PART I – STATEMENT OF FACTS

A. OVERVIEW

1. Marriage is widely understood as an institution that is monogamous in nature, based on intimacy, companionship, recognition, economic benefits and obligations. It also has the goal of being permanent and providing a stable foundation for the raising of children. Marriage for civil purposes continues to evolve over time in accordance with the values of Canadians. In 21st century Canada, the unions of same-sex couples fall within this current understanding of the essence of marriage. Courts that have recently considered this matter have accepted this evolved understanding, and determined that it is not only consistent with, but requires legal recognition, as a result of the *Charter*. The Attorney General of Canada accepts and agrees with the Courts' determinations: the opposite-sex requirement for marriage is no longer consistent with the equality rights guarantee set out in s. 15(1) of the *Charter*. This supplementary factum addresses this issue, in answer to the fourth question posed to this Court on January 28, 2004.

B. SUMMARY OF THE FACTS

2. On January 28, 2004, the Governor in Council filed a Notice of Amended Reference amending this Reference by asking a fourth question on whether the opposite-sex requirement for marriage is consistent with the *Charter*.

3. The law defining civil marriage is now different across Canada. An opposite-sex requirement for marriage was set out in the 1866 English decision of *Hyde v. Hyde*.[1] The decision concerned whether a polygamous marriage had to be recognized. Marriage was defined as "the voluntary union for life of one man and one woman, to the exclusion of all others". This definition has not been judicially changed in the common law jurisdictions of Canada other than British Columbia and Ontario.[2] In British Columbia and Ontario, each province's Court of Appeal has ruled that the common-law definition of marriage as the "union of one man and one woman" unjustifiably infringes equality rights and is therefore unconstitutional.[3]

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[1] *Hyde v. Hyde* (1866), [1866 – 73] All E.R.Rep. 175, Supplementary Authorities of the Attorney General of Canada ["AGC Supplementary Authorities"], Tab 3 at 177

[2] See, for example, this Court's decision in *Nova Scotia (Attorney General) v. Walsh*, [2002] 4 S.C.R. 325 ["*Walsh*"], AGC Supplementary Authorities, Tab 8, *per* Gonthier, J., concurring at 421, para. 196.

[3] *EGALE Canada Inc. v. Canada (Attorney General)* (2003), 13 B.C.L.R. (4th) 1 (C.A) ["*EGALE*"], AGC Authorities, Vol. I, Tab 8; *Halpern v. Canada (Attorney General)* (2003), 65 O.R. (3d) 161 (C.A.) ["*Halpern*"], AGC Authorities, Vol. I, Tab 12

4. Parliament has never legislated a statutory bar to the recognition of same-sex unions as marriages in common law Canada.[4] In Québec, Parliament has legislated a statutory bar[5] and the opposite-sex requirement was also reflected in the province's civil law until June 24, 2002.[6] On September 6, 2002, the Québec Superior Court declared that the statutory opposite-sex requirement for marriage in that province infringes s. 15(1) of the *Charter*, but suspended the declaration of invalidity for two years.[7] A party other than the Attorney General of Canada appealed that decision, but that appeal was struck and the suspension lifted by the Québec Court of Appeal on March 19, 2004.[8]

PART II – POINTS IN ISSUE

5. The additional Reference question asks:

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

PART III – ARGUMENT

A. THE OPPOSITE-SEX REQUIREMENT FOR MARRIAGE INFRINGES S. 15(1) OF THE *CHARTER*

6. Section 15(1) of the *Charter* provides:

> 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.

7. In *Law v. Canada*, this Court held that a s. 15(1) infringement will only be found where an impugned law is in conflict with the purpose of s. 15(1). The determination of whether such a

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[4]An opposite-sex requirement for marriage was reflected in the *Modernization of Benefits and Obligations Act*, S.C. 2000, c. 12, s. 1.1 (AGC Authorities, Vol. III, Tab 50). This, however, was an interpretive clause that was limited in its effect to that legislation only.
[5]A limitation was set out in the *Federal Law – Civil Law Harmonization Act, No. 1*, S.C. 2001, c. 4, s. 5, a federal statute applicable only in Québec (AGC Authorities, Vol. III, Tab 51).
[6]Article 365 (para. 2) of the *Civil Code of Québec*, S.Q., 1991, c. 64 (AGC Authorities, Vol. V, Tab 87) which was repealed by *An Act instituting civil unions and establishing new rules of filiation*, S.Q. 2002, c. 6, s. 22 (AGC Authorities, Vol. V, Tab 91).
[7]*Hendricks c. Québec (Procureur général)*, [2002] J.Q. 3816 (Sup.Crt) ["*Hendricks*"], AGC Authorities, Vol. 1, Tab 14; this decision, together with *EGALE* and *Halpern*, are canvassed in the AGC's factum filed October 30, 2003.

