Court File No. 25926

IN THE SUPREME COURT OF CANADA

(ON APPEAL FROM THE COURT OF APPEAL
FOR THE PROVINCE OF QUEBEC)

B E T W E E N:

GAÉTAN DELISLE

Appellant

- and -

THE ATTORNEY GENERAL OF CANADA

Respondent

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PART I - STATEMENT OF FACTS

1. The Canadian Labour Congress (CLC) accepts the facts set out in the Appellant's factum.

2. The CLC has historically advocated for the inclusion of all employees, including domestic workers, agricultural workers and others, under such collective bargaining legislation, so that these employees can also have access to the same collective bargaining rights as most employees in the public and private sectors in Canada.

PART II - POINTS IN ISSUE

3. The CLC accepts the points in issue as set out in the Appellant's factum.

PART III - THE LAW

4. The CLC submits that the exclusion of particular groups of employees from access to the benefits and protections of collective bargaining legislation constitutes an infringement of the *Charter* guarantees of freedom of association, freedom of expression, and equality. This factum addresses the interpretation and application of the freedom of association and equality guarantees in the context of legislative exclusions from access to collective bargaining rights. With respect to freedom of expression, the CLC supports the submissions contained in the factums filed by the interveners PSAC and OTF, and also supports the submissions of both interveners in respect of the application of s. 1 of the *Charter* to blanket exclusions from access to collective bargaining legislation.

A. FREEDOM OF ASSOCIATION

5. It is the position of the CLC that s. 2(d) of the *Charter* protects forming and joining trade unions, as well as the right of employees to collectively bargaining together: see Part A.1 below. Further, it is the position of the CLC that the exclusion of employees from statutory collective bargaining schemes, which have been established by legislation as the vehicle through which employees engage in collective bargaining, constitutes a restriction on these protected associational activities, and is therefore an infringement of s. 2(d) of the *Charter*: see Part A.2 below.

A.1 SCOPE OF PROTECTED ASSOCIATIONAL ACTIVITY

(i) Prior Supreme Court of Canada Decisions

6. Any discussion of the scope of s. 2(d) in the labour relations context, and any party urging this Court to interpret and apply s. 2(d) in a manner which gives some element of meaningful protection to associational activities of employees in the workplace, must consider this Court's earlier s. 2(d) decisions in the labour relations context.

10 ***The Labour Relations Trilogy***

7. On two prior occasions, this Court has considered the nature and scope of the freedom of association guarantee in the labour relations context. First, in 1987, the Court decided what has come to known as the labour relations freedom of association trilogy of cases. The issues in all three cases (the *Alberta Reference*, the *Saskatchewan Dairy Workers* case, and the *PSAC* case) primarily concerned the question of whether legislation which, in one way or another, restricted the right to strike, infringed s. 2(d) of the *Charter*. By a four to two majority, the six members of the Court held that the right to strike was not protected associational activity.

Reference re Public Service Employee Relations Act (Alberta), [1987] 1 S.C.R. 313 (hereafter the
20 "*Alberta Reference*")

PSAC v. Canada, [1987] 1 S.C.R. 424 (hereafter the *"PSAC case"*)

RWDSU v. Saskatchewan, [1987] 1 S.C.R. 460 (hereafter the "*Saskatchewan Dairy Workers* case")

8. For three members of the Court (Justices Le Dain, Beetz and La Forest), neither the right to strike nor the right to collectively bargain was considered to be associational activity, falling within the protection of s. 2(d), on the basis of their view that:

30 (i) s. 2(d) does not include the "right to engage in particular activity on the ground that the activity is essential to give an association meaningful existence", since associational activities were best "left to be regulated by legislative policy";

(ii) the "modern rights to bargain collectively and to strike, involving correlative duties or obligations resting on the employer" were not "fundamental rights or freedoms", but "the creation of legislation";

(iii) the labour relations field involves "a balance of competing interests", requiring "specialized expertise", and therefore "judicial restraint" rather than "constitutionalizing in general and abstract terms" was appropriate; and

(iv) the "necessity of applying s. 1 of the *Charter*" mitigated against interpreting and applying s. 2(d) so as to protect the rights at issue.

9. In this respect, as set out more fully below, the CLC submits the following with respect to the approach adopted by Justice Le Dain:

(i) the holding that activity essential to an association is not thereby constitutionally protected associational activity does not preclude certain associational activity from being protected under s. 2(d). Indeed, even on this "minimalist" view, Justice Le Dain recognized that joining activity is protected. Moreover, as set out below, the contention that collective bargaining activity should be protected under s. 2(d) does not depend upon the notion that ***all*** activities essential to an association's objects should be constitutionally protected. The important issue is, given the purposes of freedom of association, whether there are other activities, beyond joining, which should be recognized as falling within the ambit of the protection of s. 2(d);

(ii) to the extent that Justice Le Dain's reasons can be viewed as suggesting that a reason for denying constitutional protection to all associational activity is that such activity is best left to be regulated by the Legislature, it is submitted that this approach would run contrary to the entire purpose of entrenching constitutional rights and freedoms, and is not one which this Court would ever suggest be followed in the case of expressive or religious activity;

(iii) far from being created by modern legislation, employee collective bargaining activity, which the CLC contends is protected by s. 2(d), predates any such legislation and has historically been the mechanism through which workers have attempted to associate together in order to overcome their relatively unequal position with their employers. The fact that some elements of the current labour relations scheme (i.e., obligations of employers) are modern

developments in no way diminishes the reality that collective bargaining legislation regulates and implicates the underlying exercise of freedom of association. As the Woods Task Force observed, "freedom to associate and to act collectively are basic to the nature of Canadian society and are root freedoms of the existing collective bargaining system... Collective bargaining legislation establishes rights and imposes duties derived from these fundamental freedoms..." (p. 138);

(iv) in many cases, this Court has made clear that the definition and application of the rights and freedoms protected by the *Charter* must be kept analytically distinct and separate from the s. 1 analysis. Reliance upon the balance established by the Legislature imports concerns best left to s. 1 into the definition of the right itself, and is significantly at variance with the proper relationship between the courts and the legislature which this Court has recognized as necessary under the *Charter*. In any event, a blanket exclusion of certain groups of employees from any access to the collective bargaining regimes applicable to most other employees excludes them altogether from the "balance" between organized labour and employers, to which Justice Le Dain held deference was owed. In this respect, the complaint in the case of employees excluded from collective bargaining is that their rights and interests have been entirely excluded from the scheme established by the Legislature.

