SCC File No. 37209 & 37318

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO
AND THE BRITISH COLUMBIA COURT OF APPEAL)

BETWEEN:

TRINITY WESTERN UNIVERSITY and BRAYDEN VOLKENANT

APPELLANTS
(Appellants)

-and-

LAW SOCIETY OF UPPER CANADA

RESPONDENT
(Respondent)

AND BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA

APPELLANT
(Appellant)

-and-

TRINITY WESTERN UNIVERSITY and BRAYDEN VOLKENANT

RESPONDENTS
(Respondents)

FACTUM OF THE INTERVENER, CANADIAN COUNCIL OF CHRISTIAN CHARITIES

(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada)*

CANADIAN COUNCIL OF CHRISTIAN CHARITIES
1-43 Howard Avenue
Elmira, ON
N3B 2C9

Barry W. Bussey
Philip A.S. Milley
Tel: (519) 669-5137
Fax: (519) 669-3291
E-mail: barry.bussey@cccc.org

Counsel for the Intervener Canadian Council of Christian Charities (SCC Files 37209 & 37318)

SUPREME ADVOCACY LLP
100 - 340 Gilmour Street
Ottawa, ON
K2P 0R3

Eugene Meehan, Q.C.
Marie-France Major
Tel: (613) 695-8855
Fax: (613) 695-8580
E-mail: emeehan@supremeadvocacy.ca
mfmajor@supremeadvocacy.ca

Ottawa Agent for Counsel for the Intervener, Canadian Council of Christian Charities (SCC Files 37209 & 37318)

SCC File No. 37209 & 37318

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO
AND THE BRITISH COLUMBIA COURT OF APPEAL)

BETWEEN:

TRINITY WESTERN UNIVERSITY and BRAYDEN VOLKENANT

APPELLANTS
(Appellants)

-and-

LAW SOCIETY OF UPPER CANADA

RESPONDENT
(Respondent)

ATTORNEY GENERAL OF ONTARIO, ASSOCIATION FOR REFORMED POLITICAL ACTION (ARPA) CANADA, CANADIAN CIVIL LIBERTIES ASSOCIATION, THE ADVOCATES' SOCIETY, INTERNATIONAL COALITION OF PROFESSORS OF LAW, NATIONAL COALITION OF CATHOLIC SCHOOL TRUSTEES' ASSOCIATIONS, LAWYERS' RIGHTS WATCH CANADA, CANADIAN BAR ASSOCIATION, CRIMINAL LAWYERS' ASSOCIATION (ONTARIO), CHRISTIAN LEGAL FELLOWSHIP, CANADIAN ASSOCIATION OF UNIVERSITY TEACHERS, START PROUD, OUTLAWS, CANADIAN COUNCIL OF CHRISTIAN CHARITIES, UNITED CHURCH OF CANADA, LAW STUDENTS' SOCIETY OF ONTARIO, CANADIAN CONFERENCE OF CATHOLIC BISHOPS, SEVENTH-DAY ADVENTIST CHURCH IN CANADA, EVANGELICAL FELLOWSHIP OF CANADA, CHRISTIAN HIGHER EDUCATION CANADA, LESBIANS GAYS BISEXUALS AND TRANS PEOPLE OF THE UNIVERSITY OF TORONTO, BRITISH COLUMBIA HUMANIST ASSOCIATION, CANADIAN SECULAR ALLIANCE, EGALE CANADA HUMAN RIGHTS TRUST, FAITH, FEALTY & CREED SOCIETY, ROMAN CATHOLIC ARCHDIOCESE OF VANCOUVER, CATHOLIC CIVIL RIGHTS LEAGUE, FAITH AND FREEDOM ALLIANCE, WORLD SIKH ORGANIZATION OF CANADA

INTERVENERS

AND BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA

APPELLANT
(Appellant)

-and-

TRINITY WESTERN UNIVERSITY and BRAYDEN VOLKENANT

RESPONDENTS
(Respondents)

LAWYERS' RIGHTS WATCH CANADA, NATIONAL COALITION OF CATHOLIC SCHOOL TRUSTEES' ASSOCIATIONS, INTERNATIONAL COALITION OF PROFESSORS OF LAW, CHRISTIAN LEGAL FELLOWSHIP, CANADIAN BAR ASSOCIATION, THE ADVOCATES' SOCIETY, ASSOCIATION FOR REFORMED POLITICAL ACTION (ARPA) CANADA, CANADIAN COUNCIL OF CHRISTIAN CHARITIES, CANADIAN CONFERENCE OF CATHOLIC BISHOPS, CANADIAN ASSOCIATION OF UNIVERSITY TEACHERS, LAW STUDENTS' SOCIETY OF ONTARIO, SEVENTH-DAY ADVENTIST CHURCH IN CANADA, BC LGBTQ COALITION, EVANGELICAL FELLOWSHIP OF CANADA, CHRISTIAN HIGHER EDUCATION CANADA, BRITISH COLUMBIA HUMANIST ASSOCIATION, EGALE CANADA HUMAN RIGHTS TRUST, FAITH, FEALTY & CREED SOCIETY, ROMAN CATHOLIC ARCHDIOCESE OF VANCOUVER, CATHOLIC CIVIL RIGHTS LEAGUE, FAITH AND FREEDOM ALLIANCE, CANADIAN SECULAR ALLIANCE, WEST COAST WOMEN'S LEGAL EDUCATION AND ACTION FUND, WORLD SIKH ORGANIZATION OF CANADA

INTERVENERS

BENNETT JONES LLP
Suite 3400, P.O. Box 130
One First Canadian Place
Toronto, ON
M5X 1A4

Robert W. Staley
Ranjan K. Agarwal
Jessica M. Starck
Tel: (416) 777-4857
Fax: (416) 863-1716
E-mail: staleyr@bennettjones.ca

KUHN & COMPANY
320-900 Howe Street
Vancouver, British Columbia
V6Z 2M4

Kevin L. Boonstra
Jonathan Maryniuk
Tel: (604) 684-8668
Fax: (604) 684-2887
E-mail: kboonstra@kuhnco.net

Counsel for Trinity Western University, Brayden Volkenant (SCC Files 37209 & 37318)

BENNETT JONES LLP
World Exchange Plaza
1900-45 O'Connor Street
Ottawa, ON
K1P 1A4

Mark Jewett, Q.C.
Tel: (613) 683-2328
Fax: (613) 683-2323
E-mail: jewettm@bennettjones.com

Ottawa Agent for counsel for Trinity Western University, Brayden Volkenant (SCC Files 37209 & 37318)

BORDEN LADNER GERVAIS LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Suite 3400
Toronto, ON, Canada
M5H 4E3

