Court File No. 29866

IN THE SUPREME COURT OF CANADA

IN THE MATTER OF SECTION 53 OF THE *SUPREME COURT ACT*, R.S.C., 1985, C. S-26

IN THE MATTER OF A REFERENCE BY THE GOVERNOR IN COUNCIL CONCERNING THE PROPOSAL FOR AN ACT RESPECTING CERTAIN ASPECTS OF LEGAL CAPACITY FOR MARRIAGE FOR CIVIL PURPOSES, AS SET OUT IN ORDER IN COUNCIL P.C. 2003-1055, DATED THE 16TH DAY OF JULY, 2003

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FACTUM OF THE INTERVENER, CANADIAN CIVIL LIBERTIES ASSOCIATION

PART I - FACTS

(a) Overview of the CCLA's Position

1. The Canadian Civil Liberties Association ("CCLA") is a national civil liberties organization with over 6500 individual members, seven affiliated chapters across the country, and twenty associated group members which, themselves, represent several thousand Canadians. The CCLA has long been concerned with the appropriate balance between civil liberties and other competing rights and interests. For example, the CCLA intervened or was involved as a party in the following cases:

- *Chamberlain v. The Board of Trustees of School District # 36 (Surrey)*, [2002] 4 S.C.R. 710 ("*Chamberlain*"),
- *Trinity Western University v. B.C. Council of Teachers*, [2001] 1 S.C.R. 772 ("*Trinity Western University*");
- *Ontario (Human Rights Commission) v. Brillinger*, [2002] O.J. No. 2375 (Div. Ct.);
- *La Congrégation des Témoins de Jéhovah v. Lafontaine (Village)*, (argued January 19, 2004; decision pending in S.C.C., Court File No. 29507);
- *Adler v. Ontario,* [1996] 3 S.C.R. 609;
- *Ross v. New Brunswick School District #15*, [1996] 1 S.C.R. 825;

- *Reference Re Bill 30, An Act to Amend the Education Act (Ontario)*, [1987] 1 S.C.R. 1148;
- *Daly v. Ontario (Attorney General)*, (1999) 44 O.R. (3d) 349 (C.A.),;
- *Canadian Civil Liberties Association v. Ontario (Ministry of Education)*, (1990) 71 O.R. (2d) 341 (C.A.); and
- *Zylberberg v. Sudbury Board of Education*, (1988) 65 O.R. (2d) 641 (C.A.).

2. The CCLA's mandate to further the cause of civil liberties extends to both a strong commitment to the advancement of equality and a robust commitment to protecting freedom of religion. The CCLA has often promoted both values as key aspects of a free and democratic society. In the present case, as in this Court's recent decisions in *Chamberlain* and *Trinity Western University,* various parties claim that the *Charter* supports their position, with reference to competing conceptions of equality and freedom of religion.

3. The CCLA takes the position that the opposition of some religious groups to same-sex marriage neither mandates nor justifies the restriction of marriage to opposite-sex unions. Civil marriage is a public institution, intended to be available to all without regard to religious affiliation or adherence to religious doctrine. As such, it must be secular. Defining the secular institution of civil marriage in terms that do not happen to coincide with a particular conception of a divine will does not threaten the legitimate interests of religious groups or individuals. To the contrary, a secular definition that reflects the equality guarantee in s.15 is the best way of reconciling the competing beliefs and views of all Canadians, regardless of their religion.

4. However, the legitimate interests of religious groups and individuals do extend to recognizing a right to abstain from participating or assisting in ceremonies that are contrary to their religious beliefs. For this reason, the CCLA views the Federal Government's Proposed Act as a reasonable approach to the subject of same-sex marriage, that is consistent with the recognition and protection of civil liberties.

(b) Background

5. In earlier times, legally-recognized marriages were conducted only by clergy of specific denominations. During the 19th and early 20th centuries, legal recognition of marriages was broadened to include marriages performed by religious officials of other denominations, and by civil officials. Civil marriages for persons "objecting to" religious marriage ceremonies have existed in Canada and elsewhere since before Confederation.

