



Notice to the Profession

Special General Meeting Of the Law Society of British Columbia

Tuesday, June 10, 2014

Registration: Starts at 11:00 am

Call to order: 12:30 pm

Main location: Vancouver Convention Centre East, Exhibition Hall A
999 Canada Place, Vancouver

Audio-conference locations: Abbotsford; Castlegar; Cranbrook; Dawson Creek; Kamloops;
Kelowna; Nanaimo; New Westminster, Prince George; Prince Rupert; Smithers; Surrey;
Terrace; Victoria; and Williams Lake

Member request

Having received a written request that meets the requirements of Rule 1-9(2), the Benchers hereby provide notice that all Law Society members in good standing and articulated students are invited to attend a Special General Meeting of the Law Society of BC on Tuesday, June 10, 2014, commencing at 12:30 pm at the locations set out above and in page 4 of this notice.

Business

Pursuant to Rule 1-9(7), the business of the Special General Meeting will be limited to the following resolution:

WHEREAS:

- Section 28 of the *Legal Profession Act* permits the Benchers to take steps to promote and improve the standard of practice by lawyers, including by the establishment, maintenance and support of a system of legal education;
- Trinity Western University requires students and faculty to enter into a covenant that prohibits “sexual intimacy that violates the sacredness of marriage between a man and a woman”;
- The Barristers’ and Solicitors’ Oath requires Barristers and Solicitors to uphold the rights and freedoms of all persons according to the laws of Canada and of British Columbia;
- There is no compelling evidence that the approval of a law school premised on principles of discrimination and intolerance will serve to promote and improve the standard of practice of lawyers as required by section 28 of the *Legal Profession Act*; and

- The approval of Trinity Western University, while it maintains and promotes the discriminatory policy reflected in the covenant, would not serve to promote and improve the standard of practice by lawyers;

THEREFORE:

The Benchers are directed to declare, pursuant to Law Society Rule 2-27(4.1), that Trinity Western University is not an approved faculty of law.

Message from the Benchers

Nature of the Business of the Meeting

The resolution presented for consideration at this special general meeting, if passed, would direct the Benchers to reverse their decision on the approval of a faculty of law at Trinity Western University for the purposes of our admission program.

The Benchers' Decision

Under Rule 2-27(4.1), a common law faculty of law is approved if it has been approved by the Federation of Law Societies of Canada unless the Benchers adopt a resolution declaring that it is not or has ceased to be an approved faculty of law. On April 11, a resolution that the proposed faculty of law at TWU is not an approved faculty of law was defeated by a 20 - 7 vote. The webcast of the discussion and decision is available at <http://new.livestream.com/mediaco/lsrc041114> and a transcript of the proceedings is available at <http://www.lawsociety.bc.ca/docs/newsroom/TWU-transcript.pdf>.

The decision was made after a thoughtful and sometimes emotional expression of views and careful consideration of two Federation reports on the Trinity Western University application, nearly 800 pages of submissions from the public and the profession and a submission from TWU, and after thoroughly considering the judgment of the Supreme Court of Canada in *Trinity Western University v. British Columbia College of Teachers* 2001 SCC 31 <http://www.canlii.org/en/ca/scc/doc/2001/2001scc31/2001scc31.html> and its applicability to the TWU application. In addition, the Benchers considered a memorandum from former Chief Justice Finch on the relevant considerations and additional legal opinions as follows:

1. Finch/Banks - Overview Brief re: Relevant Considerations for the Law Society in Relation to the Proposed Faculty of Law at TWU
2. Laskin Opinion on Applicability of SCC Decision in *TWU v. BCCT*
3. Gomery Opinion on Academic Qualifications
4. Gomery Opinion on Application of the Charter
5. Gomery Opinion on Scope of Law Society's Discretion under Rule 2-27(4.1)
6. Thomas/Foy Opinion on Application of the *Labour Mobility Act* and the *Agreement on Internal Trade*

All of the opinions are available on the Law Society website at <http://www.lawsociety.bc.ca/docs/newsroom/TWU-opinions.pdf>. Members are encouraged to review the material that was before the Benchers and watch the webcast or review the transcript.