Guy Pratte
Tel: (416) 350-2638
Fax: (416) 361-7307

Counsel for The Law Society of Upper Canada (SCC File 37209)

BORDEN LADNER GERVAIS LLP
World Exchange Plaza
100 Queen Street, suite 1300
Ottawa, ON
K1P 1J9

Nadia Effendi
Tel: (613) 237-5160
Fax: (613) 230-8842
E-mail: neffendi@blg.com

Ottawa Agent for Counsel for The Law Society of Upper Canada (SCC File 37209)

ATTORNEY GENERAL OF ONTARIO
720 Bay Street, 4th Floor
Toronto, ON
M7A 2S9

S. Zachary Green
Josh Hunte
Tel: (416) 326-8517
Fax: (416) 326-4015
E-mail: zachary.green@ontario.ca
Counsel for The Attorney General of Ontario (SCC File 37209)

BURKE-ROBERTSON
441 MacLaren Street Suite 200
Ottawa, ON
K2P 2H3

Robert E. Houston, Q.C.
Tel: (613) 236-9665
Fax: (613) 235-4430
E-mail: rhouston@burkerobertson.com

Ottawa Agent for Counsel for The Attorney General of Ontario (SCC File 37209)

GALL, LEGGE, GRANT & MUNROE LLP
1000-1199 West Hastings Street
Vancouver, British Columbia
V6E 3T5

Peter A. Gall, Q.C.
Donald R. Munroe, Q.C.
Benjamin J. Oliphant
Tel: (604) 891-1152
Fax: (604) 669-5101
E-mail: pgall@glgmlaw.com

Counsel for Law Society of British Columbia (SCC Files 37209 & 37318)

POWER LAW
130 Albert Street Suite 1103
Ottawa, ON
K1P 5G4

Mark C. Power
Tel: (613) 702-5561
Fax: (613) 702-5561
E-mail: mpower@juristespower.ca

Ottawa Agent for Counsel for Law Society of British Columbia (SCC Files 37209 & 37318)

SUPREME ADVOCACY LLP
340 Gilmour St., Suite 100
Ottawa, ON K2P 0R3

Eugene Meehan, Q.C.
Tel.: (613) 695-8855
Fax: (613) 695-8580
Email: emeehan@supremeadvocacy.ca

SUPREME ADVOCACY LLP
340 Gilmour St., Suite 100
Ottawa, ON K2P 0R3

Thomas Slade
Tel.: (613) 695-8855
Fax: (613) 695-8580
Email: tslade@supremeadvocacy.ca

DOUCETTE SANTORO FURGIUELE
1100 – 20 Dundas Street West
Toronto, Ontario M5G 2G8

Daniel C. Santoro
Tel.: (416) 922-7272
Fax: (416) 342-1766

Ottawa Agent for Counsel for the Intervener, National Coalition of Catholic School Trustees' Associations

Counsel for the Intervener, National Coalition of Catholic School Trustees' Associations

ASSOCIATION FOR REFORMED POLITICAL ACTION (ARPA) CANADA
1705-130 Albert St.
Ottawa, ON
K1P 5G4

André Schutten
Tel: (613) 297-5172
Fax: (613) 249-3238
E-mail: Andre@ARPACanada.ca

Counsel for the Intervener, ARPA (SCC Files 37209 & 37318)

SUPREME ADVOCACY LLP
100- 340 Gilmour Street
Ottawa, ON
K2P 0R3

Marie-France Major
Tel: (613) 695-8855
Fax: (613) 695-8580
E-mail: mfmajor@supremeadvocacy.ca

Ottawa Agent for Counsel for the Intervener, ARPA (SCC Files 37209 & 37318)

BARNES, SAMMON LLP
400-200 Elgin Street
Ottawa, ON
K2P 1L5

William J. Sammon
Tel: (613) 594-8000
Fax: (613) 235-7578
Email:

Counsel for the Intervener, Canadian Conference of Catholic Bishops (SCC Files 37209 & 37318)

CANADIAN ASSOCIATION OF UNIVERSITY TEACHERS
2705 Queensview Drive
Ottawa, ON
K2B 8K2

Peter Barnacle
Immanuel Lanzaderas
Tel: (613) 820-2270 Ext: 192
Fax: (613) 820-7244
E-mail: barnacle@caut.ca

Counsel for the Intervener, Canadian Association of University of Teachers (SCC Files 37209 & 37318)

GOLDBLATT PARTNERS LLP
500-30 Metcalfe St.
Ottawa, ON
K1P 5L4

Colleen Bauman
Tel: (613) 482-2463
Fax: (613) 235-3041
E-mail: cbauman@goldblattpartners.com

Ottawa Agent for Counsel for the Intervener, Canadian Association of University of Teachers (SCC Files 37209 & 37318)

PALIARE, ROLAND, ROSENBERG, ROTHSTEIN, LLP
155 Wellington Stree West 35th Floor
Toronto, ON
M5V 3H1

Chris G. Paliare
Joanna Radbord
Monique Pongracic-Speier
Tel: (416) 646-4318
Fax: (416) 646-4301
E-mail: chris.paliare@paliareroland.com

Counsel for the Intervener, Advocates Society (SCC Files 37209 & 37318)

GOWLING WLG (CANADA) LLP
160 Elgin Street, Suite 2600
Ottawa, ON
K1P 1C3

Jeffrey W. Beedell
Tel: (613) 786-0171
Fax: (613) 788-3587
E-mail: jeff.beedell@gowlingwlg.com

Ottawa Agent for Counsel for the Intervener, Advocates Society (SCC Files 37209 & 37318)

URSEL PHILLIPS FELLOWS HOPKINSON LLP
1200 - 555 Richmond Street West
Toronto, ON
M5V 3B1

Susan Ursel
David Grossman
Angela Westmacott, Q.C.
Tel: (416) 969-3515
Fax: (416) 968-0325
E-mail: sursel@upfhlaw.ca

Counsel for the Intervener, Canadian Bar Association (SCC Files 37209 & 37318)

GOWLING WLG (CANADA) LLP
160 Elgin Street, Suite 2600
Ottawa, ON
K1P 1C3

Jeffrey W. Beedell
Tel: (613) 786-0171
Fax: (613) 788-3587
E-mail: jeff.beedell@gowlingwlg.com

Ottawa Agent for Counsel for the Intervener, Canadian Bar Association (SCC Files 37209 & 37318)

CHRISTIAN LEGAL FELLOWSHIP
285 King Street, Suite 202
London, Ontario
N6B 3M6

Derek B.M. Ross
Deina Warren
Tel: (519) 601-4099
Fax: (519) 601-4098
E-mail: execdir@christianlegalfellowship.org

