

Caledon Citizen

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Supreme Court striking balance on equality rights

Gay rights advocates are cheering the Supreme Court of Canada ruling, which unanimously confirmed lower courts' conclusion that the Canada Pension Plan's survivor benefits should be available to all couples, homosexual as well as heterosexual.

Lawyers for what the court euphemistically termed "the Hislop class" of CPP contributors had asked for the top court to go even further, by awarding the survivors in same sex relationships to be awarded retroactive benefits back to 1985, when the equality rights provision in the Canadian Charter of Rights and Freedoms (Section 15) came into force.

The court ruled, sensibly, that same-sex couples should be left in the same position as opposite-sex couples (both married and common law), who under terms of the pension plan on applying for the benefit have a right to up to 12 months of arrears.

Although granting the applicants all they wanted might be seen as fair, it would apparently have been extremely costly - perhaps about \$100 million - and could have led to other similarly costly consequences.

As a Globe and Mail editorial pointed out, "anyone who persuaded the courts that his or her rights had been denied by government would have had a retroactive claim on public money dating back a generation or more. Taxpayers would be perpetually held hostage to the Charter of Rights, even where government had acted in good faith under the Charter as it was interpreted at the time."

As an example of what might happen, the Globe suggested the wrongful internment of Japanese Canadians during the Second World War and the Chinese immigrants who had to pay a head tax between 1885 and 1923.

The ruling means the federal government will now pay out about \$50 million to \$75 million in back payments to about 1,000 gay and lesbian individuals whose spouses are deceased. From now on, those surviving spouses will continue to receive monthly cheques averaging about \$500.

Of the 1,500 people who originally joined the class action against the federal government, about 500 have since died, and the court ruled that their estates are not entitled to claim the benefits.

Among them is the estate of the class

action's representative plaintiff, George Hislop, a long-time Toronto advocate for gay and lesbian equality who died October 2005. He had been denied benefits after his partner died in 1986.

In a 1999 ruling, *M. v. H.*, the court agreed with the Ontario Court of Appeal that spousal support payments under the province's Family Law Act must be available to same-sex spouses.

In the recent ruling, Justices Louis LeBel and Marshall Rothstein wrote that the federal government, in deciding "the distribution of government resources," was attempting to correct a wrong soon after the 1999 ruling. They said it acted in good faith given the legal uncertainty that had existed up until that point, stressing the fact that the law was evolving.

"Just as ignorance of the law is no excuse for an individual who breaks the law, ignorance of the Constitution is no excuse for governments. But where a judicial ruling changes the existing law or creates new law, it may, under certain conditions, be inappropriate to hold the government retroactively liable," they said.

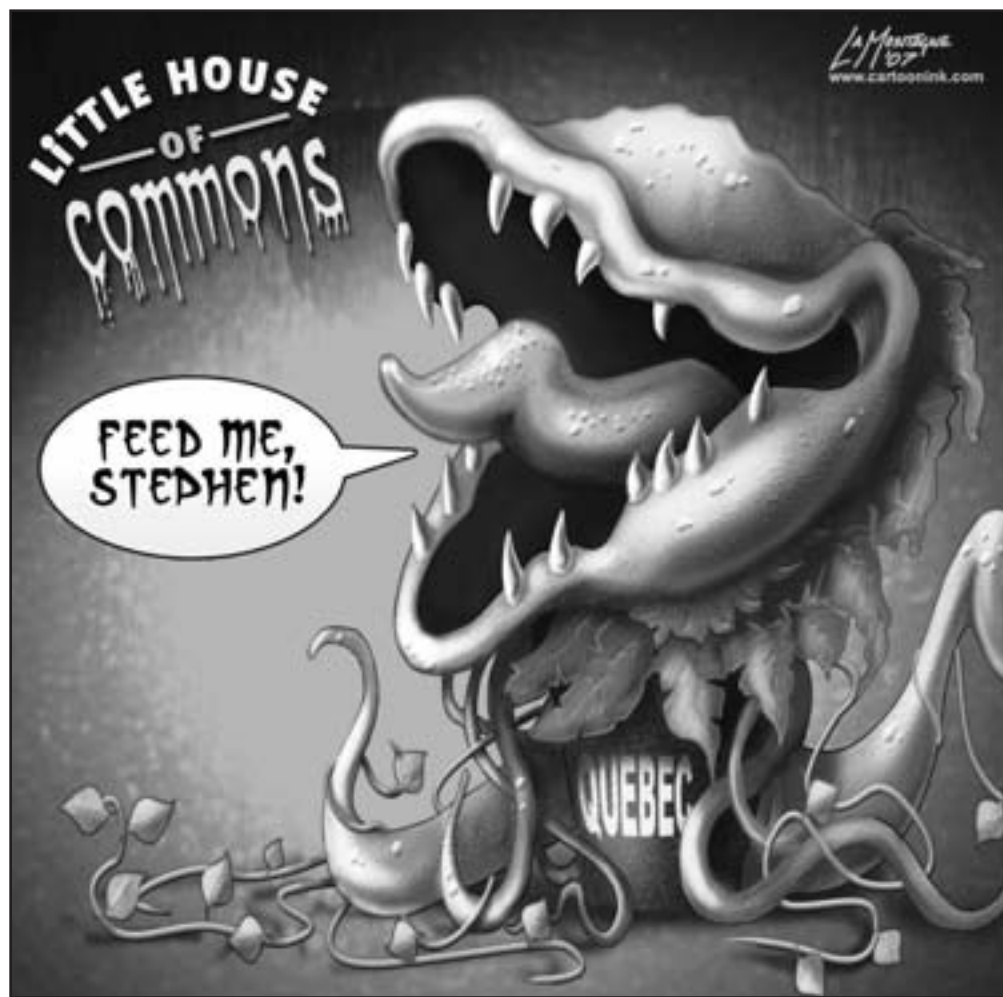
Hislop's counsel, Toronto lawyer Douglas Elliott, said the ruling "sets a huge precedent that will be taught in constitutional law classes until the end of time. This is probably one of the most significant cases in the Charter of Rights' history."

