

FILE NO. 33495

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE BRITISH COLUMBIA COURT OF APPEAL)

BETWEEN:

CYNTHIA L. MAUGHAN

Applicant
(Appellant)

AND:

THE UNIVERSITY OF BRITISH COLUMBIA
LORRAINE WEIR, JUDY SEGAL, SUSANNA EGAN, ANNE SCOTT
AND THE ATTORNEY GENERAL OF BRITISH COLUMBIA

Respondents
(Respondents)

NOTICE OF MOTION TO ADDUCE NEW EVIDENCE
FILED BY THE APPLICANT, CYNTHIA MAUGHAN
(Pursuant to s. 40 of the Supreme Court Act, R.S.C. 1985, c.S-26)

The Applicant (Appellant)

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BETWEEN:

CYNTHIA L. MAUGHAN

Appellant
(Plaintiff)

AND:

**THE UNIVERSITY OF BRITISH COLUMBIA
LORRAINE WEIR, JUDY SEGAL, SUSANNA EGAN, ANNE SCOTT**

Respondents
(Defendants)

NOTICE OF MOTION TO ADDUCE NEW EVIDENCE


TAKE NOTICE that Cynthia L. Maughan hereby applies to a judge pursuant to section 47 of the Rules of the Supreme Court of Canada, for an order to adduce new evidence or any other order that the judge may deem appropriate;

AND FURTHER TAKE NOTICE that the motion shall be made on the following grounds:

Ground 1 The Respondent Faculty, Lorraine Weir, Judy Segal, Susanna Egan, and Anne Scott, who are all members of and funded by The Canadian Association of University Teachers ("The C.A.U.T"), and in particular the respondent Dr. Weir, who sits on The Academic Freedom and Tenure Committee of The C.A.U.T., published an "investigation" related to academics who assert and attest to Christian beliefs. The "investigation" was published after the Court of Appeal Hearing. The "investigation" falsifies the trial Judge's findings and provides further context to the applicant's Leave to Appeal of the national and public importance of the issues.

Dated at Vancouver, British Columbia, this 15th day of February, 2010.

Signed by



Applicant to the motion

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Notice to the Respondent to the Motion: A respondent to the motion may serve and file a response to this motion within 10 days after service of the motion. If no response is filed within that time, the motion will be submitted for consideration to a judge or the Registrar, as the case may be.

If the motion is served and filed with the supporting documents of the application for leave to appeal, then the respondent may serve and file the response to the motion together with the response to the application for leave.

2.1

File No. 33495

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE BRITISH COLUMBIA COURT OF APPEAL)**

BETWEEN:

CYNTHIA L. MAUGHAN

Applicant
(Appellant)

AND:

THE UNIVERSITY OF BRITISH COLUMBIA
LORRAINE WEIR, JUDY SEGAL, SUSANNA EGAN, ANNE SCOTT
ATTORNEY GENERAL OF BRITISH COLUMBIA

Respondents
(Respondents)

CERTIFICATE OF THE APPLICANT

I, Cynthia L. Maughan hereby certify that:

1. This file was sealed in the courts below: NO
2. There is a ban on the publication of evidence or the names or identity of a party or a witness: NO
3. There is confidential information on the file that should not be accessible to the public by virtue of specific legislation: NO

DATED at the City of West Vancouver in the Province of British Columbia, this 15th day of February, 2010.

SIGNED BY:



CYNTHIA L. MAUGHAN, M.A.

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The Applicant (Appellant)

NOTICE OF MOTION TO ADDUCE NEW EVIDENCE

PART I

The Faculty respondents are directly and indirectly The C.A.U.T.

1. As identified in the applicant's Leave to Appeal, the respondent Dr. Lorraine Weir ("The Faculty Instructor") is presently on the Academic Freedom and Tenure Committee of The Canadian Association of University Teachers ("The C.A.U.T"), and was on that Committee at the material time of the new evidence. . **Leave to Appeal Vol. III, Tab 24.**
2. The C.A.U.T. has publically funded all of the Collective Faculty respondents throughout the trial and in these appeal proceedings. **(Page 34).**
3. The applicant sought and is seeking in her Leave to Appeal to the Supreme Court of Canada, constitutional relief from the false publications and reports being made by The C.A.U.T. and the University after she asserted her Christian religious beliefs and practices.
4. The faculty Respondents through their CAUT have repeatedly published reports to national and international academic audiences alleging The Student-Applicant is a "threat to academic freedom" based on their knowledge that The Student is a practicing Christian.
5. The Student's claim against Dr. Weir, and the Collective Faculty respondents is that in 2001 Dr. Weir knew directly, and the Other Faculty either knew or ought to have known *at least* by 2006 pre-trial, that The Student's graduate student research (The Derrida-Holy Eucharist Paper) was rated as "outstanding" on its academic merit for linguistic research. It says nothing about The Student's religious feelings, "hurt" or otherwise.
6. However, Dr. Weir in 2004 and again in 2005 published widely to national and international academic audiences and continues to do so, identifying The Student as a "fundamentalist Christian", the Collective Faculty Respondents collectively persisted that the Derrida-Holy Eucharist paper was about "hurt religious feelings" and that The Student was a threat to academic freedom . (Trial Judge's "Ruling on Admissibility of Documents" and The Faculty Instructor's (Dr. Weir's) "media work" for The C.A.U.T. **(Leave to Appeal, Tab 7, page 81-93)**, and on The C.A.U.T. website. (www.caut.ca), and in particular, at **Leave to Appeal, Tab 24, p.600-602.**
7. In October 2009, The Faculty Respondents through their CAUT and through Dr. Weir's CAUT Academic Freedom and Tenure Committee published that "investigation" in "Report on an Inquiry Regarding Trinity Western University". That Committee found the Trinity

Western University (“T.W.U.”)’s Christian “statement of faith” places “unwarranted and unacceptable constraints on academic freedom”.(Beginning Page 7)

8. On January 29, 2010 the applicant was informed of the results of that investigation by way of articles published in national newspapers. (Page 31)

PART II

9. Question 1: Could the evidence have been adduced at trial?
10. Question 2: Is the evidence relevant in the sense that it bears upon a decision or potentially decisive issue?
11. Question 3: Is the evidence credible in the sense that it is reasonably capable of belief?
12. Question 4: If believed, could it reasonably, when taken with the other evidence adduced at trial, be expected to have affected the result?

PART III

13. **Question 1:** The evidence could not have been adduced at trial because it was not published until after the trial in 2007 and after the Court of Appeal hearing in September, 2009.

An Unfolding Pattern of Allegations that Christians are a Threat to Academic Freedom, based on speculation or knowledge of religious beliefs, regardless of the merit of the research

14. **Question 2:** The evidence is relevant in the sense that it bears upon a decision or potentially decisive issue that the Collective Faculty respondents are purposefully and intentionally promoting the inferiority and contempt of Christian academics by attacking their research, regardless of its merit, based on the known or speculated religious beliefs and practices of the author. This violates civil rights, *Charter* rights and freedoms, and is bad faith negligence.
15. The Student asked the respondents in 2006 why they were reporting The Student as:

attempting to stifle or constrain in academic discourse the expression of opinions that are inconsistent with opinions held by the Plaintiff;

attempting to stifle or constrain in private and public speech the expression of opinions that are inconsistent with opinions held by the Plaintiff

attempting, in contravention of the Academic Regulations of the Defendant University (“Academic Regulations”), to stifle or constrain full and unrestrained consideration of any opinion”

attempting, in contravention of the Academic Regulations, to obstruct free and full discussion of ideas

16. The respondent faculty answered collectively (**Vol. I, Tab 8**) that it was because of The Student's graduate student research. The Student wrote a research paper proving the misquotation and misuse of a Bible passage ("The Derrida-Holy Eucharist Paper") which received an outstanding rating on its academic merit for linguistic research. The faculty respondents purposefully falsely reported The Student and The Student's research as follows.