Counsel for the Intervener, Christian Legal Fellowship (SCC Files 37209 & 37318)

SUPREME ADVOCACY LLP
340 Gilmour St., Suite 100
Ottawa, ON
K2P 0R3

Eugene Meehan, Q.C.
Tel.: (613) 695-8855
Fax: (613) 695-8580
Email: emeehan@supremeadvocacy.ca

Ottawa Agent for Counsel for the Intervener, Christian Legal Fellowship (SCC Files 37209 & 37318)

NORTON ROSE FULBRIGHT CANADA LLP
200 Bay Street
Royal Bank Plaza, South Tower, Suite 3800
Toronto, ON
M5J 2Z4

Rahool P. Agarwal
Kristine Spence
Tel: (416) 216-3943
Fax: (416) 216-3930
E-mail: rahool.agarwal@nortonrose.com

Counsel for the Intervener, Law Students Society of Ontario (SCC Files 37209 & 37318)

NORTON ROSE FULBRIGHT CANADA LLP
1500-45 O'Connor Street
Ottawa, ON
K1P 1A4

Matthew J. Halpin
Tel: (613) 780-8654
Fax: (613) 230-5459
E-mail:
matthew.halpin@nortonrosefulbright.com

Ottawa Agent for Counsel for the Intervener, Law Students Society of Ontario (SCC Files 37209 & 37318)

MILLER THOMSON LLP
3000, 700- 9th Avenue SW
Calgary, Alberta
T2P 3V4

Gerald D. Chipeur, Q.C.
Jonathan Martin
Grace MacKintosh
Tel: (403) 298-2425
Fax: (403) 262-0007
E-mail: gchipeur@millerthomson.com

Counsel for the Intervener, Seventh Day Adventist Church in Canada (SCC Files 37209 & 37318)

SUPREME ADVOCACY LLP
340 Gilmour St., Suite 100
Ottawa, ON
K2P 0R3

Eugene Meehan, Q.C.
Marie-France Major
Tel.: (613) 695-8855
Fax: (613) 695-8580
Email: emeehan@supremeadvocacy.ca
mfmajor@supremeadvocacy.ca23

Ottawa Agent for Counsel for the Intervener, Seventh Day Adventist Church in Canada (SCC Files 37209 & 37318)

JFK LAW CORPORATION
640-1122 Mainland Street
Vancouver, British Columbia
V6B 5L1

Karey Brooks
Robert Freedman
Elin Sigurdson
Tel: (604) 687-0549
Fax: (604) 687-2696
E-mail: kbrooks@jfklaw.ca

Counsel for the Intervener, BC LGBTQ Coalition (SCC Files 37209 & 37318)

GOWLING WLG (CANADA) LLP
160 Elgin Street
Suite 2600
Ottawa, ON
K1P 1C3

Guy Régimbald
Tel: (613) 786-0197
Fax: (613) 563-9869
E-mail: guy.regimbald@gowlingwlg.com

Ottawa Agent for Counsel for the Intervener, BC LGBTQ Coalition (SCC Files 37209 & 37318)

VINCENT DAGENAIS GIBSON LLP
260 Dalhousie Street
Suite 400
Ottawa, Ontario
K1N 7E4

Albertos Polizogopoulos
D. Geoffrey Cowper, Q.C.
Kristin Debs
Geoffrey Trotter
Tel: (613) 241-2701
Fax: (613) 241-2599
E-mail: albertos@vdg.ca

Counsel for the Intervener, Evangelical Fellowship of Canada/Christian Higher Education Canada (joint) (SCC Files 37209 & 37318)

SUPREME ADVOCACY LLP
340 Gilmour St., Suite 100
Ottawa, ON K2P 0R3

Eugene Meehan, Q.C.
Tel.: (613) 695-8855
Fax: (613) 695-8580
Email: emeehan@supremeadvocacy.ca

Counsel for the Intervener, International Coalition of Professors of Law (SCC Files 37209 & 37318)

SUPREME ADVOCACY LLP
100- 340 Gilmour Street
Ottawa, ON
K2P 0R3

Marie-France Major
Tel: (613) 695-8855
Fax: (613) 695-8580
E-mail: mfmajor@supremeadvocacy.ca

Ottawa Agent for Counsel for the Intervener, International Coalition of Professors of Law (SCC Files 37209 & 37318)

HAKEMI & RIDGEDALE LLP
1500-888 Dunsmuir Street
Vancouver, British Columbia
V6C 3K4

Wesley J. McMillan
Tel: (604) 259-2269
Fax: (604) 648-9170
E-mail: wmcmillan@hakemiridgedale.com

Counsel for the Intervener, British Columbia Humanist Association (SCC Files 37209 & 37318)

GOWLING WLG (CANADA) LLP
2600-160 Elgin Street
Ottawa, ON
K1P 1C3

Guy Régimbald
Tel: (613) 786-0197
Fax: (613) 563-9869
E-mail: guy.regimbald@gowlingwlg.com

Ottawa Agent for Counsel for the Intervener, British Columbia Humanist Association (SCC Files 37209 & 37318)

GOLDBLATT PARTNERS LLP
20 Dundas Street West, Suite 1100
Toronto, Ontario
M5G 2G8

Steven Barrett
Adriel Weaver
Tel: (416) 979-6422
Fax: (416) 591-7333

Counsel for the Intervener, Egale Canada Human Rights Trust (SCC Files 37209 & 37318)

GOLDBLATT PARTNERS LLP
500-30 Metcalfe St.
Ottawa, Ontario
K1P 5L4

Colleen Bauman
Tel: (613) 482-2463
Fax: (613) 235-3041
E-mail: cbauman@goldblattpartners.com

Ottawa Agent for Counsel for the Intervener, Egale Canada Human Rights Trust (SCC Files 37209 & 37318)

BENEFIC LAW CORPORATION
1250 - 1500 West Georgia Street
P.O. Box 62
Vancouver, British Columbia
V6G 2Z6

Blake Bromley
Tel: (604) 683-7006
Fax: (604) 683-5676
E-mail: blake@beneficgroup.com

Counsel for the Intervener, Faith, Fealty & Creed Society (SCC Files 37209 & 37318)

MICHAEL J. SOBKIN
331 Somerset Street West
Ottawa, ON
K2P 0J8

Tel: (613) 282-1712
Fax: (613) 288-2896
E-mail: msobkin@sympatico.ca

Ottawa Agent for Counsel for the Intervener, Faith, Fealty & Creed Society (SCC Files 37209 & 3731)