An Ordinance Respecting Marriage in British Columbia, (No. 21 of 1865), s.iii-vi (B.C.)

An Ordinance to Regulate the Solemnization of Marriage, R.S.B.C. 1877, c.89, s.7-10

Marriage Act, R.S.B.C. 1930, c.41, s.16-21

An Ordinance Respecting Marriages, (No. 9 of 1878) s.i (N.W.T.)

Statute Law Amendment Act, S.A. 1916, c.3, s.21

The Marriage Act, R.S.A. 1922, c.213, s.16-18

The Marriage Act, R.S.O. 1950, c.222, s.25

Parliamentary Debates, 3rd Session, 8th Provincial Parliament of Canada (Feb. 3, 1865) at 389, *Record of the Attorney General of Canada*, Part IV, p.568

6. The purpose of civil marriage, as opposed to legally-recognized religious marriage, has been identified as being to provide a purely **secular** alternative form of the institution of marriage that is available to all – i.e., one that does not depend upon affiliation to any particular religion or adherence to any particular doctrine.

Factum of the Attorney General of Canada, para. 12

7. The courts of three provinces have now ruled that the common law or statutory (in Quebec) rule restricting marriage to persons of the opposite sex, violates s.15 of the *Charter* and is of no force or effect. Since these decisions, over 2,000 same-sex couples have married in Canada.

EGALE Canada Inc. v. Canada (Attorney General) (2003) 13 B.C.L.R. (4th) 1 (C.A.)

Halpern v. Canada (Attorney General), (2003) 65 O.R. (3d) 161 (C.A.)

Hendricks v. Quebec (Procureur general), [2002] J.Q. No. 3816 (C.S.), appeal dismissed (*sub nomine Lique Catholique pour les droits de l'homme C. Hendriks), [2004] J.Q. No. 2593 (C.A.)*

Civil Marriage and the Recognition of Same-Sex Unions, Department of Justice Canada Backgrounder dated March 29, 2004

8. By Order in Council dated July 16, 2003, the Governor in Council referred three questions to this Court relating to the constitutional validity of a proposed Act respecting certain aspects of legal capacity for marriage for civil purposes (the "Proposed Act"). A fourth question was added by Order in Council dated January 26, 2004. (The questions are set out under "Points in Issue" below).

Order in Council P.C. 2003-1005, dated July 16, 2003, *Record of the Attorney General of Canada*, Vol. I, Tab 3, p. 6

Order in Council P.C. 2004-2028, dated January 26, 2004, *Supplementary Record of the Attorney General of Canada*, p. 4

9. The operative provisions of the Proposed Act are as follows:

1. Marriage, **for civil purposes**, is the lawful union of two persons to the exclusion of all others.

2. Nothing in this Act affects the freedom of officials of religious groups to refuse to perform marriages that are not in accordance with their religious beliefs. [emphasis added]

Proposal for an Act Respecting Certain Aspects of Legal Capacity for Marriage for Civil Purposes, *Order in Council P.C. 2003-1005*, dated July 16, 2003, *Record of the Attorney General of Canada*, Vol. I, Tab 3, p. 9

(c) The CCLA's Interest in this Reference

10. The CCLA has intervened to make submissions in support of the constitutionality of the Proposed Act, and to respond to the positions of some other parties.

