



The Catholic Civil Rights League www.ccr1.ca
Ligue Catholique pour les Droits de l'Homme

SUBMISSION TO THE STANDING COMMITTEE ON BILL 18
September 11, 2013
Catholic Civil Rights League

Today is the 12th anniversary of the 9/11 tragedy where the voices of 3000 individuals were silenced forever. It is a reminder to all us who live in a democracy how important it is not to be silent, to be heard in order that others are not silenced. I am honoured to be representing the voice of the Catholic Civil Rights League and I thank the committee for the opportunity of having our voice heard.

The League is a national laity association which was established in 1985. The work of the League involves submissions to legislative bodies, court interventions and media engagements in order to promote a fair hearing for Catholic teaching in the public square. As such, we have several concerns about Bill 18 that we would like to share. For the record I wish to state that the League adopts the position of the Manitoba Catholic Schools that was presented by Robert Praznik, the Director of Education at this hearing.

On Saturday morning I heard two significant messages. Ed Hume asked are you listening? Listening is an act of love. Manitoba parents expects the government to love all our children equally, whether they attend the public schools or the faith based schools. A comprehensive anti-bullying policy based on respect for the dignity of the person would recognize that all students should be free from bullying, without categorization or qualification. This Bill fails in this regard. The gentleman with special needs, George Edenhoffer, showed us what courage looks like. A man of wisdom. His message, government should minimize the scope of legislation and maximize community autonomy.

Listening is the doorway to everything that matters, but in a world where we try to make ourselves known by making noise, how do we get to the other side to hear what matters? The Minister of Education acknowledged that Mr. Edenhoffer had been very fortunate to have grown up in a loving, supportive family. But did the Minister hear

1000—120 Eglinton Ave. East, Toronto, ON M4P 1E2
E-mail: ccrl@ccrl.ca

Phone: 416-466-8244
Fax: 416-466-0091

that it was faith that made it a loving, supportive family which in turn helped him through the pitfalls of his life? And what is faith, exactly? Abraham Heschel, one of the leading Jewish theologians and philosophers of the 20th century, sums it up well, “Faith is not insurance, but a constant effort, a constant listening to the eternal voice”. That constant listening to the eternal voice gives individuals a larger foundation for life and that is why parents at great expense choose the Catholic school system, they want a loving, positive learning environment consistent with the teachings of their faith at home and in their parish in order to provide their children with a solid foundation for life. This government seems to be taking issue with that constitutionally-guaranteed right and wishes to devalue that foundation by enforcing a state imposed mandate on sexual relationships, or the rather contested area of “gender” which marks new ground in the social sciences, which is not accepted by most parents, let alone the teachings of the Catholic Church.

What empirical evidence, what unbiased research makes this government think that legislation is the answer and do we have the tools to evaluate the outcomes of this kind of legislation? And why were Manitoba’s 59 funded independent schools left out of the consultation process for the drafting of Bill 18?

What has also become an increasing concern to Manitobans is an agenda by some on how to culturally transform our schools. In his paper *Queering Schools, GSAs and the Law*, Donn Short investigates the reach and potential of “the law” to transform school culture for queer youth. In the paper Prof. Short states the following: “The curriculum must change to include queer content and to recognize queer families, but the curriculum will not change unless the Ministries of Education direct it to change and if queer youth are reconstructed legally as full citizens within the school. That response lies a wall-to-wall transformational approach that also considers the playing fields, the stages, the artwork on display in hallways, media classes, sports, music, visual arts, friendships, libraries, music rooms, loyalties, clubs, the machine shops, the gyms and the classrooms in pursuit of a time when sexual minority youth may participate and thrive with their interests vested and valorized on and off school property for the time that schools are such a crucial part of their lives.”

It appears that Donn Short is much more than a law professor, he is an activist and states in his paper “Quite simply, freedom of religious expression needs to be a little less free”. The government seems to concur with him by legislating political activist clubs from the early grades to high school. Placing a requirement on all school boards to support student-initiated LGBTQ clubs puts parents and educators who question the need for student-led clubs about sexuality in the unenviable position of appearing to challenge equality itself.

