File Number 32968

IN THE SUPREME COURT OF CANADA
(On Appeal from the Ontario Court of Appeal)

B E T W E E N:

ATTORNEY GENERAL OF ONTARIO

Appellant (Respondent)

- and –

MICHAEL J. FRASER on his own behalf and on behalf of the UNITED FOOD AND COMMERCIAL WORKERS UNION CANADA, XIN YUAN LIU, JULIA McGORMAN and GILLIE-JO CHURCH

Respondents (Appellants)

- and -

ONTARIO FEDERATION OF AGRICULTURE

Intervener (Intervener)

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PART I – FACTS

Overview

1. Collective bargaining as understood in the *Charter* context is very different conceptually than what is protected under legislation. While the freedom of association protects an individual freedom, collective bargaining schemes implement collective rights. To accept the Respondents' arguments would transform an individual freedom into a collective right.

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2. This Court has also accepted that private and public sector employers are not similarly situated regarding the scope of application of s-s. 2(*d*) of the *Charter*. Public authorities are not only subject to the *Charter* in their legislative capacity but also in their executive functions. The test formulated in *BC Health*, infra, regarding the duty to negotiate in good faith, is principally directed at governments acting as employers, i.e. in their executive capacity, and cannot be transposed automatically to private sector employers.

3. The proper test to be applied in this case is the one formulated in *Dunmore*, infra,
20 and clarified in *Baier*, infra, dealing with a positive claim to special legislative protection. In this case, the 3 items identified by the Ontario Court of Appeal go well beyond the individual protection of the *Charter* as far as private sector employers are concerned.

4. Finally, regarding the equality provision of the *Charter*, this Court has already rejected occupational status as an analogous ground and the finding should be applied in this case.

Facts

30 5. The Attorney General of New Brunswick (hereinafter "AGNB") intervenes in this matter pursuant to a Notice of Intervention filed on June 24, 2009.

6. The AGNB accepts the facts as related by the Appellant.

PART II – ISSUES

7. The constitutional question as formulated in Chief Justice McLachlin's Order of May 27, 2009 is:

1. Does the *Agricultural Employees Protection Act*, 2002, S.O. 2002, c. 16, infringe s. 2(d) of the *Canadian Charter of Rights and Freedoms*?	1. La *Loi de 2002 sur la protection des employés agricoles*, L.O. 2002, chap. 16, contrevient-elle à l'al. 2d) de la *Charte canadienne des droits et libertés* ?
2. If so, is the infringement a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society under s. 1 of the *Canadian Charter of Rights and Freedoms*?	2. Dans l'affirmative, cette contravention constitue-t-elle une limite raisonnable prescrite par une règle de droit et dont la justification peut se démontrer dans le cadre d'une société libre et démocratique au sens de l'article premier de la *Charte canadienne des droits et libertés* ?
3. Does s. 3(b.1) of the *Labour Relations Act*, 1995, S.O. 1995, c. 1, Sched. A, infringe s. 2(d) of the *Canadian Charter of Rights and Freedoms*?	3. L'alinéa 3b.1) de la *Loi de 1995 sur les relations de travail*, L.O. 1995, chap. 1, annexe A, contrevient-il à l'al. 2d) de la *Charte canadienne des droits et libertés* ?
4. If so, is the infringement a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society under s. 1 of the *Canadian Charter of Rights and Freedoms*?	4. Dans l'affirmative, cette contravention constitue-t-elle une limite raisonnable prescrite par une règle de droit et dont la justification peut se démontrer dans le cadre d'une société libre et démocratique au sens de l'article premier de la *Charte canadienne des droits et libertés* ?
5. Does the *Agricultural Employees Protection Act*, 2002, S.O. 2002, c. 16, infringe s. 15 of the *Canadian Charter of Rights and Freedoms*?	5. La *Loi de 2002 sur la protection des employés agricoles*, L.O. 2002, chap. 16, contrevient-elle à l'art. 15 de la *Charte canadienne des droits et libertés* ?
6. If so, is the infringement a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society under s. 1 of the *Canadian Charter of Rights and Freedoms*?	6. Dans l'affirmative, cette contravention constitue-t-elle une limite raisonnable prescrite par une règle de droit et dont la justification peut se démontrer dans le cadre d'une société libre et démocratique au sens de l'article premier de la *Charte canadienne des droits et libertés* ?
7. Does s. 3(b.1) of the *Labour Relations Act*, 1995, S.O. 1995, c. 1, Sched. A, infringe s. 15 of the *Canadian Charter of Rights and Freedoms*?	7. L'alinéa 3b.1) de la *Loi de 1995 sur les relations de travail*, L.O. 1995, chap. 1, annexe A, contrevient-il à l'art. 15 de la *Charte canadienne des droits et libertés* ?
8. If so, is the infringement a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society under s. 1 of the *Canadian Charter of Rights and Freedoms*?	8. Dans l'affirmative, cette contravention constitue-t-elle une limite raisonnable prescrite par une règle de droit et dont la justification peut se démontrer dans le cadre d'une société libre et

