

**IN THE SUPREME COURT OF CANADA  
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)**

BETWEEN:

**MOUNTED POLICE ASSOCIATION OF ONTARIO /  
ASSOCIATION DE LA POLICE MONTÉE DE L'ONTARIO and  
B.C. MOUNTED POLICE PROFESSIONAL ASSOCIATION  
ON THEIR OWN BEHALF AND ON BEHALF OF  
ALL MEMBERS AND EMPLOYEES OF THE  
ROYAL CANADIAN MOUNTED POLICE**

Appellants

– and –

**THE ATTORNEY GENERAL OF CANADA**

Respondent

– and –

**ATTORNEY GENERAL OF ALBERTA, ATTORNEY GENERAL OF  
SASKATCHEWAN, ATTORNEY GENERAL OF ONTARIO, ATTORNEY GENERAL  
OF BRITISH COLUMBIA, ASSOCIATION DES MEMBRES DE LA POLICE MONTEE  
DU QUEBEC, THE CONFEDERATION DES SYNDICATS NATIONAUX, THE  
CANADIAN POLICE ASSOCIATION, THE CANADIAN LABOUR CONGRESS, THE  
CANADIAN CIVIL LIBERTIES ASSOCIATION, THE MOUNTED POLICE  
MEMBERS' LEGAL FUND, THE PUBLIC SERVICE ALLIANCE OF CANADA and  
THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION**

Interveners

---

**FACTUM OF THE INTERVENER,  
THE CANADIAN CIVIL LIBERTIES ASSOCIATION**

---

**BENNETT JONES LLP**  
3400 One First Canadian Place  
PO Box 130  
Toronto, Ontario M4X 1A4

**Ranjan K. Agarwal**  
**Ashley L. Paterson**

Telephone: (416) 863-1200  
Facsimile: (416) 863-1216  
Email: agarwalr@bennettjones.com

Lawyers for the intervener, The Canadian Civil  
Liberties Association

**BENNETT JONES LLP**  
World Exchange Plaza  
1900 – 45 O’Connor Street  
Ottawa, Ontario K1P 1A4

**Sheridan Scott**

Telephone: (613) 683-2300  
Facsimile: (613) 683-2323  
Email: scotts@bennettjones.com

Agent to the intervener, The Canadian Civil  
Liberties Association

ORIGINAL TO: THE REGISTRAR  
Supreme Court of Canada

COPIES TO:

**LAURA YOUNG LAW OFFICES**  
65 Queen Street West, Suite 1000  
Toronto, Ontario M5H 2M5

**Laura C. Young**

Telephone: (416) 361-0094  
Facsimile: (416) 850-5134

Counsel for the Appellants

**SACK GOLDBLATT MITCHELL LLP**  
500 – 30 Metcalfe Street  
Ottawa, ON K1P 5L4

**Raija Pulkkinen**

Telephone: (613) 482-2455  
Facsimile: (613) 235-3041  
E-mail: rpulkkinen@sgmlaw.com

Agent for the Appellants

**ATTORNEY GENERAL OF CANADA**

The Exchange Tower, Box 36  
Suite 3400, 130 King Street West  
Toronto, Ontario M5X 1K6

**Peter Southey**  
**Donnaree Nygard**  
**Kathryn Hucal**

Telephone: (416) 954-0625  
Facsimile: (416) 952-4518  
E-mail: peter.southey@justice.gc.ca

Counsel for the Respondent, Attorney General of Canada

**ASSOCIATION DES MEMBRES DE LA  
POLICE MONTÉE DU QUÉBEC**

625, boul. René-Lévesque Ouest,  
Bureau 805  
Montréal, Quebec H3B 1R2

**James R. K. Duggan**

Telephone: (514) 879-1459  
Facsimile: (514) 879-5648  
E-mail: jduggan@jdugganavocat.ca

Counsel for the Intervener, Association des Membres de la Police Montée du Québec

**HEENAN BLAIKIE LLP**

Bay Adelaide Centre  
2900 – 333 Bay Street, PO Box 2900  
Toronto, Ontario M5H 2T4

**John D. R. Craig**  
**Christopher D. Pigott**

Telephone: (416) 360-3527  
Facsimile: (416) 360-8425  
E-mail: jcraig@heenan.ca

Counsel for the Intervener, Mounted Police Members' Legal Fund

**ATTORNEY GENERAL OF CANADA**

Bank of Canada Building – East Tower  
234 Wellington Street, Room 1212  
Ottawa, ON K1A 0H8

**Christopher M. Rupar**

Telephone: (613) 941-2351  
Facsimile: (613) 954-1920  
E-mail: christopher.rupar@justice.gc.ca

Agent for the Respondent, Attorney General of Canada

**SUPREME ADVOCACY LLP**

397 Gladstone Avenue, Suite 1  
Ottawa, Ontario K2P 0Y9

**Christopher M. Rupar**

Telephone: (613) 695-8855 Ext: 102  
Facsimile: (613) 695-8580  
E-mail: mfmajor@supremeadvocacy.ca