FOY ALLISON LAW GROUP
210-2438 Marine Drive
West Vancouver, BC V7V 1L2

Gwendoline Allison
Tel: (604) 922-9282
Fax: (604) 922-9283
E-mail: gwendoline.allison@foyallison.com

Counsel for the Intervener, Roman Catholic Archdiocese of Vancouver and Catholic Civil Rights League/Faith and Freedom Alliance (jointly) (SCC Files 37209 & 37318)

VINCENT DAGENAIS GIBSON LLP
260 Dalhousie Street
Suite 400
Ottawa, Ontario
K1N 7E4

Albertos Polizogopoulos
Tel: (613) 241-2701
Fax: (613) 241-2599
E-mail: albertos@vdg.ca

Ottawa Agent for Counsel for the Intervener, Roman Catholic Archdiocese of Vancouver and Catholic Civil Rights League/Faith and Freedom Alliance (jointly) (SCC Files 37209 & 37318)

JFK LAW CORPORATION
340-1122 Mainland Street
Vancouver, British Columbia
V6B 5L1

Tim Dickson
Tel: (604) 687-0549
Fax: (607) 687-2696
E-mail: tdickson@jfklaw.ca

Counsel for the Canadian Secular Alliance (SCC Files 37209 & 37318)

GOWLING WLG (CANADA) LLP
2600- 160 Elgin Street
Ottawa, ON
K1P 1C3

Guy Régimbald
Tel: (613) 786-0197
Fax: (613) 563-9869
E-mail: guy.regimbald@gowlingwlg.com

Ottawa Agent for Counsel for the Canadian Secular Alliance (SCC Files 37209 & 37318)

WINTERINGHAM MACKAY
620 - 375 Water Street
Vancouver, British Columbia
V6B 5C6

Janet Winteringham, Q.C.
Jessica Lithwick
Robyn Trask
Tel: (604) 659-6060
Fax: (604) 687-2945
E-mail: jwinteringham@wmlaw.ca

Counsel for West Coast Women's Legal Education and Action Fund (SCC Files 37209 & 37318)

MICHAEL J. SOBKIN
331 Somerset Street West
Ottawa, ON
K2P 0J8

Tel: (613) 282-1712
Fax: (613) 288-2896
E-mail: msobkin@sympatico.ca

Ottawa Agent for Counsel for West Coast Women's Legal Education and Action Fund (SCC Files 37209 & 37318)

NANDA & COMPANY
3400 Manulife Place
10180- 101 Street N.W.
Edmonton, Alberta
T5J 4K1

Avnish Nanda
Balpreet Singh Boparai
Tel: (780) 801-5324
Fax: (587) 318-1391
E-mail: avnish@nandalaw.ca

Counsel for the Intervener, World Sikh Organization of Canada (SCC Files 37209 & 37318)

SUPREME ADVOCACY LLP
100- 340 Gilmour Street
Ottawa, ON
K2P 0R3

Marie-France Major
Tel: (613) 695-8855
Fax: (613) 695-8580
E-mail: mfmajor@supremeadvocacy.ca

Ottawa Agent for Counsel for the Intervener, World Sikh Organization of Canada (SCC Files 37209 & 37318)

GREY, CASGRAIN
1155 René-Lévesque Ouest
Suite 1715
Montréal, Quebec
H3B 2K8

Julius H. Grey
Tel: (514) 288-6180 Ext: 229
Fax: (514) 288-8908
E-mail: jhgrey@greycasgrain.net

Counsel for the Intervener, Lawyers' Rights Watch Canada (SCC Files 37209 & 37318)

GOWLING WLG (CANADA) LLP
160 Elgin Street
Suite 2600
Ottawa, ON
K1P 1C3

Guy Régimbald
Tel: (613) 786-0197
Fax: (613) 563-9869
E-mail: guy.regimbald@gowlingwlg.com

Ottawa Agent for Counsel for the Intervener, Lawyers' Rights Watch Canada (SCC Files 37209 & 37318)

PARADIGM LAW GROUP LLP
80 Richmond Street West
Suite 1401
Toronto, Ontario
M5H 2A4

Angela Chaisson
Marcus McCann
Tel: (416) 868-1694
Fax: (855) 351-9215
E-mail: ac@plg-llp.ca

Counsel for the Intervener, Lesbians Gays Bisexuals and Trans People of the University of Toronto (SCC File 37209)

FASKEN MARTINEAU DUMOULIN LLP
55 Metcalfe Street, Suite 1300
Ottawa, Ontario
K1P 6L5

Yael Wexler
Tel: (613) 696-6860
Fax: (613) 230-6423
E-mail: ywexler@fasken.com

Ottawa Agent for Counsel for the Intervener, Lesbians Gays Bisexuals and Trans People of the University of Toronto (SCC File 37209)

DEWART GLEASON LLP
102 - 366 Adelaide Street West
Toronto, Ontario
M5V 1R9

Sean Dewart
Tim Gleason
Tel: (416) 971-8000
Fax: (416) 971-8001
E-mail: sdewart@dgllp.ca

Counsel for the Intervener, United Church of Canada (SCC File 37209)

SUPREME LAW GROUP
900-275 Slater Street
Ottawa, ON K1P 5H9

Moira Dillon
Tel: (613)691-1224
Fax: (613) 691-1338
Email: mdillon@supremelawgroup.ca

Ottawa Agent for Counsel for the Intervener, United Church of Canada (SCC File 37209)

GOLDBLATT PARTNERS LLP
Box 180
1039-20 Dundas Street West
Toronto, Ontario
M5G 2G8

Marlys A. Edwardh
Vanessa Payne
Tel: (416) 979-4380
Fax: (416) 979-4430
E-mail: medwardh@goldblattpartners.com

Counsel for the Interveners, Start Proud/OUTlaws (jointly) (SCC File 37209)

GOLDBLATT PARTNERS LLP
500-30 Metcalfe St.
Ottawa, Ontario
K1P 5L4

Colleen Bauman
Tel: (613) 482-2463
Fax: (613) 235-3041
E-mail: cbauman@goldblattpartners.com

Ottawa Agent for Counsel for the Interveners, Start Proud/OUTlaws (jointly) (SCC File 37209)

JOHN NORRIS
BREESE DAVIES
100 - 116 Simcoe St.
Toronto, Ontario
M5H 4E2

Tel: (416) 596-2960
Fax: (416) 596-2598
E-mail: john.norris@simcoechambers.com

Counsel for the Criminal Lawyers' Association (Ontario) (SCC File 37209)

GOWLING WLG (CANADA) LLP
2600 - 160 Elgin Street
P.O. Box 466, Stn. A
Ottawa, Ontario
K1P 1C3

