

**ONTARIO COURT OF JUSTICE
GENERAL DIVISION
(DIVISIONAL COURT)**

IN THE MATTER OF *The Judicial Review Procedure Act*, R.S.O. 1990, c. J.1

AND IN THE MATTER OF *Ontario Regulations 409/95 and 410/95*

AND IN THE MATTER OF the *Canadian Charter of Rights and Freedoms*, s. 24, *Constitution Act, 1982*, R.S.C. 1985, Appendix II, No. 44, as amended

B E T W E E N:

**SANDRA ELIZABETH FALKINER, CLAUDE MARIE CADIEUX,
CYNTHIA PAULINE JOHNSTON and DEBORAH ANN SEARS**

Moving Parties
(Applicants)

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED
BY THE MINISTRY OF COMMUNITY AND SOCIAL SERVICES
and THE ATTORNEY GENERAL OF ONTARIO**

Responding Parties
(Respondents)

FACTUM OF THE MOVING PARTIES (APPLICANTS)

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PART I - THE NATURE OF THE APPLICATION

1. This is a motion under section 4 of the *Judicial Review Procedure Act* for:
 - (a) An interim order suspending the application of Regulation 366 of R.R.O. 1990, subsections 1(1)(d), 1(3) and 2(7)(b) as amended by *Ontario Regulations 409/95* and Regulation 537 of R.R.O. 1990, subsections 1(1)(d), 1(3) and 7(8) as amended by *Ontario Regulation 410/95*, until the disposition of the main application; and
 - (b) An order establishing a timetable for an expedited hearing of the main application.

2. In the main application for judicial review the applicants request a declaration that the above-noted changes to the definition of "spouse" and related changes made by Ontario Regulations 409/95 and 410/95 to the General Welfare Assistance Regulations and the Family Benefits Regulations respectively are ultra vires their enabling legislation and that they violate ss.7 and 15 of the *Canadian Charter of Rights and Freedoms*.

**Notice of Application for Judicial Review
Motion Record, Tab 2**

PART II - THE FACTS

A. HISTORY OF THE SOCIAL ASSISTANCE DEFINITION OF "SPOUSE"

3. In the past decade, there have been four versions of the definition of spouse for use in determining social assistance eligibility. Prior to 1986 a "spouse" for the purposes of social assistance legislation was defined as a person to whom an applicant or recipient was married or with whom she or he was living "as husband or wife". This was commonly called the "spouse in the house" rule. This rule was widely criticised prior to 1986 both for its content, which was discriminatory against women, and for how it was administered both at the delivery level and by the Social Assistance Review Board. This administration was frequently arbitrary and

capricious, and was accompanied by extreme invasions of privacy.

Affidavit of Nancy Vander Plaats, para. 31
Motion Record, Tab 9

Margaret Leighton, "Handmaid's Tales: Family Benefits Assistance and the Single-Mother-Led Family" (1987) *University of Toronto Faculty of Law Review* 324

Re Pitts and Director, Family Benefits Branch (1985), 51 O.R.(2d) 302 (Div.Ct.).

R.R.O. 1980, Regulation 318, (Family Benefits) s. 1(1)(d)

R.R.O. 1980, Regulation 441, (General Welfare) s. 1(1)(p)

4. In 1985 this definition was challenged as a violation of sections 7 and 15 of the *Charter of Rights*. These cases were never heard. The government publicly admitted the intrusiveness and arbitrariness of the rule, and decided to settle the challenges by promising to amend the definition of "spouse".

Affidavit of Nancy Vander Plaats, para. 33, Exhibit "G"
Motion Record, Tab 9

5. Minor changes were made to the definition of spouse in 1986. Then, in 1987, the government promulgated new regulations under the *General Welfare Assistance Act* and *Family Benefits Act*. These regulations brought the definition of "spouse" into line with the *Family Law Act*. The new social assistance definition of "spouse" was:

- (a) a person of the opposite sex to an applicant or recipient who together with the applicant or recipient have declared to a welfare administrator or the Director that they are spouses;
- (b) a person who is required under the provisions of a court order or domestic contract to support the applicant or recipient or any of his or her dependants,
- (c) a person who has an obligation to support the applicant or recipient or any of his or her dependants under s.30 or 31 of the Family Law Act despite a domestic

contract or other agreement between the person and the applicant or recipient whereby they purport to waive or release such obligation to support, or

- (d) a person of the opposite sex to the applicant or recipient who has resided continuously with the applicant or recipient for a period of not less than three years.

O. Reg. 589/87 (superceding O. Reg. 638/86) (Family Benefits)

O. Reg. 590/87 (superceding O. Reg. 639/86) (General Welfare)

6. Both regulations provided further that:

Clause (d) of the definition of "spouse" ... does not apply to a person who has resided continuously for a period of not less than three years with the applicant or recipient and the applicant or recipient provides evidence to the Director that the economic, social and familial aspects of the relationship between the person and the applicant or recipient were such that the continuous residing did not amount to cohabitation.

O. Reg. 589/87 (Family Benefits) s. 1(d)

O. Reg. 590/87 (General Welfare) s. 1(b)

7. This definition was in effect until October 1, 1995. As of that date, clause (d) was amended to define as a spouse:

- (d) a person of the opposite sex to the applicant or recipient who is residing in the same dwelling place as the applicant or recipient if,
- (i) the person is providing financial support to the applicant or recipient,
 - (ii) the applicant or recipient is providing support to the person, or
 - (iii) the person and the applicant or recipient have a mutual agreement regarding their financial affairs, and

the social and familial aspects of the relationship between the person and the applicant or recipient amount to cohabitation.

RRO 1990, O. Reg. 366 (Family Benefits Regulation), s.1(3), as amended by O.Reg. 410/95

RRO 1990, O. Reg. 537 (General Welfare Regulation), s.1(3), as amended by O.Reg.409/95

2. The regulations were also amended in October 1995 to provide that:

...unless the applicant or recipient provides evidence to satisfy the Director to the contrary, it is presumed that if a person of the opposite sex to the applicant or recipient is residing in the same dwelling place as the applicant or recipient, the person is the spouse of the applicant or recipient.

Reg. 366, s.1(3), as amended by O.Reg.410/95

Reg. 537, s.1(3), as amended by O.Reg.409/95

8. Effective October 1, 1995, the government also amended the regulations under the *General Welfare Assistance Act* and the *Family Benefits Act* to provide that no one could be eligible for social assistance as a sole support parent unless the applicant or recipient was living apart from his or her spouse "by reason of separation with no reasonable prospect of reconciliation".