démocratique au sens de l'article premier de la *Charte canadienne des droits et libertés* ?

8. The AGNB submits, for the reasons provided hereinafter, that the appeal be allowed and the validity of the provincial legislation be confirmed, that the constitutional questions 1, 3, 5 and 7 should be answered in the negative or, in the alternative, that the constitutional questions 2, 4, 6 and 8 should be answered in the affirmative.

PART III –ARGUMENTS

9. The AGNB submits that the Respondents' claim is in the nature of a positive right and for the reasons expressed below it should be rejected. The collective bargaining protected by the constitutional guarantee of freedom of association is of a nature very different than the legislated rights to collective bargaining. Furthermore, the case of *Delisle v. Canada (Deputy Attorney General)*, [1999] 2 S.C.R. 989, stands for the proposition that the private and public sectors are not similarly situated when it comes to the scope of application of s-s. 2(*d*) of the *Charter* in their respective sphere. Finally, to extend the freedom of association analysis of the Respondents to its logical conclusion would compromise the existence of legislated collective bargaining schemes, which could not be the intent of this Court when rendering its reasons for judgment in *Health Services and Support – Facilities Subsector Bargaining Assn. v. British Columbia*, [2007] 2 S.C.R. 391 (hereinafter *BC Health*).

10. The AGNB further submits that this Court has rejected occupational status as an analogous ground under s. 15(1) of the *Charter*. Therefore, no infringement to the equality provision has been established.

Individual versus collective rights

11. Conceptually, the constitutional guarantee of freedom of association is very different than the legislated rights to collective bargaining. Although this Court referred to "collective bargaining" in its reasons for judgment in *BC Health*, supra, it clarified, at

par. 19, that it "does not cover all aspects of 'collective bargaining', as that term is understood in the statutory labour relations regimes that are in place across the country". It added that "What is protected is simply the right of employees to associate in a process of collective action to achieve workplace goals". It was explained further at par. 89:

> ... the constitutional right to collective bargaining concerns the protection of the ability of workers to engage in associational activities, and their capacity to act in common to reach shared goals related to workplace issues and terms of employment. In brief, the protected activity might be described as employees banding together to achieve particular work-related objectives. [...] It means that employees have the right to unite, to present demands [...] collectively and to engage in discussions in an attempt to achieve workplace-related goals.

12. The distinction that this Court has drawn between the legislated protections for collective bargaining and the *Charter* guarantee of freedom of association is of crucial importance in this debate. While the *Charter* protection confers an individual freedom, the legislated schemes implement collective rights. These are fundamental differences. By definition, an individual right rests with each member of the protected group while a collective right rests with the community, trumping, where need be, the individual interests of its members.

13. By definition, a collective right is in the nature of a right to a political structure and process of representation. A collective right requires mechanisms for the surveying of the community's interests and the implementation of the group's will. As explained in *Dunmore v. Ontario (A.G.)*, [2001] 3 S.C.R. 1016 at par. 17, "the community assumes a life of its own and develops needs and priorities that differ from those of its individual members". It imposes, as one of its most fundamental tenet, a decision-making process that will be binding on all of the members, even the dissenting ones. Each individual is bound by the decision of the group and is not free to do as s/he pleases.

14. Another defining feature of a collective right is that it compels association even against the will of any particular member. In a true collective right regime, the individual is not free to remove himself or herself from the group, even where there is disagreement with the majority. The only effective way for a dissenting member to remove the constraint of a binding decision is to engage the political process of the collectivity and

convince a sufficient number of other members in order to influence the community to change the challenged decision.

