

The Top Five - 2002

Each year Justice Stephen Goudge of the Ontario Court of Appeal identifies five cases that are of significance in the educational setting. This summary, based on his comments and observations, is appropriate for discussion and debate in the classroom setting.



Trinity Western University v. British Columbia College of Teachers, [2001] 1 S.C.R. 772

http://www.lexum.umontreal.ca/csc-cc/en/pub/2001/vol1/html/2001scr1_0772.html

Acts of private institutions are exempt from the Charter but an administrative body can look to the Charter and human rights legislation in making decisions in the public interest. It must decide correctly however.

Trinity Western University (“TWU”) is a private religious-based institution in British Columbia. It had a five-year teacher training program offering baccalaureate degrees in education since 1985. Under this program students studied for four years at TWU. The fifth year training was done at Simon Fraser University. In 1995 TWU applied to the British Columbia College of Teachers (“BCCT”) for permission to assume full responsibility of its teacher education program. One reason for the application is that TWU wished to have all five years of study reflect its Christian world view. TWU Community Standards forbid practices condemned by the Bible including homosexual behaviour. The BCCT denied the TWU application because it was not in the public interest to approve a teacher education program which appeared to follow discriminatory practices.

At trial the Court found that the BCCT, an administrative body, did not have the jurisdiction to consider the issue of discriminatory practices and there was no reasonable basis to support its decision regarding discrimination. The British Columbia Court of Appeal found that the BCCT had acted within its jurisdiction, but affirmed the trial judge’s finding that there was no basis to the discrimination. The Supreme Court of Canada agreed that the BCCT had the jurisdiction to consider discriminatory practices in dealing with the TWU application because the suitability for entrance into the profession of teaching must take into account all features of an education program. Public schools are meant to develop civic virtue and responsible citizenship and to educate in an environment free of bias, prejudice and intolerance. It would not be correct to limit the BCCT to only a determination of knowledge and skills.

TWU is a private institution and exempted, in part, from human rights legislation and the Charter does not apply. However the BCCT was entitled to consider these in deciding whether it was in the public interest to allow teachers to be trained at TWU. However any conflict between religious freedoms and equality rights should be resolved by

defining the rights involved. Neither freedom of religion nor the guarantee against discrimination based on sexual orientation is absolute. The proper place to draw the line is between belief and conduct. The freedom to hold beliefs is broader than the freedom to act on them.

The Supreme Court decided that the BCCT had decided incorrectly by not taking into account the impact of its decision on the right to freedom of religion of members of TWU when it assessed TWU's alleged discriminatory practices. There was no evidence that TWU trained teachers had fostered discrimination in the public schools of British Columbia. Absent evidence that TWU training fostered discrimination, the freedom of individuals to adhere to certain religious beliefs while at TWU should be respected. Acting on those beliefs would be a different matter. If a teacher in a public school system engages in discriminatory conduct, the teacher would be subject to discipline. In this way the scope of freedom of religion and equality rights that come into conflict can be circumscribed and reconciled.