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BRIEF TO THE
SPECIAL JOINT COMMITTEE
CONSTITUTION OF CANADA

Joint Chairmen
Honourable Senator Harry Hays, P.C.
Mr. Serge Joyal, M.P.

Prepared by Dignity Edmonton for the
Canadian Region of Dignity, Inc.

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BRIEF: To recommend that the Canadian Charter of Rights and Freedoms, as proposed for entrenchment in a Canadian Constitution, be amended to include sexual orientation as a proscribed grounds for discrimination.

I.1 Dignity Edmonton takes this opportunity on behalf of the Canadian Region of Dignity Inc. to argue the need to protect homosexual men and women from discrimination in an entrenched Charter of Rights and Freedoms in the Canadian Constitution. The membership of Dignity Inc. are Gay Catholics and associates who are working to promote the dignity of Gay men and women, and their full acceptance within the Catholic Church and society as a whole. We believe it is part of our responsibility to "work for justice and legal acceptance (for Gay people) through education and legal reform." (Dignity Statement of Position and Purpose). In this context we join with what we hope are other briefs being presented by secular Canadian Gay organizations urging the inclusion of sexual orientation as a proscribed grounds of discrimination in an entrenched Charter.

I.2 As a Catholic group, our perspective from within a Christian framework serves to address one more facet of the homosexual culture. Indeed, in a situation where some of those who object to human rights legislation for homosexuals appeal for support to Christian faith and tradition, it is particularly urgent to state the Christian arguments in favour of such legislation. For although this is a multicultural and pluralistic society, it is one in which Christian values traditionally have a special place, and in which the proportion of Christian and Catholic believers is relatively high. It is our view that such a society, which often considers itself Christian, not only has no need to fear such an amendment to this Charter but indeed ought to regard its implementation as a fundamental moral duty.

II.1 In this perspective we ask you to consider some relevant aspects of the Christian faith and teaching, although it must be emphasized that in this we have no sectarian purpose. Rather, we seek to present our views on these matters in the hope of clearing the way for a more just treatment of homosexual people in our society.

II.2 It is a central tenet of the Christian faith that God has created the human person in his own likeness, and loves all human beings equally and without exception. Christians believe that God has restored and validated this inherent dignity of humankind through His action in Christ: "Human nature, by the very fact that it was assumed ... in Him, has been raised in us also to a dignity beyond compare. For by His Incarnation, He, the Son of God, in a certain way united Himself with each man." (Vatican Council II, Gaudium et Spes, 22). The importance of this Christian belief in human dignity cannot be overemphasized, as indeed the present Pope, John Paul II, pointed out in his first encyclical letter: "In reality, the name for that deep amazement at man's worth and dignity is the Gospel, that is to say, the Good News. It is also called Christianity." (Redemptor Hominis, 10, March 1979). The pope insists on the need for Catholic Christians of today to act on these

beliefs when he calls on them to "struggle with unwearrying perseverance for the dignity that each human being has reached and can continually reach in Christ, namely the dignity of both the grace of divine adoption and the inner truth of humanity, a truth which - if in the common awareness of the modern world it has been given such fundamental importance - for us is still clearer in the light of the reality that is Jesus Christ." (Ibid., 11). These beliefs are the basis for the Catholic Church's work for human rights in many fields, as well as for our own group's desire to work for respect and justice for homosexual people. It is clear to us that no society can claim to be acting in a Christian manner by refusing to allow dignity to the members of a particular group on the grounds of sexual orientation alone. With this premise in mind, we must concur with the concern expressed by Gordon Fairweather of the Canadian Human Rights Commission regarding the wording of Part I, Article 1, of this Charter. The fact is that any interpretation of the guarantee of the rights of homosexual men and women "... subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government.", must result in imposition of the status quo on the marginal groups within the society. This wording legitimizes the current practice of discrimination on the basis of sexual orientation in such areas as housing, employment, military service, etc. The denial of the dignity of human beings on this basis surely cannot be supported by any "moral majority", and therefore must not be condoned in the Canadian Charter of Rights and Freedoms.

11.3 It is also central to the Christian faith that Christian believers must be concerned in a special way for those who live on the margins of established "respectable" society, for such was the distinctive mission of Christ Himself. The New Testament categories of the "poor" and the "outcast" must certainly be interpreted in today's terms to include a group of people who through no fault of their own are often despised and unfairly treated, and the homosexual minority is such a group. Christ Himself was rejected by the respectable and puritanical of His time for befriending "publicans and sinners", and Christians have a duty to be concerned with those society finds unacceptable, rather than emulate those who did not understand Him. By the same token, a truly Christian society would not be first concerned with imposing a view of the "moral order" on those who differ from the majority be condition and conscience. Such a society would seek to accept and help Gay men and women precisely because they suffer in various ways from prejudice and injustice.