The core of the Plaintiff's case is that the Defendant Faculty Members did not protect her from words and thoughts which she found hurtful. The Plaintiff asks the Court to award damages against the Defendants for this perceived failure, and for words that they spoke or wrote about the Plaintiff and her opinions. In short, she seeks, through the coercive and punitive processes of the Court to impose her views on the faculty members.

It is clear to these Defendants, therefore, that the Plaintiff's objective is to stifle or constrain academic teaching and discourse, and to have the Court censure the Defendants for their failure to agree with the Plaintiff's point of view. As against Professor Weir, who is the subject of most of the Plaintiff's allegations, it must also be that the Plaintiff seeks to destroy her reputation because she is offended by the Defendant's sexual orientation. (emphasis added)

17. The respondents Egan and Segal ("The Other Faculty") had no knowledge whatsoever nor basis for signing onto that Collective Interrogatory with regards to the graduate student research.
18. The applicant further submits that The C.A.U.T. is placing "unwarranted and unacceptable constraints on academic freedom" by unduly pressuring or requiring its Canadian faculty to respond collectively to marginalize students of faith by making false reports about them.

An Unfolding Pattern Of Devising A "Complaint" Where A "Complaint" Does Not Exist To Carry Out Proceedings Against Christians

19. The "investigation" of TWO because of its "statement of faith" has a pattern very similar to the treatment of The Student.
- a. The creation of a "complaint" where no complaint exists, as a basis on which to proceed as if it were a formal problem or concern. (Ground 2 of the Leave to Appeal)
 - b. Followed by an undisclosed ad hoc "investigation" in spite of the absence of a "complaint". (**Leave to Appeal, Volume III, Tab 22, Page 530 to 531**)
 - c. Followed by accusations that the Christian is a threat to academic freedom published in C.A.U.T. national publications.

The Collective Faculty's "investigation" of TWU falsifies the trial Judge's finding

20. One of the trial Judge's basis' for dismissing the case at bar on a no evidence motion was the trial Judge's finding that

A properly instructed jury, acting reasonably could find that Dr. Weir's words in the June emails exposed Ms. Maughan to some degree of animosity or antipathy, but could it find Dr. Weir's purpose in writing those words was to interfere with Ms. Maughan's civil rights by instigating feelings of hatred, contempt or inferiority, based on her religion? I see no evidence capable of bridging that inferential gap. There is no evidence that Dr. Weir is anti-Christian. There is no evidence that she has taken at other times a public stance against Christians or an individual Christian or sought to foment deep emotional antipathy to them in order to interfere with their right to respect and dignity. (emphasis added) **Para 363**

21. Dr. Weir's Academic Freedom and Tenure Committee's ad hoc "investigation" of The T.W.U. falsifies the finding that there is no evidence capable of bridging that inferential gap on a no evidence motion.
22. This "investigation" by The C.A.U.T. Academic Freedom and Tenure Committee is new evidence of the purpose of the faculty respondents, in particular the respondent Weir, to promote the inferiority and contempt of Christians in bad faith negligence.
23. **Question 3:** This evidence is credible and reasonably capable of belief because it is widely published by one of the most credible organizations in Canada: The Canadian Association of University Teachers.
24. **Question 4:** When taken with the other evidence adduced at trial, this would be expected to have affected the result because the trial Judge based on a decision that neither Dr. Weir nor any of the Collective Faculty have "taken at other times a public stance against Christians or an individual Christian or sought to foment deep emotional antipathy to them in order to interfere with their right to respect and dignity".

PART IV : There are no submissions in support of order sought concerning costs.

PART V: The applicant seeks an order that this new evidence be considered in her Leave to Appeal.

ALL OF WHICH is respectfully submitted this 15th day of February, 2010, amended
Feb.16, 2010.



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REPORT OF AN INQUIRY
REGARDING
TRINITY WESTERN UNIVERSITY
(LANGLEY, BRITISH COLUMBIA)

by

William Bruneau and Thomas Friedman

INTRODUCTION

In 2006, the Canadian Association of University Teachers [CAUT] adopted "Procedures in Academic Freedom Cases Involving Allegations of Requirement of an Ideological or Faith Test as a Condition of Employment" [Appendix A]. The CAUT considered that academic freedom is violated at universities in Canada that seek to ensure an ideologically or religiously homogeneous academic staff.

Following adoption of those procedures, the Canadian Association of University Teachers authorized in 2008 an Ad hoc Investigatory Committee to determine if a "faith test" is in place at Trinity Western University [TWU], Langley, British Columbia. Professors William Bruneau and Thomas Friedman [hereafter, 'the commissioners'], members of the CAUT's Academic Freedom and Tenure Committee, were appointed to conduct the inquiry.

The Committee's task was as follows:

- to establish whether there is an implicit or explicit "faith test" at TWU, and
- if there is a "faith test," to see if the test is a "condition of initial and/or continuing employment" at TWU; and
- to determine whether all academic staff at TWU have a full measure of academic freedom.¹

The commissioners began work in late summer 2008 by locating documents on the history, policy, and organization of Trinity Western University.

¹ On the objects of the Canadian Association of University Teachers, and in particular its care for academic freedom, see "Name and Objects [of the Association]," November 2007, § 1.2 (a), accessible at URL <http://www.caut.ca/uploads/bylaws-e.pdf>.

The University's *Academic Calendar* provided crucial information for the Committee's purposes. It opens with the Mission of Trinity Western University:

The Mission of Trinity Western University, as an arm of the Church, is to develop godly Christian leaders: positive, goal-oriented university graduates with thoroughly Christian minds; growing disciples of Jesus Christ who glorify God through fulfilling the Great Commission, serving God and people in the various marketplaces of life.²

The opening sentence in the *Academic Calendar* notes that:

Trinity Western University is much more than an institution with classrooms, books and exams; we are a passionate, intentional disciple-making academic community.³

In its statement of "Trinity Western's Basis and Purpose", the *Academic Calendar* says that the University

cultivates total student development through increased knowledge and discernment, sharpened critical thinking, communication and leadership skills and deepened commitment to Jesus Christ and a Christian way of life. Trinity Western's education provides a God-honouring perspective as well as academic excellence.⁴

It goes on to describe the Trinity Western community:

Trinity Western University, as an arm of the Church, is first and foremost an academic community of people passionately committed to Jesus Christ and to God's purposes . . . [with the objective that] all members of its community may be and become knowledgeable, perceptive, principled, just, disciplined and compassionate disciples of Jesus Christ who will penetrate every walk of life in Canada and around the world.⁵

The *Academic Calendar* then lists the six core values that underlie TWU's programs. The first is:

Obeying the authority of Scripture: All teaching, learning, thinking, and scholarship take place under the direction of the Bible, the wholly authoritative and truthful Word of God. Scripture is the ultimate standard of truth and the lens by which we evaluate our lives and the world."⁶ The other core values are "Striving for excellence

² Trinity Western University, *Academic Calendar 2009-2010* [hereafter *Calendar*], p. 1.

³ *Calendar*, [<http://www.twu.ca/academics/calendar/ac0910-what-tw-u-is-all-about.pdf>], p. 6.

⁴ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-tw-u-is-all-about.pdf>], p. 6.

⁵ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-tw-u-is-all-about.pdf>], p. 6.

⁶ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-tw-u-is-all-about.pdf>], p. 6.

in university education, pursuing faith-based and faith-affirming learning, having a transformational impact on culture, servant leadership as a way of life, and discipling through community.⁷

With respect to the last value statement, the *Academic Calendar* notes that:

at Trinity Western, students, staff, faculty, and administrators are all [sic] invited and encouraged to deepen their understanding of what it means to be disciples of Jesus Christ, to practice such discipleship, and to help others be disciples.⁸

The *Calendar* makes clear that the education TWU provides can be

the capstone to a Christian upbringing or an excellent means for new Christians to further their total growth.” It also notes that it welcomes others “who are eager to learn, have an open mind, and are willing, for the duration of their time at Trinity Western, to live in accordance with the *Responsibilities of Membership* and to abide by the policies and guidelines of the University.⁹

These documents and our subsequent interviews confirm that Trinity Western is a deeply faith-based community that strives to offer a good education within the parameters of the religious foundation of the University.

