

## Charities warned of threats posed by Bill C-36

By Richard Furness

Toronto

The proposed new federal anti-terrorist legislation defines terrorist activities very broadly, and Canadians should be concerned about that, lawyer Terrance Carter told the eighth annual Church and the Law seminar last week.

Carter, chair of the Canadian Bar Association's charity and not-for-profit section, called on church and charities officials gathered at Bramalea Baptist Church in suburban Toronto to write to either the Justice Committee of the House of Commons or Prime Minister Jean Chrétien to express their objections to the more draconian provisions of Bill C-36 and seek amendments to soften them.

The Orangeville, Ont., practitioner noted that the prime minister had made it clear that party discipline would be applied to the vote on the final package that goes to the Commons, and that the bill as it stands would apply to any transgressions retroactively.

If there was one point Carter tried to make above all others, it was that churches and charities who send money to what they believe to be humanitarian agencies overseas "need to do some serious due diligence" to ensure that such funds are spent solely for humanitarian purposes and do not — even indirectly — aid or facilitate the activities of terrorist groups.

As it stands, he said, Bill C-36 defines terrorist activities in a way that would catch some protesters in the demonstration against global trade talks in Quebec City earlier this year.

The definition includes acts or omissions, in or outside the



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country; conspiracy, any attempt or any threat to commit such an act, being an accessory after the fact, and counselling in relation to any such act.

Carter said that, unlike other offences under the *Criminal Code*, it appeared that one would not need to have guilty intent to run afoul of the legislation — all that would be necessary would be to in some way "facilitate" or "enhance" a terrorist act by one of the entities on the federal government's list. This, he said, was on the Canadian Bar Association's list of concerns about the bill.

Under the facilitation provision, Carter said, "It is therefore possible that a charity that funds a foreign agent which in turn unintentionally becomes involved in financing or facilitating terrorist activities may itself unwittingly become a terrorist group, the support of which, or the fundraising for, would be a criminal offence."

He pointed out that banks, trust companies and other financial institutions would be required to determine, on a continuing basis, if they are in pos-

session of property owned or controlled by an entity on the federal list — and charities may be included in the definition of a financial institution.

The bill, as it stands, would allow the minister of justice to sign a certificate attesting that he or she has reasonable grounds to believe that a registered charity has somehow made resources available to one of these entities.

Then, if a judge of the Federal Court validates the certificate — agrees that the grounds are reasonable — the charity would lose its registration, with no right of appeal. The court would be empowered to admit confidential information whether or not it would normally be admissible, and would not have to disclose the information to an accused charity.

Further, Carter said that the *Proceeds of Crime (Money Laundering) Act* had been amended to include the financing of terrorist activities; that regulations may be adopted that might include charities and fundraisers, and that "charities may be unwittingly included in the definition of who the Act applies to because of the exemption from registration under the *Securities Act* that charities enjoy." This, too, he said, is on the Canadian Bar Association's list of concerns.

Carter urged that the bill be amended to ensure that procedures are fair. For example, in the provision that makes final the judge's decision on whether a minister's certificate is reasonable, "procedural fairness is missing."

He said Bill C-36 co-ordinates the provisions of many federal acts, and its impact may not be fully understood for years.