



Catholic Civil Rights League

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Monthly highlights

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League supports repeal of Internet hate law

The Catholic Civil Rights League has expressed its support for Bill C-304, introduced September 30 by MP Brian Storseth (CPC-Westlock-St. Paul), to repeal the section of the federal human rights code banning hate speech over the Internet.

Because Section 13 has been used to penalize the peaceable expression of opinion based on religious belief, the League has a long record of support for efforts to rescind or significantly rewrite it to protect freedom of religion and freedom of speech. Human rights code violations are heard by human rights tribunals, not courts. The case against Catholic Insight magazine is just one instance where the Section, and similar provisions in provincial human rights codes, has been used to penalize religious freedom.

“The hate speech provisions in the Criminal Code provide limits on expression that are sufficient in a democracy,” says Joanne McGarry, League executive director. “In a court the accuser and the accused are on a much more level playing field in terms of openness, rules of evidence and standards of proof. When this type of case is handled by a human rights tribunal, the burden of proof and almost all the cost falls to the accused.”

Although the Conservative party has passed a resolution to rescind the Section, no government bill to do so has been made in Parliament. In 2008, Richard Moon, a law professor at the University of Windsor, prepared a report for the Canadian Human Rights Commission concluding the section should be removed. His advice was never acted upon.

The following year, a member of a human rights tribunal said Section 13 violated the Charter, which put the bill in a state of limbo and eventually led to a re-

view in federal court, with that decision expected in November.

In 2008, Keith Martin, then a Liberal MP, tried to remove Section 13 from the human rights code. He was in part reacting to a case in which author Mark Steyn and Maclean's magazine were brought before a tribunal for allegedly promoting Islamaphobia.

Follow the links from this press release on our website to read of the League's extensive work over the past seven years protecting the expression of religious belief.

Whatcott appeal heard

On Wednesday, October 12 CCRL made its intervention in the Supreme Court of Canada in the case of Saskatchewan Human Rights Commission (SHRC) vs. William Whatcott. The League was represented by Ryan Dalziel of Bull, Hausser and Tupper LLP in Vancouver. Mr. Whatcott's lawyer, Thomas A. Schuck of Saskatchewan, is a member of the League.

The case, initiated by a complaint to the SHRC by people who considered flyers distributed by Mr. Whatcott to be hateful, tests Section 14 of the province's human rights code. In its intervention, CCRL emphasized that one need not agree with the content of the flyers (or indeed any other communication) to support the right to free speech, and that the Section of the code under which the complaint was made is inherently contradictory and impossible to enforce. (The pamphlets, distributed in Regina beginning in 2002, include some Biblical citations, contain strongly worded opinion about homosexual conduct, and criticize what Mr. Whatcott saw as the inclusion of inappropriate material about it in the local public school curriculum.)

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As reported in the National Post, Mr. Dalziel spoke to this contradiction in his oral presentation. "Section 14 is unintelligible, because it includes a subsection that says nothing in this section restricts freedom of expression, when it plainly does. The provision is nonsense. I have no idea what was in the mind of the draftsman of that section," he said.

Because of the implications this case will have on freedom of speech, particularly of viewpoints based on religious belief, it has attracted more than 25 intervenors, including Faith and Freedom Alliance, Christian Legal Fellowship and Evangelical Fellowship of Canada, as well as several civil liberties associations and Canadian Journalists for Free Speech. The SCC will issue its decision at a later date.

AGM hears update on Linda Gibbons case

There are photos of this event on our Facebook page. (Facebook.com/CatholicCivilRightsLeague)

Guest speaker Daniel Santoro, counsel to pro-life protester Linda Gibbons, told the League's annual meeting Oct. 13 that Ms. Gibbons' case has parallels to the mandate of the League, in that both concern the right to participate fully in the public square, and practice one's beliefs freely and openly. Ms. Gibbons has spent a total of about 10 of the past 17 years in jail for repeated silent, peaceful protest within the "bubble zone" surrounding several Toronto abortion clinics.

"Linda's case is all about freedom of expression of a Catholic belief, i.e., the right to life," said Mr. Santoro. He discussed the history of what was viewed at the time (1993-4) as a temporary injunction creating a bubble zone around several Toronto abortion clinics. While injunctions of this type are usually temporary, this one still stands 17 years later because "they don't want to touch it." (The injunction was against 18 citizens including Ms. Gibbons, plus "John and Jane Doe".)

While the gist of the Supreme Court of Canada appeal that Mr. Santoro has undertaken is a question of juris-

diction – he argues that Section 127 of the federal Criminal Code cannot be used to enforce a civil injunction of the provincial government – the other cases involving Ms. Gibbons' peaceful picketing address the freedom of expression questions and the fact that the injunction is unjustified. "We already have laws to protect people from problems that may arise from pickets, such as laws against mischief, property damage; stalking...the injunction is truly not needed."

If the SCC appeal is successful, he said, the injunction would not end automatically, but it would have to be addressed through legislation either ending it or making the restriction permanent, as it is B.C. for example. Lessons learned from pro-life legal work, Mr. Santoro added, include the importance of defending those charged (since the "other side" always seems to be well funded and well represented), the value of having our argument on the public record and the need to support such cases for the long term, since change is incremental and slow.

The CCRL elected a new regional director to its board at the meeting, and announced one resignation.

Dr. Christian D. Elia, former director of the Office for Catholic Youth in the Archdiocese of Toronto, was elected as Ontario director. The League regretfully accepted the resignation of Sean Murphy, who has served as western region director in B.C. for 10 years and now wishes to devote more time to other interests, including the Protection of Conscience Project (www.consciencelaws.org).

League President Phil Horgan expressed thanks to Mr. Murphy for his leadership over the years, particularly in the areas of parental responsibility for the education of their children and the protection of freedom of religion and freedom of expression in the public realm.

All League members are entitled to receive a free copy of our annual report, which includes our financial statements from 2010. Requests can be e-mailed or made by phone (416-466-8244).

Supporting the League

We rely completely on your generous support to continue our work. Gifts can be made online (www.ccrl.ca/join/donate) or by mail to 500—120 Eglinton Ave. E., Toronto, ON M4P 1E2.