Agent for the Intervener, Association des Membres de la Police Montée du Québec

**HEENAN BLAIKIE LLP**

55 Metcalfe street, Suite 300  
Ottawa, Ontario  
K1P 6L5

**Judith Parisien**

Telephone: (613) 236-4673  
Facsimile: (866) 224-5596  
E-mail: jparisien@heenan.ca

Agent for the Intervener, Mounted Police Members' Legal Fund

**LAROCHE MARTIN**

2100 boulevard de Maisonneuve Est,  
Bureau 501  
Montréal, Quebec H2K 4S1

**Benoit Laurin**

Telephone: (514) 529-4901  
Facsimile: (514) 529-4932  
E-mail: benoit.laurin@csn.qc.ca

Counsel of the Intervener, Confédération des  
syndicats nationaux

**PALIARE, ROLAND, ROSENBERG,  
ROTHSTEIN, LLP**

155 Wellington Street West  
35th Floor  
Toronto, Ontario M5V 3H1

**Ian J. Roland**

Telephone: (416) 646-4319  
Facsimile: (416) 646-4320  
E-mail: ian.roland@paliareroland.com

Counsel of the Intervener, Canadian Police  
Association

**ATTORNEY GENERAL OF ALBERTA**

9833 – 109 Street  
Bowker Building, 4th Floor  
Edmonton, Alberta T5K 2E8

**Roderick Wiltshire**

Telephone: (780) 422-7145  
Facsimile: (780) 425-0307  
E-mail: roderick.wiltshire@gov.ab.ca

Counsel of the Intervener, Attorney General of  
Alberta

**NOËL & ASSOCIÉS**

111, rue Champlain  
Gatineau, Quebec J8X 3R1

**Pierre Landry**

Telephone: (819) 771-7393  
Facsimile: (819) 771-5397  
E-mail: p.landry@noelassociés.com

Agent of the Intervener, Confédération des  
syndicats nationaux

**GOWLING LAFLEUR HENDERSON LLP**

2600 – 160 Elgin St  
Box 466 Station D  
Ottawa, Ontario K1P 1C3

**Brian A. Crane, Q.C.**

Telephone: (613) 233-1781  
Facsimile: (613) 563-9869  
E-mail: brian.crane@gowlings.com

Agent of the Intervener, Canadian Police  
Association

**GOWLING LAFLEUR HENDERSON LLP**

2600 – 160 Elgin Street  
PO Box 466, Stn "D"  
Ottawa, ON K1P 1C3

**Henry S. Brown, Q.C.**

Telephone: (613) 233-1781  
Facsimile: (613) 788-3433  
E-mail: henry.brown@gowlings.com

Agent for the Intervener, Attorney General of  
Alberta

**ATTORNEY GENERAL FOR  
SASKATCHEWAN**

820 – 1874 Scarth Street  
Regina, Saskatchewan S4P 4B3

**Graeme G. Mitchell, Q.C.**  
**Katherine M. Roy**

Telephone: (306) 787-8385  
Facsimile: (306) 787-9111  
E-mail: graeme.mitchell@gov.sk.ca

Counsel for the Intervener, Attorney General  
of Saskatchewan

**ATTORNEY GENERAL OF ONTARIO**

Constitutional Law Branch  
720 Bay Street, 4th Floor  
Toronto, Ontario M5G 2K1

**Robin K. Basu**  
**Michael Dunn**

Telephone: (416) 326-4476  
Facsimile: (416) 326-4015  
E-mail: robin.basu@jus.gov.on.ca

Counsel for the Intervener, Attorney General  
of Ontario

**ATTORNEY GENERAL OF BRITISH  
COLUMBIA**

1001 Douglas Street, 6th Floor  
Victoria, British Columbia V8W 9J7

**Jonathan G. Penner**

Telephone: (250) 952-0122  
Facsimile: (250) 356-9154  
E-mail: jonathan.penner@gov.bc.ca

Counsel for the Intervener, Attorney General  
of British Columbia

**GOWLING LAFLEUR HENDERSON LLP**

2600 – 160 Elgin Street  
PO Box 466, Stn “D”  
Ottawa, ON K1P 1C3

**Henry S. Brown, Q.C.**

Telephone: (613) 233-1781  
Facsimile: (613) 788-3433  
E-mail: henry.brown@gowlings.com

Agent for the Intervener, Attorney General of  
Saskatchewan

**BURKE-ROBERTSON**

441 MacLaren Street, Suite 200  
Ottawa, ON K2P 2H3

**Robert E. Houston, Q.C.**

Telephone: (613) 236-9665  
Facsimile: (613) 235-4430  
E-mail: rhouston@burkerobertson.com

Agent for the Intervener, Attorney General of  
Ontario

**BURKE-ROBERTSON**

441 MacLaren Street, Suite 200  
Ottawa, ON K2P 2H3

**Robert E. Houston, Q.C.**

Telephone: (613) 236-9665  
Facsimile: (613) 235-4430  
E-mail: rhouston@burkerobertson.com