Reg. 366, s. 2(7)(b), as amended by O.Reg.410/95

Reg. 537, s. 7(8), as amended by O.Reg. 409/95

9. Pursuant to these changes, two people of the opposite sex who cohabit are deemed to be spouses and therefore can no longer be eligible for social assistance in their own right even though they are not considered spouses for the purposes of the *Family Law Act* and have no legal support obligation towards each other or towards each other's children.

Family Law Act, R.S.O. 1990, c.F-3, ss.29, 30, 31

B. THE APPLICANTS

10. All of the applicants are women who have been receiving allowances under the *Family Benefits Act* as sole support parents with dependent children and who are affected by the

regulation changes. Each applicant is living with a person of the opposite sex. All of the applicants are in similar positions in many respects:

- (a) In each case they have lived together for less than one year;
- (b) In each case the knowledge that they could live with someone for a period of time without losing FB eligibility was a major or determinative factor in making this decision;
- (c) In each case the coresident is not the father of the applicants' child(ren) and has no legal support obligations towards the applicant or her children;
- (d) In each case the applicant has had her actual FB entitlement reduced to reflect the fact that there is a coresident who is contributing to household expenses, in accordance with the regulations; and
- (e) In each case the applicant has either already had her allowance cancelled and received her last FB cheque, or this is imminent.

Affidavit of Sandra Elizabeth Falkiner, paras. 16, 17, 24, 30
Motion Record, Tab 4

Affidavit of Claude Marie Cadieux, paras. 1, 3, 30
Motion Record, Tab 5

Affidavit of Cythia Pauline Johnston, paras. 1, 17, 18, 23
Motion Record, Tab 6

Affidavit of Deborah Ann Sears, paras. 17, 28, 33, 34, 40
Motion Record, Tab 7

11. **Sandra Elizabeth Falkiner** is the mother of one child, Devon, who has severe asthma and special medical needs. She is also a foster mother for Family and Children's Services of Waterloo. She has lived with Reid Budgell since the summer of 1995. Ms. Falkiner has been in a severely abusive relationship and is cautious about making new commitments; she and Mr.

Budgell have not yet made a permanent commitment. Her FB allowance has been cancelled effective December 31, 1995. Ms. Falkiner would not have commenced living with Mr. Budgell if she had known that it would mean the end of her FB eligibility and essential drug coverage for Devon.

Affidavit of Sandra Elizabeth Falkiner, paras. 14, 30
Motion Record, Tab 4

12. Ms. Falkiner is an Honours student close to completion of her B.A. She already has student loans of close to \$20,000. She and Mr. Budgell have separate finances. She is not willing to be supported by him and he is not financially able to support her. She is in panic and despair at her situation. If she loses her FB she will likely lose her entire investment in her education and be left deeply in debt. She will also lose prescription coverage for Devon, which will place his life in danger. The stress of these events may end her relationship with Mr. Budgell.

Affidavit of Sandra Elizabeth Falkiner, paras. 10, 22, 31
Motion Record, Tab 4

13. Claude Marie Cadieux, a mother of three children, has lived with Gaspare Romano since May 1995, after being advised by her FB worker that she could remain eligible for three years if they lived together. Ms. Cadieux's FB allowance was cancelled in November. Ms. Cadieux and Mr. Romano tried to apply for general welfare assistance. She was given two weeks emergency assistance for the first two weeks of December but has been refused ongoing assistance because both she and Mr. Romano receive OSAP loans. She and Mr. Romano cannot receive OSAP as a couple because they have not lived together for three years.

Affidavit of Claude Marie Cadieux, paras. 30 - 41
Motion Record, Tab 5

14. Ms. Cadieux and her children survived years of physical and emotional abuse. Her children, who required extensive counselling to overcome this abuse, have started to form a close relationship with Mr Romano. If he leaves the family they will clearly suffer emotional

harm. Even so, Ms. Cadieux might not be reinstated to FB because she will have to prove "no reasonable prospect of reconciliation". If they stay together she will either have to quit school and lose her investment in educational upgrading, or must survive on even less income in the form of loans, which will put her further in debt. She has lost medical coverage with no prospect of replacement until September of 1996.

Affidavit of Claude Marie Cadieux, paras. 7 - 17
Motion Record, Tab 5

15. **Cynthia Pauline Johnston**, a mother of three children, has lived with Robert Earhart since January 15, 1995. In making this decision, they relied on the fact that she would not lose FB eligibility for a period of three years, and would not have decided to live together otherwise. On November 15 Ms. Johnston received a notice saying that her FB allowance had been terminated because she had "voluntarily withdrawn" when she had not; she received a further notice dated November 29, 1995, that her allowance was cancelled because she was not living as a single person. Ms. Johnston applied for general welfare but was refused because Mr. Earhart is considered her spouse. He is self-employed and therefore categorically ineligible for welfare.

Affidavit of Cythia Pauline Johnston paras. 1, 10, 18, 24
Motion Record, Tab 6

16. Ms. Johnston is now in desperate financial circumstances. Mr. Earhart is barely able to support himself with the income from the business he is starting and cannot support her. If he leaves her children will be devastated. Even if she regains FB entitlement, she will lose her home if Mr. Johnston leaves because she cannot afford to pay the rent without his contribution.

Affidavit of Cynthia Pauline Johnston, paras. 20, 24
Motion Record, Tab 6

17. **Deborah Ann Sears** is the mother of six children. She was deserted in 1994 by her husband of 12 years. This was very distressing for her children. Ms. Sears began to live with Paul Anthony Townsend in the spring of 1995. She made this decision in reliance on being told

that they could live together for three years before her eligibility was affected. She would not have made this decision otherwise. She and Mr. Townsend have a close relationship and his presence has had a very positive influence on the children. However, Mr. Townsend is a recovering alcoholic and Ms. Sears is not prepared to make a commitment to full financial and emotional interdependence yet. Ms. Sears' FB caseworker has told Ms. Sears that she will be terminated because she has a spouse.

Affidavit of Deborah Ann Sears
Motion Record, Tab 7

18. Mr. Townsend cannot support Ms. Sears financially in any way. She is unwilling to apply for GW with him as a couple. If Ms Sears loses her FB eligibility, her only option is to separate from him. This will harm her children's emotional and psychological well-being and may jeopardize both her likelihood of eventual independence and his ongoing recovery.

Affidavit of Deborah Ann Sears
Motion Record Tab 7

C. THE SOCIAL CONTEXT

19. It is well documented that families headed by single females are at great risk of poverty. The circumstances of those who must rely on social assistance are very difficult, since social assistance rates are below most generally accepted poverty lines and were decreased further by 21.6 percent in October 1995. To make ends meet, it is essential that persons on social assistance take up all possible expense-saving measures, such as relying on food banks and sharing the costs of accommodation. There is usually no reserve fund to deal with even temporary interruptions of assistance.

