no" to the Charlottetown Accord. First, they believed that equality rights in the Charter were threatened, second, the proposed changes in the division of powers were viewed by women in English Canada as giving too much to the provinces, and by women in Quebec as not giving enough, and finally, the process of constitutional amendment was exclusionary to women. Thus in their differences women's groups found consensus. In identifying the objections women's groups had to the Accord, and the methods women's groups used to influence public and government opinion on the Accord, there are two important lessons which come out of Charlottetown. As Vickers has pointed out, women will continue to be divided by region, social class and ethnicity. It is therefore essential that women focus on their commonalities rather than their differences. Second, Vickers believes that until women form a critical mass in provincial legislatures and the federal Parliament, their unique concerns will lack representation.46 The decision for women today is whether they wish to continue to pursue social action through the vehicle of interest groups or through formal politics. According to Burt, women are more likely to become affiliated with social action groups than with a political party.47 If this is indeed the case, interest groups will continue to be an important way for women to advance their concerns.

4.1 Introduction-The Canadian Constitutional Legacy

The very history of Canada is one based on compromise and debate, and given this, Canadians are committed to the process of public consultation as well as legislation which reflects the sentiment of the people. Canadians are a people committed to the written word and the notion of democracy. Unlike our neighbors to the south we are not a country formed as a result of a revolution, but rather as a result of a conference in Charlottetown. Our civil war manifested itself in the form of a referendum in Quebec in 1980, and we are more likely to bear pens than arms. Therefore, it is not surprising that the recent decade of constitutional debate was poignant, patriotic, and passionate.

Canadians have debated the content of the constitution and the process of constitution-making to the point where "constitutional-wrangling" came a close second to Hockey Night in Canada as the nation's number one pastime. Indeed the period between 1982 and 1992 was one Canadians will not soon forget. While consensus as to who should be involved in a constitutional renewal process, and what a constitution should say is difficult to find; one certainty in the debate is that women do not represent a monolithic group in society and are divided along many lines. For this reason, compromise is an increasingly important element.

This paper has traced the development of women as an organized interest in Canadian society as well as the history of the relationship of women to the constitution. By illustrating the discrimination that women have experienced, the paper has made the case that a constitutional guarantee of equality rights is necessary, and that any future amendments to the constitution must recognize and reinforce equality provisions in the Charter. Chapter two examined the relationship of women to the state and discussed the divisions in the women's movement. In stating that there is no monolithic women's movement in Canada, chapter two argued that women's groups have difficulty influencing the state because i)there is no singular
agenda of women's groups and ii) women's groups represent a sector of the Canadian population rather than a geographic group. As the literature on interest groups points out, given that Parliament is a regionally based institution, those groups which do not represent a region have difficulty conforming to a federal system of government which is based on geographic representation. Chapter three compared the actions of various women's groups during the 1987 and 1992 constitutional lobbies. From this discussion two points were made clear. First, Canadian women are divided for many reasons. While region and ethnicity are obvious divisions, women members of Parliament also represent a unique segment of the women's movement, thus illustrating the division between those women who occupy positions of political power and those who comprise the mass. A second argument made in this chapter was that in order for women to continue to make significant gains in a federal system, they must either develop consensus on fundamental issues which constitute their agenda, or work to become a critical mass in government.

This chapter will identify the divisions in the women's movement as well as identify the lessons women's groups learned in 1987 and 1992. In examining the experience of women as an interest group, the chapter will make a case for a strong constitutional guarantee of women's rights.

4.2 Women as an Organized Interest

Women continue to organize into a variety of interest groups in order to influence the state. In western Europe and North America, women participate more in movements for change than men do, yet men are more overrepresented in the offices of formal politics.1 It is important to acknowledge however, that women do not necessarily "choose" social action over direct political participation. In fact, "it is because women are marginal to the political system

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1 Jill Vickers, Pauline Rankin and Christine Appelle, Politics As If Women Mattered (Toronto: University of Toronto Press, 1993), 17.
and women's causes are seen as peripheral that it has been necessary for feminists to opt for social movement forms. While women may have been relegated to the interest group arena, they have not been unsuccessful in their attempts to effect serious change in Canadian society.

