

Canada's  
**HISTORY**  
for KIDS

#83 FEB 2023  
\$5.00 CDN

Canada's History Magazine for Kids

# Kayak

## RIGHTS AND FREEDOMS

PM #40063001



**BEFORE THE  
CHARTER**



**CASES THAT  
CHANGED US**

**That's Not Fair!**

**4**

**Creating the Charter**

**6**

**Your Rights and Freedoms**

**8**

**Les Chartes**

**12**

**The Charter in Action**

**13**

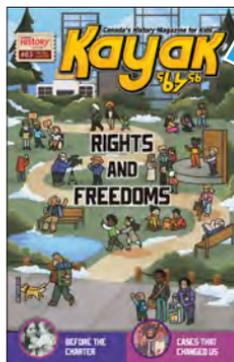
**No Ad-vantage**

**16**

**Making a Case**

**20**

**Psst!** These symbols spell Kayak in Inuktitut.



Cover illustration: Nickia McIvor

## There's More!

- 3 UpFront
- 14 YourStory
- 26 Backyard History
- 28 Games
- 30 Answers

## FROM-THE-EDITOR



Millions of people in the world have no way to get justice if their government doesn't treat them fairly. Although Canada isn't perfect, many rights and freedoms are protected as part of our Constitution. The Canadian Charter of Rights and Freedoms is a powerful force for fairness, and has been for more than 40 years. **Nancy**

## SPONSORS

Funded by the  
Government  
of Canada

Financé par le  
gouvernement  
du Canada

Canada



HUDSON'S BAY

# Rights and FREEDOMS ... and SURPRISES

In a 2013 survey, more people chose the Charter than the RCMP, the flag, the anthem and even hockey as Canada's most important national symbol.



29 NUMBER OF LANGUAGES THE CHARTER HAS BEEN TRANSLATED INTO



13 TEENAGERS WENT TO COURT IN 2021 TO ARGUE THAT THE CHARTER GIVES THEM THE RIGHT TO VOTE

ISRAEL, NEW ZEALAND, SOUTH AFRICA SOME OF THE COUNTRIES THAT USED IDEAS FROM OUR CHARTER IN CREATING THEIR OWN RULES ABOUT RIGHTS AND FREEDOMS

CANADA'S FIRST ASTRONAUT MARC GARNEAU TOOK THE CHARTER (FRENCH AND ENGLISH VERSIONS) WITH HIM ON THE SPACE SHUTTLE ENDEAVOUR IN 1996.



# THAT'S NOT FAIR!

Things were very different when our rights and freedoms weren't guaranteed.

Imagine you were treated unfairly because of your skin colour, religion, gender or disability. Before the Charter of Rights and Freedoms, governments could decide — and change — who had what rights. People who tried to fight back against injustice rarely won. Here are just a few examples.

In 1975, Ontario's Racing Commission fired jockey (professional horse rider) John Damien because he was gay. Two years later, the Canadian Armed Forces fired Barbara Thornborrow for being a lesbian.



Many women who worked outside the home, as teachers or flight attendants, say, or for the government had to quit their jobs when they got married. The marriage bar, as it was known, lasted until the 1970s in some places.

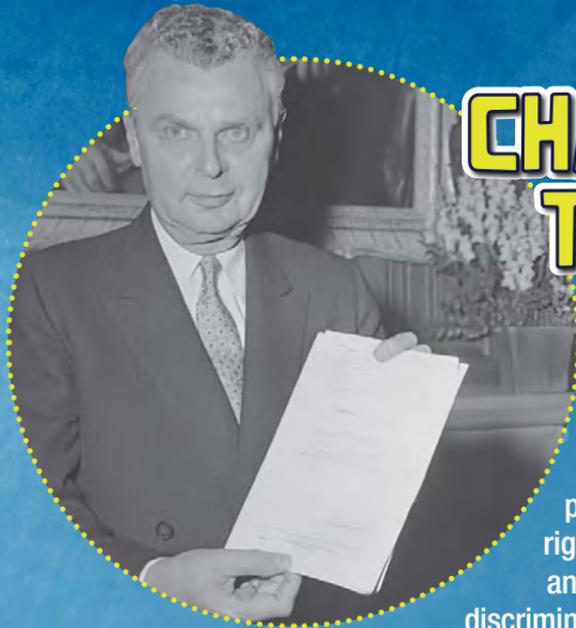
From the 1930s to the 1970s people in mental health institutions in Alberta and B.C. could be forced by law to have an operation that would leave them unable to have children.

