specific recommendations on, is the absence of any guarantee or even mention of women's human right to equality.

The absence of any mention of women's human right to equality in the proposed charter of rights and freedoms was brought to the attention of the government as long ago as midsummer in an excellent paper written by Professor Beverley Baines of the law school at Queen's University, which is 67 pages long, and in another paper prepared by Mary Eberts, a distinguished constitutional lawyer in Toronto, and in a number of shorter papers prepared for the conference on women and the Canadian Constitution that the Canadian Advisory Council on the Status of Women had scheduled but which, unfortunately, could not be held, for the first weekend in September.

The government has lots of opportunity to know why its proposed section 15, ridiculously named non-discrimination rights, was of no benefit to women. Yet the government did nothing.

An hon. Member: Shame.

Miss Jewett: The minister responsible for the status of women does not yet know that there is a problem and the government lawyers—who unfortunately are not the Beverley Baines and Mary Eberts of this world—

Mrs. Mitchell: Are all men.

Miss Jewett: That is true. Those who are preparing the work on the constitution are all men. They do not understand the problem either.

Fortunately, the Canadian Advisory Council on the Status of Women, every one of them a patronage-appointed Grit, had the guts a couple of weeks ago to stand up and say that, as far as women are concerned, this package will not do. For the first time in the many years that the Liberals have been appointing people to that council, they showed their independence.

Mr. Blenkarn: Are you going to vote for it?

Miss Jewett: I should like to put on record now an excerpt from an October 8 press release issued by the Canadian Advisory Council on the Status of Women, which reads as follows:

'Canadian women should know that their rights are not protected by the federal government's proposed charter of rights,' said Doris Anderson, president of the Canadian Advisory Council on the Status of Women, at a press conference in Ottawa today. 'Unless wording of the charter is revised to guarantee fundamental rights for women, they will continue to risk the kind of discrimination so often experienced in the past.'

Clause 15(1) of the charter under discussion reads:

Everyone has the right to equality before the law and to the equal protection of the law—

This wording is inadequate because in every single case in the 1970s when practically the same wording, which is contained in the Diefenbaker Bill of Rights, was being interpreted by the courts, the Supreme Court did not find that women were equal in the law. The Supreme Court either interpreted the "before the law" clause to mean "in the administration of the law", or else it tried to find some other principle which, in effect, would deny women their equality.

The two most important cases, of course, are the 1973 decision in the Lavell and Bédard case where two Indian women had lost their status because they married non-Indians. As we all know, section 12(1)(b) of the Indian Act states that Indian women who marry non-Indians lose all their claims as Indians. This law does not apply to Indian men who marry non-Indians. In that case the Supreme Court decided that the words "before the law", that now also appear in clause 15 of this charter, only referred to the administration of the law and not to the law itself. In 1978 in the famous Bliss case, and basically without going into the details of it because of shortage of time, the court decided that no inequality was being suffered by Stella Bliss in the non-payment of unemployment insurance to her, because the law had resulted in a denial of benefits only to some unemployed pregnant women and not to all of them.

Unless the proposed charter is rewritten, these two decisions will stand as precedents. Nor is it good enough to say, as I understand some government advisers are saying, that once these words are entrenched everything will be all right, because the courts will then say, "it is entrenched now and we have to handle it differently." That is probably the most ludicrous argument one could imagine. Once precedents are established, courts very rarely change their interpretation.

More important, with the exception of one Supreme Court Justice, at no time have the courts felt that the Canadian Bill of Rights could not overrule other statutes. In all these cases, all justices, with one exception, treated the Canadian Bill of Rights, the Diefenbaker Bill of Rights, as though it were entrenched. In this connection, the famous Drybones case has never been overturned. Thank goodness, we now have bright young women teaching constitutional law in the law schools of Canada, who bring these facts to our attention.

● (2110)

Some hon. Members: Hear, hear!

Miss Jewett: The same is true of the protection of the law clause. The only change in section 15 from the Diefenbaker Bill of Rights is the addition of the word "equal". So it is now equal protection of the law. That again will not be of very much help, if indeed any help at all. It is a copying of American terminology and a tendency to think highly of American jurisprudence as far as the interpretation of equal protection of the law is concerned. I think this is well taken if one is looking at their interpretation of cases regarding race inequality. But if we look at the interpretation of that clause as far as sex inequality is concerned, we see that it is of no help whatsoever to women.

I must say the Quebec charter of human rights is more enlightened. It does not use the words "before the law" at all. The phrase in French is "en pleine égalité".

Perhaps that is a phrase we should take into consideration when we are revising the wording in committee.