Jeri Dawn Wine and Janice L. Ristock state:

Feminist activism has succeeded in changing public understanding of male violence against women and girls, and providing services to many female victims. Women have organized to elicit changes in educational practices and materials at every level of the educational system as a result of the feminist recognition that, traditionally, education has fostered male power and control. Feminists have created a network of organizations, publications, bookstores, presses, and small businesses. Perhaps the most impressive impact of the movement is the massive shift in the consciousness of the Canadian public in terms of affirmation of women's right to equality, including reproductive freedom, equal treatment in the workplace, and freedom from violence.

Thus interest groups have served as useful vehicles for women in advancing their agenda in the political system.

The literature by feminist scholars on the Canadian women's movement identifies two elements that are key to understanding the behaviour of women's groups. First, women's groups must relate to the federal state, and for this reason, the women's movement has adopted what Vickers refers to as a "radical liberalism" character. In the feminist movement, this "radical liberalism" is a synthesis of institutional and grassroots organizing. To best understand Vickers' assertion that the Canadian women's movement is one which embraces radical liberalism, one need only refer to the "Vote No" campaign launched by the National Action

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2 Ibid.
Committee on the Status of Women during the referendum in 1992. In spite of the fact that NAC is a highly institutionalized organization, they chose to run a grassroots campaign calling for local action. Hence a coordinated national campaign relied on the radical activity of grassroots organization.

A second element which is key to an understanding of women’s groups is that there is no monolithic women’s movement in Canada; in fact, the Canadian women’s movement contains three distinct components: the English-Canadian movement as led by the National Action Committee on the Status of Women (NAC), the francophone movement in Quebec and the First Nations women’s movement. In chapter two, the literature by Vickers was cited in making the case that the major difference between the segments of the movement, was their attachment to different levels of the state. For example, the English Canadian and First Nations women’s movements have advocated a strong federal role in decision making, whereas the francophone movement has been inclined to advocate provincial leadership in those areas pertaining to social program creation.

Vickers argues that it is essential for the women’s movement to become institutionalized. Vickers, Rankin and Appelle state, "This derives from our conviction that the struggle to gain equality for women is a multi-generational project than cannot succeed if it relies on the interpersonal relationships of a single generation." In chapter one this paper argued that the relationship of women to the constitution was essentially one of inequality. The willingness of the First Ministers and the Prime Minister to deny women’s groups a guarantee of the Charter's

4 Jill Vickers, Pauline Rankin and Christine Appelle, Politics As If Women Mattered (Toronto: University of Toronto Press, 1993), 18.
6 Jill Vickers, Pauline Rankin and Christine Appelle, Politics As If Women Mattered (Toronto: University of Toronto Press, 1993), 62.
equality rights in 1987 and again in 1992 further proved that the victories of the movement were tenuous at best. As one woman said after section 28 was reinstated in 1981, "Women will never again take equality for granted, or take governments' word for what's best for women." 7 Mary Eberts has also alluded to the fact that women's victories must be guarded. 8 Hence, there is a strong theme in feminist discourse which recognizes that because women do not form a critical mass in governments, women must rely on men to represent their interests. Women must therefore develop compatible structures within their organizations to enable their "Chartenwatch" to continue.

4.3 Were Organized Women's Groups Successful in the 1987 and 1992 Constitutional Rounds?

To determine the success of women's groups in the 1987 and 1992 constitutional rounds, the Ad Hoc Group's lobby in 1981 was used as an archetype of an effective attempt to influence the state by women's groups. Women's groups were successful in 1981 for several reasons. First they were able to secure a strong guarantee of equality rights in the Charter through sections 15 and 28. Second, the Ad Hoc group obtained the support of women in the House of Commons who in turn were instrumental in aiding the movement with their efforts. Not only did female Members of Parliament help the Ad Hoc group, but they were an important part of the widely held perception that the actions of women's groups were legitimate. Finally, the Ad Hoc group was successful in creating the appearance of a cohesive women's lobby around the Charter.