The Supreme Court of Canada ruled against Fred Christie, a Black man in 1940. It said that a Montreal bar didn't have to serve him.

People (known as pacifists) who refused to fight in wars because it was against their religion weren't allowed to vote in federal elections for much of the first half of the twentieth century.

**By the late 1970s, people in power started to think about a way to protect rights for all Canadians — something that would give them a way to stand up for justice.**

# CHANGING TIMES ...



Laws started changing in the 1930s. In 1944, Ontario passed the *Racial Discrimination Act*. Three years later, Saskatchewan passed the country's first bill of rights, which protected freedoms and outlawed certain kinds of discrimination. When John Diefenbaker — who was from Saskatchewan — became prime minister, he pushed for the Canadian Bill of Rights. (That's him in the photo). It became law in 1960.

## ...DIDN'T CHANGE ENOUGH

Even though it was a big step, the Canadian Bill of Rights was treated like a guideline instead of a law that ensured fairness for all. In 1970, Jeannette Corbiere Lavell, an Anishinaabe woman from Ontario, married a non-Indigenous man. The *Indian Act* said that meant she lost her status as an Indigenous person and couldn't pass it on to any children. She fought back. But in 1973, the Supreme Court of Canada said the Bill of Rights didn't guarantee the rights the *Indian Act* had taken from her.



Jeannette Lavell with her son in 1971

# Creating the Charter

Even before the Canadian Charter of Rights and Freedoms became law, it changed how our government works.

A special document called for a special way of listening to Canadians.



What do you notice about the people who met in 1864 to talk about creating Canada as a country? The people who gave their ideas 120 years later to creating the Charter looked very different! People with disabilities, women, LGBTQ2S+ people, people of colour and even people representing kids like you actually had a say this time.

Rex Woods, House of Commons

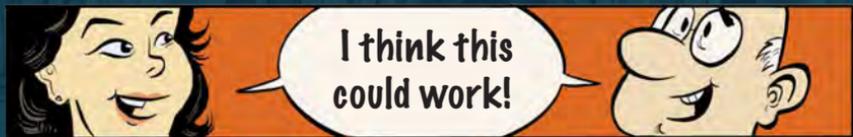
**The Special Joint Committee on the Constitution of Canada listened to people's ideas about a charter of rights from November 1980 to February 1981. It received written suggestions from more than 1,000 groups and individual Canadians. More than 100 presented ideas in person.**

“Well, it is all fine and good for you girls to be here, but who is looking after the kids?” — *committee co-chair Senator Harry Hayes, to women making a presentation about the importance of equal rights*

Indigenous groups hadn't often been asked to be part of discussions about human rights in Canada. And Indigenous people had many reasons to distrust governments. But this time, some Indigenous groups did get involved, saying the new Charter had to tackle discrimination against them as well as recognize Treaties and other long-ignored rights.



Danesh Mohiddin



The Charter of Rights and Freedoms is part of the Canadian Constitution. It became law when Queen Elizabeth II signed it in Ottawa on April 17, 1982.

# YOUR RIGHTS & FREEDOMS

Here are some of the most important things the Charter says, and what they mean for you now and when you grow up.

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.

## Fundamental Freedoms

2. Everyone has the following fundamental freedoms: (a) freedom of conscience and religion; (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; (c) freedom of peaceful assembly; and (d) freedom of association.

## Democratic Rights

3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein. 4.(1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members. (2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly as the case may be. 5. There shall be a sitting of Parliament and of each legislature at least once every twelve months.

## Mobility Rights

6.(1) Every citizen of Canada has the right to enter, remain in and leave Canada. (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right (a) to move to and take up residence in any province; and (b) to pursue the gaining of a livelihood in any province. (3) The rights specified in subsection (2) are subject to (a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services. (4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the national average. (5) Every citizen of Canada has the right to be employed in Canada.