Agent for the Intervener, Attorney General of  
British Columbia

**SACK GOLDBLATT MITCHELL LLP**  
20 Dundas St West, Suite 1100  
Toronto, Ontario M5G 2G8

**Steven Barrett**

Telephone: (416) 979-6422  
Facsimile: (416) 591-7333  
E-mail: stevenbarrett@sgmlaw.com

Counsel for the Intervener, Canadian Labour  
Congress

**RAVEN, CAMERON, BALLANTYNE &  
YAZBECK LLP**

1600 – 220 Laurier Ave West  
Ottawa, Ontario K1P 5Z9

**Andrew Raven  
Andrew Astritis**

Telephone: (613) 567-2901  
Facsimile: (613) 567-2921  
E-mail: araven@ravenlaw.com

Counsel for the Intervener, Public Service  
Alliance of Canada

**MOORE, EDGAR, LYSTER**  
195 Alexander Street, 3rd Floor  
Vancouver, British Columbia V6A 1N8

**Lindsay M. Lyster  
Jessica L. Derynck**

Telephone: (604) 689-4457  
Facsimile: (604) 689-4467  
E-mail: lindsaylyster@unionlawyers.com

Counsel for the Intervener, British Columbia  
Civil Liberties Association

**SACK GOLDBLATT MITCHELL LLP**  
500 – 30 Metcalfe St.  
Ottawa, Ontario K1P 5L4

**Colleen Bauman**

Telephone: (613) 235-5327  
Facsimile: (613) 235-3041  
E-mail: cbauman@sgmlaw.com

Agent for the Intervener, Canadian Labour  
Congress

**SUPREME LAW GROUP**  
900 – 275 Slater Street  
Ottawa, Ontario K1P 5H9

**Moira Dillon**

Telephone: (613) 691-1224  
Facsimile: (613) 691-1338  
E-mail: mdillon@supremelawgroup.ca

Agent for the Intervener, British Columbia  
Civil Liberties Association

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## PART I: OVERVIEW AND STATEMENT OF FACTS

1. This appeal once again engages this Court in determining the proper scope of freedom of association protected by section 2(d) of the *Canadian Charter of Rights and Freedoms*.<sup>1</sup> This Court has previously acknowledged that “freedom of association must take into account the nature and importance of labour associations as institutions that work for the betterment of working conditions and the protection of dignity and collective interests of workers in a fundamental aspect of their lives: employment.”<sup>2</sup>

2. In order to give effect to this freedom, this Court has affirmed that section 2(d) protects workers’ freedom to form *independent* associations. The Canadian Civil Liberties Association intervenes in this appeal to ensure that this fundamental freedom is robustly protected.

3. The CCLA has a long-standing tradition of arguing for principled positions that enhance democratic governance and prevent abuses of power. In that vein, the CCLA intervenes in this appeal to assist this Court in understanding why associational independence is important for workers’ rights and how section 2(d) should be interpreted to protect that independence.

4. The CCLA submits that any law or government action that prohibits the formation or maintenance of an independent employee association makes it effectively impossible for workers to meaningfully exercise the freedom to associate in violation of section 2(d). In support of this position, CCLA makes the following submissions:

- (a) The right to achieve workplace goals through an *independent* association is protected by this Court’s jurisprudence, international law and labour relations legislation across Canada.
- (b) The recognition of the right to an independent association does not constitutionalize the Wagner model of collective bargaining. There is nothing about associational independence that prevents governments from altering or modifying collective bargaining schemes to make them less adversarial or more representative of minority rights.

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<sup>1</sup>*Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 2(d).

<sup>2</sup>*Delisle v Canada (Deputy AG)*, [1999] 2 SCR 989 ¶6, AA, Volume I, Tab 7, p 143.



- (c) The test for associational independence should consider whether the association or union has the right to: (i) develop its own constitution and rules; (ii) elect representatives in full freedom; (iii) organize its administration and activities; and (iv) formulate its own programs.

5. The CCLA takes no position on the facts.

## **PART II: STATEMENT OF POSITION**

6. The CCLA intervenes in this appeal on the issues of whether (a) section 96 of the *Royal Canadian Mounted Police Regulations 1988*<sup>3</sup> infringes section 2(d) of the *Charter*; and (b) paragraph (d) of the definition of “employee” of the *Public Service Labour Relations Act*<sup>4</sup> infringes section 2(d) of the *Charter*.

7. The CCLA’s position is that the Staff Relations Representative Program provided for by the regulation violates the freedom of association in that the SRRP is not independent and, as such, RCMP members cannot meaningfully achieve collective goals through it.

## **PART III: STATEMENT OF ARGUMENT**

### **A. The Freedom to Associate Guaranteed by Section 2(d) is Pointless Unless the Association is Independent**

8. Section 2(d) of the *Charter* protects the “right to associate” to achieve “collective goals”.<sup>5</sup> Laws or government actions that make it “impossible to achieve collective goals” have the effect of making the freedom of association “pointless” and infringe the *Charter*.<sup>6</sup>

9. The section 2(d) right has been gradually expanded and refined, most recently in *Fraser*. In deciding whether there is a violation of section 2(d), the relevant question is whether the impugned law or state action makes meaningful association to achieve workplace goals “effectively impossible”.<sup>7</sup>

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<sup>3</sup>*Royal Canadian Mounted Police Regulations 1988*, SOR/88-361, s 96.

