

s.19(1)



Deputy Minister of Justice and  
Deputy Attorney General of Canada

Sous-ministre de la Justice et  
sous-procureur général du Canada

Ottawa, Canada  
K1A 0H8

CONFIDENTIAL

February 19, 1987

JUDGE  
ADVOCATE GENERAL

MAR 2 08 50 '87

General P.D. Manson  
Chief of the Defence Staff  
National Defence Headquarters  
Ottawa, K1A 0K2

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CONFIDENTIAL  
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(2) JAG

Please note  
Mr Jacobucci's response.

26 Feb 87

P.D. Manson  
Gen  
CDS/CEC

Dear General Manson:

①

Thank you for your letter of January 28, 1987, concerning the defence of an action brought against Her Majesty The Queen by a former member of the Canadian Forces, who was released for homosexual activity.

I appreciate your concerns with respect to the strategy to be followed in this case. My understanding is, however, that our counsel in Montreal does in fact have serious concerns about the questions that were addressed to [redacted] when the interview was conducted. She has requested a transcript of the tape for detailed analysis. She has also indicated that the tape or a transcript may have to be produced in court, and given the nature of the questioning, it may evoke sympathy for [redacted]. Depending on the course of the procedural issues which remain to be resolved in the litigation, this aspect of the case may require further consideration in due course.

You have asked whether the term "objective" used in my reply to your previous letter means relevant evidence. Clearly, the evidence must be relevant and it would certainly extend to opinion evidence. My reference to objective evidence is, however, intended to emphasize that the courts are loathe to accept subjective or "impressionistic" evidence in cases that deal with human rights, and that care should be taken, in consultation with counsel, to ensure that the evidence that might be tendered is not liable to challenge on this basis.

Sincerely,

Frank Iacobucci  
Deputy Minister of Justice

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