As a Canadian citizen, you have the right to move around within the country. You have the right to leave Canada and to come back.

The law must treat you equally to others, no matter your age, religion, gender, ability or disability, sexual orientation, skin colour, gender identity or background. Nothing can take away this right to equality.



# CANADIAN CHARTER OF RIGHTS AND FREEDOMS



You are free to believe, think and say what you want. You are free to follow any or no religion. You are free to gather peacefully with anyone you want.

15. Every individual has the right before and under the law and 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. (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.

## Official Languages of Canada

16.(1) English and French are the official languages of Canada and have equal status and equal rights and privileges as to their use in all institutions of the Government of Canada. (2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick. (3) Nothing in this Charter prevents any province or territory or legislature to advance the equality of status and equal rights and privileges of English and French. (4) The English linguistic community in New Brunswick have the same rights and privileges, including the right to education, as such distinct cultural institutions as exist in the other provinces of those communities. (5) Nothing in this Charter prevents any province of New Brunswick to advance the equality of status and equal rights and privileges referred to in subsection (4) in any law or program or activity. (6) Everyone has the right to use English or French in any proceedings before any court of law or before any tribunal or other proceedings.

Justice Canada



# INDIAN RIGHTS FREEDOMS



the legislature of New Brunswick in English and French and both languages. (2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

the legislature of New Brunswick in English and French and both languages. (2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

## FOR EVERYONE?

Although the Charter says we all have certain rights, that doesn't mean everyone actually gets the same rights or is treated equally. For instance, the *Indian Act* means First Nations people are treated differently.

**IN CANADA, RIGHTS WORK DIFFERENTLY THAN IN THE UNITED STATES. PROBABLY THE BIGGEST DIFFERENCE IS THAT HERE, PARLIAMENT CAN AND DOES CHANGE LAWS THE SUPREME COURT STRIKES DOWN.**

### Enforcement

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances. (2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

### General

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and (b) any rights or freedoms that now or hereafter may be acquired by or through negotiation with a government of Canada, a province or territory in connection with the acquisition of land claims agreements or may be so acquired. 26. The rights and freedoms in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that are recognized or protected by law in Canada. 27. This Charter shall be interpreted in a manner consistent with the promotion and enhancement of the multicultural heritage of Canadians without anything in this Charter, the rights and freedoms guaranteed by it or to it are guaranteed equally to male and female. 28. Nothing in this Charter abrogates or derogates from any rights or freedoms guaranteed by or under the Constitution of Canada in respect of separate or dissentient schools. 30. A reference in this Charter to the legislative assembly or legislature of a province shall include a reference to the Yukon Territory and Northwest Territories, or to the appropriate legislative authority thereof. Nothing in this Charter extends the legislative authority.

### Application of Charter

This Charter applies (a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament and (b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province. Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force. 33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that in all respects the Act or a provision thereof shall operate notwithstanding section 2 or sections 29 and 30 of this Charter in respect of which it shall have such effect as the Act or provision so declares. Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force. 33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that in all respects the Act or a provision thereof shall operate notwithstanding section 2 or sections 29 and 30 of this Charter in respect of which it shall have such effect as the Act or provision so declares. Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.

### Minority Language Educational Rights

23. (1) Citizens of Canada (a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province. (2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language. (3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province (a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction and (b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

**IF YOU ARE INDIGENOUS, THE CHARTER IS NOT SUPPOSED TO TAKE AWAY FROM YOUR RIGHTS, INCLUDING TREATY RIGHTS AND THOSE GOING BACK TO THE ROYAL PROCLAMATION OF 1763.**



**THANKS TO SECTION 25, CANADA  
BECAME THE FIRST COUNTRY  
IN THE WORLD TO RECOGNIZE  
MULTICULTURALISM - SUPPORT  
FOR PEOPLE OF MANY DIFFERENT  
CULTURAL BACKGROUNDS -  
IN ITS CONSTITUTION.**



Once you are 18,  
as a Canadian citizen,  
you have the right to vote  
in elections. You can also  
become a candidate  
for Member of  
Parliament.

...principles that recognize the  
...rights  
...guarantees the rights  
...to such reasonable limits prescribed  
...in a free and democratic society.