10. In his separate reasons in the trilogy, Justice McIntyre reviewed six approaches to the guarantee of freedom of association, and concluded that freedom of association protects (1) associational constitutive activity (joining with others in lawful common pursuits and establishing and maintaining associations); (2) the collective exercise of constitutionally protected activities; and (3) direct attacks on the associational character of an activity, i.e. restrictions on collective activities which are not prohibited if performed alone. However, Justice McIntyre rejected the view that any activity carried out in association, or any activity essential to an association's lawful goals, should *per se* be constitutionally protected (as did Justice Le Dain), or that freedom of association should protect collective activities fundamental to our culture and traditions.

11. Applying the approaches to freedom of association which he accepted to the question of whether the right to strike was protected by s. 2(d), Justice McIntyre concluded that the right to strike was not protected since, in his view, striking was not activity which was permitted by law to an individual. Furthermore, Justice McIntryre reviewed various "social policy" considerations which, in

his view, provided further support for the conclusion that the right to strike should not be protected under s. 2(d), including the "delicate balance" between "organized labour - a very powerful economic force... and the employers of labour - an equally powerful socio-economic force" (a balance which, as submitted above, entirely ignores employees excluded from access to collective bargaining legislation).

12. While Justice McIntryre's conclusion that the right to strike is not protected by s. 2(d) because there is no individual lawful counterpart has been the subject of some academic criticism[1], the constitutional status of the right to strike is not at issue on this appeal. However, with respect to the constitutional status of the right to collectively bargain as an aspect of freedom of association, Justice McIntryre's reasons in both the *Alberta Reference* and the *PSAC* cases support the view that collective bargaining can be constitutionally protected activity under s. 2(d) of the *Charter*.

13. In this respect, from the outset of his reasons, Justice McIntryre limited his characterization of the issue in the *Alberta Reference* to whether the right to strike was constitutionally protected by s. 2(d). Moreover, in the companion *PSAC* case, Justice McIntyre explicitly reiterated that, in the *Alberta Reference*, he had held that "s. 2(d) of the *Charter* does not include a constitutional guarantee of a right to strike", but that his finding did not "preclude the possibility that other aspects of collective bargaining may receive *Charter* protection under the guarantee of freedom of association". Further, he held that the legislation in the *PSAC* case "does not interfere with collective bargaining so as to infringe the *Charter* guarantee of freedom of association", since it did not "restrict the role of the trade union as the exclusive agent of the employees", required the employer to "continue to bargain and deal with the unionized employees through the union", and permitted "continued negotiations between the parties with respect to the terms and conditions of employment which do not involve compensation".

PSAC, supra, per McIntyre, J at pp 453-4

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[1] See, for example, Beatty and Kennett "Striking Back: Fighting Words, Social Protest and Political Participation in Free and Democratic Societies" in (1988) 67 Canadian Bar Review 573 at 588-93; Macklem, "Developments in Employment Law: The 1990-91Term", in (1992) 3 S.C.L.R. (2d) 227, at 230-31; Petter and Monahan, "Developments in Constitutional Law: the 1986-87 Term, in (1988) 10 S.C.L.R. 61 at 103-106; and Leader, *Freedom of Association: A Study in Labor Law and Political Theory*, at pp. 203-204

14. In the specific context of Justice McIntyre's approach, it is to be noted that legislation imposing a blanket exclusion on access to collective bargaining for groups of employees impacts directly on those elements of the labour relations system respecting collective bargaining which Justice McIntyre pointed to as implicating concerns relating to freedom of association, since exclusion necessarily restricts the ability of employees to collectively bargain and deal with their employer through trade union representation.[2]

15. Finally, two of the six judges deciding the trilogy (Chief Justice Dickson and Justice Wilson) held that s. 2(d) protects both the right to engage in collective bargaining and the right to strike, particularly given the common understanding under international law, including ILO Conventions to which Canada is signatory, that in the trade union context, freedom of association includes the right to collectively bargain and to strike. In their view, while agreeing with Justice McIntryre that freedom of association extends to the right to do collectively that which one is permitted to do as an individual, this was not the "exclusive touchstone" for s. 2(d). In addition, there was certain associational activity, such as the right to strike, for which there is no individual equivalent, but where the prohibition on the activity attempts to preclude "associational conduct because of its concerted or associational nature" or "is aimed at foreclosing a particular collective activity because of its associational nature", thereby interfering with "the freedom of persons to join and act with others in common pursuits" and breaching s. 2(d).

The PIPSC Case

16. Four years later, in 1991, this Court issued its decision in *PIPSC*. The employees in *PIPSC* were covered by collective bargaining legislation. The underlying issue was whether employees who had been transferred from federal to territorial jurisdiction would be represented by their previous bargaining agent, or by a new bargaining agent which had been recognized by the Legislature.

> *Professional Institute of the Public Service of Canada v. Northwest Territories (Commissioner)*, [1990] 2 S.C.R. 367 (hereafter *PIPSC*), per Sopinka J. at pp 401-402

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[2]See Macklem, supra at p. 237; Kilcoyne, "Developments in Employment Law: The 1986-87 Term", in (1988) 10 S.C.L.R. 183 at 197

17. The Court upheld the legislative provisions by a narrow 4-3 majority.[3] However, for the purposes of the instant appeal, what is significant about the *PIPSC* decision (which is more fully analyzed in the factum of the OTF at paragraphs 24-29) is that the issue raised by the legislation at issue in that case did not involve a blanket exclusion from access to the established collective bargaining regime. Rather, the issue in *PIPSC* was the extent to which section 2(d) protected the rights of employees, already covered by collective bargaining legislation, to determine their bargaining agent.[4]

18. Thus, unlike the employees in the *PIPSC* case, who were entitled to form a union and engage in collective bargaining, and where the constitutional issue raised related solely to restrictions on the choice of arms-length bargaining agent within an existing, *bona fide* legislative collective bargaining scheme, the instant appeal involves a blanket exclusion of employees from any such collective bargaining regime. Indeed, by contrast with this appeal, the restrictions at issue in *PIPSC* were described by Justice Sopinka as amounting to "nothing more than a legislated form of a labour relations regime based on voluntary recognition."