Affidavit of Nancy Vander Plaats, paras. 7, 9, 66
Motion Record, Tab 9

20. The children of poor single parents are at risk for virtually every possible adverse outcome. Children face the stresses of overcrowding, lack of stability and frequent undernourishment, which lead to poor physical and mental health, poor school performance and high drop out rates.

Affidavit of Nancy Vander Plaats, paras. 10 to 13
Motion Record, Tab 9

21. The "spouse in the house" rule has a disproportionate impact on poor women, particularly poor single mothers, since about 95% of the single parents receiving Family Benefits and general welfare are female lone parents. Although most single mothers wish to find work, this is very difficult due to lack of affordable child care, and employers' attitudes about child care responsibilities.

Affidavit of Nancy Vander Plaats, paras. 14, 15, 20
Motion Record, Tab 9

22. Many single mothers rely on social assistance when they leave abusive relationships. The "spouse in the house" rule jeopardizes the safety of these women because it allows abusive male partners to harass or even move in with women by threatening to report them to welfare authorities. This was the experience of many women under the previous "spouse in the house" rules. Fraud prosecutions were taken and penalties assessed despite abusive situations.

Affidavit of Nancy Vander Plaats, paras. 43, 52
Motion Record, Tab 9

23. The new rule is vague as to what relationships will be considered "spousal". The wording of the regulations and the breadth of the investigative questionnaire suggest that it encompass relationships entered into for purely practical reasons, including *any* arrangement of shared resources, such as babysitting. In addition, some women choose to live with a trusted male friend in order to provide a male companion for their children or to provide a feeling of greater physical safety.

Affidavit of Nancy Vander Plaats, paras. 45
Motion Record, Tab 9

24. The pre-1986 "spouse in the house" rule was also vague and led to arbitrary and capricious administration. The rule generated widespread surveillance of poor women. Women were cut off simply on the basis of an allegation that they had a boyfriend, without any investigation into actual circumstances. Such arbitrariness will be encouraged by the new rule, which places the onus on applicants to prove that a person is not their spouse and puts discretion in the hands of welfare workers. Further, social assistance policy requires yearly review, even where no spousal status is initially found.

Affidavit of Nancy Vander Plaats, paras. 31, 32, 38, 41, 45
Motion Record, Tab 9

25. The effect will be that persons who are genuinely in need will be without any assistance. In some cases, an appeal may be made to the Social Assistance Review Board, but hearings before this board take a very long time. Interim assistance pending appeal is not available in all circumstances. Notably, it is not available in cases of categorical ineligibility, such as persons who fit the new definition of "spouse". Moreover, requests for interim relief may not be processed in time to avoid severe crisis.

Affidavit of Nancy Vander Plaats, para. 69
Motion Record, Tab 9

Affidavit of Cynthia Pauline Johnston, para. 25, Exhibit "G"
Motion Record, Tab 6

26. The rule has a chilling effect on the already strained ability of single mothers to form relationships with persons of the opposite sex which would be beneficial to both themselves and their children. The intrusiveness of welfare investigations of relationships is a deterrent for both women and potential partners. If opposite sex co-habitants refuse to provide the information because they do not consider themselves spouses, recipients will be cut off. The threat of having

no means of subsistence or of facing a fraud allegation and investigation will make it safer, for many women, to avoid relationships altogether. This prevents the formation of new families, which may perpetuate poverty.

Affidavit of Nancy Vander Plaats, paras. 38, 39, 58
Motion Record, Tab 9

27. The new "no reasonable prospect of reconciliation" rule will also have a chilling effect on relationships, since women will have to avoid reconciliation efforts in order to maintain their ability to meet basic needs. This will prevent women from maintaining relationships with the fathers of their children where this would be of benefit to the child.

Affidavit of Nancy Vander Plaats, paras. 65
Motion Record, Tab 9

28. Persons who choose or who for financial reasons are forced to continue living with a person of the opposite sex under the new rule will only be able to receive social assistance if the couple qualifies for general welfare. If they qualify, the cheque will normally be given to the man, who is generally considered to be the "head of household." This means that the women effectively lose control over their finances. If the two subsequently decide to live separately, the single parent may be ineligible on her own because of the new reconciliation rule.

Affidavit of Nancy Vander Plaats, paras. 67 to 70
Motion Record, Tab 9

PART III - THE ISSUES AND THE LAW

29. The issue for determination on this motion is: Should an interim order issue under s.4 of the *Judicial Review Procedure Act* to prevent the applicants from being penalized by the new spousal rules pending final determination of the issues in this application?

A. THE TEST FOR INTERIM RELIEF

30. The Supreme Court of Canada has adopted a distinct test when an applicant requests interlocutory relief to prevent a violation of the *Canadian Charter of Rights and Freedoms*. This test is based on the test for interlocutory relief in non-Charter matters, expanded to take into consideration issues which are unique to constitutional adjudication. The applicants must demonstrate that:

- (a) They have a serious Charter case to be tried that is not frivolous and vexatious;
- (b) They will suffer irreparable harm if the relief is not granted; and
- (c) The balance of convenience, taking into account the public interest, favours retaining the status quo until the Court has disposed of the legal issues.

Metropolitan Stores (MTS) Ltd. v. Manitoba Food & Commercial Workers, Local 832 (1987), 38 D.L.R. (4th) 321 (S.C.C.) per Beetz J. at pp. 333-334

R.J.R. - Macdonald Inc. v. Canada (Attorney General) (1994) 111 D.L.R. (4th) 385 (S.C.C.) at pp. 410-411

31. The test for interim relief in judicial review of non-Charter matters is not substantially different. The major questions are whether preservation of the status quo, in this case the continuation of social assistance benefits, prevents irreparable harm to the applicants and it is, on balance, more convenient to the parties' interests.

Metropolitan Stores (MTS) Ltd. v. Manitoba Food & Commercial Workers, Local 832, supra, per Beetz J. at p. 338

Re Metropolitan Toronto School Board et al. and Minister of Education et al. (1985), 53 O.R. (2d) 70 (Div. Ct.)

B. HARM FACING THE APPLICANTS

32. It is submitted that the applicants will suffer irreparable harm if their entitlement to social assistance is not maintained until the final disposition of this case. The applicants face emotional and financial devastation as a result of these regulatory changes, as outlined above. Supportive relationships which are valuable to the applicants and their children will be severed. Each applicant faces severe financial crisis. Ms. Cadieux and Ms. Falkiner are post-secondary students whose entire educational program may be jeopardized as a result, reducing their chances of eventually becoming financially self-sufficient and leaving them with large debts and no foreseeable hopes of repaying them. Ms. Falkiner has a chronically ill child whose life will be endangered when she ceases to be eligible for FB drug coverage.

