SCC No. 35201

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE QUEBEC COURT OF APPEAL)

BETWEEN:

LOYOLA HIGH SCHOOL and JOHN ZUCCHI

Appellants

- and -

ATTORNEY GENERAL OF QUEBEC

Respondent

and

CANADIAN COUNCIL OF CHRISTIAN CHARITIES, EVANGELICAL FELLOWSHIP OF CANADA, CHRISTIAN LEGAL FELLOWSHIP, WORLD SIKH ORGANIZATION OF CANADA, ASSOCIATION OF CHRISTIAN EDUCATORDS AND SCHOOLS CANADA, CANADIAN CIVIL LIBERTIES ASSOCIATION, CATHOLIC CIVIL RIGHTS LEAGES, ASSOCIATION DES PARENTS CATHOLIQUES DU QUÉBEC, FAITH AND FREEDOM ALLIANCE, ASSOCIATION DE LA COMMUNAUTÉ COPTE ORTHODOXE DU GRAND MONTRÉAL, FAITH FEALTY AND CREED SOCIETY, HOME SCHOOL LEGAL DEFENCE ASSOCIATION OF CANADA, SEVENTH-DAY ADVENTIST CHURCH OF CANADA, SEVENTH-DAY ADVENTIST CHURCH – QUÉBEC CONFERENCE, CORPORATION ACHIEPISCOPALE CATHOLIQUE ROMAINE DE MONTRÉAL AND L'ARCHEVÊQUE CATHOLIQUE ROMAIN DE MONTRÉAL

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TABLE OF CONTENTS

PAGE

PART I – STATEMENT OF FACTS 1

PART II – ISSUES 1

PART III – ARGUMENT 1

A. What role should the State play in determining what measure of intrusion may or may not violate the religious freedom of individuals, communities and corporations? 1

What is the nature and scope of freedom of religion? 2

The context of freedom of religion in this appeal 3

What role ought the State play in determining what constitutes a violation of freedom of religion? 4

B. What is a "free and democratic" society? 6

Free Society 7

Democratic Society 8

Free and democratic 9

PART IV – COSTS 10

PART V – ORDER SOUGHT 10

PART VI – TABLE OF AUTHORITIES 11

PART VII – LEGISLATIVE PROVISIONS 11

PART I: STATEMENT OF FACTS

1. The Evangelical Fellowship of Canada (the "EFC[1]") was granted leave to intervene in this appeal by the Order of the Honourable Lebel J. on January 16, 2014. The EFC accepts the facts as set out by the Appellants. The EFC will make submissions on the following issues.

PART II: ISSUES

2. This appeal presents an opportunity for the Court to clarify the place of religion, religious individuals, communities and corporations within Canada's free and democratic society.

3. The public policy question on this appeal is what role, if any, the State ought to play in determining what measure of state-directed intrusion may or may not violate the religious freedom of individuals, communities and corporations. To properly answer this question, this Court must also consider what it means to be a "free and democratic society".

PART III: ARGUMENT

A. What role should the State play in determining what measure of intrusion may or may not violate the religious freedom of individuals, communities and corporations?

4. Prior to considering the role, if any, the State ought to play in determining what measure of state-directed intrusion may or may not violate freedom of religion, this Court must consider and appreciate the nature and scope of freedom of religion. In *Multani v. Commission scolaire Marguerite-Bourgeoys*,[2] LeBel J. recognized the importance of first considering the violated right before considering whether the violation could be saved:

> A question that arises in the initial stages of the review of an alleged violation of a constitutional right is that of the nature and scope of the right. What the right is must be determined, and its boundaries must be established.[3]

5. In his concurring reasons in *B.(R.) v. Children's Aid Society of Metropolitan Toronto,*[4] Lamer C.J. stated that in order to preserve the coherence of the entire constitutional text and to maintain the integrity of the intention of Parliament, Courts must consider specific factors, in identifying the purpose of a protected right.[5]

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1 The EFC is a national association of churches, church-related organizations and educational institutions. The EFC is an interdenominational association representing 40 Protestant denominations, over 100 other organizations and 700 individual churches. There are 4.2 million Evangelicals in Canada of which 2.1 million are members or adherents of EFC affiliated organizations.