<sup>4</sup>*Public Service Labour Relations Act*, SC 2003, c 22, s 2(1).

<sup>5</sup>*Ontario (AG) v Fraser*, 2011 SCC 20 ¶46, Appellant’s Authorities [“AA”], Volume I, Tab 10, p 326.

<sup>6</sup>*Ibid.*

<sup>7</sup>*Ibid* ¶47, 98, AA, Volume I, Tab 10, pp 326, 333-334.

10. In other words, if it is shown that it is effectively “impossible to meaningfully exercise the right to associate” due to a “substantial interference by a law or...by government action”, section 2(d) has been breached.<sup>8</sup>

11. The SRRP is not independent from RCMP management. The Application Judge made the following findings of fact about the independence of the SRRP:

- the SRRP was “created by management to avoid unionization”<sup>9</sup>
- the Report of the *Brown Task Force* characterized the SRRP as part of the “chain of command” of the RCMP<sup>10</sup>
- the SRRP includes officers (management and supervisory positions) whose interests are in conflict with the interests of non-commissioned members<sup>11</sup>
- members have never been given the opportunity to decide whether it is the body within which they wish to associate for labour relations purposes<sup>12</sup>
- members have never been given the opportunity to vote on whether they would prefer an independent employee association or the SRRP<sup>13</sup>

12. The Court of Appeal affirmed the finding that the SRRP is “not institutionally independent”.<sup>14</sup>

13. This lack of independence substantially interferes with RCMP members’ ability to collectively achieve their workplace goals.

14. The freedom to associate can only be properly protected where the workers’ association is freely chosen by them. In the present case, the question that must be asked is: how do RCMP members wish to associate to achieve their collective workplace goals? Section 2(d) should allow RCMP members to freely associate to accomplish those goals, not mandate that they *must* associate through the SRRP for this purpose.

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<sup>8</sup>*Ibid* ¶47, AA, Volume I, Tab 10, p 326.

<sup>9</sup>Superior Court of Justice, Reasons for Decision, 6 April 2009, ¶62 Appellant’s Record [“AR”], Volume 1, Tab 3, p 28.

<sup>10</sup>*Ibid*.

<sup>11</sup>*Ibid* ¶65, AR, Volume 1, Tab 3, p 29.

<sup>12</sup>*Ibid* ¶63, AR, Volume 1, Tab 3, p 28.

<sup>13</sup>*Ibid* ¶64, AR, Volume 1, Tab 3, p 29.

<sup>14</sup>Court of Appeal for Ontario, Reasons for Decision, 1 June 2012, ¶128, AR, Volume I, Tab 16, p 115.

15. However, the SRRP renders meaningful association to achieve workplace goals effectively impossible for RCMP members if they do not wish to be represented by the SRRP. The SRRP was not “freely chosen” by RCMP members and, as such, is not independent.

16. A review of the section 2(d) jurisprudence, Canada’s labour laws and Canada’s international obligations makes clear that the freedom of association includes the right to form and maintain an *independent* association for the purposes of achieving collective workplace goals.

17. In *Delisle*, Justice Bastarache held that “all of the acts or rules of law that prohibit the formation or maintenance of an *independent* employee association...infringe the *Charter*.”<sup>15</sup> The “freedom of association” is not merely the right to associate or to have an association. It is the right to “form” an association.<sup>16</sup>

18. This Court, in the 15 years since *Delisle*, has expanded the meaning of the freedom of association. But this court has not, since *Delisle*, distinguished (never mind rejected) the holding in *Delisle* that interfering with an employee association’s *independence* violates section 2(d).

19. Various labour statutes make clear that independence is at the heart of workers’ associational rights.<sup>17</sup> Further, Canada’s international obligations also confirm that the freedom of association includes the right to form an independent association. The section 2(d) guarantee must be interpreted “generously and purposively”, in accordance with Canada’s international commitments.<sup>18</sup> These include:

- Article 22 of the *International Covenant on Civil and Political Rights* provides that the freedom of association includes “the right to *form* and join trade unions”<sup>19</sup>
- Article 8 of the *International Covenant on Economic, Social and Cultural Rights* recognizes “right of trade unions to *function freely* subject to no limitations”<sup>20</sup>

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<sup>15</sup>*Supra* note 2 ¶36, AA, Volume I, Tab 7, p 143.

<sup>16</sup>*Dunmore v Ontario (AG)*, 2001 SCC 94, ¶17 [*Dunmore*], AA, Volume I, Tab 8, p 194; *Supra* note 5 ¶30, AA, Volume 1, Tab 10, p 323.