With regard to those chosen to be faculty members in this university community, the *Academic Calendar* states:

Trinity Western faculty members are selected on the basis of academic preparation, teaching ability, and commitment to the Christian faith.¹⁰

TWU policy defines and describes academic freedom of faculty members. It deserves quotation in its entirety as it initially appears to affirm a commitment to open critical thought in teaching and research, only to qualify that quest as having to occur within the bounds of “a stated perspective” – “within parameters consistent with the confessional basis of the constituency to which the University is responsible”:

Trinity Western University recognizes that academic freedom, though varyingly defined, is an essential ingredient in an effective university program. Jesus Christ himself taught the importance of a high regard for integrity, truth, and freedom. Indeed, he saw his role as in part setting people free from bondage to ignorance, fear, evil, and material things while providing the ultimate definition of truth.

⁷ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-twu-is-all-about.pdf>], p. 6-7.

⁸ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-twu-is-all-about.pdf>], p. 7.

⁹ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-twu-is-all-about.pdf>], p. 7.

¹⁰ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-twu-is-all-about.pdf>], p. 8.

Accordingly, Trinity Western University maintains that arbitrary indoctrination and simplistic, prefabricated answers to questions are incompatible with a Christian respect for truth, a Christian understanding of human dignity and freedom, and quality Christian educational techniques and objectives.

On the other hand, Trinity Western University rejects as incompatible with human nature and revelational theism a definition of academic freedom which arbitrarily and exclusively requires pluralism without commitment, denies the existence of any fixed points of reference, maximizes the quest for truth to the extent of assuming it is never knowable, and implies an absolute freedom from moral and religious responsibility to its community.

Rather, for itself, Trinity Western University is committed to academic freedom in teaching and investigation from a stated perspective, i.e., within parameters consistent with the confessional basis of the constituency to which the University is responsible, but practiced in an environment of free inquiry and discussion and of encouragement to integrity in research. Students also have freedom to inquire, right of access to the broad spectrum of representative information in each discipline, and assurance of a reasonable attempt at a fair and balanced presentation and evaluation of all material by their instructors. Truth does not fear honest investigation."

Although there are in Canada religiously affiliated universities, many with a mission tied in some manner to their religious affiliation, most do not require a commitment to the faith of the affiliate(s) nor do they place academic freedom within the limits of their "stated perspective."

On the basis of these documents alone, there is no question that Trinity Western University violates the commitment to academic freedom that is the foundational bedrock of the university community in Canada and internationally.¹²

That said, the committee found it appropriate to review the history of the institution so as to have a fuller picture of Trinity Western University.

HISTORY AND POLICY OF TRINITY WESTERN UNIVERSITY

The Evangelical Free Church of Canada (EFCC) and of America (EFCA) named a committee on liberal post-secondary education in 1957,¹³ charged with research on the possible foundation of a "Christian college or university" on Canada's west coast. Trinity Junior College eventually opened in 1962. It was in some sense an "arm" of the EFCC, although not

¹¹ *Calendar*, [<http://www.twu.ca/academics/calendar/ac0910-academic-information.pdf>], p. 39.

¹² For Canada, see the Canadian Association of University Teachers' Policy Statement on Academic Freedom [<http://www.caut.ca/pages.asp?page=247&lang=1>] and internationally, see the section on Academic Freedom in the UNESCO Recommendation concerning the Status of Higher Education Teaching Personnel [http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_TOPIC&URL_SECTION=201.html].

¹³ On the theology and history of these churches, see <http://lpd-efcc.ca/pdf/EFCCethosPresentation08.pdf>.

necessarily a legal property of the EFCC. It was later (1972) succeeded by Trinity Western College, by which time the College's relation with the EFCC might reasonably be described as a form of affiliation.¹⁴ In 2009, the EFCC's explicit connections with TWU are with a department of religious studies and a seminary. It is by no means the only denomination connected to the on-campus seminary at TWU. It is fair to characterize the relation between EFCC and TWU as similar to that of the United and Anglican Churches to the Vancouver School of Theology at the University of British Columbia. In all academic and administrative matters, TWU operates autonomously.

Trinity Western University was so named in 1984, and given its requisite legislative basis in 1985.¹⁵ Since 1962, Trinity Western has found it necessary on at least five occasions to ask the legislature to enact statutes assuring or declaring its rights and status.¹⁶ For our purposes, the most significant dates in this political and legislative history are 1979 and 1985, when Trinity Western acquired degree-granting status¹⁷ and then (private) university status.

Particularly in the 1979 debate, the legislature of British Columbia showed interest in what TWU intended by its claim to be a "Christian" institution. In debate (July 1979),¹⁸ MLA Eileen Dailly spoke of her wish that Trinity Western demonstrate not just that it was Christian, not just that it was capable of offering university courses at acceptable standard, but also that Trinity Western could and would assure its professors of academic freedom. She mentioned certain fields of research and teaching (among them history, the sciences, and the fine arts) where religious doctrine was not and could not by itself be considered a direct contributor to scientific or artistic discovery.

The majority of MLAs dismissed Ms Dailly's interventions, preferring the general argument that a duck, if it walks and talks like one, is certainly a duck. That is to say, Trinity Western looked to the government like a reputable degree-granting institution, and that fact should

¹⁴ As of 15 February 2009, the official web site of the Evangelical Free Church of Canada says that:

The mission of Trinity Western University, as an arm of the Church, is to develop godly Christian leaders: positive, goal-oriented university graduates with thoroughly Christian minds; growing disciples of Jesus Christ who glorify God through fulfilling the Great Commission, serving God and people in the various marketplaces of life.

URL: <http://www.efcc.ca/index.cfm?pageID=162>

This statement does not claim that the EFCC has owned or now "owns" TWU.

¹⁵ In 1984, the EFCC declared independence from its American sister church, and established its headquarters in Langley, British Columbia. See *The Encyclopedia of Saskatchewan*, http://esask.uregina.ca/entry/evangelical_free_church_of_canada.html, s.v. "Evangelical Free Church of Canada," on the origins and development of the EFCC in western Canada.

¹⁶ *Trinity Western University v. College of Teachers*, [2001] 1 S.C.R. 772, 2001 SCC 31, <http://csc.lexum.umontreal.ca/en/2001/2001scc31/2001scc31.html>, p. 1 of the written judgement, which summarizes the legislative background of TWU.

¹⁷ The 1979 authorization was for baccalaureate degrees.

¹⁸ 1979 Legislative Session: 1st Session, 32nd Parliament (Hansard), 13 July 1979, p. 1138-1139, intervention of Mrs Eileen Dailly.

and would suffice. The legislation conferring degree-granting powers on TWU passed with a vote along party lines, Ms Dailly and her colleagues in opposition.¹⁹ By 1985, debate in the British Columbia legislature on Trinity Western University's name and status was bi-partisan, with the majority party (at the time, the Social Credit Party of British Columbia) emphasizing TWU's successful development over more than two decades—and both parties eventually voting for the statute.²⁰

Because it held that membership in the Association of Universities and Colleges of Canada constituted a form of accreditation in Canada, Trinity Western applied for membership in 1982, and in 1984 was admitted.²¹ TWU is also a member of the Council for Christian Colleges and Universities (CCCU).²²

An announcement (23 April 2004) by Advanced Education Minister Shirley Bond showed that formal relations between TWU and the British Columbia government have continued to evolve. Minister Bond exempted TWU “from detailed reviews of its degree programmes,” giving Trinity Western “the same status as the province’s four major public universities,” exempted earlier in 2004.²³ The Minister’s press release notes that exemption requires of an institution that it have “an approved mission statement that includes

¹⁹ Although not strictly relevant, it is worthwhile to recall the three chief features of the 1979 debate *pro* and *contra*: (a) that the Trinity Western matter had not passed through the usual accrediting machinery of the day—the Universities Council of British Columbia, (b) that the government was proceeding without expert input to pass on a private member’s bill, and (c) that the implications of creating a *Christian* post-secondary degree-granting institution had not been canvassed sufficiently.

