S.C.C. File No. 23861

IN THE SUPREME COURT OF CANADA
(Appeal from the Appeal Division of the Supreme Court
of Prince Edward Island)

BETWEEN:

THOMAS P. WALKER and JOHN M. ROBERTSON,

Appellants (Plaintiffs),

- and -

THE GOVERNMENT OF PRINCE EDWARD ISLAND,

Respondent (Defendant).

FACTUM OF THE INTERVENER THE ATTORNEY GENERAL OF MANITOBA

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PART I - STATEMENT OF FACTS

1. The Attorney General of Manitoba accepts the facts as set out in the factum of the Respondent.

PART II - ISSUES

2. The issues raised by the constitutional question stated by the Court, and this Intervener's position with respect to those issues, are as follows:

1) whether s. 14(1) of the Public Accounting and Auditing Act, R.S.P.E.I. 1988, c. P-28 ("the Act") contravenes s. 2(b) of the Charter - It is this Intervener's position that s. 14(1) regulates standards of admission into the practice of public accountancy and that such regulation does not involve restrictions on "expression".

2) whether s. 14(1) of the Act contravenes s. 6 of the Charter - It is this Intervener's position that s. 14(1) applies equally to all residents of Canada and, therefore, does not contravene s. 6 of the Charter.

3) whether s. 14(1) of the Act contravenes s. 7 of the Charter - It is this Intervener's position that s. 7 of the Charter does not protect a person's right to earn a livelihood or pursue a profession and that, even if it did, there is no principle of fundamental justice which prevents the establishment of high standards of admission to the practice of a profession or occupation.

4) if s. 14(1) of the Act contravenes s. 2(b), 6 or 7 of the Charter, whether the provision is justifiable under s. 1 of the Charter - This Intervener takes no position with respect to this issue.

PART III - ARGUMENT

Introduction

3. This case raises important issues about the ability of the legislature to regulate standards of admission to occupations and professions. As such, a decision in this case will have broad-reaching ramifications. In Manitoba alone, there are 156 occupational groups which are currently regulated by legislation. These groups range from traditional professionals, such as doctors and lawyers, to members of skilled trades, such as electricians and barbers.

> Manitoba Law Reform Commission, Regulating Professions and Occupations (Report # 84, 1994), at 151 - Appendix A to this Report, which lists these 156 occupational groups and their governing legislation, is attached as Appendix 1 to this factum.

4. The legislative purpose in establishing these regulatory schemes or mechanisms is obvious - to protect the public from the incompetent performance of the regulated services. That this is a legitimate objective for such legislation is not a contentious issue in this case.

> Manitoba Law Reform Commission, Report # 84, supra, at 11
> Reasons for Judgment (Trial), Supplementary Case, Vol. I, at 112
> Reasons for Judgment (Appeal), Supplementary Case, Vol. I, at 169

5. The argument of the Appellants is, essentially, that the activity that is regulated in this case is entitled to Charter protection and that the legislation: a) establishes unnecessarily stringent standards, and b) delegates the responsibility for establishing those standards to a self-interested body. It is this Intervener's position that the application of the Charter to the occupation in issue in this case necessarily implies its application to most, if not all, of the occupations that are currently subject to provincial regulation. If the right to practise accountancy is protected by s. 7 of the Charter, so too is the right to practise dentistry and the right to be a denturist. If s. 6 of the Charter requires uniform standards of admission to public accountancy across Canada, one province cannot set different standards than another for any

occupation. While the Appellants' argument at least in part depends on the application of s. 2(b) to the practice of accountancy, many (and arguably most) other occupations have some element of expressive activity.

6. A finding that the Charter allows the Court to review the legitimacy of the standards of admission to practice for public accountants in Prince Edward Island will necessarily allow the Court to review standards set for other professions and occupations as well as to review the legitimacy of allowing a profession or occupation to be self-regulated. It is respectfully submitted that these issues involve matters of legislative policy ill-suited for determination by a court of law.

> Manitoba Law Reform Commission, Report # 84, supra, at 151: In Manitoba, there are 36 occupational groups which are subject to self-governing regimes.

Section 2(b)

7. It is submitted that, while this Court has adopted a broad approach to the interpretation of s. 2(b), there are limits to its application.