33. The Supreme Court has held that monetary loss suffered by tobacco corporations required to comply with advertising regulations that might be unconstitutional amounts to irreparable harm because of the difficulties of recovering damages imposed by unconstitutional legislation. If monetary harm to a large corporation can constitute irreparable harm for Charter purposes, then surely the harm that will be suffered by these applicants constitutes irreparable harm. They and their children will have great difficulty in recovering from the damage inflicted by these changes; simple reinstatement of benefits at a later date, or even recovery of the difference in benefits for the period of the litigation will clearly not compensate for the psychological, emotional, physical and financial trauma they face.

R.J.R. - Macdonald Inc. v. Canada, supra, at p.412

C. BALANCE OF CONVENIENCE AND THE PUBLIC INTEREST

34. It is submitted that it is in the public interest to maintain the status quo until this matter can be heard.

35. It is submitted that the fact there may be some costs to maintaining the applicants on sole support parent benefits cannot reasonably be in and of itself an overwhelming public interest.

36. In fact, it is questionable whether there will be any significant cost implications to

granting interim relief. Destroying sole support parents' relationships will not make them self-sufficient. If they have no other means of subsistence, people affected by the new rule will either have to separate so that the single parent can continue to get benefits (this may in fact cost the government more as the former coresident will no longer be contributing to shelter costs) or they will have to apply for general welfare as a family. The financial savings, if any, will be trivial in comparison to the harm done to the applicants.

37. It is further submitted that the public interest will in fact be fostered in maintaining the family lives that will be disrupted or destroyed as a result of these changes. It is clear that the applicants live in situations of extreme financial insecurity. Further jeopardizing their precarious financial situations and possibly placing them in acute crises can advance no public interest that an Ontario Court should recognize.

38. The applicants are seeking to have a timetable established by this Court and are prepared to cooperate in having the full application heard as soon as the case can be ready for hearing. The applicants are prepared to cooperate to ensure that any impact on the public interest, which could be financial only, will be minimized.

D. SUMMARY OF APPLICANTS' POSITION ON THE VIRES OF THE REGULATIONS

39. The applicants will argue that paragraph (d) of the definition of "spouse" in Regulation 366 (Family Benefits), s.1(3) of Reg.366 and the words "by reason of separation with no reasonable prospect of reconciliation" in s.2(7), as amended by O.Reg. 410/95; and paragraph (d) of the definition of "spouse" in Regulation 537 (General Welfare Assistance), s.1(3) and s.8(7) as amended by O.Reg.409/95, are ultra vires the *Family Benefits Act* and the *General Welfare Assistance Act* respectively.

40. The fundamental purpose of the *General Welfare Assistance Act* ("GWA") is to provide assistance to persons in need. This obligation is mandatory.

General Welfare Assistance Act, R.S.O. 1990, c. G-7, s. 7(1).

Kerr v. Metropolitan Toronto (1995), 22 O.R.(3d) 588 (C.A.), at pp.590-91

41. The fundamental purpose of the *Family Benefits Act* ("FBA") is to provide longer-term assistance to certain categories of recipients, primarily sole support parents, the elderly and the disabled, who are in need. This obligation is mandatory.

Family Benefits Act, R.S.O. 1990 c. F-2, s.7.

Dennhardt v. Ontario (Ministry of Community and Social Services) (1987), 45 D.L.R. (4th) 149 (Ont. Div. Ct.), at p.153

42. The applicants will argue that the scope of this regulation-making power under the *Family Benefits Act* and the *General Welfare Assistance Act* must be interpreted in light of the fundamental purpose of the legislation, and in light of Ontario's obligations, pursuant to its cost-sharing agreement under the *Canada Assistance Plan*, to provide assistance to persons in need in the province on a basis that only takes into consideration income and assets available to those person to meet their needs.

Canada Assistance Plan, R.S.C. 1985, c.C-1; Preamble, ss.6(2)(a),(b)

Canada Assistance Plan Regulations, C.R.C. 1978, c.382 as amended, ss. 2(2), 11, 15

Our House Ottawa v. Ottawa-Carleton [Regional Municipality] (1992), 92 D.L.R. (4th) 337 (Ont. Div. Ct.), at p.348.

Family Benefits Act, s.2

43. Under paragraph (d) of the amended definition of spouse, a person who is otherwise in need may be denied assistance merely because she lives with a person of the opposite sex, regardless of whether that person has an obligation to provide support and regardless of whether the person is providing support, has ever undertaken to provide support or is capable of providing support. The applicants will argue that this breaches the CAP obligation to take into account "available income and resources" and is therefore ultra vires the regulation making powers of the FBA and GWA. Neither Act authorizes the making of regulations that deem

income or support to be available where there is no possibility of its being realized.

44. It is further submitted that to make the eligibility of a person in need depend on proof that there is "no reasonable prospect of reconciliation" is ultra vires the GWA and FBA. This test applies to separation from persons who would not be considered spouses for any other purpose in Ontario or Canadian law. There is no time limit or other constraint on the de facto discretion conferred on social assistance workers in the operation of this rule. The applicants will also argue that this rule will clearly bar attempts at reconciliation by desperately needy applicants and thus is contrary to public policy.

E. SUMMARY OF APPLICANTS' POSITION ON THE CHARTER

(1) SUMMARY OF SECTION 7 ARGUMENTS

45. Section 7 of the Charter provides that:

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

46. The analysis of s. 7 of the Charter involves two steps. There must be a finding first, that there has been a deprivation of the right to "life, liberty and security of the person and, secondly that the deprivation is contrary to the principles of fundamental justice."

R. v Beare; R. v. Higgins (1988), 55 D.L.R. (4th) 481, at p. 492

47. The terms "liberty" and "security of the person" must, as essential aspects of a free and democratic society, be animated by the rights and values embodied in the common law, the civil law and the Charter.

R. v. O'Connor (Dec. 14, 1995) S.C.C. File No. 24114, per L'Heureux-Dube J. at para.113.

48. It is submitted that these regulations will lead to deprivations of life, liberty and security

of the person in the following ways::

- (a) The regulations are a threat to liberty and security of the person because of the increased likelihood of criminal charges against social assistance recipients.
- (b) The regulations will deprive social assistance recipients of their privacy and therefore of liberty and security of the person.
- (c) The regulations will restrict the liberty and freedom of social assistance recipients to form conjugal and non-conjugal relationships even though these relationships may be in the best interests of recipients and their children.
- (d) Social assistance recipients may be deprived of the basic means of subsistence for attempting to form relationships with people of the opposite sex, even though they may receive no support from those people and even though their needs remain unchanged, and will thus be deprived of security of the person..

