IN THE SUPREME COURT OF CANADA

(On Appeal from the Appeal Division of the Supreme Court of Prince Edward Island)

BETWEEN:

THOMAS P. WALKER and JOHN M. ROBERTSON

APPELLANTS

- and -

THE GOVERNMENT OF PRINCE EDWARD ISLAND

RESPONDENT

FACTUM OF THE ATTORNEY GENERAL FOR SASKATCHEWAN INTERVENER

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PART I

STATEMENT OF FACTS

1. The Attorney General for Saskatchewan agrees with the facts as set forth in the Respondent's Factum

2. The Attorney General participates in these proceedings pursuant to a Notice of Intention to Intervene filed with this Honourable Court on October 14th, 1994.

Notice of Intention to Intervene; Supplementary Case on Appeal, Vol. I at pages 75 and 76.

PART II

POINTS IN ISSUE

3. The points in issue on this appeal are contained in the two Constitutional Questions stated by the Chief Justice. They read as follows:

(1) Does section 14(1) of the *Public Accounting and Auditing Act*, R.S.P.E.I. 1988, c. P-28 [the "*Act*")] limit the Appellants' rights guaranteed by sections 2(b), 6 or 7 of the *Canadian Charter of Rights and Freedoms* [the "*Charter*")]?

(2) If the answer to question 1 is in the affirmative, is section 14(1) nevertheless justified by section 1 of the [*Charter*]?

Notice of the Constitutional Questions; Supplementary Case on Appeal, Vol. I, at pages 59 and 60.

PART III

POSITION OF THE INTERVENER

4. The position of the Attorney General for Saskatchewan is that the Constitutional Questions stated by the Chief Justice ought to be answered as follows:

(1) No.

(2) No answer is necessary.

PART IV

ARGUMENT

A. Introduction

5. The Attorney General for Saskatchewan intervenes in this appeal for three reasons. First, this appeal raises issues under both section 6(2)(b) and section 7 of the *Charter* upon which the Saskatchewan Court of Appeal has already pronounced. The Attorney General intervenes to support the integrity of these rulings.

> *Re Bassett and Government of Canada, et al.* (1987), 35 D.L.R. (4th) 537 (Sask. C.A.).
>
> *Ginther v. Saskatchewan Government Insurance*, [1988] 4 W.W.R. 738 (Sask. C.A.).
>
> *Taylor v. Institute of Chartered Accountants of Saskatchewan* (1989), 59 D.L.R. (4th) 656 (Sask. C.A.).

6. Second, the Attorney General intervenes so as to argue that it is not the wisdom of the impugned Prince Edward Island law which is at issue on this appeal. Rather, it is whether the Constitution demands that Certified General Accountants be permitted to practice public accountancy in that province. For example, in Saskatchewan, various designations such as Chartered Accountants, Certified General Accountants and Accredited Public Accountants are permitted to practice public accountancy. However, this fact does not suggest the far more stringent Prince Edward Island requirements are unconstitutional in any way.

> *The Accredited Public Accountants Act*, R.S.S. 1978, c. A-4.
>
> *The Certified General Accountants Act*, R.S.S. 1978, c. C-4.1.
>
> *The Chartered Accountants Act, 1986*, S.S. 1986, c. C-7.1.

7. Third, this appeal involves a contest between the Institute of Chartered Accountants of Prince Edward Island and Certified General Accountants. However, its resolution has far greater implications than simply settling that particular dispute. How this Honourable Court disposes of the Constitutional Questions stated on this appeal will affect how, and the degree to which, provincial governments and legislatures may in future regulate, monitor and control professions and occupations being carried on in the various provinces. The Attorney General intervenes in this appeal to emphasize the significant ramifications which might flow from this appeal.

B. First Constitutional Question

8. The first Constitutional Question stated by Lamer C.J. asks whether this impugned law is consistent with section 2(b), section 6 or section 7 of the *Charter*. The Attorney General submits that none of those constitutional provisions is offended in the instant appeal. As the argument under section 6(2) of the *Charter* is somewhat different from the argument under the other two provisions, it will be addressed first. At bottom, the arguments advanced by the Appellants under section 2(b) and 7 of the *Charter* are very similar. Accordingly, the submissions of the Attorney General addressing those two sections will follow.

1. Section 6 of the *Charter*

9. The Appellants assert that section 14 of the *Act* "has the effect of restricting mobility and . . . thwarting the goal underlying section 6 of the *Charter* of achieving economic integration."

