

A Summary of Charter Rights

Let's take a closer look at the rights the Charter protects (although the best way to learn about them is to read the Charter itself; it's pretty short).

Charter rights are divided into a number of categories:

- Fundamental Freedoms
- Democratic Rights
- Legal Rights
- Equality Rights
- Official Languages
- Minority Language Educational Rights

Fundamental Freedoms (section 2)

- freedom of conscience and religion;
- freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- freedom of peaceful assembly; and
- freedom of association.

Legal Rights (sections 7-14)

- life, liberty, and security of the person
- security against unreasonable search and seizure
- no arbitrary detention or imprisonment
- be informed promptly for the reasons for any arrest or detention
- retain and instruct counsel on arrest
- trial within a reasonable time by an impartial tribunal
- the presumption of innocence
- no self-incrimination
- no cruel and unusual punishment
- the right to a court-appointed interpreter

Equality Rights (section 15)

- equal treatment before and under the law
- equal benefit and protection of the law without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability

Language Rights

- English and French are the official languages of Canada
- Minority language education rights in certain circumstances.

R v Big M Drug Mart

Big M Drug Mart's challenged the *Lord's Day Act* before the Supreme Court of Canada in 1982. The Supreme Court focused on the purpose of the *Lord's Day Act* rather than its effects. It concluded that the purpose of the *Lord's Day Act* was to protect the sanctity of the Christian Sabbath. In so doing, the act compelled all Canadians to observe Christian beliefs. That, in itself, offended freedom of religion and gave the appearance of discrimination against non-Christian Canadians.

The Supreme Court ruled that a religious value- keeping the Christian Sabbath- had been incorporated into a law that affected believers and non-believers alike. On the basis of Christian beliefs, non-Christians were prohibited from carrying out otherwise legal activities on Sundays. This was deemed inconsistent with the preservation and enhancement of Canada's multicultural heritage recognized in s. 27 of the charter.

At the end of the day, The *Lord's Day Act* was no more. Now, you are free to shop or work 'till you drop - 7 days a week.

Zylberberg v. Sudbury Board of Education (Director)

In 1988, every school in the Sudbury Board of Education opened its day with the singing of "O Canada" and the reciting of the "Lord's Prayer." The prayer was either led by the classroom teacher or recited over the school's public address system. In some schools, passages from the bible were also read. These customs were authorized by Regulation 262, section 28(1) of the *Education Act*.

(If parents wished, their children were excused from the classroom during the exercises or are not required to participate, or bow their heads. Students from different religious faiths could be absent from school in order to observe religious holidays at their parents' request.)

The question the Ontario Court of Appeal had to answer was the following: Do these practices infringe the right to freedom of religion as guaranteed by the *Canadian Charter of Rights of freedoms*?

The answer was yes.

Reciting the "Lord's Prayer", which is a Christian prayer, and reading from the Christian Bible imposes Christian observances upon non-Christian pupils. The fact that children didn't have to participate didn't matter. Section 28 of Regulation 262 encouraged or pressured religious minorities to conform to the practices of the Christian majority, and that was an infringement of s. 2(a) of the *Canadian Charter of Rights and Freedoms*.

In the end, schools would have to use less intrusive ways of instilling educational and moral values.

Education Act Regulation 262 " 28(1) A public school shall be opened or closed each school day with religious exercises consisting of the reading of the Scriptures or other suitable readings and the repeating of the 'Lord's Prayer' or other suitable prayers."