15. Labour relations regimes are collective rights in the purest sense of the expression. They set up certification processes for the recognition and legitimization of employee associations. They set up rules for the operations of the unions and for the exercise of their authority. They also bind employees part of a certified unit to the process and result of the collective bargaining. They set up an extensive structure for the protection of the rights, roles and obligations of the various participants in the process. In the AGNB's respectful submission, labour relation schemes greatly exceed the *Charter* guarantee of freedom of association.

16. The *Charter* guarantee of freedom of association confers on any individual a sphere of autonomy and independent decision-making that is greatly limited in collective bargaining schemes. Under the constitutional protection, the individual remains free to remove himself or herself from the association if, for any reason (personal or otherwise), s/he feels the membership not satisfactory. The freedom to associate includes the freedom not to associate: *Reference re Public Service Employee Relations Act (Alta)*, [1987] 1 S.C.R. 313 at pp. 397-99; *Lavigne v. Ontario Public Service Employees Union*, [1991] 2 S.C.R. 211 at pp. 318-19 & 322-23.

17. To accept the arguments of the Respondents would ultimately transform an individual freedom into a collective right, which would be in direct contradiction of the text of the *Charter* and the intent of its drafters. In fact, as argued later, to accept such arguments would lead to a potential finding of invalidity of all collective bargaining schemes.

18. Given the nature of the *Charter* guarantee of freedom of association and the necessity of being in the presence of at least 2 individuals in order to be able to exercise such a freedom, there is inevitably a collective dimension to s-s. 2(*d*). However, it remains a protection anchored in the individuals, not collectivities, that can and has to be

applied in a variety of circumstances, not only in the collective bargaining context. For example, employees can associate for purposes other than collective bargaining and to conclude that particular legislative protection is required for labour relations under s-s. 2(*d*) of the *Charter* would mean that legislation is also required for all other sorts of associations. As expressed by the Minister of Justice of Canada at the time of adopting the *Charter*, the recognition of associations for bargaining should not serve to "diminish all other forms of association which are contemplated": quoted in *BC Health*, supra at par. 67.

19. Contrary to the impression that might be left after a reading of *BC Health*, supra, this judgment is not a marked departure form the previous jurisprudence on the matter of collective bargaining. In *Professional Institute of the Public Service of Canada v. Northwest Territories (Commissioner)*, [1990] 2 S.C.R. 367, Justice Sopinka had already expressed the opinion (at p. 402) that "s. 2(*d*) protects the freedom to establish, belong to and maintain an association".

20. In *BC Health*, the reasoning of the Court is essentially to the effect that the challenged legislation compromised the ability of the employees to band together, form and maintain their association. After having described the protected employee activities at par. 89, it was said that s. 2(*d*) "imposes corresponding duties on government employers to agree to meet and discuss with [the employees]". It was added, at par. 90, that s. 2(*d*) "protects only against 'substantial interference' with associational activity [...] thereby discouraging the collective pursuit of common goals". More particularly (at par. 92):

> To constitute *substantial interference* with freedom of association, the intent or effect must seriously undercut or undermine the activity of workers joining together to pursue the common goals of negotiating workplace conditions and terms of employment with their employer that we call collective bargaining. Laws or actions that can be characterized as "union breaking" clearly meet this requirement. But less dramatic interference with the collective process may also suffice.

Therefore, actions with the design or effect of discouraging association (substantial interference), thus the ability to establish, belong to and maintain an association (i.e. "the capacity of the union members to come together and pursue collective goals in concert":

BC Health, supra at par. 93), will engage s. 2(*d*), as already recognized in 1990. In this respect, there is an important distinction to be drawn between private and public sector employers.

Private versus public sector employers

21. For the purpose of this case, another important distinction to be kept in mind is the one between private sector and public sector employers. It has been clearly recognized by this Court in its jurisprudence. The government's potential for interference in the private sector collective bargaining process through the mere adoption of legislation is a lot less pronounced than through the daily activities of the executive branch in relation to its own employees. As explained in *Delisle*, supra, the scope of review of government actions, when it comes to its own employees, is much broader than when dealing with the private sector.

22. In *Delisle*, this Court explicitly recognized that government employers' inappropriate actions can always, even in the absence of specific legislation to such an effect, be reviewable under ss. 2(*d*) and 32 of the *Charter*. At par. 32, Justice Bastarache explained, for the majority:

> Last, it certainly cannot be claimed in the case at bar that the exclusion under para. (*e*) of the definition of "employee" in s. 2 of the *PSSRA* leaves RCMP members without any protection against the employer's attempts to interfere with the establishment of an independent employee association. If RCMP management has used unfair labour practices with the object of interfering with the creation of "C" Division, or if the internal regulations of the RCMP contemplate such a purpose or effect, it is open to the appellant or any other party with standing to challenge these practices directly by relying on s. 2(*d*), as the RCMP is part of the government within the meaning of s. 32(1) of the *Charter*.