> P.(D.) v. S.(C.), [1993] 4 S.C.R. 141, per L'Heureux-Dubé J. at 182:
>
> The appellant argues, in this regard, that the order made by the trial judge infringes his freedom of expression guaranteed by s. 2(b) of the Charter. As I have just mentioned, no freedom is absolute and this is equally true of the freedom of expression the appellant is claiming. The child's best interests may require imposing limits on this right. If the Charter did apply, which, in my view, it does not, the order here in question would not infringe the appellant's freedom of expression provided for in s. 2(b) of the Charter. The disputed order does not prohibit any communication by the appellant with C.; it only prohibits him from indoctrinating his daughter in the way he is doing, both by his words and by his activities.

8. It is respectfully submitted that the impugned legislation in this case does not offend s. 2(b) of the Charter because:

A) it does not restrict the content or form of expression; rather it restricts entrance to an occupation.

B) the essence of public accountancy is not expressive activity.

C) the practice of public accountancy involves commercial activity and, as such, the approach to the application of s. 2(b) must be considered from a different perspective than the application of s. 2(b) to non-commercial activity.

A) Section 14(1) does not restrict the form or content of expression

9. In Irwin Toy Ltd. v. Quebec (Attorney General), [1989] 1 S.C.R. 927, this Court held that legislation will offend s. 2(b) of the Charter if its purpose or effect is to restrict the form or content of expression. It is submitted that, assuming that the practice of public accountancy is expressive activity, s. 14(1) of the Public Accounting and Auditing Act does not restrict or prohibit the "form or content" of that expression. The provision does not restrict what a public accountant can do or how he or she can perform his or her functions. The purpose and effect of the provision is to ensure that only properly qualified individuals engage in the practice of public accountancy. It is submitted that this type of provision is beyond the scope of s. 2(b) of the Charter.

B) The essence of public accountancy is not expression

10. Even assuming that setting standards of admission to an occupation is viewed as restricting the activity carried out by members of that occupation, there is no s. 2(b) breach

unless the activity performed by members of that occupation is activity that is protected by s. 2(b). That is, is the activity expression?

> Irwin Toy, supra, per Dickson C.J. at 967:
>
> Clearly, not all activity is protected by freedom of expression, and governmental action restricting this form of advertising only limits the guarantee if the activity in issue was protected in the first place.

11. It is submitted that to determine whether the practice of public accountancy is expression one must look at the essence of the activity. The fact that certain aspects of public accountancy involve expression cannot be determinative.

12. The Appellants argue that because certain activities engaged in by public accountants culminate in the presentation of a report to the client, expression is fundamental to the practice of this profession and, therefore, the practice of this profession is protected by s. 2(b). It is submitted that communication with the client is essential to the practice of all professions. But the need for that communication, whether written or oral, does not imbue the practice of the profession itself with the tint of expressive activity. As stated by Dickson C.J. in Irwin Toy, supra, at 973:

> On the one hand, the greatest part of human activity has an expressive element and so one might find, on an objective test, that an aspect of the government's purpose is virtually always to restrict expression.

13. Certainly, legislation that purported to restrict a specific aspect of accountancy which involved expressive activity would be subject to review under Charter s. 2(b). For example, if legislation prevented accountants from making specific remarks in an audit report or required all reporting to be in writing, the legislation could be seen as infringing upon freedom of expression. The legislation would be directed at the content or form of expressive activity.

> Slaight Communications Inc. v. Davidson, [1989] 1 S.C.R. 1038

14. It is submitted that the focus of the impugned legislation in this case is not expressive activity. Therefore, applying a contextual approach to interpreting s. 2(b) leads to the conclusion that it does not apply to the subject matter of the legislation.

> Young v. Young, [1994] 4 S.C.R. 3, per McLachlin J. at 124:
>
> [T]he ambit of a particular right or freedom cannot be defined in the abstract but should rather be defined in the context of the particular activity in question... The conduct with which this appeal is concerned - the teaching of religious beliefs and practices to one's children - while it has an expressive aspect, is predominantly religious. In seeking to reconcile the rights of freedom of religion and freedom of expression in this context, it is the religious aspect which must dominate. [emphasis added]

C) To the extent that the practice of public accountancy involves expression, it involves expression of a commercial nature

15. Section 14(1) of the Public Accountancy and Auditing Act prohibits a person from practising as a public accountant without proper qualifications. "Public accountant" is defined in s. 1(d) of the Act as someone who carries on the practice of public accountancy "and in connection with that practice offers his services for reward to the public."