2 *Multani v. Commission scolaire Marguerite-Bourgeoys*, [2006] 1 S.C.R. 256 [*Multani*], **Book of Authorities of the Appellants, Loyola High School and John Zucchi**, [***"Loyola Authorities"***], Vol. II, Tab 26.

3 *Multani*, *supra* note 2, at para. 147, ***Loyola Authorities***, Vol. II, Tab 26.

4 *B. (R.) v. Children's Aid Society of Metropolitan Toronto,* [1995] 1 S.C.R. 315, **Book of Authorities of the Intervener, the EFC**, [***"EFC Authorities"***] Tab 2.

6. To properly define the nature and scope of the violated right then, Courts must take into consideration the relationship freedom of religion has with other provisions of the *Charter of Rights and Freedoms* (the "*Charter*") including the provisions for context in which freedom of religion is situate. As such, it is necessary for this Court to consider those sections of the *Charter* that may assist it in its interpretation of section 2(a) such as its Preamble, sections 1 and 27, as well as those sections that confer rights which are integral to an individual exercising their freedom of religion such as sections 2(b), 2(d), 7 and 15(1).

What is the nature and scope of freedom of religion?

7. In *R v. Big M Drug Mart Ltd.*,[6] Dickson C.J. defined freedom of religion as follows:

> The essence of the concept of freedom of religion is the right to entertain such religious beliefs as a person chooses, the right to declare religious beliefs openly and without fear of hindrance or reprisal, and the right to manifest religious belief by worship and practice or by teaching and dissemination.[7]

8. *R. v. Edwards Books*,[8] Dickson C.J. defined the purpose of section 2(a) of the *Charter*, and freedom of religion as follows:

> The purpose of s. 2(a) is to ensure that society does not interfere with profoundly personal beliefs that govern one's perception of oneself, human nature, and in some cases, a higher or different order of being. These beliefs, in turn, govern one's conduct and practices.[9] [Emphasis added]

9. This Court has also found freedom of religion to include, among other elements:

   a. the right to entertain such religious beliefs as a person chooses,[10]
   b. the right to declare religious beliefs openly,[11]
   c. the right to manifest beliefs by worship, practice, teaching and dissemination,[12]
   d. both individual and collective aspects,[13]
   e. the right not to have society interfere with profoundly personal beliefs,[14]
   f. conduct that may not be recognized by religious experts as being obligatory tenets

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5 *B.(R.), supra* note 4, at para 17, ***EFC Authorities*** Tab 2.
6 *Big M Drug Mart Ltd.*, [1985] 1 SCR 295 [*Big M*] ***Loyola Authorities***, Vol. II, Tab 32.
7 *Big M, supra* note 6, at para. 94, ***Loyola Authorities***, Vol. II, Tab 26.
8 *R. v. Edwards Books* [1986] 2 S.C.R. 713 [*Edwards Books*] **Book of Authorities of the Respondent, the Attorney General of Quebec** [***"AGQ Authorities"***], Vol. II, Tab 29.
9 *Edwards Books, supra* note 8 at para. 97, ***AGQ Authorities***, Vol. II, Tab 29.
10 *Big M., supra* note 6, at para. 94, ***Loyola Authorities***, Vol. II, Tab 26.
11 *Big M., supra* note 6, at para. 94, ***Loyola Authorities***, Vol. II, Tab 26.
12 *Big M., supra* note 6, at para. 94, ***Loyola Authorities***, Vol. II, Tab 26.
13 *Edwards Books, supra* note 8 at para. 145, ***AGQ Authorities***, Vol. II, Tab 29.
14 *Edwards Books, supra* note 8 at para. 97, ***AGQ Authorities***, Vol. II, Tab 29.

or precepts of a particular religion,[15] and,

g. the freedom to undertake practices and harbour beliefs, having a nexus with religion in order to connect with the divine or as a function of spiritual faith.[16]

10. A review of this Court's jurisprudence demonstrates that the nature and scope of freedom of religion includes the right to manifest those beliefs without societal or State interference.