PIPSC, supra, per Sopinka, J. at p. 406

Effect Of Prior Cases

19. In summary, the CLC submits that, on the basis of this Court's decisions to date:

(i) the issue of whether freedom of association is infringed by the outright and blanket exclusion of particular groups of employees from access to an established regime for collective bargaining is an open one, not yet considered and certainly not rejected by this Court.

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[3]The majority of four judges included Chief Justice Dickson, who had authored a vigorous dissent in the trilogy. See Macklem, *supra* at p. 237 for the argument, also submitted in this factum, that when Justice McIntyre's decision in *PSAC* is combined with the Chief Justice's dissent in the *Alberta Reference*, "it can just as easily be said that a majority of the Court held that freedom of association ***does*** include a right to bargainin collectively".

[4] Or perhaps more accurately, their choice of bargaining unit, since in effect the claim was that section 2(d) protected the right of the employees to be represented by their previous bargaining agent, in their own bargaining unit, rather than being included in the much larger, pre-existing bargaining unit comprised of the employees of their new employer, and represented by a different bargaining agent.

(ii) the various concerns leading certain members of the Court to reject earlier freedom of association claims in the trilogy and *PIPSC* do not apply in the case of an outright and blanket denial of access to collective bargaining. While a majority of the Court in the trilogy held that the right to strike does not fall within the scope of constitutionally protected associational activities, as set out in paragraph 9 above, the concerns upon which the decision was based do not apply in the case of workers who seek to overcome their relative vulnerability and inequality by bargaining collectively, but who have been excluded altogether from the legislative "balance";

(iii) similarly, in the *PIPSC* case, the Court held that particular elements within a collective bargaining regime, such as choice of bargaining agent/bargaining unit, do not fall within s. 2(d). However, *PIPSC* did not deal with or consider whether outright exclusion from access to collective bargaining could infringe s. 2(d);

(iv) as more fully argued in the factum of the OTF, it is submitted that this Court has supported the proposition that freedom of association not only protects the right to form, join, maintain and participate in the lawful activities of trade unions, but also that freedom of association protects against legislative restrictions which, in purpose or effect, restrict the ability of individuals to engage in collective activity where that activity is permitted to them as individuals. As submitted in paragraphs 38-39 below, this principle supports the recognition of collective bargaining as falling within the scope of s. 2(d);

(v) if freedom of association does not apply to protect the associational rights of employees who are the subject of a blanket exclusion from the mechanism established for most other employees to engage in collective bargaining, it is difficult to envision how freedom of association could have any meaningful application in advancing the collective associational interests of employees in the workplace. Such a narrow or minimalist approach would run contrary to the principle that fundamental rights and freedoms should be given a robust interpretation and, as submitted below, would run contrary to the purposes of freedom of assocaition, the underlying values of the Charter, and Canada's international law obligations.

(ii) <u>Consistency with Purpose of Freedom of Association</u>

20. An interpretation of the scope of freedom of association in the trade union context which encompasses not only the freedom to form, join and maintain trade unions, but also the freedom of

individuals to engage in bargaining activity in common, finds support in the underlying purposes and interests of freedom of association which have been unanimously identified by this Court, most fully in *Lavigne v. Ontario Public Service Employees Union* , [1991] 2 S.C.R. 211. In *Lavigne*, all members of the Court observed that at the core of freedom of association, there lies, as Justice McIntryre put it in the *Alberta Reference* case, "...a rather simple proposition: the attainment of individual goals, through the exercise of individual rights, is generally impossible without the aid and cooperation of others" (see Wilson J., speaking for three of the seven judges at p. 251h-i; La Forest J., speaking for three other judges at p. 317-d; and McLachlin J. at p. 343d-f). As Justice Wilson concluded in *Lavigne*, s. 2(d) is intended to advance "the collective action of individuals in pursuit of their common goals" (p. 253-e). For Justice McLachlin, "freedom of association protects the freedom of individuals to interact with, support and be supported by, their fellow humans in the varied activities in which they choose to engage" (p. 343-d); for Justice La Forest "the essence of the freedom is the protection of the individual's interest in self-actualization and fulfillment that can be realized only through combination with others" (p. 317-b).

21. It follows, the CLC submits, that legislation or government action which restricts the ability of individuals to collectively bargain, in cooperation and combination with others, in pursuit of their common goals, would *prima facie* implicate and raise freedom of association concerns. Indeed, Justice Wilson's description of collective bargaining in *Lavigne*, as a "mechanism by which individuals come together and form a union to represent their interests" (p. 296) would seem to squarely place collective bargaining within the recognized purposes of the *Charter* guarantee of freedom of association.

22. This approach to the purpose and content of freedom of association draws considerable support from democratic political theory. Over a century ago, Alexis de Tocqueville observed:

> "The most natural privilege of man, next to the right of acting for himself, is that of combining his exertions with those of his fellow creatures and of acting in common with them. The right of association therefore appears almost as inalienable in its nature as the right of personal liberty. No legislator can attack it without impairing the foundations of society...
>
> In our own day freedom of association has become a necessary guarantee against the tyranny of the majority...

> No countries need associations more—to prevent either despotism of parties or the arbitrary rule of a prince—than those with a democratic social state. In the aristocratic nations secondary bodies form natural associations which hold abuses of power in check. In countries where such associations do not exist, if private people did not artificially and temporarily create something like them, I see no other dike to hold back tyranny of whatever sort, and a great nation might with impunity be oppressed by some faction or by a single man."

23. Professor Irwin Cotler has described the essential function of freedom of association as a precondition to the very existence of a democratic society:

> "Indeed, association in its communal expression has its own unique jurisprudence of justification. Apart from the inalienability of the right which de Tocqueville linked to the very notion of personal liberty itself, freedom of association has been regarded as an expression, if not a condition, of a pluralistic ethic, where 'a variety of voluntary private associations and groups operate simultaneously to maximize opportunities for self—realization and minimize the strength of centralized power'. In this sense, then, freedom of association is of the very essence of democracy itself, wherein political parties, trade unions, professional associations, religious organizations and the like may not only 'lead their own lives and exercise within the area of their competence an authority so effective as to justify labelling it ... sovereign', but 'no legislator can attack it without impairing the very foundations of society'."
>
> I. Cotler, , "Freedom of Association , Association, Conscience and Religion", in Tarnopolsky and Beaudoin eds., *Canadian Charter of Rights and Freedoms: Commentary*, (Toronto:Carswell, ,1982), at pp 154 -155