49. It is submitted that the applicants have a serious case under each of these issues.

(a) **Deprivations of liberty through the criminal process**

50. Any law which may result in a penalty of imprisonment threatens a deprivation of liberty and must conform with the principles of fundamental justice.

Hogg, *Constitutional Law of Canada*, 3rd ed. (1992, Toronto: Carswell)
at pp. 44-6 to 44-7.

51. Social assistance recipients, specifically women, have been charged with fraud in Ontario because of the operation of the "spouse in the house" rule, and sent to jail as a result.

Dianne Martin, "Passing the Buck: Prosecution of Welfare Fraud; Preservation of Stereotypes" (1992), 12 *Windsor Yearbook of Access to Justice* 52, at 55.

Affidavit of Nancy Vander Plaats, para. 48
Motion Record, Tab 9

(b) **Deprivations of privacy**

52. The investigative practices used to enforce these rules are extremely intrusive. Applicants or recipients must answer questions and provide information about the most minute details of their lives to rebut a sweeping presumption of spousal relations.

Affidavit of Nancy Vander Plaats, para 14, Exhibit "H"
Motion Record, Tab 9

53. In the recent decision of *R. v. O'Connor*, L'Heureux-Dube J., speaking for the majority of the Supreme Court on the issue of protection of privacy, reviewed in detail that Court's jurisprudence and affirmed that the rights to "liberty" and "security of the person" include the fundamental value of privacy. Although there were several judgments rendered in that case, at least five other Justices indicated their agreement with this analysis of the nature of the right to privacy.

R. v. O'Connor, *supra* at paras. 110-113

54. The Supreme Court has expressly stated that the privacy interests protected by the *Charter* include,

... a biographical core of personal information which individuals in a free and democratic society would wish to maintain and control from dissemination to the state. This would include information which tends to reveal intimate details of the lifestyle and personal choices of the individual.

R. v. Plant, [1993] 3 S.C.R. 281 at p. 293.

(c) **Deprivations of rights of association and family privacy**

55. The new regulations will seriously restrict the freedom of social assistance recipients to

enter into both spousal and non-spousal relationships with persons of the opposite sex.

56. In *R. v. O'Connor*, L'Heureux-Dube J. strongly affirmed a broad and liberal interpretation of s.7, with particular reference to Wilson J.'s statement in *R. v. Morgentaler* that s.7 should be read to "guarantee to every individual a degree of personal autonomy over important decisions intimately affecting their private lives."

R. v. O'Connor, supra, per L'Heureux Dube J. at para 111

57. It is submitted that "liberty" and "security of the person" include the right of all persons to form relationships which meet the psychological and emotional needs of themselves and their children. This is a decision of fundamental importance which people should be allowed to make free from government constraint.

Miron v. Trudel, [1995] 2 S.C.R. 418 per McLachlin J. at p. 497

B.(R.) v. Children's Aid Society of Metropolitan Toronto (1995), 122 D.L.R.(4th) 1 (S.C.C.), per La Forest J. at pp. 39-40

R. v. Morgentaler, [1988] 1 S.C.R. 30, per Wilson J. at pp.166-171.

(d) Deprivation of basic means of subsistence

58. Recipients whose allowances are cancelled because they are (or are alleged to be) living with a "spouse" will lose the means of obtaining the basic necessities of life. It is submitted that this amounts to a deprivation of "security of the person" within the meaning of s.7.

59. While the courts have generally agreed that s.7 does not protect purely economic interests, the Supreme Court of Canada has specifically left open the question of whether "certain economic rights fundamental to human life or survival" are protected.

Irwin Toy Ltd. v. Quebec (1989), 58 D.L.R.(4th) 577 (S.C.C.), at p. 632-633.

60. Lower courts in other provinces have split on this issue. There is no authoritative ruling from the Ontario Court of Appeal. This issue is currently under consideration by the Divisional Court in *Masse et al. v. Ontario*, File No. 590/95. This case was brought on as an urgent matter before Justice Boland on September 29, 1995 sitting as a single judge of the Divisional Court. Boland J. put the matter over to an expedited hearing before the full Divisional Court, ruling in so doing that the applicants had a serious case to be tried.

Masse et al. v. Ministry of Community and Social Services, endorsement of Boland J., dated September 29, 1995

(e) **Principles of Fundamental Justice**

61. The principles of fundamental justice include both procedural and substantive rights. A court is required to determine not only whether the procedure contemplated by impugned legislation is unfair, but also whether its substance is unfair.

Reference Re s.94(2) of the Motor Vehicle Act (1985), 24 D.L.R. (4th) 36 (S.C.C.), per Lamer J. at p. 557

62. The principles of fundamental justice are those upon which there is consensus that they are fundamental or vital to our societal notion of justice. Reference may be made to all components of the legal system, including judicial processes, the common law, legislative law and international comparisons.

Reference Re s.94(2) of the Motor Vehicle Act, supra

Rodriguez v. A.G. British Columbia, [1993] 3 S.C.R. 519, per Sopinka J. at pp. 590-591

63. The applicants intend to argue that:

- (a) Taken as a whole, the definitions and their application are arbitrary and unfair and must therefore be found to violate the principles of fundamental justice;

- (b) The regulations are irrational in relation to the basic purposes of the legislation under which they are enacted, which is to provide assistance to persons in need;
- (c) The regulations are vague and overly broad and are therefore open to be applied in many cases in arbitrary and capricious ways that are likely to lead to inconsistent and unfair results, particularly in light of the history of the application of the rules prior to 1987;
- (d) The regulations are also overbroad because they will force people to prove that coresidents are not spouses even if there is no evidence whatever that the coresident is a spouse and even if the co-resident could not legally be a spouse or ever have a support obligation to the recipient;
- (e) Deprivations of liberty and security of the person will be patently discriminatory because the impact of the regulations will overwhelmingly be felt by poor single mothers (and therefore also by their children).

R. v Jones [1986], 2 S.C.R. 284, at p. 303

Rodriguez v Canada (A.G.) and B.C. (A.G.), *supra*, per Sopinka J. at p. 594

Reference re Sections 193 and 195.1(1)(c) of the Criminal Code, [1990] 1 S.C.R. 1123, per Lamer C.J.C. at p. 1155

R. v. Heywood, [1994] 3 S.C.R. 761, per Cory J. at pp. 791-3

R. v. Morgentaler, *supra*, per Wilson J. at p. 175

(f) Reliance on the three year cohabitation period

64. In addition to these section 7 arguments about the definition of "spouse", the applicants will argue, in the alternative, that the government has violated their rights under s.7 by making the new definitions apply even to those people who entered into living arrangements in reliance on the assurance that they would be allowed a period of cohabitation before their eligibility for

sole support parent benefits would be affected. It is clear that each of the applicants made a profoundly important decision for herself and her children in reliance on the law as it stood prior to October 1995.