Appellants' Factum, at page 32, paragraph 95.

10. It is submitted that the Appellants are wrong to characterize the impugned legislation in this way. The law under scrutiny here only speaks of professional qualifications. It in no way relates to place of residence. Residents and non-residents alike who wish to practice public accountancy in Prince Edward Island must comply with the provisions of the *Act*, which require satisfying the criteria set down by the Institute of Chartered Accountants. Professional qualifications or standards which vary from province to province are a consequence of our federal structure and are clearly contemplated by section 6. What is not permitted under this constitutional guarantee are professional standards which are linked to place of residence, past or present.

Black v. Law Society of Alberta, [1989] 1 S.C.R. 591, at pp. 617-618 per La Forest J.

Devine v. Quebec (Attorney General), [1988] 2 S.C.R. 790, at pp. 811-812.

Taylor, supra at p. 659 per Sherstobitoff J.A.

11. The Appellants assert further that they are qualified to practice public accountancy but are prohibited from doing so by virtue of section 14 of the *Act*.

Appellants' Factum at p. 32, paras. 96 and 97.

12. The Attorney General submits this assertion is also erroneous. It is true that the Appellants' designations as Certified General Accountants may qualify them to practice public accountancy in other jurisdictions, such as Saskatchewan. It does not, however, qualify them to carry on such a practice in Prince Edward Island. In order for the Appellants to practice public accountancy in that province, they must first pass the necessary examinations in order to

obtain the designation of Chartered Accountant. For reasons entirely of their own, neither Appellant has chosen to take those examinations and achieve that accreditation.

Respondent's Factum, at p. 8, para. 16.

13. It is submitted that *Taylor v. Institute of Chartered Accountants of Saskatchewan* demonstrates why the circumstances of the instant appeal do not manifest a violation of section 6(2). In *Taylor*, the Appellant was a member of the Institute of Chartered Accountants of Ontario. He had achieved that credential based upon successful completion of the requirements for admission into the American Institute of Certified Public Accountants. Despite his admission in Ontario, the Saskatchewan Institute rejected his application for membership on the ground that he had not passed the Uniform Final Examination, an examination he refused to take. The Saskatchewan Court of Appeal speaking through Sherstobitoff J.A. dismissed the Appellant's argument that "under section 6 of the *Charter*, once having qualified to practice in Ontario (or any other province), he was entitled to practice in Saskatchewan". Sherstobitoff J.A. concluded that section 6 had no application because:

> This case has nothing to do with place of residence, present or past -- it concerns professional qualifications.

Taylor, *supra*, at p. 659.

14. For the purposes of this appeal, it is submitted that *Taylor* accurately identifies the Appellants' true complaint under section 6, namely the stringent professional qualifications needed in order to practice public accountancy in Prince Edward Island. The stringency of those qualifications may well be a proper subject of debate; however, they do not engage any constitutional value protected under section 6. Indeed, the following brief passage from this

Honourable Court's judgment in *Devine* is especially apt on this particular aspect of the instant appeal:

> 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.
>
> *Devine, supra*, at pp. 812-813.

15. Accordingly, for these reasons, the Attorney General submits that section 14 of the *Act* does not infringe section 6 of the *Charter*.

2. Section 7 of the *Charter*

16. It is submitted that the arguments advanced by the Appellants under the remaining two sections of the *Charter* invoked here, namely sections 2(b) and 7, are very similar. The Appellants assert that their inability to engage in the practice of public accountancy in Prince Edward Island offends either their freedom of expression or their right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice, or both. The Appellants contend that these two provisions of the Constitution protect their right to practice the profession of their choice and, equally important for the purposes of this appeal, their right to be adequately compensated for their work. These arguments will be assessed first within the context of section 7 of the *Charter* and, thereafter, section 2(b).

17. By its structure, section 7 creates a two part test. First, a party invoking the protection of this constitutional provision must demonstrate a deprivation of his or her "life, liberty and security of the person". Second, this deprivation must be shown to be inconsistent with the principles of fundamental justice. Only if both parts of this test are satisfied on a balance of probabilities is section 7 violated.

R. v. Beare, [1988] 2 S.C.R. 387, at p. 401.

(a) Right to Life, Liberty or Personal Security

18. At the outset it is important to delineate with precision the liberty interest for which constitutional protection is claimed. Not only will this formulation establish a context within which the application of the principles of fundamental justice may be assessed; it will be of great assistance in the determination of whether a constitutional value has been engaged at all.

