

CHURCH & THE LAW UPDATE - No. 5

By Terrance S. Carter, B.A., LL.B.

Updating Churches on recent legal developments and risk management considerations.

1. INTRODUCTION

This is the fifth issue of Church & the Law Update. It is intended to provide an update for churches and charities on current legal developments as well as providing recommendations on matters of risk management where appropriate. The Church & the Law Update is prepared as a service to churches and charities and is published approximately three to four times a year as legal developments occur.

2. CHURCH & THE LAW SEMINAR - 1995

The 1995 Annual Church & the Law Seminar was held at Toronto on February 8th, 1995 and was attended by approximately 800 ministers and church leaders.

3. DATE FOR THE 1996 ANNUAL CHURCH AND THE LAW SEMINAR

The 1996 Annual Church & the Law Seminar will be held in Toronto on Wednesday, February 7th, 1996. More details of the topics and location will be given in future issues of the Church & the Law Update.

4. NEW BOOK AVAILABLE ON INCORPORATION OF CHURCHES

A new book entitled "To Be or Not To Be, Incorporation of Churches in Ontario" by Terrance S. Carter, B.A., LL.B., is available from the Canadian Council of Christian Charities on a cost recovery basis of \$15.00. The precedent that is included in the book of a model By-Law for an incorporated church is based on a federal incorporation and therefore may be of interest to churches in other provinces other than Ontario, particularly those churches that are in the process of incorporating or revising their existing church constitutions or by-laws.

5. SEXUAL ASSAULT AND HARASSMENT CASES "EXPAND BUSINESS FRONTIERS FOR LAWYERS"

In the February 13th, 1995 issue of Law Times, (referred to with permission), a weekly newspaper for lawyers, an article highlighted that victims of abuse seeking redress through civil litigation will create new areas of business opportunities for litigation lawyers. The article went on to state:

"Sexual harassment and assault cases may be the new business frontier for personal injury litigators representing victims, their alleged abusers or insurers. Hundreds, if not thousands of children who were placed in orphanages and group homes have come out of the closet with tales of abuse and are now turning to lawyers and the courts for redress from the institutions that supposedly had only their best interests at heart."

Not only are churches not exempt from such exposure to liability they will no doubt be increasingly the target of law suits by victims of sexual abuse and harassment as a result of more aggressive efforts by personal injury lawyers to find "deep pockets" to satisfy claims, particularly in consideration of the increasing reluctance by insurance companies to provide liability coverage for sexual abuse and harassment.

If a claim is made, it could be in the millions of dollars and may very well exceed the amount of liability insurance in place, even if there is insurance coverage. For example, in the United States, a large law firm was recently sued successfully by a former secretary for 7.1 million dollars based upon her allegations of sexual harassment by a former partner of the firm.

6. ONTARIO'S DONATION OF FOOD ACT

The Ontario Government passed a little know Act in June of 1994 entitled An Act Repealing the Donation of Food, S.O. 1994, C.19 to relieve both the donors of food and the distributors of donated food from liability for damage resulting from injuries or death caused by the consumption of the food. Similar legislation has already been passed in all American States as well as in Nova Scotia, New Brunswick and Quebec. While the Act provides immunity for negligence involving food, it does not extend such immunity to the deliberate intent to injure or reckless disregard for safety. This Act, however, will provide some measure of protection to churches and other community groups that are involved in the distribution of food to the needy.

DISCLAIMER: This *Church & the Law Update* is a summary of current legal issues provided as an information service. It is current only as of the date of the Update and does not reflect changes in the law that have occurred subsequent to the date of the Update. The Church & the Law Update is distributed with the understanding that it does not constitute legal advice or establish the solicitor/client relationship by way of any information contained herein. The contents are intended for general information purposes only and under no circumstances can be relied upon for legal decision making. Readers are advised to consult with a qualified lawyer and obtain written opinion concerning the specifics of their particular situation.

Reprinted by
CARTER & ASSOCIATES
BARRISTERS, SOLICITORS & TRADE-MARK AGENTS
211 Broadway, P.O. Box 440
Orangeville, Ontario, L9W 1K4
Telephone: (519) 942-0001
Fax: (519) 942-0300
E-Mail: tcarter@carterslawfirm.com
Web: www.carterslawfirm.com
www.charitylaw.ca