Among the ‘implications’ mentioned by members of the opposition, two deserve to be noted: (i) the tax-exempt status, and (ii) the rights of TWU (its students, and in its various institutional guises) to acquire public funding—including student loans and research grants. For numerous reasons of public policy, and partly on the grounds that so many institutions like TWU were successful and full members of the world-wide ‘community of universities,’ the legislative majority rejected extensive debate on these two points, in committee and in full sitting.

²⁰ See the text of the intervention of Mark Rose, who noted that Ms Dailly had come to agree with him:
Mr. Speaker, I have to ask myself whether or not we are opposed to private universities. If I'm not opposed to private universities, and a university that is a private one meets all the criteria that I think are important for a university and its faculty and its program and its future, then I can see no real reason to oppose the bill. That's strictly how I look at it, and I realize that we all have a different value system.

1985 Legislative Session: 4th Session, 33rd Parliament (Hansard), 11 June 1985, p. 6558.
²¹ See http://www.aucc.ca/_pdf/english/aboutaucc/joinaucc_e.pdf, Association of Universities and Colleges of Canada, “Founding Year and Joining Year of AUCC Member Institutions.”

²² On TWU membership in the CCCU, and on its general composition and aims, see http://www.cccu.org/members_and_affiliates/?member_type=mbr&camp_init=T and http://www.cccu.org/members_and_affiliates.

²³ “B.C. Gives TWU New Status: Trinity Western University Has Been Granted Status for Its Degree Process,” *AdvanceNews* (Langley), 14 May 2004: 36. The *TWU Calendar* refers to this exemption, reminding readers that “Institutions may apply for exempt status form full review by the [Advanced Education Degree Quality Assessment] Board if their organization, institutional governance, and academic standards are sound and if they have been approved to grant degrees for at least 10 years.”

appropriate goals, a demonstration of rigorous ongoing programme and institutional quality assessment, and appropriate integration with the provincial post-secondary system.”

We want now to take up the point made by MLA Dailly in 1979. We also offer a brief description of two revelatory TWU documents. Although these documents are in course of revision as of August 2009, there was no indication that TWU intends to abandon either of them or the intent that lay behind them.

The two documents are the TWU *Statement of Faith* and the *Responsibilities of Membership in the Community of Trinity Western University* (hereafter, *Statement* and *Responsibilities*). They are reprinted, below and in full, as Appendices C and D. TWU's Human Resources department maintains a web site on which these documents were available until February 2009.²⁴ Further, the official academic *Calendar* of TWU reprints the *Statement*,²⁵ as does the application form which intending student applicants must complete and sign.

The commissioners discovered that all academic staff members (along with all employees and all students of the University) were and are required annually to sign the *Statement* and the *Responsibilities*.

The *Calendar* notes that all members of the TWU community must subscribe “without reservation” to the *Statement*.²⁶ Yet documents published on the web site and in hard copy, publicly available, envisage that academic staff (who are our primary concern) may declare their reservations on theological or religious subjects mentioned in the *Statement*. The Provost is charged with administration of the *Statement* and of the *Responsibilities*.

TWU STATEMENT OF FAITH AND RESPONSIBILITIES OF MEMBERSHIP—

From the mid-1960s, Trinity Western chose to make explicit its religious character in public announcements and in its relationship with all faculty members, students, and non-academic employees. The most visible of Trinity Western's methods were the *Statement* and the *Responsibilities*. The *Statement* (Appendix C) lists views commonly associated with a form of fundamentalist Protestant Christian belief and practice.

²⁴ The relevant TWU web sites are (or were): <http://www.twu.ca/divisions/hr/employee/documents/statement-of-faith.pdf> and <http://www.twu.ca/divisions/hr/employee/documents/community-standards.pdf>. As of 15 February 2009, these two URLs are non-functional.

²⁵ For the *Calendar*, see <http://www.twu.ca/academics/calendar/2009-2010.html> and in particular for the *Statement of Faith*, see <http://www.twu.ca/academics/calendar/ac0910-what-twu-is-all-about.pdf>. President Jonathan Raymond in his letter of February 17, 2009, [see Appendix E] indicated that these documents are under revision.

²⁶ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-twu-is-all-about.pdf>], p. 8.

The *Responsibilities* document says that members of the TWU community must:

engage in an unhindered pursuit of knowledge, personal growth, and spiritual maturity. Consequently the University strives to maintain a distinctly Christian living and learning environment conducive to a rigorous study of the liberal arts and sciences from the perspective of a biblical worldview.

Here TWU seeks to insert the 'missing link' between doctrine (in the *Statement*) and daily educational work of its faculty and students. TWU makes the link by saying that its religious mission is primary; all else that TWU does is subordinate to that religious mission.

TENURE, ACADEMIC FREEDOM, AND TWU FACULTY

One aspect of our inquiry was to determine if TWU gives tenured or tenurable academic appointments to its academic staff. We connect that question to another and equally important one: is tenure a primary guarantee of academic freedom at TWU?

Tenure at TWU

In a 17 February 2009 e-mail to the commissioners, President Raymond wrote as follows about tenure at Trinity Western University:

Tenure is conceived as a status that reflects the university's investment in its future by recognition of the faculty members' anticipated future value, taking a long view. Board of Governors policy states in Executive Limitation #1.3 that "With respect to the promotion of and granting of Tenure and sabbaticals to the faculty, the president shall not fail to ensure normative and conventional processes for the review and recommendation to the Board of faculty candidates for Tenure." Our normative practices for the review and award of tenure are absolutely conventional/normative, congruent with AUCC and the various external authorities within specific disciplines (i.e. Nursing) to which we are in covenant as well as continual compliance with the Degree Quality Assessment Board in B.C. as an "exempt" university (in good company with UBC, UVic, and Simon Fraser) and with its counterpart board in Ontario. We are presently pursuing regional accreditation with the USA Northwest Association in relation to our Bellingham campus and programs and this accreditation will cover all of the university programs in B.C. and at the Laurentian Leadership Centre in Ottawa placing us within yet another covenant regarding conventional practices in the award of tenure with fidelity to an external authority. We are also cognizant of normative frameworks for tenure among over 100 member institutions within the Council of Christian Universities and Colleges (CCCU) who share an interest in constituent Christian communities and congregations from which a large

portion of students are enrolled. This particular focus positively informs how we credit community engagement and service in awarding tenure.²⁷

Tenure is not mentioned on the TWU website. Using the TWU web site, the commissioners were unable to access the policies of the Board of Governors. Because TWU is a private entity, it is uncertain that we or other members of the public could or would have access to those policies.

For the purposes of this report, the commissioners are disposed to accept President Raymond's description of tenure at TWU.

In the medium and long terms—that is, over the next six months—we recommend that TWU make preparations to publish on its web site its policies on tenure, academic freedom, and the contractual rights of its academic staff. Although the absence of written policy did not disable our inquiry, continued vagueness and reliance on “privacy” would undermine the TWU plan to retain or to enact policy that is “absolutely conventional/normative, congruent with AUCC.” We remind the reader that in every public institution in Canada, policies and contractual arrangements on tenure are published. Academic staff, members of the public (including journalists), and interested civil servants thus have ready access to the relevant provisions and policy. Similarly, publication should be the norm at TWU.

Academic Freedom

As discussed above, the Trinity Western policy on academic freedom on the one hand states that

“arbitrary indoctrination and simplistic, prefabricated answers to questions are incompatible with a Christian respect for truth, a Christian understanding of human dignity and freedom, and quality Christian educational techniques and objectives.”²⁸

On the other hand, it affirms that academic freedom for TWU means

“teaching and investigation from a stated perspective, i.e., within parameters consistent with the confessional basis of the constituency to which the University is responsible” but, within this constraint, “practiced in an environment of free inquiry and discussion and of encouragement to integrity in research.”²⁹

By contrast, the conventional understanding of academic freedom— in Canada and internationally—sees academic freedom as including

²⁷ See Appendix E for President Raymond's letter.

