



November 18, 1997

Dr. W.E. Jones
Vice-President, Academic
University of Windsor

Dear Dr. Jones:

Senate Request for Interpretation of Affiliation Agreements

In answering the Senate's four questions posed in your memo of November 10, it is important to bear in mind the differences which exist between the agreements the University has with Assumption University and the two Colleges.

While Assumption University's Federation Agreement contains the broadest rights to establish courses and to grant degrees both Canterbury College and Iona College have rights under their Affiliation Agreements to undertake some university courses, and to establish their own courses in certain subjects. However, while in Canterbury's case, these rights are exercisable by notice, in Iona's case the same rights are conditional upon changes occurring in the organization of "the Department of Theology". Accordingly, highly pertinent to the position of Iona is the resolution passed by the Senate and the Board of Governors in 1963 stipulating the terms and conditions on which "courses in Theology shall be established and taught for credit within the University..." This resolution states "the conviction of the Board of Governors and their associates in the founding of the University, that the teaching of Theology is a legitimate and essential element of higher education..." While the Agreements and the Resolution have remained legally in force since 1963, significant changes have occurred in the context within which they have been operational. Changes in the name, structure and organization of the Department of Theology took place in 1967 (the M.A. in Theology), 1972 (the Department was converted to the Department of Religious Studies) and 1991 (curriculum restructuring). Likewise through the 70's the denominational involvement in faculty and Head of Department appointments receded in the face of human rights legislation requiring equal treatment in the delivery of education.

Against this evolving backdrop, the answers to the Senate's four questions seem to be as follows:

OFFICE OF THE SECRETARY
AND GENERAL COUNSEL

Question 1: "Are the affiliated institutions permitted to offer courses or programs which are equivalent to those offered by the former Department of Religious Studies?"

Assumption University and the two Colleges are permitted under certain conditions to offer courses by their Agreements with the University.

On one year's notice, Assumption has the right to offer courses in subjects within the University curriculum where there were "departments and courses" in Assumption prior to 1962. As far as "Theology" is concerned, the Agreement permits Assumption to offer courses and grant degrees for such studies, however defined, without the one-year notification.

Under its Agreement, Canterbury has the right on giving one year's notice "to undertake courses in any or all subjects which form a part of the university curriculum in the Liberal Arts," which one assumes would include all courses offered by the former Department of Religious Studies. Canterbury also has "the right to establish, develop and maintain its own courses in Religious Knowledge, Philosophy, Church History and Sociology" on giving one year's notice. The Agreement stipulates that all courses established by the College shall be subject to Senate regulations regarding academic standards and curricular requirements and that such courses "shall be given full academic credit."

The Iona Agreement gives the College the same rights as Canterbury to establish courses provided no "change is made in the organization of the Department of Theology affecting the present rights of sponsoring bodies as described in the [1963] resolution [of the Senate the Board of Governors]."

Several questions have to be answered before it can be determined whether the Agreement permits Iona to offer any courses: has there been a "change... in the organization of the Department of Theology"? if so, has the change affected "the present rights of sponsoring bodies as described in the resolution? and, what were "the present rights of sponsoring bodies" in 1963?

Clearly, there have been many changes in the organization of the Department of Theology. It would be difficult however, to ignore the importance of the changes made in 1972 by which the name and curriculum of the Department adopted a distinctly secular focus. Also significant was the change which occurred more incrementally to remove the denominational involvement of Assumption, Canterbury and Iona from the appointment process for faculty and the Department Head. In this context, the discontinuance of the Department of Religious Studies in 1996 would seem to be but one incident of "change" in the evolutionary cycle of the Department of Theology. Given that a number of changes

occurred for the Department during the period 1962 to 1997 it is important to decide when and by what change it can be said that the 1963 rights of sponsoring bodies were affected.

With regard to the rights of sponsoring bodies at the time of passing the 1963 resolution, these were as follows:

(i) the right to petition the Senate of the University to consider academic matters relevant to the establishment of courses in the Department of Theology;

(ii) the right to petition the Board of Governors to consider financial arrangements relevant to the establishment of courses approved by Senate candidates;

(iii) the right to nominate qualified candidates for appointment to staff for the teaching of such courses;

(iv) the right to conduct its own courses and engage its own staff subject to the terms of the Affiliation or Federation Agreement.

(v) the right to pursue the study of Theology according to denominational beliefs through the provision of such courses in the Department.

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Apart from the right of a sponsoring body to conduct its own courses, the other rights contained in the 1963 resolution flow from the right to petition the Senate of the University to consider the establishment of courses in the Department of Theology. Consequently whether Iona College can offer courses can now be answered by asking whether the right of the College to petition the Senate has been affected by the changes mentioned above. If the College still has the right to petition Senate the College is not entitled to offer any courses.

Question 2: Would such courses be equal to University of Windsor courses and would students be able to apply appropriate credit towards University of Windsor degrees?

The questions of equivalency and credit are not addressed in the Assumption Agreement. The implication of the Agreement would appear to support equivalency with University of Windsor courses and credit towards University of Windsor degrees for courses in subjects within the University of Windsor curriculum.

The Canterbury Agreement refers to courses within the Liberal Arts curriculum of the University which the College, and Iona if the conditions in Iona's Agreement are satisfied, might offer and to "its own courses in Religious Knowledge, Philosophy, Church History and Sociology." Both groups of courses "shall be given

full academic credit" according to the Agreement.

Question 3: To what extent is the term "Religious Studies" interchangeable with the terms "Theology/Religious Knowledge"?

From a legal standpoint, the practice of distinguishing the secular concept of religious studies from the "faith" communities basis of Theology should be followed today.

Question 4: "Does the University have the legal obligation to fund Theology programs and/or the legal authority to cancel such programs?"

Circumstances could arise under the terms of the 1963 resolution which could create an obligation on the University to fund its approved Theology programmes.

The University can be said to have the power to cancel its Theology or any other course or programme within the limits imposed by Senate Bylaws, Collective Agreements, the Human Rights Code, and any contractual obligations it may have.

Please let me know if I can be of further assistance on this matter.

Sincerely,



D.C. James
Secretary and General Counsel
to the University

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