Richard B. and Beena B. v. Children's Aid Society of Metropolitan Toronto, et al., January 27th, 1995, S.C.C. No. 23298, at para. 71 per La Forest J.

Pearlman v. Manitoba Law Society Judicial Committee, [1991] 2 S.C.R. 869, at pp. 884-886 per Iacobucci J.

R. v. Lyons, [1987] 2 S.C.R. 309, at p. 361 per La Forest J.

19. The liberty interest which the Appellants claim is constitutionally recognized by section 7 is the "right" of an individual to pursue an occupation or profession for which he or she is qualified and to move freely throughout the country for that purpose". They assert this right falls within section 7 because employment is "essential" to an individual's "sense of identity, self-esteem and emotional well-being".

Appellants' Factum, at p. 26, para. 75 and p. 27, para. 77.

20. The Attorney General submits that this liberty interest as defined in the Appellants' Factum is not directly engaged in the factual circumstances of this appeal. Both Appellants are gainfully employed; indeed, the Appellant, Thomas Walker, carries on practice as a Certified General Accountant in Montague, Prince Edward Island. Therefore, it is submitted that concerns about a lack of employment impairing an individual's human dignity and self-esteem are misplaced in the context of the instant appeal.

Respondent's Factum, at p. 6, para. 12.

21. The Appellants contend that section 14 of the *Act* denies to them the ability to carry on a profession for which they are qualified. As argued in paragraph 12 above, the Appellants do not possess the requisite credentials necessary to engage in the practice of public accountancy in Prince Edward Island. More importantly, the Appellants have made a conscious choice not to attempt to obtain those credentials, by taking the Uniform Final Examination. Accordingly, for these reasons, it is submitted that the liberty interest at stake in the instant appeal is not the actual deprivation of the ability to practice a profession for which the Appellants are qualified. Rather, it is the strict admission criteria which must be met before the Appellants can carry on a profession which they are otherwise capable of practicing.

22. The Attorney General submits that such a liberty interest does not engage a constitutionally protected value. Indeed, even those cases which accept that the right to practice a profession or carry on an occupation is subsumed within the right to life, liberty and security of the person distinguish between laws which effectively prohibit the carrying on of a business

or profession and laws which simply purport to regulate that business or profession. For example, the British Columbia Court of Appeal in *Wilson v. British Columbia Medical Services Committee* conceded that laws which "deal with regulation" and not "with an actual deprivation of the right to practice" do not offend section 7. The Court asserted:

> We have no doubt that regulation of such matters as standards of admission, mandatory insurance for the protection of the public and standards of practice and behaviour will not constitute an infringement of section 7.

Wilson v. British Columbia Medical Services Committee, [1989] 2 W.W.R. 1 (B.C.C.A.), at p. 21; leave to appeal refused, [1988] 2 S.C.R. viii.

See also: *R. v. Baig* (1992), 78 C.C.C. (3d) 260 (B.C.C.A.), at p. 273.

Beltz v. Law Society of British Columbia, [1987] 1 W.W.R. 427 (B.C.S.C.), at p. 437.

Isabey v. Manitoba Health Services, [1986] 4 W.W.R. 310 (Man. C.A.), at pp. 320-321.

23. It is submitted that on the basis of that reasoning alone, the Appellants' section 7 argument must fail. For this Honourable Court now to accept the Appellants' argument would be most startling. It would mean, for example, that the criteria established by provincial law societies for admission to the practice of law are constitutionally suspect because all persons who do not possess a law degree, no matter how capable, are prohibited from practicing law. Judges would now be compelled by our Constitution to review requirements such as admission criteria for each and every occupation and business in Canada. Even contemporary American courts resile from judicial review of this kind.

See generally: *Williamson v. Lee Optical of Oklahoma*, 348 U.S. 483 (1955).

Ferguson v. Skrupa, 372 U.S. 726 (1963).

Board of Regents v. Roth, 408 U.S. 564 (1972).

24. Although the section 7 issue raised on this appeal may be decided on this narrow ground, it is submitted further that neither the practice of a profession nor the carrying on of an occupation is subsumed within the right to life, liberty and security of the person guaranteed by section 7. This submission is supported by both the text and the context of that constitutional provision.