Recent feminist scholarship has identified the need for establishing measures of success within the women's movement. While the literature on interest groups documents criteria for

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determining the success of groups, Vickers points out that each of these measures has been derived from the study of women's movements in other countries, none of which, however, has depended so heavily on government funding and none which have an umbrella organization like NAC. Further, the Canadian polity is a "multilingual, multicultural state that imposes a significant additional test of success on all organizations claiming to be pan-Canadian—namely, their ability to incorporate participants of widely diverse backgrounds". Therefore, it is important that scholars develop criteria to measure success in the Canadian context.

In chapter three, this paper argued that women's groups were marginally more successful in the 1992 constitutional round than in 1987. Pointing to the fact that NAC was joined by the Native Women's Association in condemning the Accord, and that the Charlottetown Accord was eventually defeated in the referendum, it was argued that women's groups were better able to advance their constitutional agenda in 1992. While popular support did appear to be on the side of the women's movement (the Accord was defeated by the Canadian electorate with 44.6% voting yes, and 54.4% voting no)10, there were still setbacks for organized women's groups. The fact that the support from female Members of Parliament did not exist and that the Federation des Femmes du Quebec did not join NAC in urging a "no" vote illustrate that the constitutional lobby in 1992 was not entirely successful. Indeed the issue of gender failed to gain any real leverage during the referendum and even Canada's national newspaper, the Globe and Mail, did not solicit any commentary by women's groups the day after the vote.11

This paper has measured success of the women's movement through criteria created by Sandra Burt in analyzing the 1980-82 Charter lobby. While Burt's criteria do not differ greatly from those prescribed by other academics, they are at least Canadian and thus,  

11 Ibid.
reflective of our regional cleavages. Hence, Burt does not cite cohesion in the women’s movement as being critical to a successful lobby. What Burt does state however, is that rifts do exist in the women’s movement, and if indeed women who comprise these groups are committed to feminist principles, they will seek to reach consensus, and to eradicate pressure tactics which are essentially power constructions.12 The issue for academics still, is to define criteria from measuring the success of interest groups which reflect the unique political culture of the Canadian polity.

4.4 The Lessons of Meech Lake and Charlottetown

While the federal government sought the input of Canadians on the Charlottetown proposals, it did not commit itself to ensuring that any forum for public consultation would include historically disadvantaged groups. After the Beaudoin-Dobbie Committee abandoned its public consultations and the federal government decided to hold a series of conferences on several facets of its proposals, it should have ensured that women were represented in proportion to their numbers in the Canadian population. In the case of the Halifax meeting which discussed the division of powers, of the 158 participants, only 62 (39%) were women. While the number of women participants increased with each conference, there was still a gross underrepresentation of women at the meetings. Thus according to the Ontario Women’s Action Coalition, "It is also clear that in throwing open the doors to public participation, governments felt that they had done enough to ensure the full involvement of all Canadians, and that no effort was made to encourage traditionally underrepresented groups to join the consultation process".13 Throughout the constitutional debates in 1986, the issue of representation was

raised by various groups. The closed process of constitutional amendment was the driving force in groups lobbying for greater public consultation; however, public consultation became another forum for white males. For Beverly Baines the issue of representation was the most important lesson of the Meech Lake Accord. Baines argues that even if Charter equality provisions were not threatened in any future constitutional proposals, the fundamental problem which exists is the idea that men can and should speak on behalf of women. Baines goes on to state that because the federal and provincial governments are male-dominated, it is the responsibility of academics to stress the need for representation in the constitutional debate. The literature on representation and the constitution to date according to Baines has not however, focused on gender representation, but rather on issues of representation between francophones and anglophones, between federal and provincial governments and, between aboriginals and whites. Hence for scholars and politicians, the issue of gender representation is not relevant. Baines goes on to note that for academics there is no excuse for this oversight or exclusion given that there is solid academic work by feminist political scientists such as Vickers, Brodie and Bashevkin (to name a few) which have addressed the question of gender representation. Thus one lesson of Meech Lake was that gender representation must be given adequate consideration in the future.