conflict exists must be approached in a purposive and contextual manner.[9] There are three broad inquiries that are required to determine whether an infringement of s. 15(1) of the *Charter* has occurred: [10]

> (a) Does the impugned law draw a formal distinction between the claimant and others on the basis of one or more personal characteristics or fail to take into account the claimant's already disadvantaged position within Canadian society resulting in substantively different treatment between the claimant and others on the basis of one or more personal characteristics?
>
> (b) Was the claimant subject to differential treatment on the basis of one or more of the enumerated or analogous grounds?
>
> (c) Does the differential treatment discriminate in a substantive sense, bringing into play the purpose of subsection 15(1) of the *Charter*?

i. **The evolution of marriage in Canada**

8. To conduct a purposive and contextual s. 15(1) *Charter* analysis of the opposite-sex requirement for marriage in Canada, it is necessary to first consider the nature of marriage as it has evolved and is currently understood in Canada.

9. As accepted by those Canadian courts that have considered the constitutionality of the opposite-sex requirement for marriage,[11] marriage in Western Europe and North America has traditionally been understood as "a union of a man and a woman, for purposes of procreation, rearing of children by both natural parents, companionship, and the uniting of the two opposite sexes."[12] The understanding of marriage as an opposite-sex relationship has been, until recently, a widely accepted norm.[13]

10. Marriage, however, has not been a static institution within society. It has evolved as social values and conceptions about marriage have changed.[14] Different faiths and cultures have emphasized different aspects of marriage at different times and for different reasons. In

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[8] *La Ligue catholique pour les droits de l'homme c. Hendricks et al.*, [2004] (No. 500-09-012719-027) (Qué. C.A.) (March 19, 2004), AGC Supplementary Authorities, Tab 4

[9] *Law v. Canada (Minister of Employment and Immigration),* [1999] 1 S.C.R. 497 ["*Law v. Canada*"], AGC Supplementary Authorities, Tab 5 at 525, para. 41

[10] *Law v. Canada,* AGC Supplementary Authorities, Tab 5 at 547-552, para. 88

[11] See for example: *Halpern v. Canada (A.G.)* (2002) 60 O.R. (3d) 321 (Div. Ct.), ["*Halpern (Div. Ct.)*"], AGC Supplementary Authorities, Tab 2, *per* Blair, R.S.J. at 334, para. 6 and at 345-346, paras. 39-42 and at 349, para. 48; see also: *EGALE*, AGC Authorities, Vol. 1, Tab 8 at 24, para. 86.

[12] Affidavit of John Witte, Jr., Record of the Attorney General of Canada ["AGC Record"], Vol. II, Tab 25 at 341, para. 1

[13] *Halpern (Div. Ct.),* AGC Supplementary Authorities, Tab 2 at 345, para. 40

[14] *Halpern (Div. Ct.),* AGC Supplementary Authorities, Tab 2 at 349, para. 49

the *Halpern* case in the Ontario Divisional Court, Blair, R.S.J. relied on the following passage from Professor Witte's affidavit to demonstrate that, in the 20th century in particular, there has been a "sea-change in laws and attitudes relating to marriage and the family":[15]