25. The text of section 7 refers only to "life, liberty and security of the person". It is apparent that the Framers deliberately chose not to include "property" as a constitutionally protected value. This omission is critical when the text of section 7 is juxtaposed with the language of the Fifth and Fourteenth Amendments to the American Constitution. Those two Amendments stipulate that no person shall be deprived of "life, liberty or property, without due process of law". A majority of this Honourable Court in *Irwin Toy Ltd.* concluded that this significant omission "leads to a general inference that economic rights as generally encompassed by the term "property" are not within the perimeters of the section 7 guarantee".

Irwin Toy Ltd., et al. v. Attorney General of Quebec, [1989] 1 S.C.R. 923, at pp. 1003-1004.

See also: *Bassett, supra*, at p. 567.

Ginther, supra, at p. 741.

26. In spite of this important textual difference, jurisprudence from the United States Supreme Court interpreting constitutional language which is arguably more accommodating to the Appellants' argument, demonstrates that ultimately it cannot be maintained. The leading authority is *Board of Regents v. Roth*. There a college professor who had completed a one-year fixed term at a state university did not have his employment renewed. Professor Roth maintained that the university's refusal to continue his employment deprived him of his liberty and property interests protected by the Fourteenth Amendment. The United States Supreme Court disagreed.

Roth, supra.

27. Stewart J. spoke for the majority. Respecting the claim that Professor Roth had a property interest in continued employment at the college, Justice Stewart found that he had no "legitimate claim of entitlement" to re-employment, either by statute or pursuant to the terms of his contract. Absent such an entitlement, he enjoyed no constitutionally protected property interest.

Roth, supra, at pp. 577-578.

28. For purposes of the instant appeal, however, it is Stewart J.'s analysis of the liberty interest at stake which is of immediate interest. He concluded that no constitutionally protected liberty interest had been implicated, let alone imperilled. Stewart J. observed that the state's decision not to rehire the professor did not impose on him "a stigma or other disability that foreclosed his freedom to take advantage of other employment opportunities". He ruled:

> It stretches the concept too far to suggest that a person is deprived of "liberty" when he simply is not rehired in one job but remains as free as before to seek another.
>
> *Roth, supra*, at pp. 573 and 575.

29. Only Marshall J. in dissent concluded that the liberty interest protected the Fourteenth Amendment to the American Constitution secured the liberty to work at the job of one's choosing.

Roth, supra, at p. 589.

30. The Attorney General submits that even the American Constitution, with its extremely expansive concept of liberty, rejects the arguments advanced by the Appellants under section 7. *Williamson, Ferguson* and most especially, *Roth* reveal those arguments to be unsustainable.

Williamson, supra.

Ferguson, supra.

Roth, supra.

31. For comparative purposes, it is also useful to have regard to the structure of certain international human rights documents which expressly guarantee the right to work. The *Universal Declaration of Human Rights* is a good example. Article 3 of that document stipulates that "[e]veryone has the right to life, liberty and security of person". Further on, a subsequent article enshrines "the right to work, free choice of employment . . . and . . . protection against unemployment" while yet another article guarantees to "[e]veryone . . . the right to a standard of living adequate for the health and well-being of himself and of his family". It is submitted

that the separate recognition of a right to work and the right to an adequate standard of living indicates that these very important and legitimate concerns, nevertheless, are not encompassed within the right to "life, liberty and security of person".

> *Universal Declaration of Human Rights*, Articles 3, 23(1) and 25(1).
>
> Humphrey, "*The Canadian Charter of Rights and Freedoms and International Law*" (1985-86) 50 Sask. Law Rev. 13, at p. 18.
>
> See generally: *Reference re Public Service Employee Relations Act (Alta.)*, [1987] 1 S.C.R. 313, at p. 413 per McIntyre J.

32. The Attorney General submits the Appellants are urging this Honourable Court to constitutionalize a free standing right to work. Such a reading of section 7 ought to be rejected for it offends a fundamental principle of *Charter* interpretation as established in *R. v. Big M Drug Mart Ltd.* It is extravagant, as it "overshoot[s] the actual purpose of the right . . . in question". It would mean that in circumstances falling within section 32 of the *Charter*, wrongful dismissal actions will possess a constitutional dimension, lay-offs will engage constitutional considerations and unemployed workers will have potential grounds for a *Charter* claim. This, it is submitted, is not what section 7 is intended to so. As Toy J. (as he then was) observed in *Milk Board v. Clearview Dairy Farm Inc.*:

> When one considers the pioneering nature of those who preceded us in this country, when one considers the years of depression that preceded the Second World War and the current economic situation with unemployment figures that exceed 10 per cent of the national population, I have great difficulty in conjuring up an all Canadian concept of an enshrined right to work at the calling of one's choice.
>
> *Milk Board v. Clearview Dairy Farm Inc.* (1986), 69 B.C.L.R. 230 (S.C.), at pp. 243-244.
>
> *R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295, at p. 344.