11. The EFC submits that in addition to considering the nature and scope of the *Charter* right in question, Courts must also consider the context in which that particular *Charter* right exists and is exercised. Indeed, this type of approach was recommended by Lebel J.in his dissenting reasons in *Hutterian Brethren of Wilson Colony v. Alberta.*[17]

12. *Charter* rights exist in related but different contexts. In this appeal, the right to freedom of religion for the Appellants, Loyola as a religious community and corporation and John Zucchi as a religious individual, exist in a very specific context which must be considered, understood and appreciated in order to properly define the nature and scope of the Appellants' respective right to freedom of religion.

The context of freedom of religion in this appeal

13. The specific context of the freedom of religion at play in this appeal has a number of layers. Loyola is a (i) private, (ii) English-language (iii) Catholic (iv) school operating within the (v) Jesuit tradition in a (vi) major city, in a (vii) predominantly francophone province (viii) with a history rooted in Catholicism, (ix) which has largely been abandoned and (x) whose government has publicly demonstrated hostility towards public manifestation and exercise of religious beliefs and practices.

14. John Zucchi and Loyola's freedom of religion, like the freedom of religion of any religious individual, religious community or religious corporation, cannot be divorced from the setting and political or social climate in which they exist. As such, the freedom of religion of Loyola may be quite different from the freedom of religion of a different faith-based school in a different province, city or under a different provincial government.

15. This is not to suggest that fundamental freedoms like freedom of religion ought to be applied

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15 *Syndicat Northcrest v. Amselem,* [2004] 2 S.C.R. 551, at para 43 [*Amselem*] ***Loyola Authorities***, Vol. II, Tab 39.
16 *Amselem, supra* note 15, at para. 46, ***Loyola Authorities***, Vol. II, Tab 39.
17 *Hutterian Brethren of Wilson Colony v. Alberta,* [2009] 2 SCR 567, at para. 187 [*Hutterian Brethren*] ***Loyola Authorities***, Vol. I, Tab 2.

differently in different areas of the country or in different time periods. In fact, the EFC submits that an analysis of the context in which fundamental *Charter* freedoms exist and are exercised is necessary to avoid that very conclusion.

16. The EFC acknowledges the State's interest in setting curricula and promoting learning outcomes for students. How each school reaches those outcomes however, is not in the State's interest. Unless it is demonstrated that a particular school fails to achieve the goals of State-mandated curricula, the State has no interest in requiring that schools teach certain subjects in specific ways which violate the religious freedom of the school community.

17. The request to teach an Ethics and Religious Culture ("ERC") program from a faith-based perspective will differ from school to school based on factors which include, but are not limited to, the school's faith tradition, religious history as well as the social norms of the day.

18. It cannot be ignored that at present, the Quebec government has undertaken a campaign to remove religious manifestation and practices, and therefore religious individuals, from the public square. The political environment in which the Appellants exist is hostile toward religion in general and the manifestation of religion in the public square in particular.

19. The Appellants then, seek to exercise and benefit from their freedom of religion in a society where they are not only a minority, but also a marginalized community of society.

20. Context matters.

21. As a religious community and a religious corporation, Loyola, like all faith-based schools, exists to complement and facilitate the exercise and manifestation of a particular religious culture, practice and identity.

22. Faith and religion are not subsets of culture, but rather foundations of it. In fact, religion is often the underlying worldview of different cultures. Canada itself was founded upon a Judeo-Christian worldview. This historical point of Canadian culture is evidenced by not only the preamble to the *Charter* but also by its commitment to multiculturalism.

<u>What role ought the State play in determining what constitutes a violation of freedom of religion?</u>

23. The Attorney General of Quebec ("AGQ") argues that teaching the ERC from what they characterize as a "neutral" position does not violate Loyola's freedom of religion, but is that an appropriate determination for the AGQ to make? What role should the State play in

determining what measure of state-directed intrusion may or may not violate freedom of religion? The EFC submits that this Court has been unequivocal that it is not the role of the State to interpret or judge a religious belief or practice or to determine the degree of State intrusion necessary to violate the person, community or corporation's freedom of religion. Rather, it is the State's obligation to protect the religious belief or practice:

> [t]he State is in no position to be, nor should it become, the arbiter of religious dogma. Accordingly, courts should avoid judicially interpreting and thus determining, either explicitly or implicitly, the content of a subjective understanding of religious requirement, "obligation", precept, "commandment", custom or ritual. Secular judicial determinations of theological or religious disputes, or of contentious matters of religious doctrine, unjustifiably entangle the court in the affairs of religion.[18]

24. Indeed, one purpose of section 2(a) is to avoid having the State interfere or impose the views of the majority on the minority:

> What may appear good and true to a majoritarian religious group, or to the state acting at their behest, may not, for religious reasons, be imposed upon citizens who take a contrary view. The *Charter* safeguards religious minorities from the threat of "the tyranny of the majority."[19]

25. If it is accepted that an individual, community or corporation's religious freedom has been violated, this Court's analytical framework requires the Court to consider whether the decision resulting in the *Charter*-right violation was reasonable in light of *Charter* values.

26. The EFC recognizes and acknowledges this Court's decision in *Doré v. Barreau du Québec*[20] where it clarified the approach to be taken when determining whether administrative decision-makers have exercised their statutory discretion in accordance with *Charter*-rights. Specifically, this Court stated that the review should be in accordance with administrative law where the standard of review is reasonableness, as opposed to an *Oakes*[21] analysis.[22]

27. The EFC submits that although in *Doré* this Court abandoned the *Oakes* analysis when considering the violation of *Charter* rights in the administrative context, when assessing the reasonableness of the administrative decision's balancing of *Charter* protections and statutory objectives reviewing Courts must be mindful of the language used in the *Charter*

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18 *Amselem, supra* note 15, at para. 50, ***Loyola Authorities***, Vol. II, Tab 39.
19 *Big M., supra* note 6, at para. 96, ***Loyola Authorities***, Vol. II, Tab 26.
20 *Doré v. Barreau du Québec*, [2012] 1 S.C.R. 395 [*Doré*] ***Loyola Authorities***, Vol. I, Tab 16.
21 *R. v. Oakes*, [1986] 1 S.C.R. 103, [*Oakes*] ***EFC Authorities,*** Tab 5.
22 *Doré, supra* note 20, at para. 56, ***Loyola Authorities***, Vol. I, Tab 16.

regarding the limits on the rights conferred by the *Charter*. As set out below, section 1 of the *Charter* recognizes that the rights it guarantees are "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society".

28. To determine if a limit to freedom of religion is reasonable and demonstrably justified in a free and democratic society, this Court must consider and appreciate what it means to be a "free and democratic society". Failing to do so renders the language used at section 1 of the *Charter* meaningless and the basis upon which *Charter* rights may be violated entirely subjective.

29. As set out, the first step in the analysis of an alleged *Charter*-right violation is to consider the nature and scope of freedom of religion. It is not up to the State to determine what measure of state-directed intrusion violates freedom of religion. When considering whether an administrative decision reasonably balanced the *Charter* protections and statutory objectives at play, Courts must consider the context in which freedom of religion exists and is manifested.

B. What is a "free and democratic" society?

30. The term "free and democratic society" appears at section 1 of the *Charter* which reads:

> **1.** The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

31. The term "free and democratic society" has generally been considered, interpreted and applied by the Courts in the context of whether the violation of a *Charter*-right is reasonable and justifiable. However, the concept of a free and democratic society is itself a *Charter* value that cannot be ignored in the context of considering a *Charter* right.

32. In establishing the test in *Oakes* Dickson C.J. noted that the values and principles essential to a free and democratic society include, but are not limited to:

> [...] respect for the inherent dignity of the human person, commitment to social justice and equality, accommodation of a wide variety of beliefs, respect for cultural and group identity, and faith in social and political institutions which enhance the participation of individuals and groups in society.[23]

33. Dickson C.J. further states that these values and principles are "the genesis of the rights and freedoms guaranteed by the *Charter* and the ultimate standard against which a limit on a right or

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[23] *Oakes, supra* note 21, at pp. 136, ***EFC Authorities,*** Tab 5.

freedom must be shown, despite its effect, to be reasonable and demonstrably justified."[24]

34. In her concurring reasons in *R. v. Morgentaler*,[25] Wilson J. attempted to define, at least in the context of that case, what it meant to be a free and democratic society. She stated:

> It seems to me, therefore, that in a free and democratic society "freedom of conscience and religion" should be broadly construed to extend to conscientiously-held beliefs, whether grounded in religion or in a secular morality. Indeed, as a matter of statutory interpretation, "conscience" and "religion" should not be treated as tautologous if capable of independent, although related, meaning.[26]

35. In Wilson J.'s view then, a free and democratic society is one that respects freedom of conscience and religion. This Court however, has yet to specifically set out detailed analysis of what it means to be a "free and democratic society". The EFC submits that if this Court is to consider the effect of curtailing the Appellants', or any litigant's freedom of religion, it must appreciate the meaning of what it means to be a "free and democratic society".