**Fundamental Freedoms**  
... freedom of  
conscience and religion; (b) freedom of thought, belief, opinion and expression,  
including freedom of the press and other media of communication; (c) freedom  
of peaceful assembly; and (d) freedom of association.

**Democratic Rights**  
... 3. Every citizen of Canada has the right to vote in an election of  
members of the House of Commons or of a legislative assembly and to be  
qualified for membership therein. 4.(1) No House of Commons and no  
legislative assembly shall continue for longer than five years from the date  
fixed for the return of the writs at a general election of its members.  
(2) In time of real or apprehended war, invasion or insurrection, a House of  
Commons may be continued by Parliament and a legislative assembly may  
be continued by the legislature beyond five years if such continuation is not  
opposed by the votes of a majority of the members of the House of  
Commons or the legislature respectively. 5. There shall be a  
sitting of Parliament and of each province at least once every twelve months.

**Mobility Rights**  
... (1) Every citizen of Canada has the right to remain in and  
leave Canada. (2) Every citizen of Canada has the right to enter, remain in and  
take up residence in any province. (3) Every citizen of Canada has the right of  
lifelong mobility across the borders of the provinces and to work in any province  
without being subject to a probationary period. (4) Any law that purports to  
prevent or restrict the mobility of a citizen across the borders of the provinces  
or to discriminate against a citizen because of his or her province of origin  
shall be of no force or effect. (5) Any law that purports to discriminate against  
a citizen because of his or her province of origin in a provision of a law that  
relates to the receipt of public benefits shall be of no force or effect. (6) Any law  
that purports to discriminate against a citizen because of his or her province  
of origin in a provision of a law that relates to the receipt of public benefits  
shall be of no force or effect. (7) Any law that purports to discriminate against  
a citizen because of his or her province of origin in a provision of a law that  
relates to the receipt of public benefits shall be of no force or effect.

**Legal Rights**  
... 7. Everyone has the right to life, liberty and security of the person  
and the right not to be deprived thereof except in accordance with the  
principles of fundamental justice. 8. Everyone has the right to be secure  
against unreasonable search or seizure. 9. Everyone has the right not to be  
arbitrarily detained or imprisoned. 10. Everyone has the right on arrest or  
detention (a) to be informed promptly of the reasons therefor; (b) to retain  
and instruct counsel without delay and to be informed of that right; and  
(c) to have the validity of the detention determined by way of habeas corpus  
and to be released if the detention is not lawful. 11. Any person charged  
with an offence has the right (a) to be informed without unreasonable delay  
of the specific offence; (b) to be tried within a reasonable time; (c) not to be  
compelled to be a witness in proceedings against that person in respect of  
the offence; (d) to be presumed innocent until proven guilty according to  
law in a fair and public hearing by an independent and impartial tribunal;  
(e) not to be denied reasonable bail without just cause; (f) except in the case  
of an offence under military law tried before a military tribunal, to the  
benefit of trial by jury where the maximum punishment for the offence is  
imprisonment for five years or a more severe punishment; (g) not to be  
found guilty on account of any act or omission unless, at the time of the act  
or omission, it constituted an offence under Canadian or international law  
or was criminal according to the general principles of law recognized by the

# CANADA CHARTER OF RIGHTS AND FREEDOMS

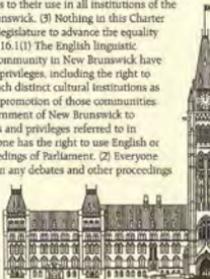


community of nations. (b) if finally acquitted of the offence, not to be tried  
for it again and, if finally found guilty and punished for the offence, not to  
be tried or punished for it again; and (c) if found guilty of the offence and  
if the punishment for the offence has been varied between the time of  
commission and the time of sentencing, to the benefit of the lesser  
punishment. 12. Everyone has the right not to be subjected to any cruel and  
unusual treatment or punishment. 13. A witness who testifies in any  
proceedings has the right not to have any incriminating evidence so given  
used to incriminate that witness in any other proceedings, except in a  
prosecution for perjury or for the giving of contradictory evidence. 14. A  
party or witness in any proceedings who does not understand or speak the  
language in which the proceedings are conducted or who is deaf has the  
right to the assistance of an interpreter.

