

N.B. must get in step with same-sex relationships

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In 1969, then-Prime Minister Pierre Elliott Trudeau declared there was no place for the state in the bedrooms of the nation. Nevertheless, more than 30 years later same-sex couples in New Brunswick are still involved in an uphill battle for equality with their heterosexual neighbours and lately, even with their counterparts elsewhere in Canada.

Nowhere is this more true than in the area of spousal survivor benefits.

In the New Brunswick Pension Benefits Act, a "spouse" is defined as "either of a man and a woman." Same-sex couples in New Brunswick probably find little comfort in the fact that they share this archaic discrimination with their peers in Prince Edward Island and Newfoundland. Nor, we expect, does it bring them much solace to know that pension benefits have been available to the survivors of same-sex relationships in British Columbia and Ontario only since 1999; in Nova Scotia since 2000; in Manitoba, Saskatchewan and Alberta since 2001; and in Quebec, since earlier this year.

Probably the sole reason, in fact, for this sudden surge of enlightenment across most of the rest of Canada is a landmark 1999 decision of the Supreme Court of Canada. Originating in Ontario, the case involved the right, under the Ontario Family Law Act, of a lesbian to a division of property and support payments from her estranged partner, who had been the major breadwinner in a long-term relationship that ultimately had dissolved.

In finding in the claimant's favour, Canada's highest court declared the definition of "spouse" in the Ontario legislation - similar to that in New Brunswick - was discriminatory and in violation of the Canadian Charter of Rights and Freedoms.

The court gave the province of Ontario six months to amend its legislation. It also urged the other provinces to do so as well, to avoid the issue having to be litigated in each jurisdiction in order for the necessary changes to be effected.

While some provinces have moved quickly to follow the dictum of the Supreme Court, New Brunswick, Prince Edward Island and Newfoundland have not. Why not?

In New Brunswick, at least, many people are frequent churchgoers. As well, successive provincial governments of different political persuasions have recently given generous financial support to a private post-secondary education facility that has strong ties to religious communities throughout the province.

It certainly would make political sense, then, for any government to let the courts of the province declare such contentious provincial legislation to be unconstitutional and order it to be changed. Otherwise, it would risk alienating a considerable number of its voters by voluntarily offering fundamental recognition to a segment of society whose lifestyle is anathema to them.

If that is the case in this province, such thinking is petty and small-minded. It certainly does not show leadership. Several New Brunswick physicians - many of them devoutly religious - refer patients for, and perform, abortions even though they themselves may not advocate abortion. They do so because, although they do not wish to adopt their patients' values, they also do not wish to dictate to them what those values should be.

Same-sex couples are equally entitled to enjoy a similar "live-and-let-live" attitude on the part of their government and the rest of us.

At the urging of the Supreme Court of Canada, most other provinces have moved to recognize and accommodate the reality of same-sex relationships. New Brunswick should not have to be dragged kicking and screaming into the 21st century over this issue.