

Ottawa, Ontario

TO: THE JUDICIAL COMPENSATION AND BENEFITS COMMISSION 2003

**FROM: Honourable Alice Desjardins, J.A.
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**NOTE IN REPLY TO THE ORAL COMMENTS OF THE GOVERNMENT OF
CANADA TO THE JUDICIAL COMPENSATION AND BENEFITS COMMISSION
ON FEBRUARY 8, 2004**

There are two issues raised by the Government of Canada with regard to my submission, on which I wish to reply.

The first issue concerns the jurisdiction of the Commission (see p. 373, lines 4 to 13 of the transcript). It is said that "... this Commission does not have jurisdiction to issue a declaration or make findings on a Charter argument".

The second issue relates to the fact that my submission would have implications across government (see p. 377, ligne 14, to p. 378, line 3).

My reply is the following.

(1) On the first issue, the Commission is empowered, under subsections 26(1) and (2) of the *Judges Act*, R.S. 1985, c. S-1, to "inquire into the adequacy ... of judges' benefits generally" and to submit a report containing its recommendations to the Minister of Justice of Canada.

What I seek is a recommendation that, on all matters of judges' benefits, judges should be treated equally, whether they are living in a conjugal relationship or not.

The Commission has wide powers to inquire and submit a recommendation on such a submission. There should be enough powers for the Commission to have the matter I raise reviewed by the Government of Canada.

(2) On the second issue, the implications of my submission beyond the *Judges Act* are already reflected in the report and recommendations of the Law Commission of Canada, entitled "Beyond Conjuality", which has been submitted to the Minister of Justice of Canada on December 21, 2001. A recommendation submitted by this Commission to the Minister of Justice of Canada with regard to my submission would simply complete the overall picture already envisaged by the Law Commission of Canada.

(s) Alice Desjardins J.A.

March 26, 2004