**Equality Rights**  
... 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. (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.

**Official Languages of Canada**  
... 16.(1) English and French are the official languages of Canada and  
have equality of status and equal rights and privileges as to their use in all  
institutions of the Parliament and government of Canada. (2) English and  
French are the official languages of New Brunswick and have equality of  
status and equal rights and privileges as to their use in all institutions of the  
legislature and government of New Brunswick. (3) Nothing in this Charter  
limits the authority of Parliament or a legislature to advance the equality  
of status or use of English and French. 16.(11) The English linguistic  
community and the French linguistic community in New Brunswick have  
equality of status and equal rights and privileges, including the right to  
distinct educational institutions and such distinct cultural institutions as  
are necessary for the preservation and promotion of those communities. (2) The role of the legislature and government of New Brunswick to  
preserve and promote the status, rights and privileges referred to in  
subsection (1) is affirmed. 17.(1) Everyone has the right to use English or  
French in any debates and other proceedings of Parliament. (2) Everyone  
has the right to use English or French in any debates and other proceedings  
of the legislature of New Brunswick. 18.(1) The statutes, records and  
journals of Parliament shall be printed and published in English and  
French and both language versions are equally authoritative. (2) The  
statutes, records and journals of

Justice Canada





# INDIAN OF RIGHTS FREEDOMS



the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative. 19. (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament. (2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick. 20. (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where (a) there is a significant demand for communications with and services from that office in such language, or (b) due to the nature of the office it is reasonable that communications with and services from that office be available in both English and French. (2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French. 21. Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada. 22. Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

## Minority Language Educational Rights

23. (1) Citizens of Canada (a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province. (2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language. (3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province (a) applies wherever in that province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction and (b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.



English and French are the official languages of Canada. You have the right to be served in either one in a federal government office.

All your rights and freedoms under the Charter are guaranteed no matter your gender.

### Enforcement

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances. (2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

### General

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763, and (b) any rights or freedoms that now exist by way of land claims agreements or that may be so acquired. 26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying to individuals and groups the rights and freedoms that they would be entitled to under the common law, the customs, the traditions and the practices of the aboriginal peoples of Canada. 27. The rights and freedoms guaranteed by this Charter are guaranteed equally to male and female. 28. Notwithstanding anything in this Charter, the rights and freedoms guaranteed by it do not extend to aboriginal peoples of Canada who are not citizens of Canada. 29. The rights and freedoms guaranteed by this Charter are guaranteed equally to all citizens of Canada. 30. (1) Parliament and the legislatures and governments shall not enact laws that discriminate on the basis of race, national or ethnic origin, colour, religion or sex. (2) The provisions of this Charter shall not be construed as limiting the authority of Parliament and the legislatures and governments to enact laws that discriminate on the basis of race, national or ethnic origin, colour, religion or sex.

You have the right to go to elementary and high school in either English or French, depending on which official language your parents learned first and still use. That right stands even if that language is different from the main language where you live.

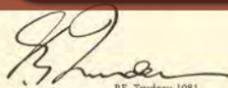
23. (1) Citizens of Canada (a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province. (2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language. (3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province (a) applies wherever in that province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction and (b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances. (2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763, and (b) any rights or freedoms that now exist by way of land claims agreements or that may be so acquired. 26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying to individuals and groups the rights and freedoms that they would be entitled to under the common law, the customs, the traditions and the practices of the aboriginal peoples of Canada. 27. The rights and freedoms guaranteed by this Charter are guaranteed equally to male and female. 28. Notwithstanding anything in this Charter, the rights and freedoms guaranteed by it do not extend to aboriginal peoples of Canada who are not citizens of Canada. 29. The rights and freedoms guaranteed by this Charter are guaranteed equally to all citizens of Canada. 30. (1) Parliament and the legislatures and governments shall not enact laws that discriminate on the basis of race, national or ethnic origin, colour, religion or sex. (2) The provisions of this Charter shall not be construed as limiting the authority of Parliament and the legislatures and governments to enact laws that discriminate on the basis of race, national or ethnic origin, colour, religion or sex.