65. One of the most fundamental principles of our legal system is the basic concept of "fair dealing" that underlies a wide range of related doctrines, including estoppel, the doctrine of legitimate expectation, and the criminal and civil law doctrines of *res judicata*. It is submitted that this is precisely the kind of principle to which the Supreme Court has said that we must look in determining the "principles of fundamental justice" protected by s.7. It is submitted that to permit the government now to penalize applicants who entered into relationships in specific reliance on the pre-October rules is such an egregious example of unfair dealing that it violates the principles of fundamental justice.

(f) **The "reconciliation" rule**

66. The applicants have separate section 7 submissions about the legality of the new "reasonable prospect of reconciliation" rule. No one will be eligible for social assistance as a sole support parent if a welfare worker considers that they have a "reasonable prospect of reconciliation" with a former spouse (as defined under the regulations). It is submitted that this rule is arbitrary and vague and is itself a violation of the principles of fundamental justice.

Affidavit of Nancy Vander Plaats, paras. 61- 65
Motion Record, Tab 9

(2) **SUMMARY OF EQUALITY ARGUMENTS**

67. Section 15 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.

68. The Supreme Court of Canada has outlined a number of steps which the applicants in this case must address in demonstrating that a law breaches s. 15 of the *Charter*:

- (a) First, the applicants must establish that the law creates a distinction, either on its face or in its effects.
- (b) Second, the applicants must establish that the distinction is discriminatory. In this the court must determine whether the distinction results in a deprivation of one of the four basic equality rights (equality before or under the law, equal protection or benefit of the law). In examining the nature of the burden placed on the applicants, the court must have regard to the historical disadvantage suffered by the group affected and the broader social, political and legal context.
- (c) Finally, the applicants must establish that they are members of a group which is protected by the Charter on either enumerated or analogous grounds.

R. v. Swain [1991] 1 S.C.R. 933, per Lamer C.J.C. at p. 992

Andrews v. Law Society of British Columbia, [1989] 1 S.C.R. 143

Symes v. Canada (1993), 110 D.L.R. (4th) 470 (S.C.C.), per Iacobucci J. at pp. 552- 553, 556

Egan v. Canada, [1995] 2 S.C. R. 513, per Cory J. at p. 584-586

69. It is submitted that applicants have a serious case on each branch of the required test.

70. The applicants claim both direct and indirect discrimination and are advancing claims based on both enumerated and unenumerated grounds under s15. People affected by the operation of the rule will be threatened with refusal or termination of social assistance, and may suffer severe hardship as a consequence. These consequences are discriminatory against:

- (a) recipients and beneficiaries of social assistance;
- (b) women, and specifically poor single mothers;
- (c) the children of social assistance recipients and poor single mothers.

71. It is further submitted that in assessing the strength of the applicants' claim under s.15, this Court should have particular regard to the fact that the Nova Scotia Supreme Court recently struck down the definition of spouse in that province's social assistance legislation. It is submitted that while not identical, there were substantial similarities between that definition and the one at issue in this case and that many of the constitutional issues raised were the same.

R. v. Rehberg, (1993), 127 N.S.R. (2d) 331 (S.C.)

(a) **Distinction and disadvantages suffered by persons to whom the rule applies**

72. It is submitted that the applicants are suffering severe disadvantages as a result of the regulation changes. The direct impact of the regulations will be that people who live with members of the opposite sex may lose their eligibility for assistance (if sole support parents) or their financial entitlement (for other categories of recipients). There are clearly many other possible consequential effects, including the destruction of family units in the process of formation, the end of advantageous living relationships, intrusive investigations, major disincentives to new relationships, and the risk of criminal prosecution (not usually associated with tests of spousal status for most legal purposes). A reverse onus has been imposed on the applicants which does not apply to recipients other than sole support parents, thereby reinforcing stereotypes about recipients' honesty.

73. It is submitted that the applicants clearly have a serious case on this part of the s.15 test.

(b) **Discrimination against social assistance recipients**

74. The regulations allocate social assistance benefits to needy persons on the basis of a

definition of "spouse" that does not apply to any other groups in society. The definition is far broader than the definitions of spouse used for purposes of Ontario law, including the *Family Law Act* and definitions used for virtually all other public and private law purposes, including taxation laws and other legislative schemes which allocate social benefits.

Family Law Act, R.S.O. 1990, c.F-3, s. 29, 30, 31

R.R.O. 1990, Regulation 774 (*Ministry of Colleges and Universities Act*)
s. 1(1)

75. It is submitted that the applicants have a serious case that "receipt of social assistance" is a prohibited ground of discrimination within s.15. In determining whether a particular characteristic is analogous to those enumerated in s. 15, a purposive approach must be adopted. The purpose of s. 15 is to prevent or remedy discrimination against groups suffering social, political and legal disadvantage in our society. The Court must determine whether the *indicia* of discrimination, such as stereotyping, historical disadvantage or vulnerability to political and social injustice apply to the group or groups of which the claimant is a member.

R. v. Turpin, [1989] 1 S.C.R. 1296, at pp. 1330-1332

76. Social assistance recipients fit all the *indicia* of a disadvantaged group. There is widespread prejudice and hostility towards social assistance recipients, both historically and currently; and this is commonly based on distorted or simply erroneous stereotypical views about the characteristics of social assistance recipients. Social assistance recipients (especially longer term recipients such as the disabled and mothers with responsibility for young children) are particularly vulnerable as they depend on social assistance programs for their very means of subsistence. They have little political power and governments have little interest or motivation in protecting their interests.

Affidavit of Nancy Vander Plaats, paras. 24, 25
Motion Record, Tab 9

Martha Jackman, "Constitutional contact with the Disparities in the World: Poverty as a Prohibited Ground of Discrimination Under the Canadian *Charter* and Human Rights Law." *Review of Constitutional Studies*, Vol. II, No. 1, p. 76

77. Several trial and appellate courts have accorded to social assistance recipients the status of a protected group, either alone or in combination with other personal characteristics.

R. v. Rehberg, supra

Schaff v. Canada, [1993] 18 C.R.R. (2d) 143, at pp. 147-151

Dartmouth/Halifax County Regional Housing Authority v. Sparks (1993), 101 D.L.R. (4th) 224 (N.S.C.A.) at p. 234

Federated Anti-Poverty Groups of British Columbia v. British Columbia (Attorney General) (1991) 70 B.C.L.R. (2d) 325 (S.C.) at p. 344

78. Social assistance recipients are the subject of protective legislation in Ontario and elsewhere, both expressly and by interpretation. This is another factor that the Supreme Court has identified as relevant in determining whether a group is protected by s.15. This legislation includes both anti-discrimination provision in human rights legislation, and specific reference in protection of privacy legislation, which indicates clear awareness by provincial legislatures that social assistance recipients are subject to discrimination and prejudice from the general public.