11. A large number of parties have intervened before this Court, including several churches or religious groups. Some religious interveners have taken the position that the Proposed Act infringes s.15 of the *Charter* because the definition of marriage for civil purposes does not coincide with the beliefs of their religious communities. For

example, the Interfaith Coalition, comprised of the Islamic Society of North America, the Catholic Civil Rights League and the Evangelical Fellowship of Canada, states the following in its application materials for leave to intervene:

> The Interfaith Coalition will argue that the proposed Act, by stipulating a change to the definition of marriage, will be replacing the heterosexual conception of marriage - one that is consistent with the conception of marriage held by the religious faith communities represented by the Interfaith Coalition as well as millions of other Canadians - with a conception of marriage that is *antithetical* to it. The Interfaith Coalition will argue that by altering the conception of marriage in the manner proposed, Parliament would be failing to manifest equal concern for the interests of the members of the religious faith communities represented by the Interfaith Coalition as well as other Canadians, who will be marginalized from full participation in civil society. This would be a violation of s.15(1) of the *Charter.*
>
> *Memorandum of Argument of the Interfaith Coalition on Marriage and Family* (leave to intervene), p. 7

12. The CCLA is very concerned at the suggestion that a secular institution such as civil marriage must avoid being "antithetical to" the conception of marriage held by any particular religious faith community. The CCLA strongly opposes this position, and has intervened largely to make submissions on the need to respect principles of secularism in designing public institutions that are intended to be available to all.

13. On the other hand, the CCLA is generally supportive of the right of groups and individuals not to be compelled to lend their assistance to forms of expression and/or religious ceremony (including marriage) to which they are opposed on religious grounds. The CCLA views s.2 of the Proposed Act as being at least consistent with – if not required by - the *Charter*'s guarantee of freedom of religion.

14. Certain religious interveners have argued that the protection in s.2 of the Proposed Act is not broad enough. For example, they have raised questions concerning the right of a religious institution to control the use of its facilities. Although it is not clear to the CCLA that this Reference is the appropriate occasion to resolve these issues, the CCLA will address them briefly below. It is the CCLA's position that these issues call for a careful delineation of the zone of protected religious belief and activity.

PART II – POINTS IN ISSUE

15. The Reference asks the following questions:

> **1. Is the proposed Act within the exclusive legislative authority of the Parliament of Canada? If not in what particular or particulars and to what extent?**
>
> **2. If the answer to question 1 is yes, is s.1 of the proposal, which extends capacity to marry to persons of the same sex, consistent with the *Canadian Charter of Rights and Freedoms*? If not, in what particular or particulars and to what extent?**
>
> **3. Does the freedom of religion guaranteed by paragraph 2(a) of the *Charter* protect religious officials from being compelled to perform a marriage between two persons of the same sex that is contrary to their religious beliefs?**
>
> **4. Is the opposite-sex requirement for marriage for civil purposes, as established by the common law and set out for Quebec in section 5 of the *Federal Law – Civil Law Harmonization Act, No.1*, consistent with the *Charter*? If not, in what particular or particulars and to what extent?**

PART III – ARGUMENT

> **1. Is the proposed Act within the exclusive legislative authority of the Parliament of Canada? If not in what particular or particulars and to what extent?**

16. The CCLA takes no position on this question.

> **2. If the answer to question 1 is yes, is s.1 of the proposal, which extends capacity to marry to persons of the same sex, consistent with the *Canadian Charter of Rights and Freedoms*? If not, in what particular or particulars and to what extent?**

17. The CCLA takes the position that the extension of capacity to marry to persons of the same sex is consistent with the *Charter*.

18. In the CCLA's view, the *Charter* requires that public institutions that are intended to be available to all must be secular. The legal institution of marriage, though its historical roots may be religious, is in the modern context an important practical and symbolic determinant of legal status. For this reason, it is essential that the question of which marriages are recognized by the state not be determined by any particular conception of a divine will. As a legal institution, state-sanctioned marriage must be secular and inclusive - broad enough to recognize marriages performed by a wide variety of religious groups, but not confined to religious concepts in its legal definition.

EGALE Canada Inc. v. Canada (Attorney General), *supra* at para. 132

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Halpern v. Canada (Attorney General), *supra* at para. 138

19. If this Court gives effect to the submissions of some religious interveners, it will be tantamount to allowing members of particular religious groups to impose their particular conception of a divine will upon the rest of society. The imposition upon all people of the metaphysical conceptions of some people, contravenes the essence of religious pluralism contemplated by the *Charter*. Civil marriage, as a public institution, should therefore not be restricted by any particular conception of a divine will.

