

Les motifs suivants ont été rendus par

LE JUGE L'HEUREUX-DUBÉ

ment, j'estime tout aussi facile d'envisager des

lorsque les conséquences sont négligeables. Enfin,

The following are the reasons delivered by

L'HEUREUX-DUBÉ J. (dissenting) — This appeal raises the question of whether a legislative distinction that limits eligibility for a spousal supplement under the *Old Age Security Act*, R.S.C., 1985, c. O-9, to “opposite sex” spouses is discriminatory within the meaning of s. 15 of the *Canadian Charter of Rights and Freedoms* and, if so, whether it is saved by s. 1 of the *Charter*. Although I agree with much of what is said by my colleagues Justices

Second, I note that although the utopian ideal would be a society in which nobody is made to feel

debased, devalued or denigrated as a result of legislative distinctions, such an ideal is clearly unrealistic. The guarantee against discrimination cannot possibly hold the state to a standard of conduct consistent with its most sensitive citizens. Clearly, a measure of objectivity must be incorporated into this determination. This being said, however, it would be ironic and in large measure self-defeat-

...in situations where relevance will be used to

In sum, I believe that it is more

deny protections under s. 15 to groups that are otherwise deserving of it. In particular, where a distinction is relevant to the purpose of the legislation, then it is not discriminatory for the purposes of s. 15. In my view, such an approach takes for

more desirable to treat relevance as, in fact, a justification for distinctions that have a discriminatory impact on persons or groups, to be considered under s. 1 of the *Charter*. I shall elaborate upon this matter below.

too narrow a view of discrimination. Relevance can, by definition, only be evaluated as against the purpose of the impugned legislation. Cases

arise naturally from its plain language. Given that