²⁸ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-academic-information.pdf>], p. 39.

²⁹ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-academic-information.pdf>], p. 39.

the right, *without restriction by prescribed doctrine*, to freedom of teaching and discussion; freedom in carrying out research and disseminating and publishing the results thereof; freedom in producing and performing creative works; freedom to engage in service to the institution and the community; freedom to express freely one's opinion about the institution, its administration, or the system in which one works; freedom from institutional censorship; freedom to acquire, preserve, and provide access to documentary material in all formats; and freedom to participate in professional and representative academic bodies.³⁰

Many Canadian Christian institutions of post-secondary education assert their religious character, yet welcome applications by persons who hold no religious views, or who hold religious views at variance with those that guide the institution and understand academic freedom as being incompatible from a requirement to operate from a "defined perspective."³¹ Unlike Trinity Western, they do not pursue their mission by trying to create a religiously homogenous community and limit the academic freedom of faculty by requiring it to operate within the stated perspective of the religious group with whom they are affiliated.

CONCLUSION AND RECOMMENDATIONS

Academic staff at TWU are well qualified academics, carrying out programmes of post-secondary education at standards approved by relevant provincial and national authorities.

Our historical research shows that the governance of TWU has changed in the past three years, in ways that have led TWU to review its conditions of employment and contemplate practices considered appropriate in Canadian public post-secondary education.

On the other hand, we find that the *Statement* and the list of *Responsibilities* and the University's policy on academic freedom allow for unwarranted and unacceptable constraints on academic freedom. This is specifically affirmed in TWU's statement of academic freedom that it recognizes academic freedom only "from a stated perspective, i.e., within parameters consistent with the confessional basis of the constituency to which the University is

³⁰ CAUT, Policy Statement on Academic Freedom: <http://www.caut.ca/pages.asp?page=247&lang=1>. See also the UNESCO Recommendation concerning the Status of Higher Education Teaching Personnel's section on academic freedom:

[http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_TOPIC&URL_SECTION=201.html]

³¹ For example, in its job ads, St. Thomas University says, "The university welcomes faculty, staff and students from all faiths and backgrounds." King's University College's ads say, "The College is committed to advancing the catholic intellectual tradition and welcomes faculty and students from all faiths and backgrounds." Each of these and most others, including St. Francis Xavier University and the numerous religious colleges federated to larger universities (for example St. Michael's (Toronto), Trinity (Toronto), Victoria (Toronto), St. Jerome's (Waterloo), Brescia (Western Ontario), St. Paul's (Manitoba), St. John's (Manitoba), Campion (Regina) operate under policies and collective agreement provisions that recognize the conventional understanding of academic freedom as laid out in the CAUT and the UNESCO statements.

responsible.” The subsequent assurance of free enquiry within these restrictions does not ensure genuine academic freedom.

This is confirmed by the institution’s own claims that:

- “We are a passionate, an intentional disciple-making academic community”³²;
- “Trinity Western University, as an arm of the Church, is first and foremost an academic community of people passionately committed to Jesus Christ and to God’s purposes . . . [with the objective that] all members of its community may be and become knowledgeable, perceptive, principled, just, disciplined and compassionate disciples of Jesus Christ”³³;
- “All teaching, learning, thinking, and scholarship take place under the direction of the Bible, the wholly authoritative and truthful Word of God.”³⁴

The Ad hoc Inquiry therefore recommends that TWU be placed on a list of institutions “found to have imposed a requirement of a commitment to a particular ideology or statement as a condition of employment.”

³² *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-twu-is-all-about.pdf>], p. 6.

³³ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-twu-is-all-about.pdf>], p. 6.

³⁴ *Calendar* [<http://www.twu.ca/academics/calendar/ac0910-what-twu-is-all-about.pdf>], p. 6.

APPENDIX A

CAUT Procedures in Academic Freedom Cases Involving Allegations of Requirement of an Ideological or Faith Test as a Condition of Employment

1. CAUT will consider all cases of alleged violations of academic freedom involving a required commitment to a particular ideology or statement of faith as a condition of employment. Such allegations should be brought to the attention of the executive director. In cases where attention by CAUT seems justified, the executive director will notify the president and the chair of the Academic Freedom and Tenure Committee and will expeditiously initiate a preliminary inquiry to be undertaken to gather necessary background and factual information. The executive director will provide the president and the chair of the Academic Freedom and Tenure Committee a list of all other requests brought to his attention. All requests brought to the executive director, president and chair of the Academic Freedom and Tenure Committee that are not expeditiously dealt with by a preliminary inquiry will be referred to the Academic Freedom and Tenure Committee.

2. If the allegation appears valid, and if a satisfactory resolution of the matter does not seem to be possible through informal negotiation, the executive director, in consultation with the president, the chair of the Academic Freedom and Tenure Committee, and others as appropriate, will establish an ad hoc investigatory committee that will look into the situation and report to CAUT through the Academic Freedom and Tenure Committee (see 4 below).

3. In all instances where a CAUT local association exists at the institution where the alleged violation of academic freedom occurred, the executive director will consult with the local association as part of the preliminary inquiry to determine whether remedies may be available under the collective agreement or the academic staff handbook. In the event an ad hoc investigatory committee is established, the assistance of the local association will be sought with reference to work of the committee.

4. The following guidelines apply to the committee:

a) The members will be appointed by the executive director in consultation with the president and the chair of the Academic Freedom and Tenure Committee.

b) Members will serve without remuneration except for expenses. CAUT will hold the committee members harmless from any legal actions that arise as a result of their work on the committee of inquiry.

- c) The committee will be provided with terms of reference that pose specific questions to be addressed. The terms of reference will be developed by the president, the chair of the Academic Freedom and Tenure Committee and the executive director.
- d) The committee will seek to review fully and fairly the matters it has been appointed to investigate and will prepare a report to CAUT in a timely manner.
- e) The committee has no statutory powers and no authority to compel individuals to participate in its inquiry. To ensure that it is fully informed with regard to the matters under review, the committee will rely on the cooperation of everyone concerned. Anyone who chooses to be interviewed by the committee may be accompanied by a colleague.
- f) The committee will begin by reviewing the documentary record available to it upon its appointment. Further relevant information from individuals will be sought by inviting them to meet with the committee and to submit documents.
- g) Persons interviewed by the committee will be provided with a statement of matters under investigation in advance of the interview. Persons interviewed will be permitted to make a statement to the committee and to raise issues that they consider relevant, subject to the right of the committee to decide, having been provided an opportunity for arguments to the contrary, that particular matters are not relevant to its terms of reference.
- h) Committee members will take notes during interviews and interviews may be recorded where the person being interviewed consents.
- i) As soon as possible after receipt of the report of the ad hoc investigatory committee, the executive director will review it and communicate with the committee regarding any suggestions for revision.
- j) To ensure fairness to persons potentially affected in a material adverse way by findings in the committee's report, the executive director will send a fair summary of the information upon which such findings could be based to such persons, allowing a reasonable time for them to respond. The executive director will then invite the ad hoc investigatory committee to revise its report in light of the comments received.
- k) The committee's draft report will be transmitted to the Academic Freedom and Tenure Committee which may request further revisions. Following consideration of the Academic Freedom and Tenure Committee's request, the committee's final report will be submitted to the Academic Freedom and Tenure Committee for final review.
- l) Following the Academic Freedom and Tenure Committee's final review, CAUT will actively explore resolution of the matter with the parties concerned.

