



Cameron: Ontario lawyers now face their own free-speech battle

NOVEMBER 23, 2017

Apparently, it's no longer enough for lawyers in Ontario to know the law and their ethical obligations. Starting this year, the Law Society of Upper Canada requires every lawyer in the province to "create and abide by an individual Statement of Principles that acknowledges (their) obligation to promote equality, diversity and inclusion generally" – and to do so as part of their 2017 Annual Statement.

The Annual Statement is a licensing requirement.

Many lawyers have publicly rebelled at the Law Society's attempts to coerce both their speech and their behaviour. And given the current debate about free speech in our universities, the measure bears examination.

In following the story, I reviewed the Law Society's Barrister's Oath (bylaw 4, section 21). The language is fairly typical, including pledges to act ethically, not promote lawsuits on frivolous pretences, conduct all cases faithfully, etc. One line of the oath stood out to me, however: "I shall champion the rule of law and safeguard the rights and freedoms of all persons."

It would certainly seem that the Law Society cannot require lawyers to waive their constitutional rights to freedom of thought, belief, opinion and expression by signing a "personal" inclusivity statement against their will, and at the same

time require them to take a solemn oath to "champion the rule of law" (what about the Canadian Charter of Rights and Freedoms?) or "safeguard the rights and freedoms of all persons" (what about the rights and freedoms of lawyers?).

The statement creates a new paradigm, and a new work reality for every lawyer, and it would seem that the Lawyer's Oath needs to be re-written, and re-sworn by every lawyer to reflect new obligations. The year 2017 is nearly over, and the annual statements are due soon. Any lawyer who intends to conform under duress and create an "individual" statement, should also be willing to swear to the following:

1. I pledge to renounce my own ideas (which I suddenly realize are bad, now that my licence may be at stake) and embrace those of the Law Society (which I never realized were so good until I realized I may have a hard time feeding my family if I don't agree with them);
2. I pledge to embrace insincerity, and say things I don't mean, and mean things I don't say, and do so in a manner that sounds convincing and compelling to all around me;
3. I pledge to promptly call the practice adviser if I go off-script in regard to the promotion of inclusivity, or if I lose the leaflets that say what I'm supposed to think that is;

4. I pledge to seek counselling if I begin to suffer depression from mouthing platitudes that aren't mine – but solemnly recognize and agree that I would rather eat and be a hypocrite than not eat at all;

5. I pledge to retweet whatever the Law Society of Upper Canada tweets within eight hours (three hours if it has to do with inclusivity), and pledge to neither fondly remember nor yearn for any of my former freedoms; they are shadows that I have already forgotten.

The coerced signing away of one's rights and individuality as a condition of practising law in Ontario is profound. Alexis de Tocqueville famously warned us about the tyranny of the majority, and its obsession not with liberty, but with the god of equality that it pursues above all else. Coerced worship of the idol is a sign of the death of a "free and democratic society," which the charter establishes as Canada's ideal.

The current oath includes a pledge to uphold the freedoms of all persons. That includes lawyers. It's time for every lawyer in Ontario to consider carefully this: If they can't determine to stand for their own rights, how will they stand for anyone else's?

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