This was agreed with by Justice L'Heureux-Dubé at par. 3. She also wrote, at par. 7:

> I recognize that in cases where the employer does not form part of government, there exists no *Charter* protection against employer interference. In such a case, it might be demonstrated that the selective exclusion of a group of workers from statutory unfair labour practice protections has the purpose or effect of encouraging private employers to interfere with employee associations. It may also be that there is a positive obligation on the part of governments to provide legislative protection against unfair labour practices or some form of official recognition under labour legislation, because of the inherent vulnerability of employees to pressure from management, and the private power of employers, when left unchecked, to interfere with the formation and administration of unions.

The governments are responsible for their own actions but they cannot be made responsible for the actions of private sector employers, except in the rarest and most exceptional circumstances described in *Dunmore*, supra. It is easy to see how *Dunmore* ultimately followed the kind of reasoning expressed by Justice L'Heureux-Dubé, which clearly explains the proper methodology to be applied where employers are not governments (see par. 21).

23. This particular situation in which governments find themselves was again repeated by this Court in *BC Health*, supra at par. 88:

> Before going further, it may be useful to clarify who the s. 2(*d*) protection of collective bargaining affects, and how. The *Charter* applies only to state action. One form of state action is the passage of legislation. In this case, the legislature of British Columbia has passed legislation applying to relations between health care sector employers and the unions accredited to those employers. That legislation must conform to s. 2(*d*) of the *Charter*, and is void under s. 52 of the *Constitution Act, 1982* if it does not (in the absence of justification under s. 1 of the *Charter*). A second form of state action is the situation where the government is an employer. While a private employer is not bound by s. 2(*d*), the government as employer must abide by the *Charter*, under s. 32, which provides: "This Charter applies ... (*b*) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province." This case is concerned with an attack on government legislation; there is no allegation that the government of British Columbia, *qua* employer, violated s. 2(*d*) of the *Charter*.

Although that case was concerned with the legislative actions of the Crown, not its executive ones, the test and reasons of this Court pertaining to good faith negotiations engage mainly the executive branch, not the legislative one: see *Mackin v. New Brunswick (Minister of Finance)*, [2002] 1 S.C.R. 405 at par. 78-82. The Court in this instance should therefore be very careful before applying in the private sector context a test formulated for governments. In this case concerning the private sector, it is the test formulated in *Dunmore*, supra, and explained in *Baier v. Alberta*, [2007] 2 S.C.R. 673, that should be applied, not the one of *BC Health*.

24. As explained, the distinction between private and public sector employers has some consequences regarding the proper test to be applied, which in turn reflects the distinction that this Court has drawn between negative and positive right concepts. The test formulated in *BC Health*, supra, engages a typical negative right analysis aimed at protecting associational activities against inappropriate governmental actions. On the other hand, the test formulated in *Dunmore* and *Baier*, supra, represents a positive right

analysis where private actions are concerned but also where particular legislation is required in order to render effective a fundamental freedom. In this respect, "The *Delisle* case involved RCMP officers who were employed by the Canadian government, so it is arguable that the Court's decision was not intended to apply where private employers are involved": *Dunmore*, supra at par. 21. The same can be said of *BC Health*.

25. In this case, there is no allegation that the challenged legislation interferes with the Respondents' *Charter* guarantee of freedom of association. What is alleged is that the said legislation is not sufficiently complete or detailed enough to render effective the agricultural workers' freedom to associate.

26. The 3 items currently not contained in the challenged legislation and identified by the Ontario Court of Appeal in the present matter (at par. 80) as constitutionally required greatly exceed the *Charter* protection of freedom of association.

(i) Duty on employers to bargain in good faith

27. The challenged legislation already contains protections against inappropriate interferences by the agricultural employers in the employees' efforts to form associations. What this seeks to impose on the employers is an obligation to actually meet with labour unions in order to reach a collective agreement. The distinction between private and public sector employers is most important for this item.