Matthew Estabrooks
Tel: (613) 786-0211
Fax: (613) 788-3573
E-mail: matthew.estabrooks@gowlingwlg.com

Ottawa Agent for Counsel for the Criminal Lawyers' Association (Ontario) (SCC File 37209)

STIKEMAN ELLIOTT LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario
M5L 1B9

Alan L.W. D'Silva
Alexandra Urbanski
Tel: (416) 869-5204
Fax: (416) 947-0866
E-mail: adsilva@stikeman.com

Counsel for Canadian Civil Liberties Association (SCC File 37209)

STIKEMAN ELLIOTT LLP
1600 - 50 O'Connor Street
Ottawa, Ontario
K1P 6L2

Nicholas Peter McHaffie
Tel: (613) 566-0546
Fax: (613) 230-8877
E-mail: nmchaffie@stikeman.com

Ottawa Agent for Counsel for Canadian Civil Liberties Association (SCC File 37209)

TABLE OF CONTENTS

Page

PART I – OVERVIEW 1

PART II – POSITION ON QUESTIONS IN ISSUES 1

PART III –STATEMENT OF ARGUMENT 1

A. Government Grant of Licence or Regulatory Approval Does not Mean State Endorsement 1

i. Regulatory Approval Does not Allow the Government to Hold a Private Entity to Its Public Obligations 2

ii. The Government Does not Endorse the Views of an Organization Merely Because It Allows the Organization to Operate 4

iii. If Approval Is Endorsement, the Regulatory Approval Process Is Not Consistent with Democracy 6

B. RELIGIOUS CORPORATIONS ARE ENTITLED TO RELIGIOUS FREEDOM 6

i. A Corporate Religious Right Follows from the Freedoms to Religion, Expression, and Association 6

ii. Domestic and International Law Support Corporate Religious Protection 8

Canadian Law 8

International Law 8

Europe 9

iii. Content of the Group Right to Religious Freedom 9

i. It is not the aggregate of individual members' rights but a right of the religious group as such. 9

ii. Right to determine and administer their own internal religious affairs without state interference. 10

iii. Exercises moral authority over its members. 10

PART IV and V – SUBMISSIONS CONCERNING COSTS 10

PART VI – TABLE OF AUTHORITIES 11

PART I – OVERVIEW

1. The law societies submit that they cannot and are in fact obligated not to accredit TWU or any other religiously based university.[1] The position of the law societies hinges upon the proposition that regulatory approval, in this case accreditation, necessarily means that the law societies approve and endorse the beliefs and practices of those to which they provide accreditation. Despite the LSUC's appeal to *Saguenay* and *Ross*[2] this position has no basis in law or policy, and such an interpretation would result in a total disruption of the charitable sector, among others, that require regulatory approval.

2. CCCC submits that such an interpretation is simply unworkable and not representative of how regulatory approval operates. Such a position, if left unaddressed, will cause deleterious effects throughout the charitable sector and to Canadian society as a whole as government dictates what is and is not acceptable religious belief and practice. A more coherent view is that the registration of such widely diverse charitable organizations is a recognition that they each meet the established criteria to carry out their charity work as determined under the law without inquiry into what beliefs they hold. This approach ensures that diversity contributes to a healthy civil society, one that is free and democratic.

PART II – POSITION ON QUESTIONS IN ISSUE

3. The CCC submits that denial of regulatory approval solely on the basis of a protected religious belief and practice is a violation of the religious freedoms granted to religious institutions. Furthermore, private religious entities are not burdened with *Charter* obligations as the result of seeking regulatory approval. The contention that receiving regulatory approval means your beliefs and practices are sanctioned or endorsed by the Government is simply wrong and misguided, and it does not reflect the nature or process of regulatory approval.

PART III – STATEMENT OF ARGUMENT

A. Government Grant of Licence or Regulatory Approval Does not Mean State Endorsement

4. The view that regulatory approval of TWU's law school would be tantamount to agreement with TWU's religious teaching and practice of marriage as carried out by TWU's

---

[1] LSUC Factum 59, LSBC Factum 25 – 26.
[2] LSUC Factum, 58 – 60.

admission's policy is wrong, in principle and at law. If that were the case, the entire process of government approval, in its myriad areas of jurisdiction, would be recast with an imperative that every person, civic organization, and religious community and association must have correct thoughts, opinions, and practices, as determined by government.

5. Government regulates many things, from the importation of toothbrushes, to the accreditation of university degrees. Each regulatory approval cannot, in principle, be an approval of the religious views (or otherwise) or practices of the entity carrying out the regulatory enterprise. To do so, the government would require a standard, applicable to all, by which to judge who is approved or not; and an efficient system by which to evaluate hundreds of thousands of entities needed for the Canadian economy to work. Such requirements are fraught with dangers.

6. The regulation of law school graduates requires the law societies to enquire about the competence of the school to deliver the education necessary for its graduates to be successful in the practice of law. It has neither obligation nor right to enquire about the religious beliefs of the school as part of the law societies' gatekeeping function in admitting individuals to practise law.

7. At law, a religious university's relationship with its students is contractual. It is a religiously inspired, private enterprise that controls what is and is not acceptable within its campus. It may open its doors to other students who do not believe as the university, but it has the right to limit who attends based on the students' willingness to abide by the religiously based contract. "Self-regulation of group membership could be said to be at the heart of religious group autonomy; it is a group's foremost freedom."[3]

i. Regulatory Approval Does not Allow the Government to Hold a Private Entity to Its Public Obligations

8. Private religious entities are not subject to the *Charter* [4] but are beneficiaries of the *Charter*.[5] This elementary point has been misapplied.[6] The law Societies postulate that because they are subject to the *Charter* and human rights legislation, they cannot grant accreditation to

---

[3] Jane Calderwood Norton, *Freedom of Religious Organizations* (Oxford: Oxford University Press, 2016), p. 29. [BA Tab 4]

[4] *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitutional Act*, 1982, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c. 11.

[5] *McKinney v University of Guelph*, [1990] 3 SCR 229 at para 265, 2 OR (3d) 319. ("*McKinney*")

[6] LSUC Factum para 62, LSBC Factum paras 25 and 26.