<sup>17</sup>See e.g. *Canada Labour Code*, RSC 1985 c L-2, s 8(1): “[e]very employee is free to join the trade union *of their choice* and to participate in its lawful activities”; *Labour Relations Act, 1995*, SO 1995, c 1, s 2.1: the purpose of the *Labour Relation Act* is to “facilitate collective bargaining between employers and trade unions that are the *freely-designated* representatives of the employees”; and *Labour Relations Code*, RSBC 1996, c 244, s 2(c): the Labour Relations Board is to exercise its duties in a manner that: « encourages the practice and procedures of collective bargaining between employers and trade unions as the *freely chosen* representatives of employees”

<sup>18</sup>*Dunmore*, *supra* note 16 ¶32, AA, Volume 1, Tab 8, p 194.

<sup>19</sup>*International Covenant on Civil and Political Rights*, 999 UNTS 171, art 22(1).

- International Labour Organization *Convention No. 87* stipulates the right of workers “to establish and...to join organizations of *their own choosing*”<sup>21</sup>

20. The *Charter* provides *at least* as great a level of protection as is found in these international documents.<sup>22</sup> These documents reflect “principles that Canada has committed itself to uphold”.<sup>23</sup>

21. The Attorney General appears to concede this position: workers have a constitutional right to form or establish an independent association. In response, the Attorney General points to the Mounted Police Association of Ontario, the BC Mounted Police Professional Association and the Association des membres de la Police Montée du Québec as examples of members’ associations that are independent and freely chosen. It is the Attorney General’s submission that, by the mere fact that these organizations exist, there is no section 2(d) breach.

22. However, this position ignores the fact that the section 2(d) freedom is not just about RCMP members forming associations but that the association that is used to represent their collective workplace goals must be independent and freely chosen.

23. The government’s interpretation and application of section 2(d) in this case means that employee associations that are formed by RCMP members to achieve collective workplace goals (the “cornerstone” of modern labour relations<sup>24</sup>) have no better or higher constitutional standing than an RCMP hockey team or curling club.

24. Though the freedom of association in section 2(d) of the *Charter* is not just about collective bargaining or unionization, the fact is that most section 2(d) cases decided by this Court are about labour relations. The freedom to organize lies at the “core” of the *Charter*’s protection of freedom of association.<sup>25</sup>

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<sup>20</sup>*International Covenant on Economic, Social and Cultural Rights*, 993 UNTS 3, art 8(1)(c).

<sup>21</sup>*Convention (No 87) Concerning Freedom of Association and Protection of the Right to Organize*, 68 UNTS 17, art 2 [Convention No. 87].

<sup>22</sup>*Health Services and Support – Facilities Subsector Bargaining Assn. v British Columbia*, 2007 SCC 27 ¶70, 79, AA, Volume II, Tab 11, p 31, 33.

<sup>23</sup>*Ibid* ¶71, AA, Volume II, Tab 11, p 31.

<sup>24</sup>*Reference re Public Service Employee Relations Act (Alta.)*, [1987] 1 SCR 313 ¶23, Intervener’s Book of Authorities [“IA”], Tab 1.

<sup>25</sup>*Supra* note 16, ¶37, AA, Volume I, Tab 8, p 192.

25. If this Court were to accept the position put forward by the Attorney General, governments would have constitutional license to ignore independent workers' associations in favour of employer-organized or mandated associations.

26. In summary, RCMP members have never been given the opportunity to decide whether the SRRP is the body through which they wish to associate to achieve their collective workplace goals. Though RCMP members have formed independent associations, there is no obligation on the government to negotiate or even consult with the associations on workplace matters. Instead, the only option for collective association is the SRRP, which the Application Judge and the Court of Appeal concluded was not independent.<sup>26</sup>

**B. An Independent Association Does Not Constitutionalize a Particular Method of Collective Bargaining**

27. The CCLA accepts that the freedom of association does not guarantee any particular model of labour relations, including the “Wagner” model. However, recognizing (or, rather, affirming) that the section 2(d) freedom includes the freedom to form an independent association to achieve collective workplace goals does not constitutionalize the Wagner model.

28. In fact, the right to form an independent association can exist both within and beyond the Wagner model. The Court of Appeal highlighted two criticisms of the Wagner model: (a) it is sometimes seen as institutionalizing an adversarial tone to the labour-management relationship; and (b) the majoritarianism/exclusivity principle may violate the associational rights of minority workers under international law.<sup>27</sup>

29. There is nothing about “independence” that prevents the government from creating schemes that de-emphasize the adversarial tone of labour-management relations or recognize minority unions.

30. The Attorney General attempts to characterize the importance of independence as arising from only the Wagner model. That is incorrect.

- (a) *First*, the ILO does not endorse the Wagner model of collective bargaining. Nonetheless, it requires that workers must be entitled to join unions or

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<sup>26</sup>*Supra* note 9, ¶61-65, AR, Volume I, Tab 3, p 28.

<sup>27</sup>*Supra* note 14, ¶31-32, AR, Volume I, Tab 16, p 101.

associations of “their own choosing” which are free from interference by employers.