11.4 We must emphasize that the question of the "sinfulness" (or not) of sexual behavior between homosexuals is absolutely irrelevant to the present matter. Christ himself reserved his strongest criticisms for those who are piously legalistic about morals (the New Testament category of "the Pharisees"). The story of the Good Samaritan is just one context in which he criticised those who, like the Pharisee, allow legalism to replace concern for those in need.

11.5 The Church traditionally makes a clear distinction between homosexual acts

(traditionally considered sinful) and homosexual orientation (to be treated with respect and concern): the Pope's widely reported words on the matter during his recent visit to the U.S. merely repeated this distinction. We would add that an increasing number of Catholic and other theologians see no grounds for finding homosexual acts necessarily sinful in themselves (1). This position, which is our own, is a minority one at present, but it is widely held as an aspect of the general rethinking of sexual theology currently taking place in the Catholic Church and other denominations. However that discussion is resolved, it is emphatically not relevant to the question of legislation against discrimination. For legal protection of homosexuals would in no way imply moral approval of every aspect of the behavior of those protected.

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Catholic
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III.1 It is sometimes claimed, however, that homosexuals ought not to be legally protected because they constitute a threat to society in one way or another. It is necessary to consider several of these charges here, since they sometimes invoke "Christian values" or "the defence of Christian society".

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III.2 Those who claim that homosexuals threaten marriage and family life are perhaps forgetting that all homosexuals have grown up in a family, often a Christian one: they are not alien beings but products of particular families in this society. But the charge that Gay people threaten the marriage relationship itself is a particularly curious one, and it is difficult to see what thinking underlies it. Is it based on the supposition that a homosexual way of life has a strange seductive effect on heterosexual people? Or on the principle that all unmarried people threaten marriage by not entering into it (if so, single heterosexual people and voluntary celibates in the Church must be thought equally threatening)? The charge can hardly be based on a belief that homosexuals should enter into the heterosexual relationship of marriage. Were they to do so, for whatever reasons, the habitual result is immense suffering for both partners. Indeed the Catholic Church insists that the homosexual orientation of one partner is sufficient reason to consider a marriage invalid and grants marriage annulments in all such cases. In fact it would seem that an increased awareness of the existence of large numbers of homosexual people in our society could only benefit marriage, by underlining its strictly heterosexual character. Legal protection of the type proposed might well have the incidental effect of increasing such awareness. It could not, in any case, threaten the institution of marriage in any way whatsoever.

III.3 As for the accusation that homosexuals are prone to "molesting" children or young people, objective observers are agreed that behavior of this kind occurs no more commonly (in terms of relative numbers) among homosexuals than among heterosexuals. Legislation to protect homosexual rights would not, of course, legalize such behavior where it does occur.

III.4 The legislation might have implications, however, for another area related to young people. For if the effect of the legislative change proposed were to be the emergence of more and more "visible" Gay people, living openly as

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homosexuals in our society, it might be claimed that the psychological influence of such "examples" would be such as to "attract" young people who would not otherwise be homosexual. To this charge we reply in two ways. Firstly, it is highly unlikely that influence of this kind can ever affect fundamental sexual orientation. Besides, the major influence on young people will remain that of the surrounding society, which is overwhelmingly heterosexual in culture and ideology. In any case it cannot be shown that homosexuality has ever become more prevalent because of a change in law (although it may of course become more visible). Secondly, we must not forget the need of those young people who discover themselves to be homosexual for viable models on which to base their lives. It is the duty of society as a whole to allow the Gay community to provide fearlessly that healthy influence which such young people require if they are not to have serious difficulties in becoming whole people.

III.5 We pass, lastly, to the more general accusation that the acceptance of homosexuality has historically brought about a general moral and social "decadence". This charge may be easily refuted, since it relies on an interpretation of historical evidence which is rejected by professional historians. In fact, no reading of history can show that our society has anything to fear from granting legal protection to Gay people.

III.6 Far from being based on "Christian values", charges such as these are often grounded in that irrational fear and hatred of homosexuality sometimes known today as "homophobia". In its forgetfulness of homosexual people as human beings, such an approach is really the antithesis of the Christian one, with its loving concern for the dignity of all God's children. It has been rightly said that "...it is not homosexuality, but homophobia, which is immoral" (Fr. Felix Donnelly).

IV.1 Rather than being a threat to the Christian values of our society, the proposed amendment to the Charter would align society more closely with genuine Christian principles in this small (though not negligible) area. To summarize the major affirmative arguments of the brief, the proposed amendment would protect the human dignity of homosexual men and women and show concern for Gays as a marginal group, in accord with Christian and Catholic principles. At the same time, it would imply no moral stand on the question of homosexual acts. It remains to add that the betterment of the lives of Gay people in Canada would be considerable, especially because fewer would feel the need for secrecy, and the fear and self-hatred which accompany it. Any advancement of this significant Canadian minority group must certainly benefit our society as a whole.

IV.2 We greet all those who share our conclusions on this matter without necessarily sharing our Christian and Catholic frame of reference. We think that many people in our society, whatever their view of life, will agree that the proposed amendment can only advance the cause of a more humane society in Canada.

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