28. As already explained, the government employers' duty to bargain in good faith laid down in *BC Health*, supra, engages the executive branch, which, pursuant to s. 32, is also subject to *Charter* scrutiny. The fundamental purpose of the *Charter* is to protect individuals against inappropriate governmental actions, not to protect governments against members of society. Private sector employers, contrary to the institutional apparatus of governments, are also members of society entitled to *Charter* protections.

29. The *Charter* guarantee of freedom of association is designed to protect a sphere of individual autonomy for those wishing to form an association. On the basis of *Dunmore*, supra, while such a protection can require special legislative prohibitions against those prone to interfere with other individuals' sphere of autonomy, it cannot serve to force association on unwilling participants. This obligation formulated by the Ontario Court of Appeal seeks to trump the employers' freedom of association in order to give priority to the one of employees. The AGNB respectfully submits that there is a great difference between legislation that prohibits employers from interfering in their employees' express wish to form an association and legislation that compels the employers to sit down with their employees to engage a collective bargaining process. Employers, just like their employees, have the constitutional freedom to choose with whom they will ultimately associate.

(ii) Principles of exclusivity and majoritarianism

30. As explained above, this Court has long accepted that one of the first tenets of the freedom of association is the ability to establish, belong to and maintain an association. This necessarily contains the discretion on the individuals exercising their constitutional freedom to choose the structure and rules of operation of their association. Among those basic rules are the ones pertaining to the role and function of each member, their respective influence and weight in the organization and the means or process by which the participants elect, select, name or appoint their representatives. For example, members are free to decide that, on any particular issue, unanimity among the membership is required; it could also be decided that certain members should have more weight in the decision-making process of the association. The *Charter* does not impose, nor requires legislatures to impose, a particular associational model on employees.

31. The principles of exclusivity and majoritarianism imposed by the Ontario Court of Appeal actually go to the internal operations of an association; their object is not to protect the freedom of association but to regulate it.

32. In addition, this aspect of the Ontario Court of Appeal's decision purports to incorporate a collective right protection within an otherwise individual freedom. Not only does the individual freedom of association confer the discretion on willing participants to decide the basic rules of operation of their association but it also protects the freedom of unwilling members to remove themselves from the association is they so wish. As already explained, there is a fundamental conceptual distinction to be made between a collective and individual protection; the intent of the drafters was clearly to protect an individual freedom in s-s. 2(*d*) of the *Charter*, not a collective right. To accept the position of the Ontario Court of Appeal it actually to sacrifice the constitutional freedom of the dissenting employees in order to enforce the will of a majority of them.

(iii) Dispute resolution mechanism

33. Again at this level, such a provision does not seek to protect the freedom of association but to regulate it in order to make a corporate body (i.e. unions) more effective. The *Charter* is designed to protect the existence of an association, not its *raison d'être*. By requiring a dispute resolution mechanism, the Ontario Court of Appeal greatly exceeds the nature of the constitutional protection by placing at the disposal of the association the actual tools necessary to assist the achievement of its goals.

34. As an individual freedom, s. 2(*d*) of the *Charter* does not guarantee the effectiveness of any association: once an association is established, the Constitution does not guarantee that it will achieve its purpose. Its effectiveness will depend on factors like the solidarity and commitment of its membership; it will also rest on its credibility or recognition within the community. However, the Constitution does not force the solidarity on the members nor the recognition within the community. This is similar to freedom of expression where it allows people to express themselves but it does not force anybody to listen: *Professional Institute of the Public Service of Canada*, supra at pp. 406-08; *Delisle*, supra at para. 27-28; *Haig v. Canada (Chief Electoral Officer)*, [1993] 2 S.C.R. 995 at pp. 1034-42.

35. This process mandated by the Ontario Court of Appeal does not seek to protect the existence of associations, only to make those associations more effective in achieving their objectives.

Impact of *BC Health* on existing labour relations schemes

36. It is the position of the AGNB that collective bargaining schemes exist at a level different than the *Charter* guarantee of freedom of association. By creating collective rights regimes, they do not seek to replace the individual freedom to associate; they act on a different plane and they add to existing fundamental freedoms instead of substituting themselves thereto. As explained in *Delisle*, supra, the freedom to associate exists outside and independently of collective bargaining legislation. Those schemes purport to regulate a particular type of associations and to improve their effectiveness.