One of the reasons why women were successful in obtaining section 28 in the Charter was due to the fact that the Ad Hoc group had the support of women Members of Parliament. This support did not exist for the women’s movement in 1987 or in 1992. It is not surprising that women’s groups were unable to convince governments that the Accords were detrimental to

15 Ibid., 209.
women, given that women in the House of Commons argued that they were not. Hence, the support of women in positions of power is fundamental for the women's movement. For the organized women's movement, there must be a commitment to electing women to positions of power. Chantal Maille points out however, that it is not good enough to elect women, groups must push for the election of feminists;

Female politicians already identify themselves as women, but a feminist identity is needed to establish real networks of women in politics. Female politicians should maintain special ties with women's groups, thereby assisting them to bring women's issues onto the political agenda. Such a relationship would allow women to defend their common interests in the political arena. Women will also bring to politics other approaches and viewpoints, because their everyday lives are still different from the lives of men. At this time, therefore, the strategic importance of women entering political life in larger numbers is undeniable and offers great possibilities for society as a whole.17

Maille's vision of a Canadian Parliament of women representing women directly contravenes the territorial composition of the House of Commons and the Senate. Given the structure of Canadian government institutions, it is perhaps unrealistic to look to Parliament as a forum for the representation of women's concerns. This brings our discussion full circle back to that of interest groups. At present, interest groups appear to be the only vehicle through which women can voice their concerns.

4.5 Conclusion

The increased number of interests that are presented to Parliament has made it increasingly difficult for women's groups to have their needs addressed. To rectify this situation, women's groups must take on new directions. It is important for women's groups to

17 Chantal Maille, Primed For Power: Women in Canadian Politics (Ottawa: Canadian Advisory Council on the Status of Women, 1990), 32.
develop some degree of cohesion. One of the major criticisms and causes of the marginalization of women's groups has been their inability to produce a single agenda. This statement does not suggest that women's groups should produce a united front, it is merely a reflection of the expectations of governments. Feminist scholars have advocated for a greater focus on the commonalities which unite women rather than those issues which divide us. Given the percentage of the population that women comprise, it would be possible for women's groups to effect radical changes in society if issues which were common to women across Canada could be advocated. In 1982, equality was one such issue. While divisions amongst women did exist over the entrenchment of a Charter in the Canadian constitution, women's groups were united in advocating equality as a desirable goal.

There are still issues today which would gain the support of all women. For example, the elimination of violence against women and children. Differences may arise over the best method to pursue this goal, yet the commitment to this fundamental principle does exist. There is sufficient evidence to indicate that the organized women's movement is headed in this direction. The recent publication by Vickers, Rankin and Appelle suggest that NAC is spending a great deal of time in ensuring that the organization not only has regional representation, but also the input of disabled women, minority women and lesbian women.18

The organized women's movement is at a turning point in its development. Now that women have the option of pursuing elected office or operating outside of formal politics, which course of action will prove most beneficial for the women's movement? The courts have not proven the best venue for social change, nor have political parties. Given the experience of women's groups in attempting to penetrate both these arenas, it would appear that interest groups have offered women's voices the most effective forum for social change. Further,

18 Jill Vickers, Pauline Rankin and Christine Appelle, Politics As If Women Mattered (Toronto: University of Toronto Press, 1993).
women-created groups are able to develop a feminist agenda and operate under a collective structure because they are autonomous bodies. Women will continue to play a policy advocacy role unless various women's groups are incorporated into the formal political process. The termination of lobby days between the federal government and NAC would indicate that women's groups are not receiving any invitations to sit at the table with the politicians. This fall, Canada will elect a new government, and if the government changes hands, it will be important to see whether NAC is invited back to the Hill. The future for women's groups is an exciting one. Women's groups must be vigilant in their protection of equality rights and seek to ensure true representation of women's concerns in all political institutions. The issue of whether there is one woman's interest in Canada or many would appear to be a mute point given that the real interest is the agenda for change.
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