24. The history of the specific claim to freedom of association for trade union purposes, the relationship of the protection of freedom of association for trade union purposes to fundamental human rights, and the rationale for such protection, is summarized in the following passage from *Human Rights and International Labour Standards*:

> "In an age of interdependence and large scale organization, in which the individual counts for so little unless he acts in cooperation with his fellows, freedom of association has become the cornerstone of civil liberties and social and economic rights also. It has long been the bulwark of religious freedom and political liberty; it has increasingly become a necessary condition of economic and social freedom for the ordinary citizen... Freedom of association by highly organized and powerful economic interests calls for a counterpart in strong leadership in the public interest by the state. But strong leadership by the state without the counterpart of such freedom of association can be dangerous for political as well as for economic and social freedom. Both contemporary standards of life and, more fundamentally, the level of population which medical progress has made possible and technical progress has made it possible to support, have made our society dependent on mass production. Mass production involves large concentrations of economic power which have made the individual craftsman powerless. In such a situation the alternatives are democratic labour organizations or a slave state...

> In this general context the problems of the freedom and independence of employers' and workers' organizations, of their mutual relations, and of their relationship to and collaboration with the state, constantly interact upon each other. They can be resolved only by the combination of effective guarantees of freedom of association and effective procedures for the adjustment of conflicting interests. Freedom of association therefore represents only a part of the problem, but it represents the point of contact between industrial relations and human rights and a condition without which no satisfactory solution of the other problems of industrial relations is possible in a free society. Without being in any sense an end in itself, freedom of association for trade union purposes is a major postulate of democratic government in an industrial society."

Jenks, C.J., *Human Rights and International Labour Standards*, Stevens & Sons Limited, 1960, p. 49

(iii) Consistency with Charter Values

25. Indeed, interpreting freedom of association to include the freedom of workers to bargain collectively is also consistent with various core and structural *Charter* values, including promoting equality, securing human dignity, enhancing democratic participation, and advancing the "rule of law" itself.

26. In this respect, in the specific context of employment, this Court has increasingly recognized the vulnerability and inherent inequality of employees in the workplace, when dealing with their employers on an individual basis. Most recently, in *Wallace v. United Grain Growers Ltd.*, this Court drew together its earlier decisions, including *Slaight Communications Inc. v. Davidson*, [1989] 1 S.C.R. 1038, at p. 1051-52, to emphasize the "unique characteristics" of the employment contract and, in particular, the absence of free bargaining power resulting from the inequality of power and information between employees and their employers. The Court also recognized employees as a vulnerable group in society, a vulnerability "underscored by the level of importance which our society attaches to employment".

Wallace v. United Grain Growers Ltd., [1997] 3 S.C.R. 701, per Iacobucci, J. at pp 740-742

27. Indeed, the Court recognized that the "power imbalance" between individual employees and their employer "informs virtually all facets of the employment relationship", citing with approval from Kahn-Freund's *Labour and the Law*, as follows:

> "The relation between an employer and an isolated employee or worker is typically a relation between a bearer of power and one who is not a bearer of power. In its inception it is an act

of submission, in its operation it is a condition of subordination".

Wallace v. United Grain Growers Ltd., supra, at p. 741

28. Even in the United States, where the nature of the constitutional protection of freedom of association is much less extensive than that set out under the *Charter* (including the absence of an independent guarantee of freedom of association), both the United States Supreme Court and lower courts have held that the right to organize and to bargain collectively is a fundamental constitutionally protected right, recognizing the vital contribution access to collective bargaining makes in redressing the imbalance between individual employees and their employer.

National Labour Relations Board v. Jones & Laughlin Steel Corp., 301 U.S. 1 at 33:

"Thus, in its present application, the statute goes no further than to safeguard the right of employees to self-organization and to select representatives of their own choosing for collective bargaining or other mutual protection without restraint or coercion by their employer.

That is a fundamental right... Discrimination and coercion to prevent the free exercise of the right of employees to self-organization and representation is a proper subject for condemnation by competent legislative authority. Long ago we stated the reason for labour organizations. We said that they were organized out of the necessities of the situation; that a single employee was helpless in dealing with an employer; that he was dependent ordinarily on his daily wage for the maintenance of himself and family; that if the employer refused to pay him the wages that he though fair, he was nevertheless unable to leave the employer and resist arbitrary and unfair treatment; that union was essential to give laborers opportunity to deal on an equality with their employer. *American Steel Foundries v. Tri-City Central Trades Council*, 257 U.S. 184, 209... We said that such collective action would be a mockery if representation were made futile by interference with freedom of choice. Hence the prohibition by Congress of interference with the selection of representatives for the purpose of negotiation and conference between employers and employees, "instead of being an invasion of the constitutional right of either, was based on the recognition of the rights of both. *Texas & N.0.R. Co. v. Railway Clerks, supra...*"

Amalgamated Utility Workers (C.I.O) v. Consolidated Edison Co. of New York, 309 U.S. 261 at 263-64:

"Neither this provision, nor any other provision of the Act, can properly be said to have "created" the right of self-organization or of collective bargaining through representatives of the employees' own choosing. In *National Labour Relations Board v. Jones & Laughlin Steel Corp.*, 301 U.S. 1, 33, 34, we observed that this right is a fundamental one;... that discrimination and coercion 'to prevent the free exercise of the right of employees to self-organization and representation' was a proper subject for condemnation by competent

legislative authority. We noted that 'long ago' we had stated the reason for labour organizations, that through united action employees might have 'opportunity to deal on an equality with their employer,' referring to what we had said in *American Steel Foundries v. Tn-City Central Council*, 257 U.S. 184, 209.

Thomas v. Collins, 323 U.S. 518

International Union et al v. Wisconsin Employment Relations Board et al, 69 S. Ct. 516 at 524

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United Federation of Postal Clerks v. Blount, (1971) 325 F. Supp. 879

29. In addition to promoting equality, collective bargaining serves to protect and advance the dignity of workers. As Justice La Forest stated in *McKinney v. University of Guelph* [1990] 3 S.C.R. 229 , at p. 300, "work is inextricably tied to the individual's self-identity and self-worth.." In *Machtinger v. HOJ Industries,* [1992] 1 S.C.R. 986, this Court recognized the importance that our society accords to employment and the fundamental role that it has assumed in the life of the individual. In *Wallace*, this Court noted that, "for most people, work is one of the defining features of their lives," and quoted approvingly from the following passage from Dickson C.J. in the *Alberta*

20 *Reference* case:

> "Work is one of the most fundamental aspects in a person's life, providing the individual with a means of financial support and, as importantly, a contributory role in society. A person's employment is an essential component of his or her sense of identity, self-worth and emotional well-being".