- (b) *Second*, independence is important to maintain the legitimacy of unions or associations. Trade unions and associations allow otherwise vulnerable workers to meet on more equal terms the power and strength of governments and employers.<sup>28</sup> If an association *appears* to be influenced by management or the employer, there is a risk that its members will cease participating in the association’s activities for fear of reprisal or because the association is viewed as the employer’s handmaid. If there is dissension or conflict within the association, it becomes easier for employers to “divide and rule the work force”, weakening the employees’ ability to achieve their collective goals.
- (c) *Third*, the history of unionism is rife with examples of employers and management interfering with employee associations in an effort to prejudice the association, such as endorsing or sponsoring the “company union”. Though the Attorney General argues that this kind of behavior is the product of an earlier era, the facts in *Fraser* disclose just this kind of conduct as recently as 2002.<sup>29</sup> Though the days of trade unionists being threatened, arrested or even killed are in Canada’s rear-view mirror, the independence of an employee association is an important bulwark against history repeating itself.

31. The right of workers to form independent associations to navigate the labour-management relationship is not incompatible with alternatives to the Wagner model. Like the other pre-requisites of section 2(d), it is a necessary requirement to ensure that workers can meaningfully achieve their collective goals.

32. To the extent, though, that alternatives to the Wagner model do not provide the same guarantees of meaningful collective bargaining, the exclusion of RCMP members from the protections of the *PSLRA* also infringes section 2(d).

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<sup>28</sup>*Supra* note 24 ¶187, IA, Tab 1.

<sup>29</sup>*Supra* note 5 ¶347, AA, Volume I, Tab 10, p 378.

33. RCMP members, like all workers (especially public sector workers), have a constitutional right to a “process of collective bargaining in good faith”.<sup>30</sup> If the SRRP is unconstitutional because it is not constitutionally independent, the added exclusion of RCMP members from the *PSLRA* makes it impossible for RCMP members to achieve their collective workplace goals.

### C. The Test for Independence

34. Notwithstanding that this Court has recognized associational independence as part of the section 2(d) right in *Delisle* and legislatures have enshrined independence in labour relations statutes, there is no jurisprudence that assists courts or administrative tribunals in determining whether a workers’ association is constitutionally independent.

35. As discussed above, section 2(d) must be interpreted “generously and purposively”, in accordance with Canada’s international commitments. The *International Covenant on Civil and Political Rights*, *International Covenant on Economic, Social and Cultural Rights* and *Convention No. 87* establish the minimum constitutional standards for labour rights in Canada.

36. As such, in deciding whether an employee association (or, in this case, the SRRP) is sufficiently independent for the purposes of section 2(d), the CCLA submits that the courts should adopt the factors stated in Article 3 of *Convention No. 87*.<sup>31</sup> Specifically, an employee association will be independent if:

- (a) it has the right to develop its own constitution and rules;
- (b) it has the right to elect representatives in full freedom;
- (c) it has the right to organize its administration and activities; and
- (d) it has the right to formulate its programs.

37. Though some international conventions and treaties allow Canada to impose restrictions on police where it is necessary to protect national security or public safety, these restrictions are not part of the “definition of freedom of association itself”.<sup>32</sup> These restrictions are only relevant to lawful justifications for infringing the freedom of association.

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<sup>30</sup>*Supra* note 5 ¶73, AA, Volume I, Tab 10, p 330.

<sup>31</sup>*Supra* note 21.

<sup>32</sup>*Supra* note 2, ¶71, AA, Volume I, Tab 7, p 125.

38. In this case, the SRRP does not meet the test for independence as established by *Convention No. 87* and, as such, section 96(1) of the *Royal Canadian Mounted Police Regulations 1988* violates section 2(d) of the *Charter*.

**PART IV: SUBMISSIONS CONCERNING COSTS**

39. The CCLA does not seek its costs, and submits that no order for costs should be made against it.

**PART V: ORDER REQUESTED**

40. The right to form an *independent* association to achieve collective workplace goals is, and has always been, implicit in the freedom of association. In the labour context, an association that is not freely formed renders the section 2(d) freedom meaningless. By endorsing an association that is not institutionally independent, the Court of Appeal in this case undermined a fundamental aspect of the freedom of association—the right for workers to freely choose the association that represents their interests in achieving common workplace goals.

41. The CCLA submits that: (a) section 96 of the *Royal Canadian Mounted Police Regulations 1988* infringes section 2(d) of the *Charter*; and (b) paragraph (d) of the definition of “employee” of the *Public Service Labour Relations Act* infringes section 2(d) of the *Charter*. The CCLA takes no position on whether those infringements are reasonable limits under section 1 of the *Charter*.