36. Without a proper appreciation of what a free and democratic society is, how can this Court, or any Court, determine what limits to the rights and freedoms set out in the *Charter* are reasonable? Whether the limit to *Charter*-rights comes by way of legislation or by way of administrative decision-makers exercising their statutory discretion does not change the intention of the *Charter*, which sets the standard to permit limits to *Charter*-rights which are reasonable and justified in a free and democratic society.

37. The term "free and democratic society" contains two separate conceptions of society. First, it points to a "free" society and second, it points to a "democratic" society. To appreciate its full meaning, we must consider each concept individually.

Free Society

38. This Court first considered what a free society is *Big M*, the seminal case on freedom of religion and the first time this Court considered section 2(a) of the *Charter*. In *Big M*, Dickson C.J. characterized a free society as having two characteristics. He stated:

> A truly free society is one which can accommodate a wide variety of beliefs, diversity of tastes and pursuits, customs and codes of conducts. A free society is

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[24] *Oakes, supra* note 21, at para. 64, ***EFC Authorities,*** Tab 5.
[25] *R. v. Morgentaler,* [1988] 1 S.C.R. 30 [*Morgentaler*], ***AGQ Authorities***, Vol. III, Tab 33.
[26] *Morgentaler, supra* note 25, at para. 313, ***AGQ Authorities***, Vol. III, Tab 33.

> one which aims at equality with respect to the enjoyment of fundamental freedoms and I say this without any reliance upon s. 15 of the *Charter*.[27]

39. Dickson C.J. suggested that a "free society" is one which accommodates divergent beliefs and which aims at equal enjoyment of the fundamental freedoms which includes freedom of religion. This view was echoed and affirmed by this Court in *Ross v. New Brunswick School District No. 15*[28] when La Forest J. stated:

> Ours is a free society built upon a foundation of diversity of views; it is also a society that seeks to accommodate this diversity to the greatest extent possible. Such accommodation reflects an adherence to the principle of equality, valuing all divergent views equally and recognizing the contribution that a wide range of beliefs may make in the search for truth.[29]

40. A "free society" then is one in which everyone may enjoy freedom of religion and in which their divergent religious beliefs are accommodated. In the context of section 1 of the *Charter,* and therefore any limit on a *Charter*-right then, the threshold for justifying a limit on freedom of religion in a free society must be high.

Democratic Society

41. In describing a "democratic society", this Court has stated that:

> Discrimination is unacceptable in a democratic society because it epitomized the worst effects of the denial of equality, and discrimination reinforced by law is particularly repugnant.[30]

42. Along this same line of reasoning, and similar to how this Court has characterized a "free society", Iacobucci J. and Bastarache J. stated that "tolerance of divergent beliefs is a hallmark of a democratic society."[31]

43. In *Hill v. Church of Scientology of Toronto*,[32] Cory J. stated that "The *Charter* represents a restatement of the fundamental values which guide and shape our democratic society and our legal system."[33] A "democratic society" then, must be guided and shaped by the fundamental values set out in the *Charter*, which include freedom of religion.