37. To push the arguments of the Respondents to their logical conclusion would mean that most labour relations regimes in Canada, if not all, contravene the freedom of association and are potentially invalid. All the legislative rules pertaining to the operation of unions would interfere with the members' constitutionally protected sphere of autonomy to decide on the form of their association. Also, by defining bargaining units, such legislation in fact imposes association on potentially unwilling members. Individuals in the workforce could decide to unite along an infinite variety of common interests to be promoted instead of only on the basis of their work descriptions. For example, women in all sorts of occupations could decide to form an association to engage their employer in negotiations over their terms and conditions of employment. The same could be done by members of a visible minority, members of a group suffering from disabilities, members of a language group, etc. To argue that unions acting strictly along job descriptions exhaust the notion of freedom of association in the labour context trivializes the protection contained in the *Charter* for many other groups or interests.

38. The AGNB respectfully submits that it could not have been the intent of this Court, in *BC Health*, to render invalid all the collective bargaining schemes in this Country.

39. Accepting that collective bargaining schemes merely add another layer of association in the work environment, instead of substituting to or replacing the freedom of association, helps sustain their validity. As recognized on several occasions by this Court, the *Charter* sets a threshold below which public authorities cannot go (subject to a s. 1 justification) but it does not preclude governments from giving more than the minimum offered by the Constitution: s. 26 of the *Charter* is fairly clear to that effect.

Discrimination analysis: occupational status as an analogous ground

10 40. The jurisprudence of this Court has consistently rejected occupational status as an analogous ground under s. 15 of the *Charter*. Most particularly, in *Delisle*, supra at par. 44, the professional status or employment of RCMP members was rejected as an analogous ground. Again in *Baier*, supra at par. 65, and *BC Health*, supra at par. 165, the majority came to the same conclusion regarding school employees and teachers.

PART IV – COSTS

41. The AGNB does not seek costs on this intervention.

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PART V – ORDER SOUGHT

42. Pursuant to par 71(*c*) of the *Rules of the Supreme Court of Canada*, an Attorney General intervening in response to a Notice of Constitutional Question is entitled to 15 minutes on oral argument and it is respectfully requested that the AGNB be allocated the stated time.

43. The AGNB submits that the appeal should be allowed, that the constitutional questions 1, 3, 5 and 7 be answered in the negative or, in the alternative, that the
30 constitutional questions 2, 4, 6 and 8 should be answered in the affirmative.

RESPECTFULLY SUBMITTED this 17th day of November 2009.

ATTORNEY GENERAL OF THE PROVINCE OF NEW BRUNSWICK, Intervener

Per: _____
Gaétan Migneault
Solicitor and Agent of the Attorney General

Per: _____
Michelle Brun-Coughlan
Solicitor and Agent of the Attorney General

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PART VI – TABLE OF AUTHORITIES

Paragraph Number

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20 *Lavigne v. Ontario Public Service Employees Union*,
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Professional Institute of the Public Service of Canada v. Northwest Territories (Commissioner),
[1990] 2 S.C.R. 367 ..... 19, 34, 40

30 *Reference re Public Service Employee Relations Act (Alta)*,
[1987] 1 S.C.R. 313 16

PART VII – STATUTES

Canadian Charter of Rights and Freedoms

1. The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

1. La Charte canadienne des droits et libertés garantit les droits et libertés qui y sont énoncés. Ils ne peuvent être restreints que par une règle de droit, dans des limites qui soient raisonnables et dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique.

2. Everyone has the following fundamental freedoms:

2. Chacun a les libertés fondamentales suivantes :

(d) freedom of association.

d) liberté d'association.

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

15. (1) La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.

15. (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

15.(2) Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation d'individus ou de groupes défavorisés, notamment du fait de leur race, de leur origine nationale ou ethnique, de leur couleur, de leur religion, de leur sexe, de leur âge ou de leurs déficiences mentales ou physiques.

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

26. Le fait que la présente charte garantit certains droits et libertés ne constitue pas une négation des autres droits ou libertés qui existent au Canada.

32. (1) This Charter applies

32. (1) La présente charte s'applique :

(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and

a) au Parlement et au gouvernement du Canada, pour tous les domaines relevant du Parlement, y compris ceux qui concernent le territoire du Yukon et les territoires du Nord-Ouest;

(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

b) à la législature et au gouvernement de chaque province, pour tous les domaines relevant de cette législature.

32. (2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.

32. (2) Par dérogation au paragraphe (1), l'article 15 n'a d'effet que trois ans après l'entrée en vigueur du présent article.