



S. Wagar #1  
June 3, 2010

No. S-097767  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF:

THE *CONSTITUTIONAL QUESTION ACT*, R.S.B.C. 1986, c. 68

AND IN THE MATTER OF:

THE *CANADIAN CHARTER OF RIGHTS AND FREEDOMS*

AND IN THE MATTER OF:

A REFERENCE BY THE LIEUTENANT GOVERNOR IN COUNCIL SET OUT IN ORDER IN COUNCIL NO. 533 DATED OCTOBER 22, 2009 CONCERNING THE CONSTITUTIONALITY OF S. 293 OF THE *CRIMINAL CODE OF CANADA*, R.S.C. 1985, c. C-46

**AFFIDAVIT #1 OF SAMUEL WAGAR**

I, Samuel Wagar, Priest of the Congregationalist Wiccan Association of British Columbia, #5 – 10282 132<sup>nd</sup> Street, Surrey, British Columbia, V3T 3T7, MAKE OATH AND SAY AS FOLLOWS:

1. I am licensed by the Province of British Columbia as a “religious representative” empowered to perform marriages under the *Marriage Act*, R.S.B.C. 1996, c. 282. I have been licensed through the Congregationalist Wiccan Association of British Columbia (CWABC) since September 2004. I have performed seven legal marriages in that time.
2. I have been a Pagan since 1982 and a Wiccan Priest since 1985. I have been active in a range of Wiccan organizations and religious activities over those many years, including co-founding a religious retreat (the Gathering for Life on Earth) and the non-profit Society that runs it, the national Congregationalist Witchcraft Association (1991), and the provincial CWABC (2004). I have taught religious education classes

for many years, trained and initiated Priestesses and assisted others in establishing groups of their own.

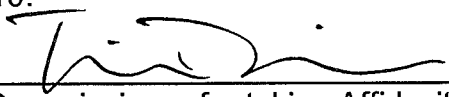
3. Wicca is a modern and feminist-influenced religion, based on occultist ideas and founded in the mid-1940s in the United Kingdom. It is now widespread in the English-speaking world. The core of the Wiccan religion is a small group-based religion which defines Wicca as an initiatory mystery religion practiced by clergy. There is also a broader "Outer Court" neo-Pagan movement that has grown up around and been influenced by Wicca. The Wiccan religion has been modestly successful in its growth, with Paganism growing in Canada from 2,295 members in 1981 to 5,530 members in 1991 to 21,085 in 2001. Wicca is the largest fraction of the Pagan religious movement in the United States and in Canada as well. Virtually all of this growth has been due to conversion, demonstrated by the small number of immigrant adherents (9% of the total Wiccan population), and despite a strong bias against proselytizing. Wicca is not centered on a charismatic leader, so that its rituals and practices and its theology are evolving from a community of believers' experiences rather than a prophet's individual inspiration. Wicca is focused on ritual and experiences derived from ritual, rather than theology and so attention must be paid to details of the content of the rituals and the religion. A Priestess, usually assisted by a Priest, whom she chooses, leads the rituals. The Priestess, as the embodiment of the Goddess in ritual, is explicitly primary, although the male principle is normally included in ritual as well.
4. Among the founding statements of belief of the CWABC, with which all members of the Association must signify their agreement, is section 4.3 of our constitution: "All acts of love and pleasure are acts of praise of the Goddess. This specifically includes all non-coercive sexual orientations." As a founding member of the Association, I signified my belief in this section, and I continue to endorse it.
5. This section is taken from the "Charge of the Goddess", a widely accepted piece of the liturgy of virtually all Wiccan groups, but certainly those groups that came together to form our church. As I understand this section, in the broadest sense, the

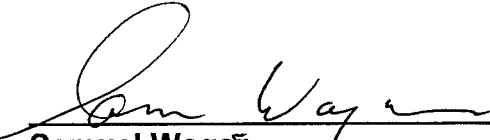
pleasures of the body are sacred routes to the experience of the divine expressed in and through the world.

6. In specific terms, all forms of sexuality between consenting adults, however they are expressed, are sacred. This is true as well because sexual pleasure and ecstasy is a route toward mystical engagement and direct experience of our one-ness with the Goddess and Her Consort: Samuel Wagar, "The Wiccan 'Great Rite' – *Hieros Gamos* in the Modern West" (2009) 21:2 *The Journal of Religion and Popular Culture*. A copy of this article is attached as **Exhibit "A"** to this affidavit.
7. Also among the founding statements of belief of the CWABC is section 4.4: "An ye harm none, do what ye will." This is also a traditional part of Wiccan belief and taken from the earliest versions of our ritual.
8. Taken together, I believe that all forms of consensual sexual and emotional ties that adults freely enter into are sacred, or at a minimum, are potentially routes to an encounter with the sacred. My personal sexual identity and relationship preferences are irrelevant and the only questions that I as a Priest, or our church as a religious body, can ask of individuals involved in relationships which they wish us to bless is whether there is full consent from everyone involved and whether they are capable of giving consent under the law (for instance, by being adult, sober and sane).
9. This specifically includes relationships that involve more than two adults. The Wiccan community, and the broader Pagan communities which it is a part of, contains a higher proportion of persons with minority sexual tastes than the population at large: Helen A. Berger, Evan A. Leach, and Leigh S. Shaffer, *Voices from the Pagan Census: A National Survey of Witches and Neo-Pagans in the United States* (Columbia, S.C.: University of South Carolina Press, 2003), 92-93 ("Berger"). An extract from the Berger text is attached as **Exhibit "B"** to this affidavit.
10. Because the law prevents me, as a licensed "religious representative", from performing a marriage that involves more than two adults, I am unable to act freely

in accordance with my religious beliefs when members or friends of the CWABC involved in polygamous or polyamorous relationships approach me for the service.

11. I believe that this law and the related law in section 293 directly infringe on the freedom of members of my church and the broader Wiccan religion to practice our religion, by prohibiting the blessing of our relationships, should those relationships involve more than two adults.

SWORN BEFORE ME at Vancouver, )  
British Columbia, this 3<sup>rd</sup> day of June, )  
2010. )  
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\_\_\_\_\_)  
A Commissioner for taking Affidavits )  
for British Columbia. )

  
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Samuel Wagar

**TIMOTHY A. DICKSON**  
*Barrister & Solicitor*  
FARRIS, VAUGHAN, WILLS & MURPHY LLP  
2500-700 West Georgia Street  
P.O. Box 10026, Pacific Centre  
Vancouver, BC V7Y 1B3

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TAD/mlw

File No.: 00574-0120

**FARRIS, VAUGHAN, WILLS & MURPHY LLP**

Barristers & Solicitors  
2600 – 700 West Georgia Street  
Vancouver, B.C. V7Y 1B3  
Telephone: (604) 684-9151