16. In extending the ambit of free speech protection to commercial expression, this Court adopted the American rationale for protecting commercial expression - that is, that the free flow of commercial information is necessary to protect the rights of listeners by enabling "individuals to make informed economic choices, an important aspect of individual self-fulfilment and personal autonomy."

> Ford v. Quebec (Attorney General), [1988] 2 S.C.R. 712 at 767

17. Moreover, this Court has held that commercial expression is less worthy of protection than non-commercial expression, and so restrictions on it may be easier to justify than restrictions on non-commercial expression.

> Rocket v. Royal College of Dental Surgeons of Ontario, [1990] 2 S.C.R. 232 at 247

18. It is submitted that the different interests designed to be protected by extending s. 2(b) to commercial expression, and the weight given to the significance of that protection, must impact on the scope of the protection itself. In applying a purposive approach to the commercial speech protection in the Charter, one must consider whether extending s. 2(b) protection to the setting of standards for professional practice does anything to protect the interests referred to in Ford. It is submitted that such an extension would overshoot the purpose of the protection as described by this Court.

Section 6

19. This Intervener adopts the argument of the Respondent with respect to section 6 of the Charter. As the Respondent points out, the situation of the two Appellants in this case makes it perfectly clear that the conditions of practice set by the impugned legislation apply equally to residents and non-residents of the province. The comments of this Court in Devine v. Quebec (Attorney General), [1988] 2 S.C.R. 790, at 811-12 are apt:

> Finally, with respect to the second constitutional question concerning the validity of the provisions requiring the "joint use" of French, the appellant submitted that these provisions by the burden they imposed on anglophones constituted an unconstitutional barrier to the mobility which is a protected feature of the Canadian Constitution, reflected in s. 121 of the Constitution Act, 1867, inhering in Canadian citizenship and now guaranteed by s. 6 of the Canadian Charter of Rights and Freedoms. In this Court's estimation that contention is without merit. Assuming for the sake of argument, but not deciding, that mobility is a protected value of the Canadian Constitution, the challenged provisions do not impose conditions which present an unacceptable obstacle to mobility. They are conditions with which anyone may comply, with the necessary professional

> assistance. They may impose additional burdens on persons considering doing business in the province, which may in some cases discourage such an initiative, but that may be true of other conditions imposed by valid legislation in a province. The challenged provisions are not designed to prevent people from entering the province. They are simply conditions of doing business in the province with which anyone may comply. [emphasis added]

20. It is submitted that the Appellants' argument is tantamount to saying that conditions of admission to a profession or occupation must be uniform across Canada. If this were the case, the regulation of professions and occupations would not be a matter of provincial jurisdiction. It is submitted that the purpose of s. 6 of the Charter is not to detract from the province's ability to set its own standards of admission to a profession but to ensure that those standards are applied equally to residents and non-residents.

Section 7

21. In order to establish a breach of s. 7 of the Charter , the Appellants must show that:

1) the right they assert falls within the scope of "liberty" or "security of the person," and

2) the impugned legislation deprives them of that right in a manner not consistent with the principles of fundamental justice.

Liberty and Security of the Person

22. The Appellants allege that the right to pursue an occupation falls within the scope of "liberty" in s. 7. While the pursuit of an occupation clearly has an economic aspect to it, the Appellants do not suggest that the scope of s. 7 is broad enough to cover economic rights. In fact, were that the approach adopted by the Appellants, it is submitted that it would be easy to dismiss their argument. In Irwin Toy, supra, the majority of this Court held that the intentional exclusion of "property" from s. 7 leads to the inference that economic rights generally are not

included in s. 7.

Irwin Toy, supra, at 1003

23. Rather, the Appellants' argument is based on the assertion that the right to pursue an occupation is fundamental to human dignity and self-worth, concepts which are inextricably bound to the liberty guaranteed by s. 7 of the Charter . This is essentially the approach taken by the British Columbia Court of Appeal in Wilson v. Med. Services Comm. of B.C., [1989] 2 W.W.R. 1, leave to appeal refused [1988] 2 S.C.R. viii.

24. This Intervener's response to this argument is as follows:

1) While in recent decisions, this Court has talked of personal autonomy as being protected by s. 7 and in that context has discussed the importance of human dignity, it does not follow that any restriction on an individual's ability to achieve self-fulfilment is an infringement of a "liberty" interest. (This point will be elaborated upon more fully below.)

2) The legislation at issue in this case concerns standards of admission to practice. While the Appellants rely on the decision in Wilson, the Court in that case distinguished cases involving professional regulation, holding that standards of admission and practice would not violate s. 7.