TWU[7] as doing so would violate both, and that as TWU requires public accreditation to allow its graduates to practise law, it is then engaged in a public enterprise subject to the public requirements that the law societies are.[8]

9. The law societies' position leads to the conclusion that schools have state "authority" and "duties" by virtue of obtaining provincial accreditation. However, that is an attempt to transform private actors into public actors, which they are not and cannot be. It also skirts the test that imposes public *Charter* obligations on private actors.[9] That is not what accreditation is about. Accreditation standards and procedures are not, at their core, a demand that accredited institutions adopt the responsibilities of the provincial government as mandated by the *Constitution.*

10. Paradoxically, if the TWU law school is denied accreditation, equal access to the profession is being denied to those who wish to practise their faith within a religious context. Such result sidesteps the written *Constitutional* text, all legislative pronouncements, and the common law as expressed by this Honourable Court in *TWU 2001*.[10] What is left to protect religious organizations like TWU when they are faced with an aggressive maneuver that operates not only under the guise of law but also within the very administration of the laws themselves?

11. Ignoring the non-applicability of the *Charter* and the human rights legislation to TWU is detrimental to the exercise of religious freedom in Canada for a number of reasons. <u>First,</u> it grants licence to ignore the law. The law states that TWU is <u>not</u> subject to the *Charter* or to human rights legislation. On a clear reading of the law, there is no obligation on TWU to admit into its religious university those who are not willing to abide by its Community Covenant. TWU has the right to admit those who are in harmony with its religious sensibilities. The appeal to *Charter* values and human rights allows that law to be ignored. Those in opposition to TWU would say, as did the Ontario Divisional Court, that TWU doesn't have to admit those who do not agree with the Community Covenant but should not expect the law societies to accredit the

---

[7] LSUC Factum at paras 9, 59 and 62.
[8] LSUC Factum at paras 54. See also Professor Bruce MacDougall, *The Separation of Church and Date: Destabilizing Traditional Religion-Based Legal Norms on Sexuality*, 36 U.B.C. L. REV. 1, 16 (2003). [BA Tab 5]
[9] *McKinney, supra*.
[10] *Trinity Western University v British Columbia College of Teachers*, 2001 SCC 31 at para 25 ("*TWU 2001*").

school. That, however, amounts to denying accreditation because the state does not agree with TWU's religious practice—a practice that is not illegal or out of the mainstream. Indeed, if *Charter* values include equality and human rights,[11] then the LSUC is itself not following *Charter* values in its relationship with TWU. The point is, the public interest has already been decided by the courts and by the legislature. How can it be in the public interest to ignore what is: (1) contained in the *Charter*; (2) contained in the human rights legislation; (3) contained in the *Civil Marriage Act*?

12. Second, removing a religious community's ability to decide who can or cannot be a member destroys religious identity and autonomy; with such removal, the religious community becomes a mirror of the state and its requirements. Difference is not celebrated but assimilated. Conformity becomes the religion of the state, and the equality and inclusion values become the basis for inequality and exclusion.

13. Third, state coercion on fundamental religious principles such as marriage becomes a certainty. The state becomes the Leviathan that has, in Justice Campbell's words, taken on "a secularizing mission."[12] The state is the new arbiter of what can and cannot be accepted as religious dogma and practice. But as Justice Iacobucci noted, "the State is in no position to be, nor should it become, the arbiter of religious dogma."[13]

ii. The Government Does not Endorse the Views of an Organization Merely Because It Allows the Organization to Operate

14. A recipient of government authorization does not, by that authorization, put on the cloak of government actor. It is government that regulates university accreditation and is therefore burdened with the responsibilities of protecting constitutional rights. By authorizing an institution to teach and grant degrees, government is merely recognizing the university's competence to deliver a quality education for the degree it issues. The university is not working on the state's behalf; rather, it is carrying out what it contracted with the students to do. The state is simply recognizing the university competence to do so. The state has no "secularizing mission" to force religious universities to be secular or accede to any current understanding of identity politics.

---

[11] *Loyola High School v Quebec (Attorney General),* 2015 SCC 12 at para 46.
[12] *Trinity Western University v Nova Scotia Barristers' Society*, 2015 NSSC 25, at para 19, 381.
[13] *Syndicat Northcrest v. Amselem,* [2004] 2 S.C.R. 551, at para. 50

15. This Honourable Court recognized the autonomy of religious communities in their internal regulations concerning same-sex marriage.[14] However, this Honourable Court has also held that Canada is no longer "a society of shared social values where marriage and religion were thought to be inseparable" but "is a pluralistic society."[15] Marriage, from the perspective of the state, is a civil institution." [16]

16. Despite the fact that the religious norms on marriage were discounted in the public arena, they were entitled to remain in the private religious arena. In other words, it is not against public policy for religious institutions to maintain their commitment to traditional heterosexual marriage: the SCC exempted clergy from having to perform marriages against their conscience or the beliefs of their religious community; the federal government passed the *Civil Marriage Act*, which made provision for religious objection by members of the clergy;[17] and the *Income Tax Act* was amended to protect religious charities from losing their registered charitable status for supporting traditional marriage.[18]

17. While religion has no public role in public policy concerning marriage, it is evident that religious communities do have autonomy to decide for themselves how marriage will be practised within their own private institutional framework.

18. What makes this case so crucial to the private/public analysis is that the arguments of the law societies are moving beyond allowing religious communities autonomy on marriage to a view that, even within the internal workings of religious institutions, the religious understanding of marriage must give way to the public secular norm. It is this shift that is particularly egregious for the religious communities going forward.

19. TWU is the educational creation of the Free Evangelical Church of Canada (FECC). The FECC is not government. It and TWU are private religious organizations. As such, they operate within a specific context, one that is fundamentally a religious project within a religious milieu.

---

[14] *Reference re Same-Sex Marriage*, 2004 SCC 79 at paras 57–58 ("*Marriage Reference*").
[15] *Marriage Reference, supra,* at para 22.
[16] *Marriage Reference, supra,* at para 22.
[17] *Civil Marriage Act*, SC 2005, c 33, s 3.
[18] *Income Tax Act,* RSC 1985, c 1 (5th Supp).

It is not a secular campus but a religious campus. That context means that it is not subject to the *Charter* or to the human rights legislation of British Columbia.

iii. If Approval Is Endorsement, the Regulatory Approval Process Is Not Consistent with Democracy

20. CCCC is a Christian umbrella organization that provides information to Christian charities about how best to operate and keep well within charity law. Of the 86,191 registered charities in Canada, 33,114 (38.4%) are religious charities registered under the charitable head of the advancement of religion.[19] Such charities include churches, mosques, synagogues, and a host of other religious entities that are primarily concerned with the advancement of religion. Many more charities that operate under other heads, such as relief of poverty and education, are also based in and operate within a religious community. CCCC has in membership some 3,400 members.