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m) If the matter cannot be satisfactorily resolved, CAUT, on the advice of the Academic Freedom and Tenure Committee, will publish the final text of the report. The members of the ad hoc investigatory committee will be listed as authors of the published report unless they withhold their names because of disagreement with changes requested by the Academic Freedom and Tenure Committee or as a result of comments from the parties potentially affected in a material adverse way.

n) An institution found to have imposed a requirement of a commitment to a particular ideology or statement of faith as a condition of employment will have its name added to a list publicized by CAUT.

Approved by the CAUT Academic Freedom and Tenure Committee and the Executive Committee, September 2006; approved by CAUT Council, November 2006.

URL: <http://www.caut.ca/pages.asp?page=516&lang=1>

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APPENDIX B

Letter Appointing William Bruneau and Thomas Friedman to Ad hoc Committee of Inquiry on Trinity Western University

September 10, 2008

Dr. Jonathan Raymond
President
Trinity Western University
7600 Glover Road
Langley, BC
V2Y 1Y1

Dear Dr. Raymond:

As you know, the defense of academic freedom is one of the core functions of the Canadian Association of University Teachers. We have felt strongly since our inception more than 50 years ago that any institution claiming university status must be committed to ensuring a full measure of academic freedom for all its academic staff.

We are concerned that Trinity Western University may be denying academic freedom to some of its academic staff by requiring a statement of faith – implicitly or explicitly – as a condition of initial and/or continuing employment. We are not sure that this is the case, and our informal efforts to investigate the matter have raised more questions than provided clear answers.

Accordingly, we have appointed a two-person ad hoc investigatory committee to look into the situation more formally and to provide a report to our Academic Freedom and Tenure Committee. I am writing to you in the hope that you or your designate would be willing to meet with the committee so they can learn more about the practices at Trinity Western and be in a position to provide a fair and accurate report to CAUT.

The members of the Ad Hoc Committee are two academics with considerable expertise in academic freedom:

Dr. William Bruneau, Professor Emeritus, Department of Educational Studies, University
of British Columbia

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Dr. Thomas Friedman, Department of English and Modern Languages, Thompson Rivers
University

Both Drs. Bruneau and Friedman are members of the CAUT Academic Freedom and Tenure
Committee.

They will be in touch with you in the near future to see if you would be willing to meet and let
them learn more about practices and policies at Trinity Western. They would be pleased to visit
TWU at your convenience.

I am attaching a description of CAUT's procedures in these matters and would be glad to
answer any questions you may have.

Yours sincerely,

James L. Turk
Executive Director

cc: William Bruneau
Thomas Friedman
Penni Stewart, President, CAUT
Victor M. Catano, Chair, CAUT Academic Freedom & Tenure Committee

Attachment

APPENDIX C

Trinity Western University Statement of Faith



Statement of Faith

As a Christian university, Trinity Western University openly espouses a unifying philosophical framework to which all faculty, staff, and administration are committed without reservation. The University identifies with and is committed to historic orthodox Christianity as expressed by the official Statement of Faith.

We believe:

[1] The Scriptures, both Old and New Testaments, to be the inspired Word of God, without error in the original writings, the complete revelation of His will for the salvation of men and women, and the divine and final authority for all Christian faith and life.

[2] In one God, Creator of all things, infinitely perfect and eternally existing in three persons, Father, Son, and Holy Spirit.

[3] That Jesus Christ is true God and true man, having been conceived of the Holy Ghost and born of the Virgin Mary. He died on the cross, a sacrifice for our sins according to the Scriptures. Further, He arose bodily from the dead, ascended into Heaven, where at the right hand of the Majesty on High, He is now our High Priest and Advocate.

[4] That the ministry of the Holy Spirit is to glorify the Lord Jesus Christ and during this age to convict men and women; regenerate the believing sinner; indwell, guide, instruct, and empower the believer for godly living and service.

[5] That humankind was created in the image of God, but fell into sin and is therefore lost, and only through regeneration by the Holy Spirit can salvation and spiritual life be obtained.

[6] That the shed blood of Jesus Christ and His resurrection provide the only ground for justification and salvation for all who believe, and only such as receive Jesus Christ are born of the Holy Spirit and thus become children of God.

[7] That water baptism and the Lord's Supper are ordinances to be observed by the Church during the present age. They are, however, not to be regarded as means of salvation.

[8] That the true Church is composed of all persons who, through saving faith in Jesus Christ, have been regenerated by the Holy Spirit and are united together in the body of Christ, of which He is the head.

[9] That only those who are thus members of the true Church shall be eligible for membership in the local church.

[10] That Jesus Christ is the Lord and Head of the Church, and that every local church has the right under Christ to decide and govern its own affairs.

[11] In the personal, premillennial, and imminent coming of our Lord Jesus Christ and that this Blessed Hope has a vital bearing on the personal life and service of the believer.

[12] In the bodily resurrection of the dead; of the believer to everlasting blessedness and joy with the Lord, of the unbeliever to judgment and everlasting conscious punishment.

I agree without reservation with the above Statement of Faith and agree to support that position at all times before the students and friends of Trinity Western University

I agree with reservation with the above Statement of Faith. (Specify all reservations on separate sheet.)

Date _____

Signed _____

Name (please print) _____

APPENDIX D



Responsibilities of Membership

In the Community of Trinity Western University and Application to Faculty, Staff and Administration

Preamble

Trinity Western is a Christian university distinguished by a clear mission.

The mission of Trinity Western University, as an arm of the church, is to develop godly Christian leaders: positive, goal-oriented university graduates with thoroughly Christian minds; growing disciples of Jesus Christ who glorify God, through fulfilling The Great Commission, serving God and people in the various marketplaces of life.

In order to accomplish this mission, members of the community need to engage in an unhindered pursuit of knowledge, personal growth, and spiritual maturity (Heb. 12: 1-3). Consequently, the University strives to maintain a distinctly Christian living and learning environment conducive to a rigorous study of the liberal arts and sciences from the perspective of a biblical worldview.

Membership in the Trinity Western community is obtained through application and invitation.

Those who accept an invitation to join the community agree to uphold its standards of conduct. In return, they gain the privilege of enjoying the benefits of community membership and undertake to work for the best interests of the whole community (Phi 2:4).

Compliance with these standards is simply one aspect of a larger commitment by students, faculty, staff, and administration to live together as responsible citizens, to pursue biblical holiness, and to follow an ethic of mutual support, Christian love in relationships, and to serve the best interests of each other and the entire community.

Individuals who are invited to become members of this community but cannot with integrity pledge to uphold the application of these standards are advised not to accept the invitation and to seek instead an employment situation more acceptable to them.

Core Values and Responsibilities of Membership

The Responsibilities of Membership reflect our University's core values and help preserve its distinctly Christian character. These core values include:

The inspiration and authority of the Bible

Members of the community voluntarily submit to its teaching.

The pursuit of personal holiness

Members of the community strive to live distinctly Christian lives.

The University's mission

Members of the community are determined to let nothing stand in the way of becoming "godly Christian leaders."

The community

Members of the community place the welfare of the community above their personal preferences. These core values are easily transformed into principles of Christian conduct or Responsibilities of Membership that all members of the community are expected to follow. Because the Responsibilities of Membership are intended to reflect a preferred lifestyle for those who belong to this community rather than "campus rules", they apply both on and off campus. All members of the community are responsible to:

Conduct themselves as responsible citizens.

Engage in an honest pursuit of biblical holiness.

Make the University's mission their own mission.

Limit the exercise of their Christian liberty in accordance with the University's mission and the best interest of other members of the community.

Application of the Responsibilities of Membership to Faculty, Staff and Administration

The University asserts from the outset that the existence of separate application statements is not for the purpose of creating different standards for different community groups. Thus, the same core values and biblical principles underlie both statements. This portion of the Responsibilities of Membership statement applies these common values and principles in an appropriate manner to the situations that present themselves to employees, which may differ from those of students. Employees will at all times affirm and support the application statement for students.

