

CASE NO.

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SUSAN WALSH - and - WAYNE BONA - and - THE ATTORNEY
GENERAL OF CANADA
and THE ATTORNEY
GENERAL OF NOVA
SCOTIA

(Appellant)

(Respondent)

(Third Parties)

CA 159139

Halifax, N.S.

Flinn, J.A.

[Cite as: Walsh v. Bona, 2000 NSCA 73]

APPEAL HEARD:

February 7, 2000 and June 2, 2000

JUDGMENT DELIVERED:

April 19, 2000; supplementary reasons for
judgment delivered June 5, 2000

SUBJECT:

**CONSTITUTIONAL LAW - DECLARATION OF
INVALIDITY SUSPENDED FOR ONE YEAR -
INDIVIDUAL REMEDY**

SUMMARY:

The Court of Appeal declared that s. 2(g) of the
Matrimonial Property Act was unconstitutional;
however, suspended the effect of that declaration
for a period of twelve months. As a result, the
appellant is unable to benefit from that declaration.

ISSUE:

Is there an individual remedy available and
appropriate for the appellant?

RESULT:

The decision of the Supreme Court of Canada in
Schachter v. Canada, [1992] 2 S.C.R. 679 is
determinative of this issue. In the circumstances of

this case, an individual remedy is neither available nor appropriate for the appellant.

The matter of the appellant's application for a division of assets of herself and the respondent is remitted to the Supreme Court of Nova Scotia to be heard on a constructive trust basis subject to the appellant making an application to the Supreme Court of Nova Scotia under ***Civil Procedure Rule*** 37.10(e).

This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 2 pages.