> In the early part of the twentieth century, sweeping new laws were passed to govern marriage formalities, divorce, alimony, marital property, wife abuse, child custody, adoption, child support, child abuse, juvenile delinquency, education of minors, among other subjects. Such sweeping legal changes had several consequences. Marriages became easier to contract and easier to dissolve. Wives received greater independence in their relationships outside the family. Children received greater protection from the abuses and neglect of their parents, and greater access to benefit rights [sic]. *And the state eclipsed the church as the principal external authority governing marriage and family life. The Catholic sacramental concept of the family governed principally by the church and the Protestant concepts of the family governed by the church and broader Christian community began to give way to a new privatist concept of the family whereby the wills of the marital parties became primary. Neither the church, nor the local community, nor the paterfamilias could override the reasonable expressions of will of the marital parties themselves.*
>
> ...
>
> In the past three decades, the Enlightenment call for the privatization of marriage and the family has come to greater institutional expression. Prenuptial contracts, determining in advance the respective rights and duties of the parties during and after marriage, have gained prominence. No-fault unilateral divorce statutes are in place in virtually every state. Legal requirements of parental consent and witnesses to marriage have become largely dead letters. *The functional distinction between the rights of the married and the unmarried has been narrowed by a growing constitutional law of sexual autonomy and privacy. Homosexual, bisexual, and other intimate associations have gained increasing acceptance at large, and at law.* [emphasis of Blair, R.S.J.]

11. Canada's changing demography and society has also affected societal views on the institution of marriage. While marriage currently remains the predominant family structure in Canada, the proportion of married couples has decreased in relation to other family types since the 1980s.[16] This change has taken place amidst a growing acceptance of a wide variety of family forms, including households comprised of common-law opposite-sex couples and same-sex couples (including same-sex parents), leading to much greater visibility and social

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[15] *Halpern (Div. Ct.)*, AGC Supplementary Authorities, Tab 2 at 353-354, para. 56, citing the Affidavit of John Witte, Jr., AGC Record, Vol. II, Tab 25 at 371-372, paras. 60-61. This portion is also cited in *EGALE*, AGC Authorities, Vol. 1, Tab 8 at 24-25, para. 86.

[16] *Affidavit of Jim Sturrock*, sworn October 6, 2003, ("*Affidavit of Jim Sturrock*"), AGC Record, Vol. I, Tab 6 at 17-18, paras. 15-17

recognition of other family forms.[17] These social changes have led the Government of Canada to extend to common-law same-sex couples virtually all of the benefits and obligations for which common-law opposite-sex couples are eligible.[18] Furthermore, the change in social attitudes toward same-sex unions has not been restricted to Canada.[19]

12. In the face of these social changes, the Attorney General of Canada now agrees that it has become difficult to accept that the physical sexual component of the union remains, as Blair, R.S.J. put it, such a "compelling and central aspect of marriage in 21st century post-*Charter* Canadian society that it - and it alone - gives marriage its defining characteristic and justifies the exclusion of same-sex couples from that institution."[20] Instead, considering the evolving understanding of marriage, Blair, R.S.J. found:[21]

> ...if marriage is viewed through a looking glass with a broader focus – and not conceived as a social, cultural, religious and legal edifice built upon heterosexual procreation as its fundamental infrastructure – the s. 15(1) analysis is directly engaged. In this approach to marriage, same-sex couples are not precluded from participating by reason of its innate characteristic. They are precluded simply because of their sexual orientation. The evidence is clear: same-sex couples can and do live in long-term, caring, loving and conjugal relationships – including those involving the rearing of children (and, in a modern context, even the birth of children). In short, their relationships are characterized by all the indicia of marriage, as traditionally understood, save for classic heterosexual intercourse, and they live in unions that are marriage-like in everything but name.

13. Based on all the evidence before him, Blair, R.S.J. concluded that marriage can be:[22]

> ...more fully characterized...by its pivotal child-rearing role, and by a long-term conjugal relationship between two individuals – with its attendant obligations and offerings of mutual care and support, of companionship and shared social activities, of intellectual and moral and faith-based stimulation as a couple, and of shared shelter and economic and psychological interdependence – and by love. These are the indicia of the purpose of marriage in modern Canadian society.

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[17] Affidavit of Margrit Eichler ("Ontario affidavit"), Evidence in *Halpern* and *Egale*, Vol. II, at 197-198, paras. 3 and 4; cited in *Halpern (Div. Ct.),* AGC Supplementary Authorities, Tab 2, *per* Blair, R.S.J. at 354-355, para. 58

[18] *Modernization of Benefits and Obligations Act,* S.C. 2000, c. 12, AGC Authorities, Vol. III, Tab 50; see also: Affidavit of Margarit Eichler ("BC Affidavit") Evidence in *Halpern* and *Egale,* Vol. XXIX, at 4021, para. 4.