Consistent with the Preamble and Core Values of this document, employees are expected to:

Obey the law and conduct themselves as just and socially responsible citizens who seek to contribute to the welfare of the greater community of which the University is a part (Rom 13: 1-7). This expectation includes both legal prohibitions such as the illegal use of drugs or careless use of one's vehicle, as well as biblical admonitions such as the careful stewardship of all resources, both natural and material, on behalf of their Creator and Giver.

Show respect, love and consideration for others. We believe that, without exception, every human being is a valuable person created by God in His image (Gen 1:26-27) and thus possesses inherent dignity, and we are called to love and treat every person with genuine respect. Therefore, members of the community are expected to act with kindness and positive regard for the well being of each person, and to practice respect for all people at all stages of life. This manner of living obeys Jesus' commandment to show love for others (Joh 13:34-35) echoed by the Apostle Paul (Rom 14: 1, 1Co 8,13). It is evidenced by making a habit of encouraging and building up others, showing compassion, demonstrating unselfishness, and displaying patience. Harassment of any person, whether or not a member of the community, is not acceptable. Differences of opinion on any issue are not only permissible, but are expected, and frequently encouraged as part of the educational process. However, dialogue about differences is always to be conducted with reason, consideration for the feelings of others, and recognition of TWU as a unique, faith affirming community called to serve within the diverse society in which we live.

Refrain from practices that are contrary to biblical teachings. These include, but are not limited to, drunkenness (Eph 5: 18) and other forms of substance abuse, swearing or use of profane language (Eph 4:29, 5:4; Jam 3: 1-2), harassment (Joh 13:34-35, Rom 12:9-21; Eph 4:31), all forms of dishonesty including cheating, stealing and misrepresentation (Pro 12:22, Col 3:9, Eph 4:28), abortion (Exo 20: 13, Psa 139: 13-16), involvement in the occult (Act 19: 19, Gal 5: 19), and viewing of pornography (1Co 6: 12-20, Eph 4: 17-24, 1Th 4:3-8, Rom 2:26-27, 1Ti 1:9-10).

Observe biblical principles for marriage and sexual relationships. Members of the TWU community agree to respect the biblical teaching that sexual intimacy is to be practiced only within the context of marriage between a husband and a wife (Gen 2:23-24) and to keep their sexual behaviour consistent with this teaching. Also, married members of the community agree to respect and maintain the sanctity of marriage and to take every positive step to resolve conflict and avoid divorce.

Treat with utmost seriousness the position of trust and influence that an employee holds in his/her relationships with students, and to model at all times wise, discreet and respectful behaviour. This is especially important for faculty whose direct relationship of authority with students must be exercised with an attitude of integrity and service. Employees agree as well to affirm the application of the University's Responsibilities of Membership to students.

Utilize careful judgment at all times in the exercise of personal freedom, particularly when associated with the University and/or relating to students, either publicly or privately (Gal 5:16-6:10, Rom 12:1-15 and 13, 1Co 8:9-13 and 13:11, Eph 4:17-6:18, Col 3:1-4 and 6, 1Th 4:1-5:24). The University recognizes that employees come from various communities of faith, which hold to opinions and practices on certain lifestyle issues that differ from one another, e.g., use of tobacco, consumption of alcohol, and social dancing. Furthermore, the Bible, to which we attribute the ultimate authority for all Christian life, is not explicit on every issue that has been controversial among

conservative Christians. Nevertheless, many Christians have historically condemned the use of alcohol and the tragic consequences of its abuse, in particular, and more recently the use of tobacco.

Lifestyle issues are complicated further by the reality that society members tend to place Christians under special scrutiny by virtue of their profession and may hold expectations of Christians that they do not hold of themselves. Therefore, with respect to issues such as the use of alcoholic beverages, tobacco products, food, entertainment, gambling and other behavioural matters which are open to abuse, misuse and misunderstanding, the following biblical principles must be followed:

- The Bible condemns self-indulgence while commending self-control.
- The Bible commends respect for one's body.
- Community interests are to be put ahead of self-interest.
- Personal liberty is to be set aside:
 - *when its exercise could hinder a brother's or sister's spiritual development;
 - *when its exercise could be misunderstood in such a way as to hinder one's own witness or that of the University;
 - *when cultural abuse suggests the need for Christian leaders to exercise self-restraint;
 - *when an action could endanger another person's safety or well being.

This application of the Responsibilities of Membership is not offered as a legalistic definition of right and wrong. Rather, it provides concrete examples of a commitment to the mission of Trinity Western University and a commitment to fellow members of this academic community. Furthermore, it provides principles to limit the exercise of Christian liberty, which explains why members of the community do not use alcohol or tobacco products. Certain expectations that may not be commanded by Scripture and yet follow from relevant biblical principles are, nonetheless, normative and are to be followed in order to preserve the distinctly Christian character of the University community. Therefore, all employees are required to commit themselves to follow this application of the Responsibilities of Membership and maintain the integrity of that commitment.

While employed by Trinity Western University, I agree to abide by these *Responsibilities of Membership in the Community of Trinity Western University*.

Date

Signed

APPENDIX E

Letter: Jonathan Raymond to William Bruneau, by email, 17 February 2009

From: Jonathan Raymond [mailto:Jonathan.Raymond@twu.ca]
Sent: Tuesday, February 17, 2009 3:54 PM
To: William Bruneau
Cc: Dennis Jameson; Kevin Sawatsky; jcherrington@cmelaw.bc.ca
Subject: Response to Request from CAUT Visit

Dr. Bill Bruneau

Greetings Bill,

Your recent visit was engaging and a positive exchange for us, and for me personally. Please accept my apology for a slow response to your request for further information. Life has been very full and after being on the road for ten days, I returned to campus and walked directly (save one half hour) into a meeting of our Board of Governors. Then there was all the follow-up of that two and one half day event. Alas! Nevertheless it is all honourable work.

Regarding your requested items noted below:

1. Statement of Faith - The Board of Governors began a discussion on revising this document last weekend. However, the university will continue to have a statement which we will benefit by as a context for engaging employees in a conversation upon entry into employment. This is not, nor will be, a "test" for employees. It is, and will be, a framework for profiling the essence of the university and attracting an employee population that is comfortable and supportive of the core nature of who we are and what we want to achieve in living out the identity by which the province granted a charter, a Christian university.
2. Responsibilities of Membership - An all campus, ad hoc committee just a few days ago presented the Provost with recommendations for revising the Responsibilities of Membership document. These recommendations will now go through a comprehensive review by a broad scope of university stakeholders. Input from these stakeholders will come back to the Provost over the next few months who will then make a final recommendation on a revised document to the President. My hope is that this will occur over the next few months although as you know in a university environment this process often takes longer than desired. I do anticipate the revised document will use positive covenant language in order to create a community framework that promotes a healthy environment on campus and at university events. The

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intent is to promote an environment that optimizes student success and the ENDS of the university. I will forward a final copy to you upon community review, discussion and final approval, perhaps as early as May, 2009.

3. The Marriage and Divorce document – We appreciate your concern with the sentence you reference in our old Statement on Marriage and Divorce. That Statement is part of the past history of the university under a different administration and has not been an active policy document for some time. We appreciate you drawing this to our attention and we have in fact removed reference to this Statement from our website. We are exploring language used in other universities that makes a positive statement regarding healthy families and the university's commitment to supporting healthy marriages and family life.

4. Tenure - Tenure is conceived as a status that reflects the university's investment in its future by recognition of the faculty members anticipated future value taking a long view. Board of Governors policy states in Executive Limitation #1.3 that "With respect to the promotion of and granting of Tenure and sabbaticals to the faculty, the president shall not fail to ensure normative and conventional processes for the review and recommendation to the Board of faculty candidates for Tenure." Our normative practices for the review and award of tenure are absolutely conventional/normative, congruent with AUCC and the various external authorities within specific disciplines (i.e. Nursing) to which we are in covenant as well as continual compliance with the Degree Quality Assessment Board in B.C. as an "exempt" university (in good company with UBC, UVic, and Simon Fraser) and with its counterpart board in Ontario. We are presently pursuing regional accreditation with the USA Northwest Association in relation to our Bellingham campus and programs and this accreditation will cover all of the university programs in B.C. and at the Laurentian Leadership Centre in Ottawa placing us within yet another covenant regarding conventional practices in the award of tenure with fidelity to an external authority. We are also cognizant of normative frameworks for tenure among over 100 member institutions within the Council of Christian Universities and Colleges (CCCU) who share an interest in constituent Christian communities and congregations from which a large portion of students are enrolled. This particular focus positively informs how we credit community engagement and service in awarding tenure.