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20. The CCLA sees a direct parallel between civil marriage and other public institutions such as public schools. Such institutions must be available to all members of society, regardless of their differing religious beliefs. If the rules defining who can marry depend on their compatibility with the religious beliefs of particular individuals or groups, the latter are effectively given a "religious veto" over a matter of public law and status. This may itself amount to a denial of equal treatment and/or freedom of religion for those who do not share in or conform to those beliefs.

Halpern v. Canada (Attorney General), *supra* at para. 138

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EGALE Canada Inc. v. Canada (Attorney General), *supra* at para. 132

Chamberlain v. The Board of Trustees of School District # 36 (Surrey), *supra* at para. 25

Bal v. Ontario (Attorney General), (1994) 21 O.R. (3d) 681 (Gen. Div.) at p. 713, affirmed (1997) 34 O.R. (3d) 484 (C.A.)

Canadian Civil Liberties Association v. Ontario (Minister of Education), (1990) 71 O.R. (2d) 341 (C.A.) at p. 363-66

Zylberberg v. Sudbury Board of Education, (1988) 65 O.R. (2d) 641 (C.A.) at p. 661

Freitag v. Penetanguishene (Town), (1999) 47 O.R. (3d) 301 (C.A.) at paras. 17-25

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21. This is not to say that the state cannot choose to impose any restrictions upon who can marry in a civil ceremony. However, such restrictions must not be based upon any particular conception of a divine will. Rather, they must have a valid secular purpose. The state may not legislate for the purpose of imposing religious conformity on its citizens.

R. v. Big M Drug Mart, [1985] 1 S.C.R. 295, at paras. 94-100, 134-35

R. v. Edwards Books and Art, [1986] 2 S.C.R. 713, at paras. 57-63, 81

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22. The CCLA argued in *Chamberlain v. The Board of Trustees of School District # 36 (Surrey)* and previous cases that the *Charter* requires that public institutions be secular in their character. The CCLA submits that this logic applies to civil marriage, which presumably was created as a secular institution for the purpose of removing religious barriers to marriage.

Chamberlain v. The Board of Trustees of School District # 36 (Surrey), *supra*

EGALE Canada Inc. v. Canada (Attorney General), *supra* at para. 132

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Reference Re An Act Relating to Civil Unions, 440 Mass. 1201, 802 N.E. (2d) 565 (2004) at para. 3

Goodridge v. Department of Public Health, 440 Mass. 309, 798 N.E. (2d) 941 (2003) at para. 7

23. In *Chamberlain*, this Court addressed the requirement in s.76 of the B.C. *School Act* that public schools "must be conducted on strictly secular" principles, in relation to a

40 school board's decision not to approve materials as a learning resource. McLachlin C.J.C., writing for the majority, explained secularism as follows:

> 19 The Act's insistence on strict secularism does not mean that religious concerns have no place in the deliberations and decisions of the Board. Board members are entitled, and indeed required, to bring the views of the parents and