In this respect, collective bargaining protects the interest of employees in influencing the conditions under which they work, by providing them with a meaningful opportunity to participate in the formulation and administration of the rules which govern their workplace.

30 30. Collective bargaining also promotes employee autonomy, participation, self-determination, and the 'rule of law' in the workplace. In discussing the values of collective bargaining through trade unions, Professor Weiler has categorized the value of collective employee action through collective bargaining into three broad categories: economic, sociological and political. The economic reasons employees come together and seek to collectively bargain stem from the inherent vulnerability and inequality of individual employees *vis a vis* their employer, already discussed above. However, as Weiler notes, the role of unions and collective bargaining has never been and is not strictly economic:

"An apt way of putting it is to say that good collective bargaining tries to subject the employment relationship and the work environment to the 'rule of law'. Many theorists of industrial relations believe that this function of protecting the employee from the abuse of managerial power, thereby enhancing the dignity of the worker as a person, is the primary value of collective bargaining, one which entitles the institution to positive encouragement from the law....

....collective bargaining is the most significant occasion upon which most of these workers ever participate in making social decisions about matters that are salient to their daily lives. This is the essence of collective bargaining. Instead of merely taking what their employers offered - even the most generous, paternalistic of employers - employees take their destiny into their own hands, deciding what kind of working conditions they want, and then actively pursue those objectives, with all of the risks that may entail."

Weiler, *Reconcilable Differences*, (Carswell, 1980), at pp. 31-32

See also Woods Task Force *Report on Canadian Industrial Relations* (1968) at p. 96-97:

"One of the most cherished hopes of those who originally championed the concept of collective bargaining was that it would introduce into the work place some of the basic features of political democracy that was becoming the hallmark of the western world. Traditionally referred to as industrial democracy, it can be described s the substitution of the rule of law for the rule of men in the work place....

The consequent restraints which collective bargaining has placed on management have provided workers with a measure of dignity, self-respect and security that they would not otherwise have gained."

31. In addition to these specific *Charter* values, the rights and freedoms guaranteed in the *Charter*, including freedom of association, are rooted in our common commitment as Canadians to nurturing and sustaining a free and democratic society. It is submitted that, in the context of freedom of association, this community interest is furthered by an interpretation of s. 2(d) which seeks to protect those associational activities which are essential to a free and democratic society. As Justice La Forest noted in *Lavigne, supra*, at p. 317:

> "...there is a community interest embodied in the freedom of association. This interest might be expressed in the interests of society in the contributions in political, economic, social and cultural matters which can be made only if people are free to work in concert."

Thus, to the extent that this Court accepts that the freedom of employees to work in concert through collective bargaining is associational activity which plays an essential role in preserving and furthering Canada as a free and democratic society, recognizing collective bargaining as protected associational

activity would not only promote values which lie at the core of the *Charter*, but would also extend constitutional protection to associational activity essential to sustaining a free and democratic society.

32. In this respect, it is submitted that it is open to this Court to adopt an interpretation of freedom of association as protecting individuals engaging together in associational activity, where that associational activity is consistent with and furthers the underlying purposes of freedom of association, promotes fundamental *Charter* values and is essential to a free and democratic society (an approach to s. 2(d) not directly considered by the Court in the trilogy or subsequent cases). As Beatty and Kennett have suggested, *supra*, at pp. 601-602, a distinction should be made between some associational activities such as laws restricting the activities of gun clubs, and other associational activities such as collective bargaining, since "collective bargaining, like speech or thought or assembly, is an activity which is integral to the deeper moral value of autonomy and personal self-government which underlies our whole theory and tradition of liberal democratic government. Similarly, Macklem has suggested, *supra*, at p. 239, note 53: "Another approach... would be for the judiciary to begin to make substantive judgements about the merits and importance of different types of groups and group activity in light of the purposes of the *Charter*. Some activities essential to some groups may well deserve substantive protection against governmental interference, subject to s. 1 of the *Charter*, simply because of their centrality and importance to social and democratic life." It is submitted that, applying this approach, s. 2(d) should include the freedom of individuals to join together to engage in collective bargaining activity.

(v) <u>Consistency with International Law</u>

33. This Court has increasingly recognized that international human rights obligations should inform the interpretation of the content of the rights and freedoms guaranteed by the *Charter*. Thus, an interpretation of the scope of s. 2(d) which is consistent with the understanding of freedom of association at international law, and with Canada's treaty obligations, is to be preferred.

Alberta Reference, supra, per Dickson, C.J.C. at pp. 348-50:

> "The content of Canada's international human rights obligations is, in my view, an important *indicia* of the meaning of "the full benefit of the *Charter's* protection." I believe that the *Charter* should generally be presumed to provide protection at least as great as that afforded by similar provisions in international human rights documents which Canada has ratified."

Slaight Communications Inc. v. Davidson, [1989] 1 S.C.R. 1038, per Dickson, C.J.C. at pp 1056

Godbout v. Longueuil (City), [1997] 3 S.C.R. 844, per La Forest, J. at p. 895

Thomson Newspapers Co. (c.o.b. Globe and Mail) v. Canada (Attorney General), [1998] S.C.J. No. 44, at para. 83

34. It is respectfully submitted that freedom of association has a specific and widely recognized core meaning under international law and, in particular, under international covenants and treaties to which Canada is a party, and includes at a minimum the right to organize and engage in collective bargaining activities.

35. In this respect, Canada is signatory to International Labour Organization (ILO) *Convention No. 87 Concerning Freedom of Association and Protection of the Right to Organize*. Article 3 of *Convention No. 87* provides, *inter alia*, that workers' and employers' organizations shall have the right to "organize their administration and activities and formulate their programmes", and requires that "public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof." The ILO has ruled that the right to bargain freely with employers with respect to the conditions of work constitutes an essential element of freedom of association protected by *Convention No. 87*, and that employees should have the right to seek to improve their living and working conditions through trade union representation and collective bargaining. Most recently, the ILO has ruled that the exclusion of various occupational groupings, including agricultural workers, domestic workers, and certain professional employees, from coverage under Ontario collective bargaining legislation constitutes a violation of ILO *Convention No. 87*.

