

P.E.I. about-face on abortion long overdue



It's a positive step forward that Prince Edward Island withdrew its opposition to abortion in the face of legal challenge and the change is long overdue, Toronto civil litigator **Sarah O'Connor** tells *AdvocateDaily.com*.

"It is about time — the fact that it took 28 years for the province to fall in line with the Supreme Court of Canada decision of 1988 that said access to abortion cannot be impeded is shocking," she tells the online legal publication.

That year the Supreme Court struck down Canada's criminal law on abortion in a Toronto case involving abortion doctor Henry Morgentaler. Despite changing the law, the high court did not require provinces to provide abortions. Later in 1988, P.E.I. passed a resolution opposing the procedure, reports the *Globe and Mail*.

O'Connor, principal of **O'Connor Richardson Professional Corporation**, noted the timing of P.E.I.'s historic change of heart on the issue on March 31, pointing to a looming legal challenge of the province's abortion stance that was launched in January by Abortion Access Now P.E.I. Inc. The group was planning to challenge the province under the Charter of Rights and Freedoms.

P.E.I. had 90 days under the **Crown Proceedings Act** to respond to the group's notice and that time period was set to run out on April 4.

"It's obvious that deadline played a major role in the province's decision," O'Connor says.

In addition, O'Connor noted presidential candidate Donald Trump's comments on abortion in recent days — that "there has to be some form of punishment" for women who have an abortion, should it become illegal to have one. He later clarified his comment by saying only those who perform abortions should be "held legally responsible."

O'Connor says there's an interesting juxtaposition between Trump's comments on abortion and P.E.I.'s historical stance on the issue.

"Perhaps P.E.I. politicians wanted to distance themselves from Trump and the Republican states that continue to pass anti-abortion laws," she says.

Indeed, P.E.I. Premier Wade MacLauchlan, a former law dean at the University of New Brunswick who grew up in P.E.I., pointed to every woman's right to equality in health care as a major reason for the decision, says the *Globe*.

"I believe it's true that government has the right to decide what health-care services are available under the Canada Health Act. That wasn't the basis on which we formed the view that a change was in order. Rather, it was that we are currently funding the service in Moncton and Halifax. The question becomes whether on equality grounds, it could be justified not to provide the service in the province."

O'Connor says she thinks it's clear that P.E.I. wouldn't have been successful defending against the legal challenge launched by Abortion Access Now P.E.I. Inc.

"Their longstanding policy on abortion is unequal treatment based on sex, residency," she says.