Wilson, supra , at 21
See also: R. v. Baig (1992), 78 C.C.C. (3d) 260 (B.C.C.A.)

3) While the Appellants argue that liberty in s. 7 protects the right of an individual to pursue an occupation or profession for which he or she is qualified, the logical extension of that argument is that liberty in s. 7 protects the right to work generally as well as the right to engage in business. While the Wilson case, relied upon by the Appellants, treats the right to practise a profession as distinct from the right to work generally, the Appellants make no such assertion.

In fact, the dicta they rely upon belie that approach. In Reference re Public Service Employee Relations Act (Alta.), [1987] 1 S.C.R. 313, Dickson C.J. commented, at 368, that a person's employment was essential to his or her sense of self-worth and emotional well-being [Appellants' Factum, at par. 75]. However, in doing so, he did not distinguish between the doctor and the labourer. Nor, it is submitted, can a principled distinction be made between the ability to start a law practice and the ability to open a business in terms of the effect of the inability to pursue that goal on the individual's sense of self-worth. It is submitted, therefore, that a finding that the scope of the liberty protection in s. 7 extends to the Appellants in the case at bar would have implications well beyond allowing the Court to review the type of legislation at issue in this case.

Liberty and Human Dignity

25. The Appellants argue that the right to liberty in s. 7 includes the right to pursue one's own conception of a full and rewarding life. They rely on the approach to s. 7 adopted by Wilson J. in R. v. Morgentaler, [1988] 1 S.C.R. 30. It is respectfully submitted that this expansive approach to liberty has not been adopted, nor should it be, by the majority of this Court.

26. This Court has had an opportunity to consider the scope of s. 7 as it relates to matters of personal autonomy and human dignity in two recent decisions. In Rodriguez v. British Columbia (Attorney General), [1993] 3 S.C.R. 519, the Court recognized these values as incorporated in the s. 7 protection. However, this recognition was in the context of considering a Criminal Code provision which restricted one's control over one's body. As stated by Sopinka J., writing for the majority (at 588):

> There is no question, then, that personal autonomy, at least with respect to the right to make choices concerning one's own body, control over one's physical and psychological integrity, and basic human dignity are encompassed within security

> of the person, at least to the extent of freedom from criminal prohibitions which interfere with these.

27. More recently, this Court has looked at these issues outside the criminal law context. In B.(R.) v. Children's Aid Society of Metropolitan Toronto (January 27, 1995), the Court considered the scope of s. 7 in the context of determining whether parents have a protected right to make decisions regarding medical treatment for their children. Lamer C.J. reiterated the position he took in Reference re ss. 193 and 195.1(1)(c) of the Criminal Code (Man.), [1990] 1 S.C.R. 1123 that s. 7 is intended to protect individuals in their interaction with the justice system.

28. La Forest J. (Gonthier, McLachlin and L'Heureux-Dubé JJ. concurring) rejected the approach taken by Lamer C.J. in favour of the broader approach taken by Wilson J. in Morgentaler, supra. (The remainder of the Court did not deal with the scope of s. 7.) However, it is submitted that the choice to adopt a broad approach was not intended to place all legislation affecting personal decision-making under Charter scrutiny. La Forest J. stated (at par. 80):

> The state undoubtedly has the right to impose many types of restraints on individual behaviour, and not all limitations will attract Charter scrutiny. On the other hand, liberty does not mean mere freedom from physical restraint. In a free and democratic society, the individual must be left room for personal autonomy to live his or her life and to make decisions that are of fundamental personal importance. In R. v. Morgentaler, [1988] 1 S.C.R. 30, Wilson J. noted that the liberty interest was rooted in the fundamental concepts of human dignity, personal autonomy, privacy and choice in decisions going to the individual's fundamental being. [emphasis added]

29. It is submitted that the application of principles of human dignity and personal autonomy in the context of parental rights and the "integrity of the family unit" does not demand their extension to other choices affected by government regulation.

30. In B.(R.) v. Children's Aid Society of Metropolitan Toronto, supra, La Forest J. said that the American experience was a valuable guide to the proper meaning and limits of liberty (at par.81). His finding that s. 7 protects parental rights followed a discussion of American decisions which held that the Fourteenth Amendment of the U.S. Constitution protects autonomy in family matters (at par. 82). It is interesting to note, therefore, that although the due process clause of the U.S. Constitution includes a specific protection for property and thus has a clear economic component, since 1937 the United States Supreme Court has refused to impugn the validity of legislation relating to economic or social welfare regulation. The Court will not review legislative policy determinations that do not affect fundamental rights.