33. For the foregoing reasons, it is submitted that the stringent professional qualifications needed to practice public accountancy in Prince Edward Island do not engage any value subsumed within the right to life, liberty and security of the person guaranteed by section 7 of the *Charter*.

(b) Principles of Fundamental Justice

34. The Appellants submit that the impugned provision of the *Act* also offends the principles of fundamental justice for it delegates to the Institute the task of establishing criteria for admission to the practice of public accountancy in Prince Edward Island. This very argument was advanced and rejected in *Taylor*. The Saskatchewan Court of Appeal stated:

> The alleged denial is that the [Institute of Chartered Accountants of Saskatchewan] was given by its by-laws, an unfettered discretion to accept or reject the professional qualifications and experience of the applicant. While such a discretion might leave potential for *Charter* violations, the facts of this case suggest no abuse of the discretion. The discretion has been lawfully conferred by statute and by-law. Section 7 does not absolutely prevent the grant of such discretionary powers which are an integral part of our legal system.
>
> *Taylor*, *supra*, at p. 659 (citations omitted).

35. This Honourable Court has already confirmed the wisdom and constitutionality of self-governing professional bodies managing, supervising and disciplining members. Moreover, our constitutional jurisprudence has long recognized the ability of a provincial legislature to delegate completely the setting of licensing standards to a subordinate body. The assertion of the Appellants on this point requires neither revisiting nor re-assessing those precedents.

Pearlman, *supra*, at pp. 888-890.

Attorney General of Canada v. Law Society of British Columbia, [1982] 2 S.C.R. 307, at pp. 335-336.

Hodge v. The Queen (1883) 9 A.C. 117 (P.C.), at pp. 130-131.

3. Section 2(b) of the *Charter*

36. The Appellants contend as well that section 14(1) of the *Act* offends their constitutionally protected freedom of expression. The Attorney General has deliberately chosen to address this claim last, following an analysis of the Appellants' claims under section 6 and section 7 of the *Charter*. It is submitted that juxtaposing the arguments this way clarifies in a striking fashion, the nature of the claim being advanced under section 2(b). The Appellants contend that the need to comply with stringent professional qualifications in order to offer a professional or authoritative opinion operates as a constitutionally impermissible restriction upon the freedom of expression.

37. The Attorney General submits that the Prince Edward Island legislation impugned in this appeal does not offend section 2(b) of the *Charter* in any way. The Appellants' position under this particular section is simply an indirect attempt to find constitutional accommodation for the right to practice a profession or carry on an occupation. Section 2(b) has been invoked because as demonstrated above both section 6 and section 7 of the *Charter* have proved inhospitable to such a claim. The court below, it is submitted, was correct to recognize the Appellants' claim under section 2(b) for what it is.

Reasons for Judgment of the Supreme Court of Prince Edward Island, Appeal Division; Supplementary Case on Appeal, Vol. 1, at p. 168, lines 9-25.

38. It is submitted that neither the purpose nor the effect of the law at issue on this appeal restricts the Appellants' freedom of expression. Even assuming that the Appellants' accounting activities and opinions qualify as expression for purpose of section 2(b) of the *Charter*, all section 14(1) of the *Act* does is deny to those activities and opinions the heightened significance the Appellants wish to have attach to them. The court below concluded quite rightly that the impugned legislation "does not prohibit anyone from expressing themselves about any accounting matter; it only restricts the capacity in which they can do so".

> Reasons for Judgment of Supreme Court of Prince Edward Island, Appeal Division; Supplementary Case on Appeal, Vol. 1, at p. 167, lines 9-11.

39. Simply put, the Appellants wish to have their work receive authoritative value without first achieving the professional qualifications needed to speak with that authority. This appeal involves a contest between Chartered Accountants and Certified General Accountants in Prince Edward Island. Yet the Appellants' arguments cannot be confined to that context. They are, in effect, suggesting that the freedom of expression of every person in Prince Edward Island who does not hold the designation of Chartered Accountant has been infringed by section 14(1) of the *Act*, because he or she cannot practise public accountancy. Hitherto, such a claim has not engaged the values protected by section 2(b).