[19] In the Netherlands and Belgium, capacity to marry for civil purposes has been "opened up" to same-sex couples through legislative amendment. Other countries may follow. As well, seven other European countries have enacted other institutions to recognize same-sex relationships: *Affidavit of Cornelis Waaldijk*, sworn October 4, 2003, AGC Record, Vol. I, Tab 9 at 56-57, 66-67, 72-76, paras. 13-16, 41-43 and 58-67.

[20] *Halpern (Div. Ct.),* AGC Supplementary Authorities, Tab 2, *per* Blair, R.S.J. at 355, para. 61

[21] *Halpern (Div. Ct.),* AGC Supplementary Authorities, Tab 2, *per* Blair, R.S.J. at 356, para. 65

[22] *Halpern (Div. Ct.),* AGC Supplementary Authorities, Tab 2, *per* Blair, R.S.J. at 358, para. 71

14. As the Court of Appeal in *Halpern* held, procreation and childrearing are not the only purposes of marriage. Instead, "[i]ntimacy, companionship, societal recognition, economic benefits, the blending of two families, to name a few, are other reasons that couples choose to marry".[23] Furthermore, gay and lesbian families share in a broader rationale for marriage, including the rearing of children[24] and the fostering and nurturing of stable family units. As a result, the failure to include the union of same-sex couples within the definition of civil marriage becomes more difficult to justify.

ii. **The opposite-sex requirement for marriage draws a formal distinction between opposite-sex and same-sex couples**

15. While many benefits and obligations have been extended to common-law couples (both opposite-sex and same-sex),[25] in most instances, benefits and obligations do not attach until the couple has been cohabiting for a specified period of time, while married couples have access to all benefits and obligations immediately upon marriage.[26] However, unlike opposite-sex couples who can marry and obtain immediate access to such benefits, same-sex couples who cannot marry (outside British Columbia, Ontario and Québec) do not have this option. Gaps also remain in provincial laws in relation to benefits and obligations that apply only to married couples, such as the equalization of net family property upon breakdown of a relationship.[27]

16. In *Nova Scotia (Attorney General) v. Walsh,*[28] this Court considered a s. 15(1) challenge to a provincial enactment that entitled only married couples to equalization upon the breakdown of a relationship. No discrimination was found. The majority held that opposite-sex couples all enjoy the right of choice - to decide whether to marry or not. The state had to respect that choice and not impose a statutory regime of benefits and obligations on couples that chose not to enter the institution of marriage. The important point for the present case is that the opposite-sex requirement for marriage denies to same-sex couples the right to make that very fundamental and personal choice to marry.[29] Only that choice provides entry to the full range of marriage benefits and obligations.

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[23] *Halpern*, AGC Authorities, Vol. I, Tab 12 at 187, para. 94
[24] *Halpern*, AGC Authorities, Vol. I, Tab 12 at 187, para. 93
[25] See for example: *Modernization of Benefits and Obligations Act*, S.C. 2000, c. 12, AGC Authorities, Vol. III, Tab 50. This Act amended 68 statutes to give common-law same-sex couples the same benefits and obligations as common-law opposite-sex couples.
[26] *Halpern*, AGC Authorities, Vol. I, Tab 12 at 189, para. 104
[27] *Halpern*, AGC Authorities, Vol. I, Tab 12 at 189, para. 105
[28] AGC Supplementary Authorities, Tab 8
[29] *Walsh*, AGC Supplementary Authorities, Tab 8 at 355, paras. 42-43

17. Even more importantly, marriage is a foundational social institution that represents "society's highest acceptance of the self-worth and the wholeness of a couple's relationship, and, thus, touches their sense of human dignity at its core".[30] The opposite-sex requirement for marriage excludes same-sex couples, denying them access to the social institution of marriage and the value and worth of their unions that is bestowed by marriage.

iii. The opposite-sex requirement for marriage differentiates on the analogous ground of sexual orientation

18. The opposite-sex requirement for marriage creates a distinction that is based on sexual orientation, a ground recognized as analogous in four previous decisions of this Court.[31]

iv. The opposite-sex requirement for marriage discriminates in a substantive sense

19. In order to find that a measure discriminates in a substantive sense, it is necessary that human dignity be impaired. As this Court found in *Law v. Canada*:[32]

> Human dignity means that an individual or group feels self-respect and self-worth. It is concerned with physical and psychological integrity and empowerment. Human dignity is harmed by unfair treatment premised upon personal traits or circumstances which do not relate to individual needs, capacities, or merits. It is enhanced by laws which are sensitive to the needs, capacities, and merits of different individuals, taking into account the context underlying their differences. Human dignity is harmed when individuals and groups are marginalized, ignored, or devalued, and is enhanced when laws recognize the full place of all individuals and groups within Canadian society. Human dignity within the meaning of the equality guarantee does not relate to the status or position of an individual in society *per se*, but rather concerns the manner in which a person legitimately feels when confronted with a particular law.