21. It is unworkable to suggest that Canada Revenue Agency's grant of registered charitable status to religious charities, could be, in itself, an endorsement of the respective opinions, beliefs, and practices of each entity. Unworkable because the state would be deemed to support contradictory viewpoints. A more coherent view is that the registered charitable status of such widely diverse organizations is a recognition that they each meet the established criteria for receiving regulatory recognition as determined under the law and regulations of the *Income Tax Act*. This approach ensures that diversity contributes to a healthy civil society, one that is free and democratic.

22. A state practice to evaluate the religious beliefs and practices of religious entities would jeopardize the operation of many religious charities beyond those that advance religion, including religious schools, nursing homes, and radio stations.

B. RELIGIOUS CORPORATIONS ARE ENTITLED TO RELIGIOUS FREEDOM

i. A Corporate Religious Right Follows from the Freedoms to Religion, Expression, and Association

23. These Appeals provide an opportunity to clarify the right of religious corporate entities to religious freedom, which we submit has existed long before the *Charter*. "The Charter does not

[19] CRA reports that as of March 2016, there were 86,191 total charities with 33,114 under the head of religion. See https://www.canada.ca/en/revenue-agency/services/charities-giving/charities-media-kit/charities-program-facts-figures.html?=undefined&wbdisable=true

take away from the *priorness* of rights," as Professor Iain T. Benson notes.[20] A corporate religious right follows from the interaction of the freedoms to religious belief and practice, expression, and association.

24. Despite the long history of protecting religious freedom in Canada, there appears to be an increasing willingness to challenge the historical protections given to religious individuals and institutions. The recognition of the unique nature of religious institutions is absent from the current discussion, which advocates against the privileges that the law has given to religion.[21]

25. The existence of private religious entities such as TWU depends upon an ability to operate in a manner permitted by applicable human rights legislation. Removing this ability from religious institutions would destroy the democratic project of maximizing individual freedom and limit the ability of society to maintain civil peace, because religious individuals would be denied basic rights, such as expressing faith in the institution of their choice.

26. The religious freedom of religious institutions was among those rights taken for granted by Canadians. However, as these appeals demonstrate, that has changed. Writing for the Constitutional Court of South Africa, Justice Albie Sachs expressed the importance of religion to society in the following words:

> [F]reedom of religion goes beyond protecting the inviolability of the individual conscience. For many believers, their relationship with God or creation is central to all their activities. It concerns their capacity to relate in an intensely meaningful fashion to their sense of themselves, their community and their universe. For millions in all walks of life, religion provides support and nurture and a framework for individual and social stability and growth. *Religious belief has the capacity to awake concepts of self-worth and human dignity which form the cornerstone of human rights. It affects the believer's view of society and founds the distinction between right and wrong. It expresses itself in the affirmation and continuity of powerful traditions that frequently have an ancient character transcending historical epochs and national boundaries.*[22]

27. It is important to note the communal aspects of religious freedom in the above passage.

---

[20] See also Iain T. Benson, "The Limits of Law and the Liberty of Religious Associations," (2017) 79 S.C.L.R. (2d), xxi at xxviii. [BA Tab 2].

[21] See Barry W. Bussey, "The Legal Revolution Against the Place of Religion: The Case of Trinity Western University Law School," 2016 BYU L. Rev. 1127 (2017).

[22] *Christian Education South Africa v Minister of Education,* 2000 (4) SA 757 (CC) at para 36, (emphasis added) per Albie Sachs J.

The principled reason for this is that the accommodation accorded to persons makes little sense if it is not also accorded to groups. Failing to protect the group, in addition to depriving groups of any recognition when it is clear that their associational dimension is important to society, also robs the person of the collective and associational dimension of the right. With respect to religion, this collective dimension of "communion" (the root concept within our term "community") is a core aspect of the religion chosen by the individual. A religious believer without other religious believers and their chosen religious *group* is like a citizen without a country. The two are symbiotic. It is not an exaggeration to say that failure to protect religious associations is tantamount to eviscerating religious freedom itself.

ii. Domestic and International Law Support Corporate Religious Protection

Canadian Law

28. European history and English common law understood that religious freedom consisted of two aspects – the individual and the collective. This was echoed by this Honourable Court in *Saumur v. City of Quebec*.[23]

29. The dual nature of freedom of religion, which has "both collective and individual aspects", was also recognized by this Honourable Court in *Edwards Books*,[24] in *Alberta v. Hutterian Brethren of Wilson County,*[25] and in *Loyola High School v. Quebec.*[26]

International Law

30. The group right of religious freedom is recognized not only in Canada's domestic laws, but also in international law. The UN Article 18 of the *International Covenant on Civil and Political Rights 1996* (ICCPR) guarantees everyone freedom of thought, conscience, and religion "either individually or in community with others".[27] The UN commentary states:

> the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their

[23] *Saumur v City of Quebec,* [1953] 2 SCR 299 at 329.
[24] *R v Edwards Books and Art Ltd*, [1986] 2 SCR 713 at para 145, per Dickson CJC; per Wilson J, at paras 206-207.
[25] *Alberta v Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at paras 31 & 130.
[26] *Loyola,supra,* at para 91.
[27] *International Covenant on Civil and Political Rights*, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.[28]

31. Professor Julian Rivers observes, "[T]he fact that individuals normally require like-minded communities to be able to exercise their religious rights effectively is sufficient justification for accepting that religious association as juridical persons are also beneficiaries of subjective rights under article 18."[29]

Europe

32. Article 9 of *The European Convention for the Protection of Human Rights and Fundamental Freedoms* (1950) states: "Everyone has the right to freedom of … religion…either alone or in community with others."[30] There is ample European case law affirming that religious associations are beneficiaries of the rights derived from Article 9.[31]

iii. Content of the Group Right to Religious Freedom

33. These Appeals provide this Honourable Court the opportunity to outline the constitutional foundation for religious freedom of the religious group and to recognize the importance that religions can play culturally and in promoting genuine diversity.

i) It is not the aggregate of individual members' rights but a right of the religious group as such.

34. If the religious freedom of groups were simply an aggregate of members' rights, then it would mean that a greater latitude would be given to "state intervention into the internal affairs of such groups since the focus would be vindicating individuals and their interests, not the group and its interests."[32] It is a religious freedom right of a religious group as Julian Rivers notes,

---

[28] UN Office of the High Commissioner for Human Rights, *General Comment No. 22: The right to freedom of thought, conscience and religion (Art 18) : . 30/07/1993.* <http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/9a30112c27d1167cc12563ed004d8f15?Opendocument> . See also: UN General Assembly Res. 36/55 (25 Nov. 1981) art. 1(1). Online: <http://www.un.org/documents/ga/res/36/a36r055.htm>.