> communities they represent to the deliberation process. Because religion plays an important role in the life of many communities, these views will often be motivated by religious concerns. Religion is an integral aspect of people's lives, and cannot be left at the boardroom door. What secularism does rule out, however, is any attempt to use the religious views of one part of the community to exclude from consideration the values of other members of the community. A requirement of secularism implies that, although the Board is indeed free to address the religious concerns of parents, it must be sure to do so in a manner that gives equal recognition and respect to other members of the community. Religious views that deny equal recognition and respect to the members of a minority group cannot be used to exclude the concerns of the minority group. This is fair to both groups, as it [page729] ensures that each group is given as much recognition as it can consistently demand while giving the same recognition to others.
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> * * *
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> 21 The *School Act*'s emphasis on secularism reflects the fact that Canada is a diverse and multicultural society, bound together by the values of accommodation, tolerance and respect for diversity. These values are reflected in our Constitution's commitment to equality and minority rights, and are explicitly incorporated into the British Columbia public school system by the preamble to the *School Act* and by the curriculum established by regulation under the Act.
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> * * *
>
> 25 In summary, the Act's requirement of strict secularism means that the Board must conduct its deliberations on all matters, including the approval of supplementary resources, in a manner that respects the views of all members of the school community. It cannot prefer the religious views of some people in its district to the views of other segments of the community. Nor can it appeal to views that deny the equal validity of the lawful lifestyles of some in the school community. The Board must act in a way that promotes respect and tolerance for all the diverse groups that it represents and serves.
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> *Chamberlain v. Surrey School District No. 36, supra* at paras. 19, 21, 25

24. In *Chamberlain*, the principle of secularism was expressly referred to by statute. In the present context, the requirement that civil marriage be defined in secular terms may be implied from its history and purpose. The Federal Government has expressly identified the purpose of civil marriage as being to provide a form of "purely secular marriage ceremonies available to all". The CCLA therefore respectfully submits that the role of Parliament in defining the content of civil marriage is similar to the role of the school board in *Chamberlain.* As such, there is no unfairness, much less constitutional defect, in Parliament declining to give effect to religious views that "deny equal recognition and respect to the members of a minority group".

Chamberlain v. Surrey School District No. 36, supra, at para. 19

Factum of the Attorney General of Canada, para. 12

Halpern v. Canada (Attorney General), *supra* at para. 138

EGALE Canada Inc. v. Canada (Attorney General), supra, at para. 132

Reference Re An Act Relative to Civil Unions, *supra*, at para. 3

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Goodridge v. Department of Public Health, *supra*, at para. 7

25. The CCLA would go further, and would submit that principles of secularism are of general application under the *Charter*. In light of our diverse and pluralistic society, and the *Charter*'s guarantees of equality and freedom of religion (including freedom from religion), the approach set out in *Chamberlain* should apply to a wide range of legislation and other government action. Put simply, a secular approach is the best way to manage conflicting moral claims in a pluralistic society, and to give maximum

20 recognition to the legitimate interests of all groups.

Chamberlain v. Surrey School District No. 36, supra, at para. 19, 25

R. v. Big M Drug Mart, *supra* at para. 96

Freitag v. Penetanguishene (Town), *supra*

Canadian Charter of Rights and Freedoms, s.2(a), 15 and 27

30 **3. Does the freedom of religion guaranteed by paragraph 2(a) of the *Charter* protect religious officials from being compelled to perform a marriage between two persons of the same sex that is contrary to their religious beliefs?**

26. The CCLA takes the position that freedom of religion under s.2(a) of the *Charter* should be recognized as affording a broad protection to persons to refrain from participating or assisting in marriage ceremonies that are contrary to their religious beliefs. This would certainly extend to religious officials being compelled, contrary to

40 their religious beliefs, to perform a marriage between two persons of the same sex.

27. The CCLA submits that the state cannot require individuals to participate in marriage ceremonies contrary to their religious beliefs, absent a compelling justification. Such a requirement would constitute an infringement of their freedom of conscience and religion under s.2(a) of the *Charter*.

28. It is apparent that religious views are highly polarized on the morality of same-sex marriage. For those who are genuinely opposed on religious grounds to the concept of same-sex marriage, whether or not they lend their assistance to a same-sex marriage ceremony should be regarded as a matter of personal conscience. The Proposed Act's proviso that a religious official who objects to performing a same-sex marriage on religious grounds will not be forced to do so is consistent with the *Charter*, in light of the fact that same-sex couples have the option of civil marriage or marriage through a non-objecting church.