44. In *Bou Malhab v. Diffusion Métromédia CMR inc.* ,[34] this Court recognized that in a

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27 *Big M., supra* note 6, at para. 95, ***Loyola Authorities***, Vol. II, Tab 26.
28 *Ross v. New Brunswick School District No. 15*, [1996] 1 SCR 825 [*Ross*], ***AGQ Authorities,*** Vol. III, Tab 35.
29 *Ross, supra* note 28, at para. 91, ***AGQ Authorities,*** Vol. III, Tab 35.
30 *Andrews v. Law Society (British Columbia),* [1989] 1 SCR 143, at pp. 172, ***EFC Authorities***, Tab 1.
31 *Trinity Western University v. College of Teachers*, [2001] 1 S.C.R. 772, at para. 36, ***Loyola Authorities***, Vol. II, Tab 41.
32 *Hill v. Church of Scientology of Toronto*, [1995] 2 S.C.R. 1130 [*Hill*] ***EFC Authorities***, Tab 4.
33 *Hill, supra* note 32, at para. 92 ***EFC Authorities***, Tab 4.

democratic society, certain rights may be limited by others.[35]

45. In *Hutterian Brethren*, Abella J., in her dissenting reasons, recognized that conscience and religion is one of the foundations of a "democratic society" and that pluralism, tolerance and broadmindedness are hallmarks of a "democratic society."[36]

46. Abella J. goes on to cite with approval, the European Court Human Rights. She states:

> Although individual interests must on occasion be subordinated to those of a group, democracy does not simply mean that the views of a majority must always prevail: a balance must be achieved which ensures the fair and proper treatment of people from minorities and avoids any abuse of a dominant position.[37]

47. The themes which appear in reviewing this Court's varying descriptions of what it means to be a "democratic society" are tolerance, accommodation and balancing of diverse beliefs and practices. That being the case, when a Court considers whether an administrative decision-maker has reasonably balanced *Charter*-rights with the purposes of legislation, the standard for reasonableness must consider it in the context of a "free society" which, as set out above, tolerates and accommodates divergent beliefs.

Free and democratic

48. A "free" and a "democratic" society then, is one where everyone may enjoy freedom of religion and varying views and where those views are tolerated and accommodated by others. A "free and democratic" society does not impose the majority's views on the minority.

49. In considering the reasonableness of the Minister's decision, or any administrative decision-maker's decision which violates freedom of religion, this Court must consider whether the decision is reasonable in a "free and democratic society".

50. The Appellants here include a religious individual and a religious community and corporation. Loyola exists to provide education in the Catholic and Jesuit tradition. By limiting their ability to do so, is the State operating as it should in a free and democratic society guided by the fundamental values of the *Charter* which guide and shape our democratic society and our legal system?

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34 *Bou Malhab v. Diffusion Métromédia CMR inc.*, [2011] 1 S.C.R. 214 [*Bou Malhab*] ***EFC Authorities***, Tab 3.
35 *Bou Malhab, supra* note 34, at para. 17 ***EFC Authorities***, Tab 3.
36 *Hutterian Brethren, supra* note 17, at paras. 128 and 129 ***Loyola Authorities***, Vol. I, Tab 2.
37 *Hutterian Brethren, supra* note 17, at para. 129 ***Loyola Authorities***, Vol. I, Tab 2.

51. The AGQ argues that the violation, if any, is limited and that Loyola has several other opportunities to teach religion and ethics from a Catholic Jesuit perspective. The EFC states however, that the question that must be considered when determining the reasonableness of the decision is not how long the violation occurs for, but rather, the measure of the violation. For the Appellants, as with many if not most religious individuals, communities and corporations, the option to cease being Catholic, or Evangelical Christians, or Muslim or Jewish, even for a limited amount of time, is not an option within their faith system.[38]
52. Freedom of religion does not exist in a vacuum or for a limited period of time. If this Court allows the State to justify the violating of freedom of religion on the basis that the violation is for a limited period of time, it does so without appreciation of the nature and scope of freedom of religion and without consideration of this Court's jurisprudence on what it means to be a "free and democratic" society.
53. The question before this Court is not the extent of the violation of freedom of religion in this appeal, but rather, whether it is reasonable in a free and democratic society and the full context of both the Charter and the situation in which the violation is to be assessed.

PART IV: COSTS

54. The EFC does not seek costs, and asks that no costs be awarded against it.

PART V: ORDER SOUGHT

55. The EFC respectfully submits that the Minister's decision is not reasonable in that it failed to reasonably balance the *Charter* right to freedom of religion with the objectives of the ERC. The Minister's decision fails to consider the nature and scope of the Appellants' freedom of religion, the context in which it exists and is not reasonable in a free and democratic society.
56. The EFC requests permission to present oral arguments at the hearing of this matter.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, this 4th day of March, 2014.