> Rotunda & Nowak, Treatise on Constitutional Law : Substance and Procedure, (2nd ed., 1992), at 408-417

31. In Williamson v. Lee Optical of Oklahoma, 348 U.S. 483; 75 S. Ct. 461 (1955), the United States Supreme Court considered the application of the due process clause to an Oklahoma law regarding occupational licensing. The specific law at issue prohibited anyone who was not a licensed ophthalmologist or optometrist from fitting or adjusting optical lenses except upon written prescriptive authority of a licensed ophthalmologist or optometrist. It was argued that this law arbitrarily interfered with an optician's right to do business. In rejecting this argument, Douglas J., writing the opinion of the Court, said (75 S.Ct., at 464):

> The Oklahoma law may exact a needless, wasteful requirement in many cases. But it is for the legislature, not the courts, to balance the advantages and disadvantages of the new requirement.
>
> . . . .
>
> The day is gone when this Court uses the Due Process Clause of the Fourteenth Amendment to strike down state laws, regulatory of business and industrial conditions, because they may be unwise, improvident, or out of harmony with a particular school of thought.

And see: Ferguson v. Skrupa, 372 U.S. 725, 83 S.Ct. 1028 (1963), upholding a Kansas statute prohibiting anyone except lawyers from practising debt adjustment.

Fundamental Justice

32. Even assuming that the right to pursue an occupation falls within the ambit of liberty or security of the person, to establish a s. 7 breach the Appellants must also show that the impugned legislation deprives them of their right to pursue the occupation in a manner contrary to the principles of fundamental justice.

33. The Appellants argue a breach of fundamental justice, not in its procedural sense but rather in its substantive sense. They allege a breach of substantive fundamental justice in the arbitrary nature of the impugned legislation. They say that the legislation is arbitrary because it provides for unnecessarily stringent standards for admission to the practice of public accountancy. They also argue that by creating self-regulation, the legislation creates a monopoly in the Institute of Chartered Accountants of Prince Edward Island [Appellants' Factum, at pars. 78-82]. The Intervener, the Certified General Accountants Association of Ontario, follows up on this argument by asserting that the establishment of monopolies is contrary to well established concepts of liberty [Intervener's Factum, at pars. 40-50]. In order to respond to these arguments, it is necessary to determine what is meant by substantive fundamental justice.

34. In Re B.C. Motor Vehicle Act, [1985] 2 S.C.R. 486, this Court described the principles of fundamental justice as follows (at 503):

> [T]he principles of fundamental justice are to be found in the basic tenets of our legal system. They do not lie in the realm of general public policy but in the inherent domain of the judiciary as guardian of the justice system.

35. In fact, while principles of substantive fundamental justice have been relied upon by this Court in striking down legislation, in all cases those principles have related to the criminal justice system. For example, the Court has defined those principles in terms of the necessary mental element for criminal offences. There are no decisions of this court which have found a

breach of principles of substantive fundamental justice other than in close connection with penal law.

36. How then do we assess what fundamental justice requires in this case? In Rodriguez v. British Columbia (Attorney General), supra, the Court offered some further guidance (per Sopinka J. at 589-91):

> On the one hand, the Court must be conscious of its proper role in the constitutional make-up of our form of democratic government and not seek to make fundamental changes to long-standing policy on the basis of general constitutional principles and its own view of the wisdom of legislation...The principles of fundamental justice leave a great deal of scope for personal judgment and the Court must be careful that they do not become principles which are of fundamental justice in the eye of the beholder only.
>
> . . . .
>
> A mere common law rule does not suffice to constitute a principle of fundamental justice, rather, as the term implies, principles upon which there is some consensus that they are vital or fundamental to our societal notion of justice are required. Principles of fundamental justice must not, however, be so broad as to be no more than vague generalizations about what our society considers to be ethical or moral. They must be capable of being identified with some precision and applied to situations in a manner which yields an understandable result. They must also, in my view, be legal principles.

37. With respect to the argument that the Public Accountancy and Auditing Act creates a monopoly, it is submitted that the creation of the Institute of Chartered Accountants as a self-regulating body does not effect that result. Provided the education and examination requirements are met, there is no limit on the number of individuals who may practise public accountancy.