20. This Court has set out four contextual factors to assist in determining whether human dignity is impaired, although the list is not exhaustive.[33] The four factors are examined in the paragraphs that follow.

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[30] *Halpern (Div. Ct.)* AGC Supplementary Authorities, Tab 2, *per* Blair, R.S.J. at 361, para. 83

[31] *Egan v. Nesbit*, [1995] 2 S.C.R. 513 ["*Egan v. Nesbit*"], AGC Supplementary Authorities, Tab 1, *per* Cory and Iacobucci, JJ. at 601-602, para. 175, and *per* L'Heureux-Dubé, J. at 566-567, para. 89; *Vriend v. Alberta* [1998] 1 S.C.R. 493 ["*Vriend v. Alberta*"], AGC Supplementary Authorities, Tab 11, *per* Cory, J. at 546, para. 90; *M. v. H.*, [1999] 2 S.C.R. 3 ["*M. v. H.*"], AGC Supplementary Authorities, Tab 7, *per* Cory and Iacobucci, JJ. at 52-53, para. 64; *Little Sisters Book and Art Emporium v. Canada*, [2000] 2 S.C.R. 1120, AGC Supplementary Authorities, Tab 6 at 1186-1187, para. 118

[32] *Law v. Canada*, AGC Supplementary Authorities, Tab 5, *per* Iacobucci, J. at 530, para. 53

[33] *Law v. Canada*, AGC Supplementary Authorities, Tab 5, *per* Iacobucci, J. at 534, para. 62

(i) Pre-existing disadvantage

21. Historical disadvantage does not automatically lead to a finding of discrimination, although it weighs in favour of that finding. Gay and lesbian individuals "form an identifiable minority who have suffered and continue to suffer serious social, political and economic disadvantage".[34] The failure to accord same-sex unions legal recognition as marriages denies same-sex couples a fundamental choice about whether to enter into one of society's foundational institutions. It reinforces inaccurate understandings of the merits, capabilities and worth of lesbian and gay relationships within Canadian society, perpetuating their disadvantage.

(ii) Correspondence between the grounds and the claimants' actual needs, capacities or circumstances

22. Same-sex couples can and do live in long-term, caring, loving and conjugal relationships – including those involving the rearing of children. Denying same-sex couples the choice of having their unions legally recognized as marriages perpetuates the view that they are not capable of forming intimate relationships of economic interdependence and thus same-sex relationships are not worthy of the same respect and recognition as opposite-sex relationships.[35] Gay and lesbian families and their children are as deserving of access to foundational societal institutions, legal protection and support as married families. Their exclusion from the institution of marriage does not correspond to their actual needs, capacities and circumstances.

(iii) Ameliorative purpose or effects on more disadvantaged individuals or groups in society

23. This contextual factor has little relevance in this case. If an ameliorative purpose of the legal recognition of civil marriage is to support parents in childrearing, there is no reason to exclude same-sex couples, as they may also have childrearing responsibilities.

(iv) Nature of interest affected

24. As the majority of this Court noted in *M. v. H.*:[36]

> The discriminatory calibre of differential treatment cannot be fully appreciated without considering whether the distinction in question restricts access to a fundamental social institution, or affects a basic aspect of full membership in Canadian society, or constitutes a complete non-recognition of a particular group.

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[34] *Egan v. Nesbit,* AGC Supplementary Authorities, Tab 1, *per* Cory and Iacobucci, JJ. at 602, para 175
[35] *M. v. H.,* AGC Supplementary Authorities, Tab 7, *per* Cory and Iacobucci, JJ. at 57-58, para 73
[36] *M. v. H.,* AGC Supplementary Authorities, Tab 7, *per* Cory and Iacobucci, JJ. at 57, para. 72

25. The restriction of marriage to opposite-sex couples denies gay and lesbian individuals and their families a basic aspect of full membership in Canadian society. This affects their interests in a profound way.