The Legal Profession Act, section 28

The recitals to the resolution proposed for the special general meeting reference s. 28 of the *Legal Profession Act* as the basis for the Benchers' consideration of the application of TWU. The wording of s. 28 describes the Benchers' authority to establish a system of legal education for lawyers and articulated students. It does not appear on its face to define the academic requirements necessary to become a lawyer or articulated student. In this regard the members may find instructive the opinion of Mr. Gomery on the Law Society's discretion under Rule 2-27(4.1). He observes that Rule 2-27(4.1) flows from the Benchers' authority under ss. 20(1)(a) and (21)(1)(b) of the *Legal Profession Act* to make rules establishing academic requirements.

Meeting Arrangements

The Benchers have made significant efforts to accommodate members' interest in attending and voting on the special general meeting resolution. The Benchers have approved the Vancouver Convention Centre East's Exhibition Hall A (2,300 seats) for the meeting in Vancouver, and have approved 15 other locations around the province, to be linked by telephone to the main meeting and providing about 2,475 additional seats. The decision to start the meeting at 12:30 pm was based on previous experience with a special general meeting and our general practice at annual general meetings. The Benchers understand that both the timing and the locations may not accommodate all those who might wish to attend and vote on the resolution. The Benchers will consider looking at a range of different options for future general meetings but the current special general meeting must, due to the very short time limits imposed by the current Rules and the date of the member request, comply with and be conducted in accordance with the Rules and procedures in place at the time the request was received.

Proposed Rules for the Meeting

The Benchers are also mindful that a significant number of members may attend at the 16 locations they have set for the special general meeting. In order to maximize the opportunity for those who may wish to speak at the meeting and still hold the vote in a timely manner, the Chair intends to call for a motion that:

1. Registration will begin at 11:00 am and close when the vote is called on the resolution;
2. There will be a time limit of three minutes for member speeches;
3. Members will not be allowed to speak for a second time on the same matter; and
4. The vote will take place as determined by the meeting, but in any event, not later than 5:00 pm.

The Benchers wish to remind everyone that this is a meeting called by members and interested members should attend to vote on the issue.

2014 Special General Meeting Locations

*Your RSVP response is urgently requested. Please RSVP **by Friday, May 30, 2014** to the email address beside the location you plan to attend. If responding for others as well, please note in your email the total number of expected attendees.*

City/town	Location	RSVP by email to:
Vancouver	Vancouver Convention Centre East, Exhibition Hall A 999 Canada Place, Vancouver, BC	vancouver@lsbc.org
Abbotsford	University of the Fraser Valley, Theatre B101 33844 King Road, Abbotsford, BC	abbotsford@lsbc.org
Castlegar	Quality Inn Castlegar, Monte Carlo Room 1935 Columbia Avenue, Castlegar, BC	castlegar@lsbc.org
Cranbrook	Best Western Cranbrook Hotel, DW Krockner Room 1019 Cranbrook Street N, Cranbrook, BC	cranbrook@lsbc.org
Dawson Creek	Holiday Inn Express Hotel, Ballroom 12217 4 th Street, Dawson Creek, BC	dawson_creek@lsbc.org
Kamloops	The Plaza Heritage Hotel, Blackwell Hall 405 Victoria Street, Kamloops, BC	kamloops@lsbc.org
Kelowna	The Coast Capri Hotel, Ballroom 1171 Harvey Avenue, Kelowna, BC	kelowna@lsbc.org
Nanaimo	The Coast Bastion Inn, Ballroom 11 Bastion Street, Nanaimo, BC	nanaimo@lsbc.org
New Westminster	The Metro Banquet Hall and Events Centre, Ballroom 759 Carnarvon St, New Westminster, BC	new_westminster@lsbc.org
Prince George	The Coast Inn of the North, George Evenoff Room 770 Brunswick Street, Prince George, BC	prince_george@lsbc.org
Prince Rupert	The Crest Hotel, British Columbia Room 222 1 Ave W, Prince Rupert, BC	prince_rupert@lsbc.org
Smithers	Perry & Company, Boardroom Unit 2, 3842 3 rd Avenue, Smithers, BC	smithers@lsbc.org
Surrey	New City Hall, Centre Stage 13450 104 Avenue, Surrey, BC	surrey@lsbc.org
Terrace	Best Western Plus Terrace Inn, Skeena 2 Room 4553 Greig Avenue, Terrace, BC	terrace@lsbc.org
Victoria	McPherson Playhouse 3 Centennial Square, Victoria, BC	victoria@lsbc.org
Williams Lake	Williams Lake Courthouse, Courtroom 410 540 Borland Street, Williams Lake, BC	williams_lake@lsbc.org