[29] Julian Rivers, *The Law of Organized Religions: Between Establishment and Secularism* (Oxford: Oxford University Press, 2010) at 39[BA Tab 9].

[30] Council of Europe, *Convention of the Protection of Human Rights and Fundamental Freedoms*, online: <http://conventions.coe.int/treaty/en/treaties/html/005.htm>.

[31] *Supra*, note 25.

[32] Rex Ahdar and Ian Leigh, *Religious Freedom in the Liberal State second edition* (Oxford: Oxford University Press, 2013), at 375-376.[BA Tab 1]

"Collective religious liberty in this sense is the liberty of a community of people sharing a common religious faith to organize themselves and structure their corporate life according to their own ethical and religious precepts.[33]

ii) Right to determine and administer their own internal religious affairs without state interference.

35. Canadian courts are reluctant to interfere with decisions made by religious groups, unless they violate basic procedural requirements.[34]

iii) Exercises moral authority over its members.

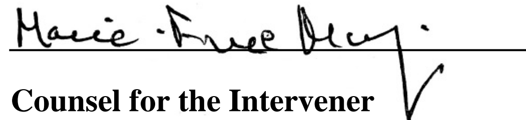
36. Section 27 of the *Charter* preserves the multicultural heritage of Canada defined as "various ways of life [...] rooted in the authentic life of a people seen as a community bound together by pervasive traditions and moral ties."[35] David Novak aptly describes this concept of moral authority being part of religious freedom of the group:

> [F]reedom of religion is my right to be a member or not to be a member or a religious community, and thus freely submit myself to its moral authority. However, freedom of religion becomes what could be called an "empty right" if the religious community I freely choose to join does not have the liberty to morally govern me and my fellow community members. Therefore, my right of religious freedom presupposes the communal right of a religious community to exercise its moral authority. That moral authority is its liberty.[36]

PARTS IV and V – SUBMISSIONS CONCERNING COSTS

37. CCCC requests that no costs be awarded for or against it. CCC takes no position on the disposition of the Appeals.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 8th day of September 2017.



Counsel for the Intervener

---

[33] Rivers, "Religious Liberty as a Collective Right," in O'Dair and Lewis, *Law and Religion Current Legal Issues 2001 Volume 4*, (Oxford: Oxford University Press, 2001) at 231 [BA Tab 8].

[34] See M.H. Ogilvie's seven principles by which courts have been guided in deciding to intervene in church matters. M.H. Ogilvie, *Religious Institutions and the Law in Canada* (Toronto: Irwin Law, 2010) at 219-220 [BA Tab 6].

[35] Howard Brotz, "Multiculturalism in Canada: A Muddle" (1980) 6 Can. Pub. Pol. 41 at 41-42 [BA Tab 3].

[36] Novak, *In Defense of Religious Liberty* (Wilmington, DE: ISI Books, 2009) at 88 [BA Tab 7].

PART VI - LIST OF AUTHORITIES

Cases ***at para.***

Alberta v Hutterian Brethren of Wilson Colony, 2009 SCC 37 29

Christian Education South Africa v Minister of Education, 2000 (4) SA 757 (CC) 26

Loyola High School v Quebec (Attorney General), 2015 SCC 12 ....11, 29

McKinney v University of Guelph, [1990] 3 SCR 229, 2 OR (3d) 319. ....8, 9

R v Edwards Books and Art Ltd, [1986] 2 SCR 713 31

Reference re Same-Sex Marriage, 2004 SCC 79 15

Saumur v City of Quebec, [1953] 2 SCR 299 28

Syndicat Northcrest v. Amselem, [2004] 2 S.C.R. 551 13

Trinity Western University v British Columbia College of Teachers, 2001 SCC 31 10

Trinity Western University v Nova Scotia Barristers' Society, 2015 NSSC 25......................13

Books

Rex Ahdar and Ian Leigh, *Religious Freedom in the Liberal State second edition* (Oxford: Oxford University Press, 2013) 34

Iain T. Benson, "The Limits of Law and the Liberty of Religious Associations," (2017) 79 S.C.L.R. (2d), xxi at xxviii. 23

Howard Brotz, "Multiculturalism in Canada: A Muddle" (1980) 6 Can. Pub. Pol. 41 36

Barry, W. Bussey, "The Legal Revolution Against the Place of Religion: The Case of Trinity Western University Law School," 2016 BYU L. Rev. 1127 (2017) 24

Jane Calderwood Norton, *Freedom of Religious Organizations* (Oxford: Oxford University Press, 2016)..7

Professor Bruce MacDougall, *The Separation of Church and Date: Destabilizing Traditional Religion-Based Legal Norms on Sexuality*, 36 U.B.C. L. REV. 1, 16 (2003)..........8

M.H. Ogilvie's seven principles by which courts have been guided in deciding to intervene in church matters. M.H. Ogilvie, *Religious Institutions and the Law in Canada* (Toronto: Irwin Law, 2010) 35

Novak, *In Defense of Religious Liberty* (Wilmington, DE: ISI Books, 2009) 36

Rivers, "Religious Liberty as a Collective Right," in O'Dair and Lewis, *Law and Religion Current Legal Issues 2001 Volume 4*, (Oxford: Oxford University Press, 2001) 34

Julian Rivers, *The Law of Organized Religions: Between Establishment and Secularism* (Oxford: Oxford University Press, 2010) 31

Other

Council of Europe, *Convention of the Protection of Human Rights and Fundamental Freedoms*, online: <http://conventions.coe.int/treaty/en/treaties/html/005.htm>..................32

International Covenant on Civil and Political Rights, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>. 30

UN Office of the High Commissioner for Human Rights, *General Comment No. 22: The right to freedom of thought, conscience and religion (Art 18) : . 30/07/1993.* <http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/9a30112c27d1167cc12563ed004d8f15?Opendocument> 30

UN General Assembly Res. 36/55 (25 Nov. 1981) art. 1(1). Online: <http://www.un.org/documents/ga/res/36/a36r055.htm>..30

Legislation

Civil Marriage Act, SC 2005, c 33 s.3

Loi sur le marriage civil, L.C. 2005, ch. 33 s.3

Canadian Charter of Rights and Freedoms, Part I of the *Constitution Act, 1982,* being Schedule B to the *Canada Act 1982 (UK) 1982*, c 11. S.2, 27

Charte Canadienne des droits et libertés, Partie I, Loi Constitutionnelle de 1982, c 11. s. 2, 27

Income Tax Act**,** RSC 1985, c 1 (5th Supp), s. 149.1(6.21)

Loi de l'impôt sur le revenu**,** (L.R.C. (1985), ch. 1 (5e suppl.)), s.149.1(6.21)