26. For all these reasons, the opposite-sex requirement for marriage has the effect of impairing the dignity of gay and lesbian individuals.

B. SECTION 1 – THE S.15(1) BREACH IS UNJUSTIFIED

27. The infringement of s. 15(1) cannot be justified under s. 1. The threshold test in the *Oakes*[37] assessment requires that the impugned law further a "pressing and substantial" objective. The opposite-sex requirement for marriage for civil purposes does not further any pressing and substantial objective.

28. In the case of an under-inclusive rule, the analysis must focus upon the objective of the impugned limit on the right. This requires an assessment of the purpose of the omission (if any) as well as the purpose of the scheme as a whole.[38]

29. The objective of the opposite-sex requirement for marriage is rooted in the physical sexual component of the union and the resulting potential for procreation as its central, or even sole, defining characteristic; in the modern context, this aspect of marriage is only one of the institution's characteristics,[39] and not one that is common to all marriages. Any evidence supporting the importance of the opposite-sex requirement for marriage falls far short of the "pressing and substantial" standard. No evidence suggests that providing equal access to marriage for civil purposes to same-sex couples would adversely affect the institution of marriage for opposite-sex couples, or that opposite-sex marriages would no longer take place if the opposite-sex requirement for marriage were not retained.[40]

30. Moreover, the objective of encouraging the formation of stable family units for the benefit of children and Canadian society at large is hindered by the exclusion of same-sex couples from marriage.

31. The lack of access by same-sex couples to marriage denies them the ability to create and formalize one of the most meaningful relationships of life. The denial does not serve a

[37] *R. v. Oakes* [1986] 1 S.C.R. 103, AGC Supplementary Authorities, Tab 10 at 138-140
[38] *M. v. H.*, AGC Supplementary Authorities, Tab 7, at 70-71, paras. 100-101
[39] *Halpern (Div. Ct.)*, AGC Supplementary Authorities, Tab 2, *per* Blair, R.S.J. at 355, para. 61
[40] *Halpern*, AGC Authorities, Vol. I, Tab 12, at 192-3, para. 121

purpose that is sufficiently important to warrant overriding a constitutionally protected right.[41] As a result, it cannot be justified as being proportional, and there is no need to apply the remainder of the s. 1 test.

PART IV – SUBMISSIONS CONCERNING COSTS

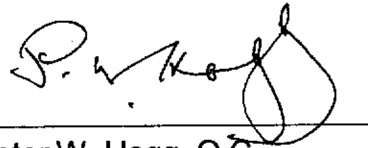
32. The Attorney General of Canada seeks no order as to costs.

PART V – NATURE OF ORDER SOUGHT

33. Question 4 on the Reference should be answered "no, because it is inconsistent with s. 15(1) and cannot be justified under s. 1 of the *Charter of Rights and Freedoms*".

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Toronto this 30th day of March, 2004.



Peter W. Hogg, Q.C.

Michael H. Morris
Of Counsel for the Attorney General of Canada

[41] *R. v. Big M Drug Mart*, [1985] 1 S.C.R. 295, AGC Supplementary Authorities, Tab 9 at 352

PART VI – TABLE OF AUTHORITIES

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Hendricks c. Québec (Procureur général), [2002] J.Q. No. 3816 (Sup. Crt)	4
Hyde v. Hyde (1866), [1861 – 73] All E.R. Rep. 175	3
La Ligue catholique pour les droits de l'homme c. Hendricks et al., [2004] (No. 500-09-012719-027) (Qué. C.A.) (March 19, 2004)	4
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R. v. Big M Drug Mart Ltd., [1985] 1 S.C.R. 295	31
R. v. Oakes, [1986] 1 S.C.R. 103	27
Vriend v. Alberta, [1998] 1 S.C.R. 493	18, 28

PART VII – STATUTES RELIED ON

Tab

1. *Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act, 1982 (U.K.), 1982*, c. 11, s. 15
2. *Modernization of Benefits and Obligations Act*, S.C. 2000, c. 12, s. 1.1
3. *Federal Law - Civil Law Harmonization Act, No. 1*, S.C. 2001, c. 4, s. 5
4. *Civil Code of Québec*, S.Q. 1991, c. 64, Article 365 (para. 2)
5. *An Act instituting civil unions and establishing new rules of filiation*, S.Q. 2002, c. 6, s. 22