Freedom of Association, *Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO*, Fourth Edition (ILO: Geneva, 1996), para. 782

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36. In his reasons in the *Alberta Reference* case, Chief Justice Dickson thoroughly reviewed international law relating to the protection of employees to engage in collective action, including bargaining and engaging in strike activity, as an element of freedom of association: see pages 348 to 359 of his reasons. While international law also provides considerable support for recognition of the right to strike as protected associational activity, the approach taken by the majority of this Court in

the trilogy to freedom of association denied protection under s. 2(d) to the right to strike. While it is not necessary for this Court to reconsider whether the right to strike is constitutionally protected by s. 2(d) in this appeal, it is submitted that the unequivocal recognition by ILO and other international instruments that freedom of association includes the right of employees to collective bargain provides strong support for a similar interpretation of s. 2(d) of the *Charter*, particularly given the Court's subsequent affirmation of the significance of Canada's international human rights obligations in interpreting similar provisions of the *Charter*: see *Slaight Communications, supra*.

(vi) Consistency with Legislative History of *Charter* Guarantee

37. It is respectfully submitted that freedom of association as guaranteed by s. 2(d) of the *Charter* was intended to include freedom to organize and collectively bargain. This is evident from the statement of the Acting Minister of Justice, made in proceedings before the Canada Parliamentary Special Joint Committee of the Senate and the House of Commons on the Constitution of Canada. In responding to a request that the right to organize and collectively bargain be included in the guarantee of freedom of association, the Honourable Robert Kaplan stated:

> "Mr. Kaplan: Our position on the suggestion that there be specific reference to freedom to organize and bargain collectively is that that is already covered by the freedom of association that is provided already in the declaration or in the Charter; and that by singling out association for bargaining one might tend to diminish all the other forms of association contemplated – church association; association of fraternal organizations or community organizations.
>
> Canadian Parliamentary Special Joint Committee of the Senate and House of Commons and the Constitution of Canada, *Minutes of Proceedings and Evidence*, 43:69

(vii) Consistency with Protecting Collective Activities Not Prohibited to Individual

38. An interpretation of freedom of association as including employees engaged in the activity of collective bargaining is also supported by the principle that freedom of association protects the rights of individuals to collectively engage in activity where it is lawful to engage in that activity on an individual basis. As noted above, three of the six members of this Court accepted this principle in the *Alberta Reference*, as did Justice Sopinka in his reasons in the *PIPSC* case. On this point, Justice La Forest was the only member of the Court to express some reservation, stating his view that it was unnecessary to decide whether freedom of association included this principle. This view of freedom of

association is also consistent with its underlying purposes, as discussed above, and is supported by academic commentary.

> Reena Raggi, "An Independent Right to Freedom of Association", in 12 *Harv. C. Rts - C. Lib. Rev.* 1 (1977), at p. 11:
>
> "The basic value of this associational action is that it allows an individual to achieve through collective effort what he might not otherwise be able to achieve for himself".
>
> Beatty and Kennett, *supra,* at pp. 585-86
>
> Leader, *Freedom of Association: A Study in Labour Law and Political Theory*, Yale University Press, 1992, chapter 3

39. As more fully argued in the factum filed by OTF, it is submitted that, insofar as individuals are not prohibited from engaging in bargaining activity with their employer, s. 2(d) protects the freedom of individual to collectively engage in bargaining activity, i.e. to engage in ***collective*** bargaining. In this respect, it is submitted that a distinction may be made between certain elements or features of a collective bargaining scheme and the core activity of collective bargaining itself. While specific elements or features of a statutory collective bargaining scheme may not be constitutionally protected under s. 2(d) (perhaps because there is no lawful individual counterpart to a particular element or feature), in the case of bargaining collectively with an employer, there is a lawful individual counterpart. Moreover, while the Legislature may design or alter the particular methods or mechanisms under a collective bargaining regime without necessarily infringing s. 2(d), it is submitted that an outright and blanket exclusion from collective bargaining legislation strikes at the heart of constitutionally protected associational bargaining activity.

A.2 BLANKET EXCLUSIONS FROM ACCESS TO PROTECTION AND BENEFIT OF COLLECTIVE BARGAINING REGIME RESTRICTS PROTECTED ASSOCIATIONAL ACTIVITY

40. It is it is the position of the CLC that the exclusion of groups of employees from access to collective bargaining legislation constitutes a breach of s. 2(d) of the *Charter*, and particular the right to join and form trade unions, and to collectively bargain.

(i) Restriction on Forming and Joining

41. By excluding employees from access to a collective bargaining regime, legislative exclusions have the effect of significantly impeding the ability of employees to form, join and participate in the lawful activities of a trade union. Thus, even if collective bargaining finds no protection under s. 2(d), excluding employees from access to the benefit and protection of the collective bargaining legislation made available to most other employees itself has the effect of interfering with and restricting activity which no one disputes is protected by s. 2(d), i.e. the forming and joining of a trade union. This submission is further developed in the OTF factum, at paragraphs 8 to 18.

42. In this respect, while the CLC recognizes that the legislative exclusion may not explicitly prohibit excluded employees from forming or joining a trade union, the history of collective bargaining and trade unionism in Canada makes it clear that the practical effect of excluding employees from access to collective bargaining legislation is, both in purpose and effect, to prevent employees from forming and joining trade unions, activity which no one disputes is protected by freedom of association. As Beatty has commented in respect of the legislative exclusion of agricultural workers from access to collective bargaining legislation:

> "At a minimum, it is a deliberate decision of the legislative branch not to show the same respect for the farmworkers' freedom of association.... Refusing to extend the 'protection and benefit' of our Labour Relations Acts to agricultural workers means their freedom to associate is governed by the common, judge-made law.... [D]enying them the protection to the statutory scheme has left them vulnerable to a wide variety of actions by their employers designed to obstruct the formation of a union."
>
> Beatty, *Putting the Charter to Work*, pp. 89-90

(ii) Restriction on Access to Collective Bargaining

43. In addition to the restriction on protected forming and joining activity, it is submitted that the exclusion of groups of employees from the legislated bargaining regime applicable to most other employees, in both purpose and effect, interferes with the right of employees to collectively bargain. Legislative exclusion makes it significantly more difficult for employees engage in collective bargaining, in comparison with most other employees who are covered by the legislation, by depriving them of the mechanism which, throughout Canada, the state itself has established as the vehicle for

exercising the right to collectively bargain.