"We must now establish the basic principles, the basic values and beliefs which hold us together as Canadians so that beyond our regional loyalties there is a way of life and a system of values which make us proud of the country that has given us such freedom and such immeasurable joy."

**PRIME MINISTER PIERRE TRUDEAU, 1982**



P.E. Trudeau 1981



# LES CHARTES

By Anne-Gaëlle Weber

**Quebec has its own distinct approach and Charter.**

“Quebec finds itself all alone.” That’s what Quebec Premier René Lévesque said to the media on November 5, 1981, the day after the “night of the long knives” when the rest of Canada signed the new Constitution without him. This memory, which is still painful for some Quebecers, partly explains why Quebec has never signed on to the Canadian Charter of Rights and Freedoms.

The Charter still applies to Quebec, but the province had already passed its own Charter of Human Rights and Freedoms in 1975. It dealt with many of the same things, while including some unique items. For instance, it mentions children, specifying that “Every child has the right to the protection, security and attention that his parents or the persons acting in their stead are capable of providing.”

The Canadian Charter of Rights and Freedoms has already been challenged in its application in Quebec. For example, some consider that Bill 21 in Quebec (*An Act Respecting the Laicity of the State*) is contrary to the Canadian Charter, which guarantees religious freedom. “Laicity” means something is not under religious control or direction. Quebec has defended itself by using the notwithstanding clause of the Canadian Charter.

Despite these controversies, most Quebecers view the Canadian Charter positively, as it protects values, rights and freedoms that are important to them.

# THE CHARTER IN ACTION

**Beverley McLachlin saw a lot of changes after being appointed to the Supreme Court of Canada in 1989. She was the court's Chief Justice — the top judge — from 2000 to 2017.**



## **What was it like being part of those early Charter decisions?**

The first cases started coming through and it was clear the Supreme Court had said that rights and freedoms had to be interpreted broadly. It became apparent that the Supreme Court was going to adopt a very progressive approach to the Charter.

## **How did the judges on the Supreme Court make their decisions about Charter cases?**

The most important thing was the evidence — the submissions of the parties involved and the lower court decisions. But each judge brings their own life experience and their own perspectives. That's one of the reasons why I think it's good to have a diverse court — with women, with people from different backgrounds — because they will have different perspectives and life experiences.

## **What makes the Charter distinctly Canadian?**

The fact that we did this as a democracy is unique. I'm still very proud of that. We were pretty gutsy. The great Canadian way is that we fuss

and we're angry but, in the end, we get along and we resolve our differences to the extent that we can. We move forward. We have a peaceful approach to problem solving. Parliament itself has to abide by the Constitution, which includes the Charter. So if it passes a law that harms a particular group or doesn't include a particular group that arguably should have been included, it has to justify that under the Charter.

## **What don't people understand about the Charter?**

The Charter guarantees rights and freedoms, yes, but it also allows the government to limit those. So that doesn't mean you have absolute freedom to do anything you want. You have to limit yourself a little bit so you don't hurt other people. That's what people don't understand. We are all in a society together.

## **What should kids know about the Charter?**

It is the guarantee of their rights and freedoms, but it balances those freedoms with the public good and other people's interests. And they're lucky to have it!

# RULES AND REASONS

The Charter guarantees all kinds of rights and freedoms. That doesn't mean we can do whatever we want.



**“Your freedom to swing your fist ends where my nose begins.”**

That's one of those sayings so famous that nobody's quite sure who actually said it or how exactly it goes. It's probably so well-known because it just makes sense, doesn't it? You're free to do something as long as it doesn't hurt someone else. If you do it anyway, something may happen that you don't like or didn't want. So we agree to limits on our freedom to help make sure everyone's rights are respected.

