

Pro-life campus group wins big for free speech

by JOHN CARPAY

According to the Supreme Court of Canada, a democracy cannot exist without the freedom to express ideas and put forward opinions about the functioning of public institutions. Free speech ensures that participation in the political process is open to all. Free speech also facilitates the quest for scientific, philosophical, religious and political truth.

Democracy and the pursuit of truth depend on the right of every person to engage in the peaceful expression of opinion-- especially on a university campus.

Free speech scored a victory earlier this week when the Alberta Crown Prosecutors' Office stayed the trespassing charges which the University of Calgary had pressed against its own students for daring to express controversial views on campus. The Alberta Provincial Court trial was scheduled for Wednesday. The university charged pro-life students with trespassing on their own campus for having refused to comply with a university demand that they set up their Genocide Awareness Project signs in a circle facing inward, such that no passersby could see the signs.

Since 2006, these students have set up their provocative signs on campus twice per year, in a circle facing outward. Large colour photos of aborted fetuses were among the images used to generate discussion and debate. The ensuing debates, while sometimes heated, never degenerated into violence.

The University of Calgary took the initiative to post its own signs nearby, declaring that the display was permitted

under the Canadian Charter of Right and Freedoms Section 2 guarantee of free speech.

In 2008, after the Genocide Awareness Project had been displayed on campus without incident on several occasions, the university suddenly declared that "security concerns" necessitated censorship, and told Calgary police that the display "would trigger violence." The university's lawyers warned the students that a failure to comply with this new demand to turn the signs inward would result in trespassing charges, not to mention penalties of suspension or even expulsion for "nonacademic misconduct."

The students stood their ground, pointing out that they were not in violation of any university rule, policy, bylaw or regulation. The students further noted that the university had no qualms about the display on campus of large colour photos showing the results of torture perpetrated by Chinese Communists on adherents of the Falun Gong religious movement. These gruesome torture photos were merely one example of myriad obscene, offensive, and disturbing expression on campus which the university tolerates in pursuing its declared mission: "to seek truth and disseminate knowledge."

The university claims to be a private institution, with the right to do whatever it wants to control its "private property." But this claim rings rather hollow, since more than 60 per cent of the university's funding comes from Alberta taxpayers. Further, the reason why the university receives this money from Albertans in the first place is because the university claims

to be a forum for frank debate and the fearless pursuit of truth.

But whether the university qualifies as public or private, it still needs to honour its contractual obligations with tuition-paying students. In this regard, the university's own website promises that, as part of its respect for "the rich diversity of our learners," there will be no discrimination or harassment on the basis of various grounds including race, religion and political beliefs.

The students were willing to comply with "time, place and manner" restrictions that do not discriminate according to the content of speech.

For example, limiting displays to only certain locations on campus, or requiring displays to be dismantled by 5 p.m. each day, are rules that all student groups should be expected to comply with. Rules should be enforced-- and penalties applied--to maintain order on campus. Rules should apply equally to all, but the university singled out one view for censorship.

If a public university, which obtains money from taxpayers by promising to be a forum for frank debate and the pursuit of truth, can censor the peaceful expression of an opinion it dislikes, this diminishes respect for free speech on every street corner in Canada.

The Crown stays charges when it is in the public interest to do so, or when there is no reasonable prospect of obtaining a conviction. Nobody knows for sure what the outcome of the trial would have been, had it taken place on Wednesday as scheduled. But the Crown's decision is good news for free speech.