44. In this respect, through its legislative interventions in collective bargaining (a history detailed in the report filed by Gagnon and Weber, *Appeal Book* -Vol. 3, Exhibit R-9, pp. 483-537), the Canadian state has extensively regulated, structured and channeled the method through which Canadian workers are able to engage in collective bargaining, to the point where collective bargaining is itself, as a practical manner, virtually synonymous with bargaining under these legislative schemes. These schemes generally provide for unfair labour practice protection, certification/recognition of bargaining agents, mandatory conciliation/mediation, a duty on both unions and employers to bargain in good faith and a method for resolving collective bargaining impasses.

45. Having so extensively regulated collective bargaining activity, and having established a normative statutory structure applicable to most employees in both the private and public sectors, the government can hardly contend that exclusion from this normative scheme is not intended to prevent, and does not have the effect of preventing, excluded employees from engaging in collective bargaining. Given the historical context of the government's own extensive legislative intervention, if there is to be collective bargaining, it must as a practical matter occur under and within a statutory collective bargaining regime. It is submitted that this Court must be sensitive to these practical effects of excluding occupational groups of employees, and to the reality that to exclude employees from the normative regime is effectively to exclude them from collective bargaining.

> Arthurs et al., *Labour Law and Industrial Relations in Canada*, 4th ed, (Markham: Butterworths, 1993), page 44-46:
>
> "With the removal of criminal prohibitions against union organizations in the last quarter of the nineteenth century, workers were, in principle, free to join unions and to participate in their collective bargaining and related activities. However, this theoretical freedom was translated into practice only relatively infrequently, and with great difficulty."

46. As noted above, the Woods Task Force observed in relation to Canadian collective bargaining legislation that "freedom to associate and to act collectively are basic to the nature of Canadian society and are root freedoms of the existing collective bargaining system... Collective bargaining legislation establishes rights and imposes duties derived from these fundamental freedoms..." (p. 138) It is submitted that, where the state has established a comprehensive legislative scheme which is intended

to enhance and regulate these "root" *Charter* protected freedoms (in this case, the right to form and join unions and to engage in collective bargaining), legislative exclusion from this comprehensive regime is intended to and has the effect of preventing and discouraging the excluded employees from engaging in protected associational activity.

47. Moreover, apart from the effect of legislative exclusion on the protected associational bargaining activity, it is submitted that the purpose of the exclusion of employees from access to collective bargaining also infringes s. 2(d) of the *Charter*. In the context of freedom of expression, this Court held in *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 S.C.R. 927 that where legislative or governmental restrictions are enacted in order to control or guard against the presumed effect of such expressive activity, the court will conclude that the purpose of such restrictions is to interfere with the protected activity: see pp. 978-79. Similarly, it is submitted that, in so far as the purpose of excluding certain groups of employees from access to a comprehensive collective bargaining regime applicable to most other employees is rooted in the professed concern over the effect which access to collective bargaining would have, it follows that the exclusion has been enacted for the purpose of controlling or guarding against the effects of protected associational activity. Indeed, it is clear that the Respondent's rationale for excluding RC MP police members from access to federal collective bargaining legislation is the effect which "belonging to a trade union" would have: see, for example, paragraph 162 of the Respondent's factum. Thus, it is submitted that the very purpose of the exclusion from access to collective bargaining is to interfere with protected associational joining and bargaining activity.

48. While the following comments made by the Court in *Vriend v. Alberta (Attorney General)*, [1998] S.C.J. No. 29, at paras. 99 to 102 relate to the negative effects on gays and lesbians which result from the exclusion of protection against sexual orientation discrimination, it is submitted that the exclusion of employees from collective bargaining legislation generally applicable to most other employees also imposes burdens on the exercise of their protected constitutional rights, in this case, the right to form and join unions and to engage in collective bargaining activity:

> ".... exclusion from the IRPA's protection... sends a strong and sinister message. The very fact that sexual orientation is excluded from the IRPA, which is the Government's primary statement of policy against discrimination, certainly suggests that discrimination on the ground

> of sexual orientation is not as serious or as deserving of condemnation as other forms of discrimination. It could well be said that it is tantamount to condoning or even encouraging discrimination against lesbians and gay men...
>
> The exclusion sends a message to all Albertans that it is permissible, and perhaps even acceptable, to discriminate against individuals on the basis of their sexual orientation."

In this respect, it is submitted that deliberate exclusion from access to collective bargaining legislation has the effect of diminishing the ability of employees to engage in collective bargaining, sends a "strong and sinister message" that collective bargaining for excluded employees is less worthy and deserving of respect, tells those employees they have no protection if they engage in protected associational activity, leads them to fear that if they do engage in protected associational activity they will have no legal redress from retaliatory action, and results in their being deterred from engaging in collective bargaining activity. This all has the effect of further eroding any theoretical or formal ability of these employees to engage in collective bargaining outside of the statutory scheme.

(iii) <u>Freedom of Association Guaranteed to "Everyone"</u>

49. As this Court stated in relation to the guarantee of freedom of religion in s. 2(a) of the *Charter*, "protection of one religion and the concomitant non-protection of others imports disparate impact destructive of religious freedom of the collectivity":*R v. Big M Drug Mart* [1985] 1 S.C.R. 295 at p. 337. This recognition that selective exclusion from legislative protection in relation to freedom of religion infringes s. 2(a) of the Charter should apply equally to selected exclusion in relation to the other fundamental freedoms, including freedom of association, particularly since the guarantee of the fundamental freedoms guaranteed by s. 2 is extended to "everyone". As a result, it is submitted that, when enacting a legislative scheme which enhances and protects the exercise of fundamental rights and freedoms, the state cannot single out certain groups by excluding them from the benefit and protection of the legislation, since to do so would be to undermine the right of "everyone" to enjoyment of the freedom. Given that collective bargaining legislation is intended to and has the effect of protecting and enhancing the exercise of fundamental freedoms, selective exclusion of certain individuals from coverage under such legislation constitutes government action which fails to recognize that "everyone" is entitled to freedom of association in respect of legislative intervention.