If Bill 18 is about bullying, Manitobans are asking why has the government separated our children into four government-mandated groups? The government is not providing an inclusive response to a divisive behaviour. If the government is to legislate clubs its approach needs to be inclusive and flexible, it should allow customization of clubs which reflects the schools’ and communities’ beliefs and cultures. GSA’s are prejudicially at cross currents with Catholic teaching. What happens if a LGBTQ student at a Catholic school wishes to

promote the Gay Pride Parade? Gay pride events are dependable for their anti-Church overtones and grotesquely anti-Catholic imagery. In Vancouver, an anti-bullying program "Out in Schools" proposed student attendance at queer (and pornographic) film festivals, for which parents (those over 25) were strictly excluded. Is this the way to address bullying, or is it an example of programming to advance another agenda?

Prof. Short, in his presentation to the committee, cited a 1994 decision of the Supreme Court in Canada in *Degenais v. CBC*. In that case, the Court emphasized that there is no hierarchy of rights in the Charter. Why then is this proposed legislation singling out gender equality, anti-racism, the disabled, and sexual orientations and gender identities? Why is this legislation promoting GSA's to the potential exclusion of all others protected by the Manitoba Human Rights Code? There is no hierarchy of rights.

Prof. Short also cited a 2012 Supreme Court decision in *SL v. Commission Scholair des Chenes* in which he indicated to establish an infringement on religious freedom objective evidence of the infringement would be required. It is not sufficient for it to be just perceived infringement or trivial? Why then is the definition of bullying in Bill 18 subjective?

In 2013 Supreme Court decision in the Human Rights Commission of Saskatchewan vs. Whatcott the Supreme Court confirmed that freedom of religious speech, and the freedom to teach or share religious beliefs are essentially unlimited. Why then, does Bill 18 not clarify the rights guaranteed under Section 2 of the Charter?

Since the Minister of Education and this government represents all Manitobans and from the presentations made to this committee, it is clear that Bill 18 is controversial.

The government should ask the Manitoba Court of Appeal for a reference on the constitutionality of Bill 18. It would provide an opportunity for this government to provide greater assurances to the public that this legislation does not breach the Charter. The government should appoint two legal teams not employed by the Attorney General to argue for and against this legislation. Interested groups should also be entitled to seek intervener status. It would settle a number of constitutional issues about the wording of various sections contained in this proposed legislation. It should be submitted only after any amendments are approved. The government has nothing to lose and all interested parties would have the opportunity to be heard at the judicial and not political level. If this proposed legislation is constitutional the government has nothing to fear. If the legislation or parts of the legislation is unconstitutional it is best to know now. This legislation fails to address all forms of bullying as being equally heinous. I would suggest that the lack of protection for religious rights contravenes the Charter but like Prof. Short I am not a constitutional expert, it is only an opinion. Only the courts can determine the constitutionality of this legislation. If the government is truly representing all Manitobans they should not pit certain individuals against others and educational institutions against certain individuals, and government against educational institutions at great personal costs to everyone. What did Whatcott tell us, an individual spent nearly ten years of his life and hundreds of thousands of dollars to ultimately have the Supreme Court of Canada declare certain sections of the Saskatchewan Human Rights

Code unconstitutional? This should never happen again.

This summer my husband and I attended the Winnipeg Art Gallery's 100th anniversary art exhibition. There is one oil on canvas that does not leave me. The artist was John Byam Liston Shaw. The title of the painting was The Flag. There are various figures shown in different stages of grief or understanding, some comforting each other and some in solitary contemplation. Absent from the scene are the men in their twenties and thirties who are serving overseas in the war. The Montreal Star reported in 1919 that the artist had "captured the sacrificial spirit in which the sons of the Empire laid down the greatest gift they had to give that freedom might triumph."

Christians suffer real oppression from serious violations of religious freedom around the world. We understand the gift the sons of the Empire gave us and we have a duty to make sure that freedom of religion is not violated. Quite simply, freedom of religious expression needs to be a little more free.

Respectfully submitted,
Catholic Civil Rights League

1000 – 120 Eglinton Avenue. E.
Toronto, ON M4P 1E2
www.ccrl.ca

Francine Lee, National Director