MULLIGAN TAM PEARSON
LAW CORPORATION
DEFENCE LAWYERS

April 23, 2014

Members of The Law Society of British Columbia

Dear Colleagues:

Re: **Special General Meeting of the Law Society of British Columbia
Trinity Western University**

As you probably aware, there has been an application by Trinity Western University for approval by the Law Society of British Columbia for a new faculty of law.

Trinity Western University requires students and faculty to enter into a covenant that includes a provision prohibiting "sexual intimacy that violates the sacredness of marriage between a man and a woman." Violation of this covenant can lead to discipline or expulsion from the university.

Section 28 of the *Legal Profession Act* confers authority on the Law Society to promote and improve the standard of practice by lawyers by, amongst other things, establishing and maintaining a system of legal education. In furtherance of this, Law Society Rule 2-27(4.1) permits the Benchers to deny approval to a faculty of law even where it may have been found to meet basic academic requirements.

On April 11, 2014, a majority of the Benchers of the Law Society voted to approve the application by Trinity Western University despite the covenant that discriminates on the basis of sexual orientation.

The granting of approval to an institution founded on an offensive and discriminatory policy will not serve to promote or improve the standard of practice of lawyers in the province. A proper assessment as to what will serve to benefit the standard of practice of lawyers requires consideration of the long-term interests of the profession including its reputation and core values.

The discriminatory principles reflected in the Trinity Western University covenant would appear to be inconsistent with one of the core principles reflected in the Barristers' and Solicitors' oath: that barristers and solicitors uphold the rights and freedoms of all persons according to the laws of Canada and British Columbia.

Several of the Benchers who voted in favour of approval for Trinity Western University did so on the basis of the Supreme Court of Canada overturning the

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British Columbia College of Teachers (BCCT) with respect to the approval of the university to graduate teachers. See *Trinity Western University v. British Columbia College of Teachers* [2001] 1 S.C.R. 772. This case turned on the absence of evidence before the BCCT concerning the impact of the university's discriminatory practices.

The *Legal Profession Act* does not require approval absent a conclusion that the proposed change to the system of legal education would promote or improve the standard of practice of lawyers. Accordingly, approval ought to be withheld absent an evidentiary basis to conclude that the approval of this university would have the effect of improving the standard of practice of lawyers in the province.

Unfortunately the current decision of the Law Society countenances intolerance, will be detrimental to the profession, and firmly places us on the wrong side of an important issue of principle. Moreover, there does not seem to be a sufficient evidentiary basis to conclude that the approval of the university will meet the objectives of section 28 of the *Legal Profession Act*.

This is one of the rare occasions when a decision of the Benchers requires reconsideration by the members of the Law Society.

Pursuant to requests from in excess of 1,100 members, a special general meeting has now been called in order to deal this issue.

Please consider attending in order to participate and vote on the resolution.

The outcome of the meeting will have an impact on the future of the profession and hopefully position it on the right side of the continuing difficult struggle against unacceptable discriminatory attitudes.

Sincerely,

Mulligan Tam Pearson
Law Corporation
PER:



Michael T. Mulligan
Barrister & Solicitor