42. The CCLA requests permission to present oral argument at the hearing of this appeal.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of September, 2013.**

  
BENNETT JONES LLP  
3400 One First Canadian Place  
P.O. Box 130  
Toronto, Ontario  
M5X 1A4

Lawyers for the Intervener,  
the Canadian Civil Liberties Association



**PART VI: TABLE OF AUTHORITIES**

<b>Authorities</b>	<b>Cited at:</b>
<i>Ontario (AG) v Fraser</i> , 2011 SCC 20.	8, 9, 10, 17, 30, 33
<i>Delisle v Canada (Deputy AG)</i> , [1999] 2 SCR 989.	1, 15, 17, 37
<i>Dunmore v Ontario (AG)</i> , 2001 SCC 94.	17, 19, 24
<i>Health Services and Support – Facilities Subsector Bargaining Assn. v British Columbia</i> , 2007 SCC 27.	20
<i>Reference re Public Service Employee Relations Act (Alta.)</i> , [1987] 1 SCR 313.	23, 30

**PART VII: STATUTES AND REGULATIONS**

<p><i>Royal Canadian Mounted Police Regulations 1988, SOR/88-361, s 96.</i></p> <p>Division Staff Relations Representative Program</p> <p>96. (1) The Force shall have a Division Staff Relations Representative Program to provide for representation of the interests of all members with respect to staff relations matters.</p> <p>(2) The Division Staff Relations Representative Program shall be carried out by the division staff relations representatives of the members of the divisions and zones who elect them.</p>	<p><i>Règlement de la Gendarmerie royale du Canada (1988), DORS/88-361, s 96.</i></p> <p>Programme de représentants divisionnaires des relations fonctionnelles</p> <p>96. (1) La Gendarmerie établit un programme de représentants divisionnaires des relations fonctionnelles qui a pour objet d'assurer la représentation des membres en matière de relations fonctionnelles.</p> <p>(2) Le programme de représentants divisionnaires des relations fonctionnelles est mis en application par les représentants divisionnaires des relations fonctionnelles qu'élisent les membres des divisions et des secteurs.</p>
<p><i>Canadian Charter of Rights and Freedoms, s 1, 7, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, s 1, 2.</i></p> <p>Rights and freedoms in Canada</p> <p>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.</p>	<p><i>Charte canadienne des droits et libertés, art. 1, 2 et 7, partie I de la Loi Constitutionnelle de 1982, constituant l'annexe B de la Loi de 1982 sur le Canada (R.-U.), 1982, c 11, s 1, 2.</i></p> <p>Droits et libertés au Canada</p> <p>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.</p>

Fundamental freedoms	Libertés fondamentales
<p>2. Everyone has the following fundamental freedoms:</p> <ul style="list-style-type: none"><li>(a) freedom of conscience and religion;</li><li>(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;</li><li>(c) freedom of peaceful assembly; and</li><li>(d) freedom of association.</li></ul>	<p>2. Chacun a les libertés fondamentales suivantes :</p> <ul style="list-style-type: none"><li>(a) liberté de conscience et de religion;</li><li>(b) liberté de pensée, de croyance, d'opinion et d'expression, y compris la liberté de la presse et des autres moyens de communication;</li><li>(c) liberté de réunion pacifique;</li><li>(d) liberté d'association.</li></ul>
<p><i>Public Service Labour Relations Act, SC 2003, c 22, s 2.</i></p> <p>“employee”, except in Part 2, means a person employed in the public service, other than</p> <ul style="list-style-type: none"><li>(a) a person appointed by the Governor in Council under an Act of Parliament to a statutory position described in that Act;</li><li>(b) a person locally engaged outside Canada;</li><li>(c) a person not ordinarily required to work more than one third of the normal period for persons doing similar work;</li><li>(d) a person who is a member or special constable of the Royal Canadian Mounted Police or who is employed by that force under terms and conditions substantially the same as those of one of its members;</li></ul> <p>...</p>	<p><i>Loi sur les relations de travail dans la fonction publique, LC 2003, c 22, s 2.</i></p> <p>« fonctionnaire » Sauf à la partie 2, personne employée dans la fonction publique, à l'exclusion de toute personne</p> <ul style="list-style-type: none"><li>a) nommée par le gouverneur en conseil, en vertu d'une loi fédérale, à un poste prévu par cette loi;</li><li>b) recrutée sur place à l'étranger;</li><li>c) qui n'est pas ordinairement astreinte à travailler plus du tiers du temps normalement exigé des personnes exécutant des tâches semblables;</li><li>d) qui est membre ou gendarme auxiliaire de la Gendarmerie royale du Canada, ou y est employée sensiblement aux mêmes conditions que ses membres;</li></ul> <p>...</p>