29. Further, individuals who share similar religious beliefs are free to join together and create institutions to support their religious community. Indeed, such institutions are necessary for most religious communities to flourish. These institutions may adopt and apply moral codes that reflect their shared beliefs, although such beliefs may not be held by many Canadians and may even be regarded as abhorrent by some. In *Trinity Western University v. B.C. Council of Teachers*, the CCLA argued that freedom of religion has an associational aspect, and it is not necessarily contrary to the public interest for religious groups to be able to define themselves in this manner.

> *Trinity Western University v. B.C. Council of Teachers*, [2001] 1 S.C.R. 772 at 812
>
> *Caldwell v. Stuart*, [1984] 2 S.C.R. 603 at 626

30. Therefore, freedom of conscience and religion may also protect religious communities' institutions from being compelled to lend their resources or assistance to marriage ceremonies that are contrary to their moral code.

31. The CCLA would not regard the right to abstain from assisting with same-sex marriages as being necessarily confined to religious officials performing marriage ceremonies. Indeed, the CCLA believes that such a right should embrace a much wider segment of conscientious belief.

32. In *Ontario (Human Rights Commission) v. Brillinger*, the CCLA took the position before the Ontario Divisional Court that a fundamentalist Christian printer had the right to decline to print materials for the Gay and Lesbian Archives, on the grounds that he believed that the Archives represented a cause that was antithetical to his beliefs. While the Court did not accept that the refusal to serve was justified in the circumstances, it did modify the order of the Ontario Human Rights Tribunal to provide that the printer would not be required to print materials that expressed views contrary to his core religious beliefs.

> *Ontario (Human Rights Commission) v. Brillinger*, [2002] O.J. NO. 2375 (Div. Ct.)

33. Likewise, a request for services relating to a same-sex marriage ceremony, made of an individual or religious institution that objected on principle to same-sex marriage, could give rise a right to abstain. For example, an objecting church would not necessarily be required to make its facilities available to a same-sex couple who wished to be married in that location. These issues are largely governed by human rights codes, but to the extent that the human rights codes do not provide an adequate framework for balancing the competing interests, constitutional issues may arise that will need to be addressed in future cases.

34. The CCLA can foresee circumstances in which a right to abstain from assisting with same-sex marriages may raise complex issues. For example, a civil official may object to conducting a same-sex marriage ceremony as a matter of personal religious or conscientious belief. Thus, that official might be able to invoke the *Charter* or human rights codes to avoid such participation. But this right might have to be qualified in the event that, for example, the abstention of an official would undermine the access of a

consumer to such municipal services in the circumstances of any case. The CCLA recognized a similar concern in *Brillinger*.

35. Again, these complex issues would likely need to be resolved in the circumstances of the particular case. Whether or not the official's employer could establish that conducting same-sex marriage ceremonies was an inherent part of the official's job, whether reasonable accommodation of the official was possible, and whether the consumer's right of access was undermined, would need to be addressed in the particular circumstances of the specific case.

4. Is the opposite-sex requirement for marriage for civil purposes, as established by the common law and set out for Quebec in section 5 of the *Federal Law – Civil Law Harmonization Act, No.1*, consistent with the *Charter*? If not, in what particular or particulars and to what extent?

36. The CCLA's position is that the opposite-sex requirement for marriage for civil purposes is not consistent with the *Charter*. The CCLA relies in particular upon the impact that the exclusion of same-sex marriage has upon rights and benefits of gays and lesbians. Despite the modernization of some statutes dealing with rights and benefits of gay and lesbian couples, many rights and benefits are available only (or more expeditiously) to those who marry. Denial of access to these rights and benefits by the state through its definition of marriage infringes s.15 of the *Charter*.

Halpern v. Canada (Attorney General), supra at paras. 104-105

EGALE Canada Inc. v. Canada (Attorney General), supra at paras. 91-94

see also: *Loving v. Virginia*, 388 U.S. 1, 87 S.Ct. 1817 (1967)

37. It is now well established that sexual orientation is an analogous ground under s.15 of the *Charter*. The denial of access to marriage, with concomitant loss of rights and benefits, clearly amounts to differential treatment on an enumerated or analogous ground, within the meaning of the *Law* test.