> *Baig*, *supra*, at pp. 276-277.

40. The claim advanced by the Appellants under section 2(b) has not been previously considered by this Honourable Court. This Court has determined that commercial speech finds protection under section 2(b); however, it is submitted that the Appellants' arguments do not

raise a commercial speech claim as that form of speech is traditionally understood. Nevertheless, it is submitted that the commercial speech cases are useful in assessing and analyzing the Appellants' section 2(b) claim in this appeal.

Rocket v. Royal College of Dental Surgeons, [1990] 2 S.C.R. 232, at pp. 241-244.

Irwin Toy, *supra*.

Ford v. Quebec (Attorney General), [1988] 2 S.C.R. 712, at pp. 766-767.

41. The term "commercial speech" is typically reserved for advertising of any kind or description and in any medium. Yet, laws which prohibit outright the advertising of false claims, especially respecting the quality of professional services have never been held to abridge freedom of expression under either section 2(b) of the *Charter* or the First Amendment to the American Constitution. In *Rocket*, for example, McLachlin J. observed that the American jurisprudence suggest "claims about the quality of professional services . . . may be more readily regulated than other forms of advertising". Indeed, she found the regulation at issue there resulted in a *prima facie* infringement of section 2(b), because it prohibited legitimate expression namely "advertising which takes perfectly usual and acceptable forms".

Rocket, *supra*, at pp. 244-245.

See also: *Baig*, *supra*.

Peel v. Attorney Registration and Disciplinary Commission of Illinois, 110 S. Ct. 2281 (1990), at 2287 per Stevens J. for the plurality, at 2293 per Marshall J. concurring and at 2299 per O'Connor J. dissenting on other grounds.

In re R.M.J., 455 U.S. 191, 203 (1982) per Powell J.

Bates v. State Bar of Arizona, 433 U.S. 350 (1977), 383-384.

Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc. 425 U.S. 748 (1976), 771 per Blackmun J. and at 777-778 per Stewart J. concurring.

42. In *Virginia State Board of Pharmacy*, the United States Supreme Court struck down under the First Amendment a Virginia law making it illegal for pharmacists to advertise prescription drug prices. Blackmun J. concluded, however, that the state could establish professional qualifications for pharmacists unconstrained by that Amendment. He asserted:

> Virginia is free to require whatever professional standards it wishes of its pharmacists; it may subsidize them or protect them from competition in other ways. But it may not do so by keeping the public in ignorance of the entirely lawful terms that competing pharmacists are offering.
>
> (Emphasis added).

Virginia State Board of Pharmacy, *supra*, at 770 per Blackmun J.

43. It cannot be doubted that were the Appellants to hold themselves out as public accountants this claim would be false as neither has satisfied the requirements set down by the Institute. They might then be prosecuted under section 14(1) of the *Act* and subject to public censure. Applying the analysis employed in the commercial speech cases referred to above, these punitive consequences would not result in an infringement of the Appellants freedom of expression. As Hollinrake J.A. stated in *Baig*:

> [F]reedom of expression cannot include a right to misrepresent one's professional qualifications to the public

Baig, *supra*, at p. 276.

44. In this appeal the Appellants go behind section 14 and contend that the professional qualifications needed to practice public accountancy in Prince Edward Island are too stringent, thereby violating their freedom of expression. The Attorney General submits that were this Honourable Court to accept the Appellants' argument, it would mean that most professional regulation amounts to a *prima facie* violation of section 2(b). If making false claims about one's professional qualifications does not attract constitutional protection, it is submitted that establishing relevant professional qualifications can in no way amount to an impermissible restriction on section 2(b). Requiring individuals to achieve specific academic and professional credentials in order to offer an authoritative professional opinion does not impair that individual's freedom of expression. It may affect the deference accorded to that opinion or its fair market value but it does not interfere with, let alone prohibit, the expression of that opinion. The *Charter* is not intended to make the kind of value judgments urged upon this Honourable Court by the Appellants.

PART V

NATURE OF ORDER SOUGHT

45. It is respectfully submitted that the Constitutional Questions stated in this appeal should be answered as set out in paragraph 4.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Regina, Saskatchewan, this 10th day of May, 1995.

Graeme Mitchell

Graeme G. Mitchell

Counsel for the Attorney General for Saskatchewan

PART VI

LIST OF AUTHORITIES

LEGISLATION

OTHER