Egan v. Canada, supra, per Cory J. at p. 602

Miron v. Trudel, per McLachlin J. at p. 496

Human Rights Code, R.S.O. 1990, c. H19, s. 2(1) ("Receipt of Social Assistance")

Human Rights Code, S. Nfld. 1988, c. 62, s. 7(1) ("social origin")

Human Rights Act, R.S.N.S. 1989, c. 214 as amended by S.N.S. 1991, c. 12, s. 5(1)(f) ("Source of Income")

Human Rights Code, C.C.S.M., c. H175, s. 9(2)(j) ("Source of Income")

Québec (Comm. des droits de la personne) c. Gauthier (1993), 19 CHRR D/312

Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.31, s. 21

(c) **Discrimination against women**

79. It is submitted in addition that the regulations discriminate against women and specifically against poor single mothers. The vast majority of single parents on social assistance recipients are women.

Affidavit of Nancy Vander Plaats, para. 20
Motion Record, Tab 9

80. Although the definition of "spouse" is the same for all social assistance purposes, the legal consequences of living with a spouse are different for different categories of recipients. Only sole support parents are rendered categorically ineligible without reference to the spouse's actual income and assets under the regulations.

Family Benefits Act s.7(2), Regulation. 366 s.2(7)

General Welfare Assistance Act, s. 7(1), Regulation 537 s. 7(6)

81. The eligibility requirement that an applicant be separated from a spouse "with no reasonable prospect of reconciliation" applies only to sole support parents.

82. As a result of this regulation change, single parents on assistance living in a conjugal relationship with a person of the opposite sex will be forced either to separate from the person (in which case they may still be refused benefits because of the "reconciliation" rule) or into economic dependency. This is regardless of whether they are considered spouses for any other purpose of the law, whether the "spouse" has any obligation, capacity or intention of providing support, and regardless of the parties' own understanding of the relationship.

83. The effect of the regulations will be to further entrench poor women's economic dependency on men and disadvantage, while depriving them of autonomy and choice in their personal relationships. As such, they reinforce the common stereotype that women are dependent on men. The regulations affect not only social assistance recipients but all poor single mothers,

as they clearly diminish the limited choices available to poor women who are not on assistance.

84. Sex is an expressly prohibited ground of discrimination under s.15. The regulations discriminate on the grounds of sex because almost all sole-support parents on social assistance are women. This phenomenon in turn is causally related to historical patterns of discrimination against women. The economic disadvantage that underlies women's overrepresentation among sole-support parents arises from the expectation that women take responsibility for child rearing, the lack of employment opportunities for women and the substantial wage differentials between men and women in the labour force. The new regulations reinforce women's historic economic disadvantage.

Patricia Evans, "The Sexual Division of Poverty: The Consequences of Gendered Caring" in C. Baines et al (eds.), *Women's Caring: Feminist Perspectives on Social Welfare* (Toronto: McClelland and Stewart, 1991)

85. Single mothers are one of the most disadvantaged groups in Canada. The applicants will adduce evidence, inter alia, that:

- (a) There are over one million single parent families in Canada, over 80% of which are headed by women;
- (b) There are about 340,000 single parent led families in Ontario; of which about 82% or about 275,000 are headed by women;
- (c) Single mothers face one of the highest poverty rates for any group in the country and they tend to live deeper in poverty than other groups of poor people;
- (d) The poverty rates for young single mothers in particular are increasing and virtually all young single mothers live in poverty;
- (e) There are about 200,000 single parents receiving sole support parent benefits

under the GWA and FBA, of which some 95% are women.

- (f) Living in poverty is intensely stressful and harmful to the mental and physical health of poor women and their children, that the economic and social disadvantages of single motherhood follow women throughout their lives, and that child poverty causes serious and permanent harm to children's life prospects;
- (g) As social assistance recipients, single mothers are subject to stigma, hostility and inaccurate and harmful stereotyping of "welfare mothers".

Craig McKie, "An Overview of Lone Parenthood in Canada", in Hudson & Galaway, eds., *Single Parent Families: Perspectives on Research and Policy* (1993, Thompson Educational Publishing)

Martin Dooley, "Recent Changes in the Economic Welfare of Lone Mother Families in Canada: The Roles Of Market Work, Earnings and Transfers" , in *Single Parent Families*, supra

Evans, *supra*.

**Affidavit of Nancy Vander Plaats, paras. 10 - 13, 20, 24
Motion Record, Tab 9**

86. Several Canadian decisions have indicated that sole support parents as a class, or sole support parents on social assistance, fall within the protection of s.15(1).

R. v. Rehberg, supra

Dartmouth/Halifax County Regional Housing Authority v. Sparks, supra, at p. 234

Schaff v. The Queen, supra, at p. 158

Symes, supra, at p. 560

87. It is submitted that the applicants clearly have not only a serious but a compelling claim

that the characteristic of being a poor single parent is protected from discrimination under s.15(1).

(d) Discrimination against children

88. The regulations discriminate against children who are beneficiaries in families on social assistance. The financial consequences for children are the same as for their mothers. However, children are also affected in their own right by operation of these laws, although in ways that are similar to the effects of the laws on their mothers. They will suddenly be attributed or deprived of (as the case may be) "fathers", who may have no legal obligation or ability to provide support for them. The "chilling effect" of the regulations will be such that some will be deprived of the possibility of living in a residence with a supportive adult man, regardless of that man's relationship to their mother.

89. It is submitted that "children" are an enumerated group under s.15, because of the express prohibition against discrimination on grounds of age. It is further submitted that children of single mothers on social assistance are an analogous group for the same reasons that their mothers constitute an analogous group. It is clear that the consequences of poverty for children are even more severe than for adults and that children have even less control over the circumstances that leave them in poverty.

G. CONCLUSION


90. It is submitted that the applicants clearly have a serious case to be tried, that they and their children will suffer irreparable harm if their social assistance benefits are terminated, and that there is no public interest impact which could justify the implementation of the impugned regulations before a determination of their validity.