As we see it, the decision goes a long way toward righting a wrong, yet does not completely eliminate discrimination and potentially will create "instant gays."

This latest judgment demonstrates once and for all how far we as a country have gone in terms of ensuring that gay and lesbian Canadians have the same rights as heterosexuals.

And what a contrast to the situation we see south of the border, where we have a president who favours a constitutional amendment that would forever prohibit homosexuals from marrying, and where some states have gone even further in preventing same-sex couples from even entering into a form of "civil union."

And that in a country that boasts one of the world's highest divorce rates!



Our Readers Write

Drummond praised for special week

The following letter, to Mayor Marolyn Morrison, was submitted to the Citizen.

As you are aware Heritage Day 2007 was celebrated Tuesday, Feb. 20 at the Caledon Town Hall with the theme being "Early School Days in Caledon."

Sally Drummond, the Town's heritage officer along with others, was instrumental in putting together a wonderful display of history and pictures of the older school houses in the Town of Caledon which were located in the former townships of Albion, Caledon and the northern part of Chinguacousy. Her ideas of an old fashioned spelling bee, penmanship competition and a relay race brought much enjoyment to the event. Many who attended also participated in the baking contest, paper airplane throw and a raffle to raise funds for Heritage Caledon. An excellent display of artifacts including a school desk, a bell, an

Thanks to Samaritan

I was stranded on Mayfield Road at Bramalea Road in the snow storm Feb. 25. While I was waiting for the CAA tow truck to arrive, a vehicle pulled up behind me. A gentleman came to the car and asked me if I needed assistance. I explained I was waiting for the tow truck. He very kindly tried to see if he could get the car going, but could not. He then offered to stay with me until help arrived even though he was on his way home.

His name was Rob and he lives in Caledon. When the tow truck arrived, I was in such a hurry to talk to them that I completely forgot to thank him. I want him to know how much I appreciated his help. It is really wonderful to know there are people out there who will take time and trouble to help a stranded motorist.

Many, many thanks.

Anne Bonke

inkwell, a wooden pencil case, old readers and books, as well as a makeshift outhouse and much more helped to make the day interesting. Having been involved with others from Heritage Caledon in the planning and organization, we saw first-hand the dedication and enthusiasm shown by Drummond.

The Town of Caledon can be justly proud of Sally Drummond's many accomplishments and her interest in Heritage Caledon. Heritage Day was informative, educational and well received by all who attended.

Betty Ward & Jean Proctor
Caledon East

Working for world peace

My name is Duffy Gorski. I live in Alpena, Michigan and I read the column by Mark Pavilons in the Caledon Citizen (*Positive energy is infectious*, Feb. 28) and was moved to write this.

I am a believer in the power of positive energy and thinking. I believe that it is contagious. Mark's article also moved me to tell you about our organization - the We Want World Peace Organization. You can read about us at wewantworldpeace.com. What struck me in his column was the comment about anti-war rallies, I agree. They may have helped end a war but it does not get us peace. We, the WWWPO, have known this for many years now and have come up with a plan for world peace. It has to do with the power of the people and how if we all consciously express what we want we will have it as a whole. I don't know if an individual can have a new car just by consciously wanting it, but if more people express that they want world peace and we all work for it I believe that it will happen. WWWPO is a positive peace movement.

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