<p><i>International Covenant on Civil and Political Rights</i>, 999 UNTS 171, art 22.</p> <p>Article 22</p> <p>1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.</p>	<p><i>Pacte international relatif aux droits civils et politiques</i>, 999 UNTS 171, art 22.</p> <p>Article 22</p> <p>1. Toute personne a le droit de s'associer librement avec d'autres, y compris le droit de constituer des syndicats et d'y adhérer pour la protection de ses intérêts.</p>
<p><i>International Covenant on Economic, Social and Cultural Rights</i>, 993 UNTS 3, art 8.</p> <p>Article 8</p> <p>1. The States Parties to the present Covenant undertake to ensure:</p> <p>(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;</p> <p>(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;</p>	<p><i>Pacte international relatif aux droits économiques, sociaux et culturels</i>, 993 UNTS 3, art 8.</p> <p>Article 8</p> <p>1. Les Etats parties au présent Pacte s'engagent à assurer:</p> <p>a) Le droit qu'a toute personne de former avec d'autres des syndicats et de s'affilier au syndicat de son choix, sous la seule réserve des règles fixées par l'organisation intéressée, en vue de favoriser et de protéger ses intérêts économiques et sociaux. L'exercice de ce droit ne peut faire l'objet que des seules restrictions prévues par la loi et qui constituent des mesures nécessaires, dans une société démocratique, dans l'intérêt de la sécurité nationale ou de l'ordre public, ou pour protéger les droits et les libertés d'autrui.</p> <p>b) Le droit qu'ont les syndicats de former des fédérations ou des confédérations nationales et le droit qu'ont celles-ci de former des organisations syndicales internationales ou de s'y affilier.</p>

<p>(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;</p> <p>(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.</p>	<p>c) Le droit qu'ont les syndicats d'exercer librement leur activité, sans limitations autres que celles qui sont prévues par la loi et qui constituent des mesures nécessaires, dans une société démocratique, dans l'intérêt de la sécurité nationale ou de l'ordre public, ou pour protéger les droits et les libertés d'autrui.</p> <p>d) Le droit de grève, exercé conformément aux lois de chaque pays.</p>
<p><i>Convention (No 87) Concerning Freedom of Association and Protection of the Right to Organize</i>, 68 UNTS 17, art 2, 3.</p> <p style="text-align: center;">Article 2</p> <p>Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.</p> <p style="text-align: center;">Article 3</p> <p>1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.</p> <p>2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.</p>	<p><i>Convention (n° 87) sur la liberté syndicale et la protection du droit syndical</i>, 68 UNTS 17, art 2, 3.</p> <p style="text-align: center;">Article 2</p> <p>Les travailleurs et les employeurs, sans distinction d'aucune sorte, ont le droit, sans autorisation préalable, de constituer des organisations de leur choix, ainsi que celui de s'affilier à ces organisations, à la seule condition de se conformer aux statuts de ces dernières.</p> <p style="text-align: center;">Article 3</p> <p>1. Les organisations de travailleurs et d'employeurs ont le droit d'élaborer leurs statuts et règlements administratifs, d'élire librement leurs représentants, d'organiser leur gestion et leur activité, et de formuler leur programme d'action.</p> <p>2. Les autorités publiques doivent s'abstenir de toute intervention de nature à limiter ce droit ou à en entraver l'exercice légal.</p>

IN THE SUPREME COURT OF CANADA  
(ON APPEAL FROM THE COURT OF APPEAL FOR  
ONTARIO)

**BETWEEN:**

**MOUNTED POLICE ASSOCIATION OF ONTARIO /  
ASSOCIATION DE LA POLICE MONTÉE DE L'ONTARIO and  
B.C. MOUNTED POLICE PROFESSIONAL ASSOCIATION  
ON THEIR OWN BEHALF AND ON BEHALF OF  
ALL MEMBERS AND EMPLOYEES OF THE  
ROYAL CANADIAN MOUNTED POLICE**

Appellants

– and –

**THE ATTORNEY GENERAL OF CANADA**

Respondent

– and –

**ATTORNEY GENERAL OF ALBERTA, ATTORNEY  
GENERAL OF SASKATCHEWAN, ATTORNEY GENERAL OF  
ONTARIO, ATTORNEY GENERAL OF BRITISH COLUMBIA,  
ASSOCIATION DES MEMBRES DE LA POLICE MONTEE DU  
QUEBEC, THE CONFEDERATION DES SYNDICATS  
NATIONAUX, THE CANADIAN POLICE ASSOCIATION, THE  
CANADIAN LABOUR CONGRESS, THE CANADIAN CIVIL  
LIBERTIES ASSOCIATION, THE MOUNTED POLICE  
MEMBERS' LEGAL FUND, THE PUBLIC SERVICE  
ALLIANCE OF CANADA and THE BRITISH COLUMBIA  
CIVIL LIBERTIES ASSOCIATION**

Interveners

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**FACTUM OF THE INTERVENER,  
THE CANADIAN CIVIL LIBERTIES ASSOCIATION**

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**BENNETT JONES LLP**  
3400 One First Canadian Place  
P.O. Box 130  
Toronto, Ontario  
M4X 1A4

**Ranjan K. Agarwal  
Ashley L. Paterson**

Telephone: (416) 863-1200  
Facsimile: (416) 863-1216  
Email: agarwalr@bennettjones.com

Counsel to the Intervener, The  
Canadian Civil Liberties Association

**BENNETT JONES LLP**  
World Exchange Tower  
1900 – 45 O'Connor Street  
Ottawa, Ontario  
K1P 1A4

**Sheridan Scott**

Telephone: (613) 683-2300  
Facsimile: (613) 683-2323  
Email: scottss@bennettjones.com

Agent to the Intervener, The  
Canadian Civil Liberties Association