PART IV – ORDER REQUESTED

91. It is respectfully submitted that this court should issue an interim order suspending the operation of Regulation 366 of R.R.O. 1990, subsections 1(1)(d), 1(3) and 2(7)(b) as amended by *Ontario Regulation 409/95*, and Regulation 537 of R.R.O. 1990, subsections 1(1)(d), 1(3) and 7(8) as amended by *Ontario Regulation 410/95*, until the disposition of the main application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED


Raj Anand


Chantale Tie

Of Counsel for the Moving Parties
(Applicants)

SCHEDULE "A"

Caselaw

1. *Re Pitts and Director, Family Benefits Branch* (1985), 51 O.R. (2d) 302 (Div.Ct.)
2. *Metropolitan Stores (MTS) Ltd. v. Manitoba Food & Commercial Workers, Local 832* (1987), 38 D.L.R. (4th) 321 (S.C.C.)
3. *R.J.R. - MacDonald Inc. v. Canada (Attorney General)* (1994) 111 D.L.R. (4th) 385 (S.C.C.)
4. *Re Metropolitan Toronto School Board et al. and Minister of Education et al.* (1985), 53 O.R. (2d) 70 (Div. Ct.)
5. *Kerr v. Metropolitan Toronto* (1995), 22 O.R. (3d) 588 (C.A.)
6. *Dennhardt v. Ontario (Ministry of Community and Social Services)* (1987), 45 D.L.R. (4th) 149 (Ont. Div. Ct.)
7. *Our House Ottawa v. Ottawa-Carleton [Regional Municipality]* (1992), 92 D.L.R. (4th) 337 (Ont. Div. Ct.)
8. *R. v. Beare; R. v. Higgins* (1988), 55 D.L.R. (4th) 481
9. *R. v. O'Connor* (Dec. 14, 1995) S.C.C. File No. 24114
10. *R. v. Plant*, [1993] 3 S.C. R. 281
11. *Miron v. Trudel*, [1995] 2 S.C. R. 418
12. *B.(R.) v. Children's Aid Society of Metropolitan Toronto* (1995), 122 D.L.R. (4th) 1 (S.C.C.)
13. *R. v. Morgentaler*, [1988] 1 S.C. R. 30
14. *Irwin Toy Ltd. v. Quebec* (1989), 58 D.L.R. (4th) 577 (S.C.C.)
15. *Masse et al. v. Ministry of Community and Social Services*, Endorsement of Boland J., September 29, 1995
16. *Reference Re s.94(2) of the Motor Vehicle Act* (1985), 24 D.L.R. (4th) 36 (S.C.C.)

17. *Rodriquez v. A.G. British Columbia*, [1993] 3 S.C.R. 519
18. *R . v. Jones*, [1986] 2 S.C. R. 284
19. *Reference re Sections 193 and 195.1(1)(c) of the Criminal Code*, [1990] 1 S.C.R. 1123
20. *R . v. Heywood*, [1994] 3 S.C.R. 761
21. *R . v. Swain*, [1991] 1 S.C.R. 933
22. *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143
23. *Symes v. Canada* (1993), 110 D.L.R. (4th) 470 (S.C.C.)
24. *Egan v. Canada*, [1995] 2 S.C.R. 513
25. *R . v. Rehberg* (1993), 127 N.S.R. (2d) 331 (S.C.)
26. *R . v. Turpin*, [1989] 1 S.C.R. 1296
27. *Schaff v. Canada*, (1993) 18 C.R.R. (2d) 143
28. *Dartmouth/Halifax County Regional Housing Authority v. Sparks* (1993), 101 D.L.R. (4th) 224 (N.S.C.A.)
29. *Federated Anti-Poverty Groups of British Columbia v. British Columbia (Attorney General)* (1991) 70 B.C.L.R. (2d) 325 (S.C.)
30. *Quebec (Comm. des droits de la personne) c. Gauthier* (1993), 19 CHRR D/312

SCHEDULE "B"

1. *R.R.O. 1980, Regulation 319 (Family Benefits) s. 1(1)(d)*
2. *R.R.O. 1980, Regulation 441 (General Welfare) s. 1(1)(p)*
3. *O. Reg. 589/87 (Family Benefits) s. 1(d)*
4. *O. Reg 590/87 (General Welfare) s. 1(b)*
5. *R.R.O. 1990, O. Reg. 366 (Family Benefits), s. 1(3), 2(7)(b) as amended by O. Reg. 410/95*
6. *R.R.O. 1990, O. Reg. 537 (General Welfare) s.1(3), 7(8) as amended by O. Reg. 409/95*
7. *General Welfare Assistance Act, R.S.O. 1990, c. G-7, s. 7(1), Regulation 537 s. 7(6)*
8. *Family Benefits Act, R.S.O. 1990, c. F-2, s.7, s. 7(2), Regulation 366 s. 2(7)*
9. *Canada Assistance Plan, R.S.C. 1985, c.C-1; Preamble, ss.6(2)(a), (b)*
10. *Canada Assistance Plan Regulations, C.R.C. 1978, c.382 as amended ss. 2(2), 11, 15*
11. *Family Law Act, R.S.O. 1990, c. F-3, s. 29, 30, 31*
12. *R.R.O 1990, Regulation 774 (Ministry of Colleges and Universities Act) s. 1(1)*
13. *Human Rights Code, R.S.O. 1990, c.H19, s. 2(1) ("Receipt of Social Assistance")*
14. *Human Rights Code, S. Nfld. 1988, c. 62, s. 7(1) ("social origin")*
15. *Human Rights Act, R.S.N.S. 1989, c. 214 as amended by S.N.S. 1991, c. 12, s. 5(1)(f) ("Source of Income")*
16. *Human Rights Code, C.C.S.M., c. H175, s. 9(2)(j) ("Source of Income")*
17. *Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.3, s. 21*

SCHEDULE "C"

1. Margaret Leighton, "Handmaid's Tales: Family Benefits Assistance and the Single-Mother-Led Family." (1987) *University of Toronto Faculty of Law Review* 324
2. Hogg, *Constitutional Law of Canada*, 3rd ed. (1992, Toronto: Carswell)
3. Dianne Martin, "Passing the Buck: Prosecution of Welfare Fraud; Preservation of Stereotypes" (1992), 12 *Windsor Yearbook of Access to Justice* 52, at 55
4. Martha Jackman, "Constitutional Contact with the Disparities in the World: Poverty as Prohibited Ground of Discrimination Under the Canadian *Charter* and Human Rights Law." *Review of Constitutional Studies*, Vol. II, No. 1 76
5. Patricia Evans, "The Sexual Division of Poverty: The Consequences of Gendered Caring" in C. Baines et al (eds.), *Women's Caring: Feminist Perspectives on Social Welfare* (Toronto: McClelland and Stewart, 1991)
6. Craig McKie, "An Overview of Lone Parenthood in Canada", in Hudson & Galaway, eds., *Single Parent Families: Perspectives on Research and Policy* (1993, Thompson Educational Publishing)
7. Martin Dooley, "Recent Changes in the Economic Welfare of Lone Mother Families in Canada: The Roles of Market Work, Earnings and Transfers", in *Single Parent Families*