ALBERTOS POLIZOGOPOULOS
Counsel for The Evangelical Fellowship of Canada

PER: DON HUTCHINSON

PER: FAYE SONIER

[38] See James 4:17, ***Loyola Authorities***, Tab 5.

PART VI: TABLE OF AUTHORITIES

CASES	PARAGRAPH(S)
Alberta v. Hutterian Brethren of Wilson Colony, [2009] 2 S.C.R. 567	128, 129, 187,
Andrews v. Law Society (British Columbia), [1989] 1 SCR 143	pp. 172
B. (R.) v. Children's Aid Society of Metropolitan Toronto, [1995] 1 S.C.R. 315	17
Bou Malhab v. Diffusion Métromédia CMR inc., [2011] 1 S.C.R. 214	17
Doré v. Barreau du Québec, [2012] 1 S.C.R. 395	56
Hill v. Church of Scientology of Toronto, [1995] 2 S.C.R. 1130	92
Multani v. Commission scolaire Marguerite-Bourgeoys, [2006] 1 S.C.R. 256	147,
R. v. Big M Drug Mart, [1985] 1 S.C.R. 295	94, 95, 96
R. v. Edwards Books [1986] 2 S.C.R. 713	97, 145
R. v. Morgentaler (1988), 44 D.L.R. (4th) 385	313
R. v. Oakes, [1986] 1 S.C.R. 103	pp. 136
Ross v. New Brunswick School District No. 15, [1996] 1 S.C.R. 825	91
*Syndicat Northcrest v. Amselem, [*2004] 2 S.C.R. 551	43, 46, 50
Trinity Western University v. College of Teachers (British Columbia), [2001] 1 S.C.R. 772	36

Other References

The Bible, The Book of James	4:17

PART VII: LEGISLATIVE PROVISIONS

Canadian Charter of Rights and Freedoms, Part I of *The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11*	Preamble, 1, 2, 7, 15, 27

Canadian Charter of Rights and Freedoms, Part I of *The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11*

Preamble

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

Rights and freedoms in Canada

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Fundamental freedoms

2. Everyone has the following fundamental freedoms:

(*a*) freedom of conscience and religion;

(*b*) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;

(*c*) freedom of peaceful assembly; and

(*d*) freedom of association.

Life, liberty and security of person

7. Everyone has the 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.

Préambule

Attendu que le Canada est fondé sur des principes qui reconnaissent la suprématie de Dieu et la primauté du droit :

Droits et libertés au Canada

1. La *Charte canadienne des droits et libertés* garantit les droits et libertés qui y sont énoncés. Ils ne peuvent être restreints que par une règle de droit, dans des limites qui soient raisonnables et dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique.

Libertés fondamentales

2. Chacun a les libertés fondamentales suivantes :

a) liberté de conscience et de religion;

b) liberté de pensée, de croyance, d'opinion et d'expression, y compris la liberté de la presse et des autres moyens de communication;

c) liberté de réunion pacifique;

d) liberté d'association.

Vie, liberté et sécurité

7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en conformité avec les principes de justice fondamentale.

Equality before and under law and equal protection and benefit of law

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Affirmative action programs

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Multicultural heritage

27. This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

Égalité devant la loi, égalité de bénéfice et protection égale de la loi

15. (1) La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.

Programmes de promotion sociale

(2) Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation d'individus ou de groupes défavorisés, notamment du fait de leur race, de leur origine nationale ou ethnique, de leur couleur, de leur religion, de leur sexe, de leur âge ou de leurs déficiences mentales ou physiques.

Maintien du patrimoine culturel

27. Toute interprétation de la présente charte doit concorder avec l'objectif de promouvoir le maintien et la valorisation du patrimoine multiculturel des Canadiens.

Court File Number: 35201

LOYOLA HIGH SCHOOL and JOHN ZUCCHI **and** **ATTORNEY GENERAL OF QUEBEC**

Appellants Respondent

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE QUEBEC COURT OF APPEAL)

FACTUM OF THE INTERVENER, THE EVANGELICAL FELLOWSHIP OF CANADA

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