

IN THE SUPREME COURT OF CANADA

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 OF
JULY 2003.

AFFIDAVIT
of J. McREE ELROD

1. I, J. McREE ELROD, of 4493 Lindholm Road, Victoria, British Columbia, V9C 3Y1, MAKE OATH AND SAY AS FOLLOWS:

2 I am the Chair of the Equal Marriage Working Group of the Gender and Sexual Diversity Monitoring Group of the Canadian Unitarian Council (hereafter referred to as "CUC") and as such I have personal knowledge of the matters to which I hereinafter depose.

3. CUC is a national religious body that is part of an international movement. Unitarians have been an active part of Canadian religious life since the 1830's.

4. As a retired Unitarian minister and Chair of the Group named in item 2, this Application is made with the approval of the CUC Board, and the concurrence of Group

members Pam Willerton, Lay Chaplain, Unitarian Church of Edmonton; Pam Harte-Smith, Lay Chaplain, First Unitarian Church of Victoria; and Art Brewer, First Unitarian Congregation of Toronto.

5. The CUC has done considerable work on sexual orientation issues in general and on equal marriage rights in particular. The CUC website at www.cuc.ca/queer includes “The Gender and Sexual Diversity Issues page” contains links to a number of relevant documents. Attached to this my Affidavit are the following documents from this website illustrating the involvement of CUC in the equal marriage issue:

Exhibit “A” - The Gender and Sexual Diversity Issues page from the CUC website at www.cuc.ca/queer; pp. 4-7

Exhibit “B” - Canadian Unitarian Council Brief to the Parliamentary Standing Committee on Justice and Human Rights regarding Same-Sex Marriage presented Wednesday February 26, 2003 (including as Appendix C, a brochure created by the CUC Gender & Sexual Diversity Monitoring Group); pp. 8-22

Exhibit “C” - Affidavit of CUC Executive Director opposing appeal of Ontario Court decision; pp. 23-26

Exhibit “D” - Going to the Chapel: Unitarian Clergy in Ontario Booking Same-Sex Weddings-BC Clergy Ready to Book More; pp. 27-28

Exhibit “E” - Welcoming Congregations in Canada; pp. 29-31

Exhibit “F” – Letter dated January 31, 2004 from Elizabeth Bowen, President of the CUC, to the Honourable Paul Martin, Prime Minister of Canada; pp. 32-33

Exhibit “G” – Press Release: Gay Marriage is Good for Children, Couples: pp. 34-35

6. Mary Bennett, Executive Director of CUC, wrote in her affidavit opposing the application of some religious groups to appeal the Ontario Court of Appeal decision in *Halpern*:

We strongly also believe that no church or other religious authority will be forced to conduct marriage ceremonies that are not in conformity with its beliefs and rituals because such interpretation of new definition of marriage would violate freedom of religion and go afoul of Canadian jurisprudence. All clergy have the

right to determine the criteria on which they will agree to marry two individuals and we support that right for ourselves and others.

7. We recognize that the institution of marriage is not an option of which all committed couples, for various reasons, wish to be a part. However, we believe that marriage should be an option equally available to both opposite and same-sex couples without distinction based on gender or sexual orientation.

8. Elizabeth Bowen, President of the CUC, wrote in a letter addressed to the Honourable Paul Martin, Prime Minister of Canada dated January 31, 2004 (Exhibit "F") that, "We need to support equal-marriage rights for all Canadians, regardless of sexual orientation, and oppose 'separate but equal' civil unions which create a second class domestic partnership registry".

9. I make this affidavit in support of the argument of the CUC.

AFFIRMED BEFORE ME at the City of)
Vancouver, in the Province of British)
Columbia, this 8th day of May, 2004)
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A Commissioner for taking Affidavits)
for British Columbia)

J. McREE ELROD