I trust this provides you with the information you desire to complete a positive review of TWU. If you have any further concerns or questions, please contact me directly. Bon Courage!

Sincerely,

Jonathan

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Trinity Western faces pressure over faith statement
Posted: January 29, 2010, 6:28 PM by Gillian Grace



Charles Lewis, National Post

A dispute has erupted between the country's largest association of university teachers and a group of Christian schools, raising questions over whether academic freedom can exist in an overtly religious environment.

The Canadian Association of University Teachers (CAUT) has issued a report that says B.C.-based Trinity Western University falls below the standard of proper academic freedom because it requires its faculty sign a statement of Christian faith before being hired.

It has also put the organization "on a list of institutions found to have imposed a requirement of a commitment to a particular ideology or statement as condition of employment."

The statement of faith, available on the school's web site, acknowledges, among other things, that there is one God, the Bible is the inspired Word of God, and that Christ is God incarnate.

The report by the teachers' body also pointed to excerpts from the academic calendar, which in part said: "All teaching, learning, thinking, and scholarship take place under the direction of the Bible."

Although Trinity Western is the first school to be put on the list, the organization said it will now investigate three other Christian universities — Crandall University in Moncton, Canadian Mennonite University in Winnipeg, and Redeemer University College in Ancaster, Ont. — all of which require faculty to sign faith statements.

"A school that requires its faculty to subscribe to a particular religious belief or ideology cannot be practicing academic freedom," said James Turk, executive director of CAUT. "This is not about the school being Christian, but about faculty having to sign a statement of faith before being hired. A university is meant as a place to explore ideas, not to create disciples of Christ."

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“The list and investigation implies there’s something sinister,” said Al Hiebert, president of Christian Higher Education Canada, an umbrella group for Christian universities and colleges, including Trinity Western and the other three schools. “I would also call it harassment. It’s putting the education of those schools and the research of their faculty under the heading of, ‘We don’t need to take them seriously.’”

Jonathan Raymond, the president of Trinity Western, said the report has put the school “under a cloud of suspicion” and characterized CAUT’s list as “a black list.”

Calling it an investigation, he said, “makes it appear as if there is something deeply wrong at the school” and that could put a burden on graduates in their attempt to be taken seriously outside the institution.

“There is no topic under the sun that can’t be raised. We assume faculty will have their thinking informed by their Christian faith, but we don’t influence it. They can raise all perspectives but we expect they’ll also raise the Christian perspective.”

Trinity Western, which is 48 years old, has 5,000 students and faculties with undergraduate and graduate degrees in everything from education to social work to engineering. It is accredited by the province and is also a member of the Association of Universities and Colleges of Canada, which said it demands a high level of academic freedom before a school is accepted.

Mr. Raymond said they received no notification that an investigation would take place and only discovered what was going on when academics at other schools began receiving emails from CAUT. The email read: “If you are currently teaching at Trinity Western University, have taught there in the past, or have applied for a faculty position at TWU, the inquiry co-commissioners would like to have the opportunity to interview you about the institution’s faith-based practices. If you have personal experience or information that you feel might shed light on these issues, please contact the CAUT inquiry co-commissioners below. All communications will be kept confidential.”

Mr. Turk said his group sent a letter to the university, but Mr. Raymond said it was never received. “They should have come to us first,” said Mr. Raymond. “They owed us that professional courtesy. I believe they entered this with a preconceived conclusion. I think this is outright anti-Christian discrimination.”

John Stackhouse, who teaches philosophy at Regent College in Vancouver, wrote in an article in University Affairs this month that the CAUT report raises “a crucial issue that is not yet properly resolved. [Does it make] sense for a Canadian university to insist that its faculty members teach and research within the confines of its confessional statements.”

This is not the first time that Trinity Western has been put under a microscope.

In the 1990s, the B.C. College of Teachers said the school was not fit to train teachers because Trinity Western graduates would bring an anti-homosexual agenda to the classroom.

But in 2001, the Supreme Court of Canada ruled, in an 8-1 decision, that the students could only be judged by their behaviour in the workplace and not because of their education.

In other words, there was nothing about a Christian education per se, even one that considers homosexual activity a sin, which would prejudice its students against homosexuals.

Also, the Association of Universities and Colleges of Canada, whose membership includes 92

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universities, said they have never found any issue of academic freedom at Trinity Western.

“We have no reason to believe they suppress academic freedom,” said Christine Tausig Ford, a spokeswoman for the organization, which conducts thorough investigations, including interviews with students and faculty, before allowing institutions to become members. Mr. Turk said his group’s report does not specify how Trinity Western impinges on academic freedom.

“But the faith statement constrains who is allowed to teach. They believe the ultimate authority is the Bible. So that undermines the central aspect of what a university should be because before [the school’s teachers] look at anything, they accept certain facts as automatically true.” Over the past 50 years, CAUT has been reactive to incidents of potential restriction on academic freedom whenever there has been a complaint.

Mr. Turk said when a complaint is received they bring it to the university’s attention. If that does not settle the issue, then an investigatory committee is struck.

In the case of Trinity Western, Mr. Turk said CAUT did not receive a complaint from anyone, nor did they choose to speak to the school first, because “it was a different kind of case.”

“We weren’t investigating wrongdoing; we were confirming the nature of the institution. We were being proactive instead of reactive,” he explained.

“We have no real authority,” said Mr. Turk. “All we can do is put a spotlight on the situation.”

However, with a membership of 65,000 university employees, the organization does have the weight to raise alarms about institutions, which is what concerns Mr. Raymond and others who are supporters of the Christian university.

The only way that Trinity Western would be removed from the new list, according to Mr. Turk, would be to drop its faith statement.

In his University Affairs article on this contentious dispute, Prof. Stackhouse appealed for room for both secular and religious institutions.

“I want to urge my fellow Canadian scholars to leave a space for the alternative ... The synergy that comes from such shared intellectual commitments is simply not to be found in the secular university,” he wrote.

“Anyone who has actually worked in a secular university for more than about two weeks recognizes that there are ideological pressures there too: to conform to the preferences of one’s departmental superiors ... to the fads of one’s discipline and to the priorities of granting agencies.”

National Post
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(Photo: Jonathan Raymond, President of Trinity Western University in his office on campus in Langley, BC, January 14, 2010; Lyle Stafford for National Post)

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CAUT/ACPPU Bulletin Online

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Student Loses Appeal Bid in BC Courts

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British Columbia's highest court has dismissed the appeal of former University of B.C. graduate student Cynthia Maughan in her long running \$18 million lawsuit against UBC and four faculty members.

In 2002 Maughan filed a civil action alleging she had been discriminated against on the basis of her Christian faith. The B.C. Supreme Court ruled in January 2008 that there was no evidence on which a reasonably instructed jury could find in favour of the student.

"We're delighted the B.C. Court of Appeal has dismissed Maughan's application," said CAUT executive director James Turk. "This has been a long and difficult ordeal for the faculty named by Maughan."

Legal representation throughout the process for the faculty respondents was provided by CAUT on behalf of the UBC Faculty Association.

In 2003 Maughan brought a human rights complaint against the four professors, UBC, the faculty association and CAUT.

In January 2006 the B.C. Human Rights Tribunal summarily dismissed Maughan's complaint. Two months later, she filed for a judicial review of the tribunal's dismissal, but has not yet pursued that appeal.

At press time, CAUT learned Maughan will be seeking leave to appeal to the Supreme Court of Canada.