**Think of the rules in your home or your classroom. Why were they put in place? Are they fair? How can you tell?**

## **FREE TO CHATTER?**

**Rule:** No talking during a test.

**Reason:** Talking interrupts other people. Talkers might be cheating.

**FAIR UNFAIR**

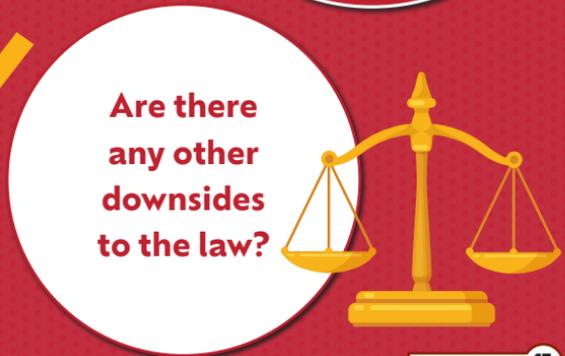
## **FREE TO MAKE A MESS?**

**Rule:** Clean up your stuff.

**Reason:** Leaving things lying around makes work for someone else.

**FAIR UNFAIR**

**Canadian courts use something known as the Oakes test. (It's named after the case where the Supreme Court judges came up with these ideas.) They decide whether it's okay to keep a law that limits someone's rights or freedoms using questions like these:**





# NO AD-VANTAGE

Written by Allyson Gulliver • Illustrated by Arden Taylor

## TROIS-RIVIÈRES, QUE., JULY 1980

The rain drizzled down the windows outside, but inside the living room was cozy. On the TV, kids were racing around a playground, with animated puffs of bright smoke trailing behind them. “Kids, get SuperZaps in every colour of the rainbow!” the announcer’s voice urged. “You’ll run faster than ever!”

Little Sylvie’s eyes shone. “I’m going to ask for a sparkly green pair.” She was only six, but she could tell from the ad that she needed those shoes. “And then I’ll race everybody and win!”

Her big brother rolled his eyes. “They’re not magic.” Almost to himself he said, “But I still want a red pair. Or maybe yellow. The guys will be so jealous!”

The show started up again just as their mother came in from the garden. “What’s Bobino up to this time?” she asked with a smile. She almost fell over as the kids launched themselves at her.

“Can I get red SuperZaps?” Paul asked.

“I want green ones. Sparkly green ones!” Sylvie shouted.

“I just came in to get some water,” their mother said, trying to

loosen Sylvie’s arms, which were locked around her waist. “What’s a SuperZap?”

As if waiting for the right moment, the commercials started again, and sure enough, there were the kids on the playground in their fancy running shoes. “See?” Sylvie pleaded. “They make you run so fast they have airplane jet stuff coming out the back.”

Their mother frowned. “They most definitely do not,” she said firmly.

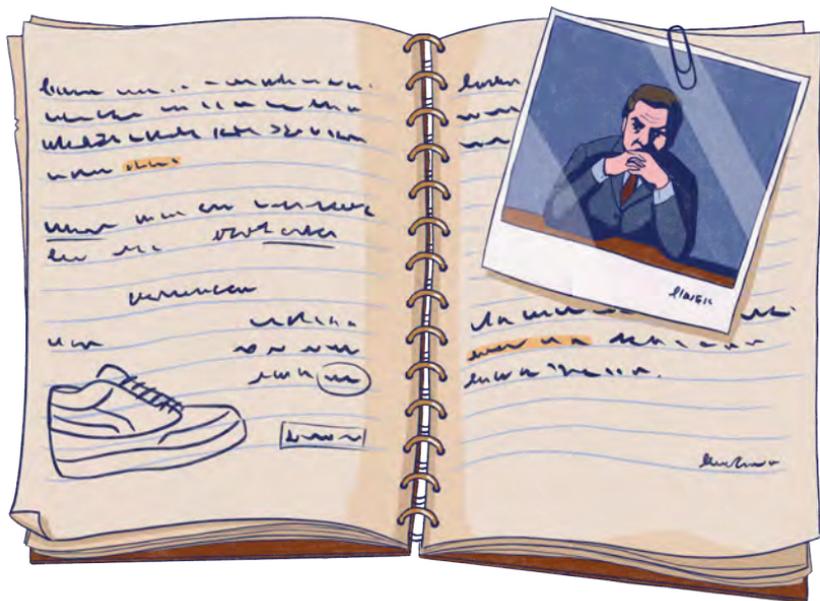
“She’s little,” Paul said. “I know they’re shoes.” He paused. “But they’re pretty cool. Do you...”

He trailed off as he saw the look darkening his mother’s face.