M. v. H., [1999] 2 S.C.R. 3, at paras. 63-74

Law v. Canada (Minister of Employment and Immigration), [1999] 1 S.C.R. 497, at para. 88

Halpern v. Canada (Attorney General), *supra*, at paras. 59-76

38. The CCLA further submits that the opposite sex requirement for civil marriage discriminates in a substantive sense in that it withholds benefits from same-sex couples in a manner that reflects the stereotypical application of presumed group or personal characteristics, or otherwise perpetuates or promotes the view that the individual is less capable or worthy of recognition or value than others. The CCLA adopts the submissions of the Attorney General of Canada on this point.

Supplementary Factum of the Attorney General of Canada, paras. 21-26

Halpern v. Canada (Attorney General), *supra*, at paras. 77-108

39. The CCLA anticipates that religious interveners will argue that the opposite-sex requirement does not unjustifiably infringe the *Charter* because it is consistent with the historical link between marriage and religion, and the religious beliefs of those who oppose same-sex marriage. This argument is a variant on the argument set out above that the definition of marriage must be consistent with the beliefs of religious faith communities, or these communities are "marginalized". The CCLA submits that serious civil liberties concerns arise from this proposition, as discussed above.

40. The CCLA submits that the opposite sex requirement cannot be justified under s.1 of the *Charter* (assuming that s.1 applies to the common law rule outside of Quebec). In particular, there is no pressing and substantial objective that is met by the requirement. For the reasons given above, the claim of some religious groups that society (or alternatively their own religious communities) will be adversely affected if the legal definition of civil marriage does not coincide with their beliefs, is a claim which must be rejected in a pluralistic society.

PART IV - ORDER REQUESTED

41. The CCLA respectfully requests that the questions on this reference be answered as follows:

1. The CCLA takes no position on this question.
2. Yes.
3. Yes.
4. No.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Date: May 11, 2004

Andrew K. Lokan

Paliare Roland Rosenberg Rothstein LLP

Solicitors for the Canadian Civil Liberties Association

PART V - TABLE OF AUTHORITIES

R. v. Big M Drug Mart, [1985] 1 S.C.R. 295 (p. 8, 10)

R. v. Edwards Books and Art, [1986] 2 S.C.R. 713 (p. 8)

Reference Re An Act Relating to Civil Unions, 440 Mass. 1201, 802 N.E. (2d) 565 (2004) (p. 8)

Reference Re Bill 30, An Act to Amend the Education Act (Ontario), [1987] 1 S.C.R. 1148 (p. 2)

Ross v. New Brunswick School District #15, [1996] 1 S.C.R. 825 (p. 1)

Trinity Western University v. B.C. Council of Teachers, [2001] 1 S.C.R. 772 (p. 1, 2, 11)

Zylberberg v. Sudbury Board of Education, (1988) 65 O.R. (2d) 641 (C.A.) (p. 2, 7)

SCHEDULE "A"
TABLE OF STATUTORY AUTHORITIES

An Ordinance Respecting Marriage in British Columbia, (No. 21 of 1865), s.iii-vi (B.C.)

An Ordinance to Regulate the Solemnization of Marriage, R.S.B.C. 1877, c.89, s.7-10

Marriage Act, R.S.B.C. 1930, c.41, s.16-21

An Ordinance Respecting Marriages, (No. 9 of 1878) s.i (N.W.T.)

Statute Law Amendment Act, S.A. 1916, c.3, s.21

The Marriage Act, R.S.A. 1922, c.213, s.16-18

The Marriage Act, R.S.O. 1950, c.222, s.25

Canadian Charter of Rights and Freedoms, s.2(a), 15 and 27