Respondent's Factum, Statement of Facts, at par. 29

38. As to the idea that professional "monopolies" are contrary to fundamental justice, it is submitted that this suggestion is refuted by the comments of this Court in Pearlman v. Manitoba Law Society Judicial Committee, [1991] 2 S.C.R. 869, at 886-888, per Iacobucci J., commenting on self-regulation in the context of the legal profession:

> It is appropriate at this juncture to mention the legislative rationale behind making a profession self-governing. The Ministry of the Attorney General of Ontario produced a study paper entitled The Report of the Professional Organizations Committee (1980) which, I believe, provides a helpful analysis of this rationale.
>
> . . . .
>
> On [their] view, the self-governing status of the professions, and of the legal profession in particular, was created in the public interest.
>
> This position has gained considerable judicial support. For example, in Attorney General of Canada v. Law Society of British Columbia, [1982] 2 S.C.R. 307, Estey J., who wrote for the Court, dealt directly with the self-regulating nature of the legal profession. He said (at pp. 335-36):
>
> > I see nothing in law pathological about the selection by the provincial Legislature here of an administrative agency drawn from the sector of the community to be regulated...It is for the Legislature to weigh and determine all these matters and I see no constitutional consequences necessarily flowing from the regulatory mode adopted by the province....[emphasis added]

39. It is acknowledged that the merits of self-regulation have been debated and, assuming it is appropriate for any given occupation, the best ways of accomplishing it are not always obvious.

Manitoba Law Reform Commission, Report # 84, supra, at 56-67

40. However, to establish that a regulatory scheme offends s. 7 of the Charter, the Appellants must not show simply that there are better ways to accomplish regulation, but rather that the

mode of regulation is "so manifestly unfair ... as to violate the principles of fundamental justice."

R. v. Jones, [1986] 2 S.C.R. 284, per La Forest J. at 304

41. With respect to the assertion that the restrictions on the practice of public accountancy are arbitrary, it is submitted that stringent standards of admission are not thereby arbitrary standards. It should be remembered that in determining the principles of fundamental justice a balancing is required between the interest of the person who claims his liberty has been infringed and the protection of society. As stated by Sopinka J. in Rodriguez, supra, at 594:

> Where the deprivation of the right in question does little or nothing to enhance the state's interest (whatever it may be), it seems to me that a breach of fundamental justice will be made out, as the individual's rights will have been deprived for no valid purpose.

42. However, in the case at bar, there is a valid purpose for the setting of standards of admission. They are intended to ensure the public is protected from incompetence. Even assuming that the standards are unnecessarily stringent, that does not thereby mean they offend societal notions of justice. Reference is again made to the remarks of Sopinka J. in Rodriguez, supra, at 607:

> The principles of fundamental justice cannot be created for the occasion to reflect the court's dislike or distaste of a particular statute. While the principles of fundamental justice are concerned with more than process, reference must be made to principles which are "fundamental" in the sense that they would have general acceptance among reasonable people.

43. Certainly, if in considering an application for admission to practise in any given case, the Institute of Chartered Accountants applied irrelevant considerations or acted in a fundamentally unfair manner, the particular exercise of authority would be subject to challenge. However, it is submitted that high standards, uniformly applied, do not result in the type of

unfairness designed to be protected by s. 7 of the Charter.

R. v. Jones, supra, at 303, 307

44. In B.(R.) v. Children's Aid Society of Metropolitan Toronto, supra, at pars. 77-78, La Forest J. spoke of looking to other sections of the Charter in defining the scope of s. 7. The Court must look to the type of fundamental values which the Charter is designed to protect. It is respectfully submitted that this case essentially concerns economic regulation. It is a type of government regulation which affects many aspects of daily life in Canada. It is submitted that, far from the Charter protecting our citizens from this type of regulation, our concept of a free and democratic society requires it. Moreover, even if we could characterize the legislation at issue as something other than economic by virtue of affecting an individual's personal development, the impact of finding a Charter - protected right in this case would go well beyond the intended scope of our Constitution.

PART IV - ORDER SOUGHT

45. This Intervener requests that the appeal be dismissed.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

SHAWN GREENBERG

PART V - TABLE OF AUTHORITIES

TEXTS and REPORTS:

Law Reform Commission of Manitoba, Report # 84, Regulating Professions and Occupations (1994) 3, 4, 16

Rotunda & & Nowak, Treatise on Constitutional Law : Substance and Procedure, (2nd ed., 1992) 13