50. Indeed, in the specific context of freedom of association, the principle of non-discriminatory

application has been applied by the Freedom of Association Committee, the body charged with interpreting ILO Convention No. 87, in concluding that legislative exclusions of occupational groups from collective bargaining regimes violates freedom of association guarantees. The most recent illustration of this principle is the Committee's decision referred to in paragraph 35 above, where the Committee held that the exclusion under Ontario labour legislation of agricultural, domestic and professional employees fails to "give expression to the principle of non-discrimination in trade union matters", noting that the words "without distinction whatsoever" used in Convention No. 87 mean that "freedom of association should be guaranteed without discrimination of any kind based on occupation". (see paragraph 182ff of the decision).

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See also Sieghart, *The International Law of Human Rights*, Clarendon Press, 1983 at p. 17:

"...'[H]uman' rights are distinguished from other rights by two principal features. First, they... 'inhere' universally in all human beings, throughout their lives, in virtue of their humanity alone, and they are 'inalienable . Secondly, their primary correlative duties fall on States and their public authorities, not on other individuals. Three important consequences flow from those distinctions.

20

The first is that, in respect of 'ordinary' rights, it is often perfectly legitimate to differentiate between different individuals in different circumstances, and for different reasons. The law may, for example, impose more stringent obligations on those who practice medicine than on those who practice landscape gardening. In computing the compensation for loss of earnings payable to the victim of a traffic accident, it may award a larger sum to a banker than to a bus-driver. It may give an insurer the right to avoid a contact for the mere non-disclosure of a material fact, and yet decline to give any such right to a trader in commodities.

But because of the reflection in the modern international canon of the twin principle of
30 'universal inherence' and 'inalienability', no such differentiation is today permissible in the case of 'human' rights. In respect of these, the law must treat all members of the protected class with complete equality, regardless of their particular circumstances, features or characteristics. Indeed, the concept of 'non-discrimination' is so central to international human rights law that all but one of the major instruments prescribe it in an Article of general application, expressed to extend to all the specific rights which they declare..."

B. SECTION 15 OF THE CHARTER

51. The Respondent argues that exclusions from collective bargaining legislation do not breach s. 15, on the basis that such exclusions are neither based on a personal characteristic nor related to an

"analogous ground". In this respect, it is the position of the CLC that:

i) given this Court's recognition of the importance of work to one's self-identity and dignity, and that a person's employment is an essential component of his or her sense of identity, self-worth and emotional well-being, occupational status should be regarded as a personal characteristic, no less than was marital status in *Miron v. Trudel*, [1995] 2 S.C.R. 418, particularly given that one of s. 15's overarching purposes is to prevent violation of dignity and freedom: see paragraph 29 above. In any event, whether or not a particular distinction is directly based on a personal characteristic is but one possible indicia of an analogous ground of discrimination (*Miron*, per McLachlin at para.148-49);

ii) for some workers currently excluded from coverage under labour legislation in certain Canadian jurisdictions (such as agricultural workers and domestics), there can be significant practical and legal impediments to being able to leave or change their employment status, so that there is a sufficient element of immutability, in the sense that a change in status often lies beyond the individual's effective control;

iii) in considering whether exclusions from collective bargaining legislation may involve enumerated or analogous grounds, the Court should be sensitive to the fact that other excluded occupational groups may be composed of a significant number of members of enumerated groups (such as women or racial minorities) or analogous groups (such as recent immigrants or non-citizens), or may have suffered a history of political, legal and social historical group disadvantage in addition to disadvantage in the employment context, including but not limited to exclusion from access to collective bargaining. This specific disadvantage is reinforced by the special vulnerability and disadvantaged generally faced by employees who are left to deal with their employer on an individual basis: see paragraph 26 above;

(iv) in determining whether a particular group is analogous, it is important to take into account this Court's recognition that the purpose of section 15 is not limited to preventing discrimination by the attribution of stereotypical characteristics, but also to ameliorate the positions of groups in Canadian society who have suffered disadvantage by exclusion from the mainstream (*Eaton v. Brant County Board of Education* [1997] 1 SCR 241 at paras. 66-67; and *Vriend*, supra, at para. 72).

52. Furthermore, it is submitted that legislative exclusions from access to collective bargaining legislation are not based only on occupational status, but also on union status, and/or in relation to

union supporters/members, since exclusion from the benefit and protection of collective bargaining legislation a is effectively directed against unionization. In this respect, it is submitted that this court can take notice of the well-documented history of disadvantage, persecution, disabilities and legal sanctions visited against individuals who have sought, together with other workers, to form unions and engage in collective bargaining (see Adams, *Canadian Labour Law*, 2nd ed., (Aurora: Canada Law Book, 1998), at p 1-21 to 1-23 for a descriptive review of the extensive literature). Indeed, just as protection in human rights legislation has been considered relevant to the question of whether other grounds of discrimination are analogous, the existence of provisions prohibiting discrimination against workers on the basis of union activity in labour relations legislation throughout Canada reflects the continuing discrimination and disadvantage faced by employees seeking to unionize. Moreover, the Respondent's s. 1 analysis rests in large measure on the application of stereotypical assumptions about trade unionists (e.g. that they will be more likely to engage in illegal strikes or be derelict in carrying out their employment duties if they become union members).

PART IV - REMEDY REQUESTED

53. It is respectfully requested that this Court allow the appeal, on terms consistent with the relief requested by the Appellant.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

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July 7, 1998

PART V - AUTHORITIES

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Court File No. 25926

IN THE SUPREME COURT OF CANADA

(ON APPEAL FROM THE COURT OF APPEAL FOR THE PROVINCE OF QUEBEC)

B E T W E E N:

GAÉTAN DELISLE

Appellant

- and -

THE ATTORNEY GENERAL OF CANADA

Respondent

FACTUM OF THE INTERVENER CANADIAN LABOUR CONGRESS

SERVICE ADMITTED
THIS 8 DAY OF
July 1998
Gowling, Strathy & Henderson
AGENT FOR Ont.
Can. Police Assoc.

SERVICE ADMITTED
THIS 8th DAY OF
July 1998
Raven, Allen, Cameron & Ballantyne
AGENT FOR Appellant
+ counsel for
Inter. PSAC.

SERVICE OF A TRUE COPY HEREOF
SIGNIFICATION DE COPIE CONFORME

Admitted the 8th **day**
Acceptée le **jour**

of July **19** 98
de

Linda Guthrie
for
pour **Morris Rosenberg**
Deputy Attorney General of Canada
Sous-procureur général du Canada

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