“First of all, you already have perfectly good shoes.” She picked up the telephone book and started leafing through the pages with government phone numbers. “And second, somebody’s getting an earful from me. I thought it was illegal to advertise to kids your age.”

As the puppet Bobinette tried to explain something on the TV, Paul and Sylvie looked at each other sadly. “So, no SuperZaps?”

But their mother wasn’t listening. “I’d like to make a complaint about advertising to children, please.”



## TORONTO, ONT., APRIL 1989

“Who do those judges think they are? Telling me how to run my own company — it’s outrageous!” The young journalist had never seen anyone as angry as the company president she was trying to interview. He’d been yelling and waving his arms for 20 straight minutes.

When the phone rang, Louise hoped the rant might stop for a moment, but no such luck. “If we can’t advertise to kids in Quebec, how are we supposed to sell kids’ shoes in Quebec?” the businessman blustered to the caller. “But it’s the Supreme Court of Canada. What else can we do?” He slammed down the phone.

“Mr. White, I believe the court said you could still advertise the shoes, just to adults,” Louise began.

The man was off again. “That doesn’t help my company at all! We want to get kids excited. Parents don’t get excited. They’re boring. They just talk about how expensive everything is and how the shoes the kids already have are just fine.”

Louise tried a different angle. “What did you think when the judge said he didn’t agree that your business would be harmed if you weren’t able to advertise to kids under 13?”

Mr. White shook his head. “I’d like to see him sitting in my chair, trying to make a profit and keep all these people working. It’s like kids have all the rights and I don’t have any! If Quebec has a consumer protection act, why doesn’t it have a business protection act?”

He was getting worked up again.

“I mean, what about my freedom of speech? It says here in black and white that Quebec’s silly law infringed on my company’s freedom of expression.” He smacked a thick pile of paper on his desk. “Why don’t you put that in your article?”

He glared at Louise, who realized he expected an answer. “Well, it’s just . . . the judges also said that was okay. To protect kids. Limiting how you

could advertise, I mean. Because little kids don’t know what’s real.”

The president stood up stiffly and pointed to the door. “If you’re against SuperZaps too, then this interview is over. Forget the story.”

Louise put her pen and notebook away. The interview was over, yes, but she had a feeling the story was just getting started. **K**

We made up all the people and everything that happened in this story. (Except for Bobino, who was a character on a real show named after him!) But the general idea is based on an important case related to the Charter of Rights and Freedoms. Quebec’s *Consumer Protection Act* says companies can’t direct their ads at children under 13. In 1980, a Toronto-based company called Irwin Toy decided to test its luck and made a bunch of TV ads aimed straight at kids. The province took the company to court. As the case worked its way up

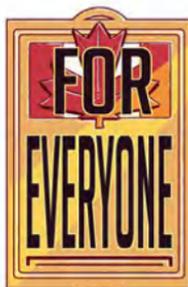
the system, the Charter came into being in 1982. So, Irwin Toy used the new Charter to argue that Quebec’s rules unfairly limited the company’s freedom of expression. Eventually the case ended up at the Supreme Court of Canada. The judges used the Oakes test we talked about on page 15 to see if that limit was reasonable. Three agreed with the company, but said it was okay for Quebec to limit Irwin’s freedom of speech. That’s because the law was there to protect kids who couldn’t necessarily tell what was true or whether an ad was actually part of the show they were watching. (Two judges disagreed, saying there wasn’t enough proof that kids would be harmed, and that free speech was too important to limit.) The case was one of the first to test how the Charter applied to freedom of expression. Over the years, the Supreme Court of Canada has limited people’s right to express themselves as little as possible. But its judges have also been clear that freedom of expression can’t be used to get away with encouraging violence, hatred or harm to others.



ILLUSTRATED BY ALEX DIOCHON WRITTEN BY NANCY PAYNE

# MAKING A CASE

AS PEOPLE STARTED USING THE CHARTER IN COURT, THERE WERE ALL KINDS OF BIG CHANGES IN CANADA. HERE ARE THE STORIES OF JUST A FEW CASES THAT HAD A BIG EFFECT ON KIDS (AND OTHERS). WE'VE IMAGINED WHAT PEOPLE SAID AND DID, BUT THE EXAMPLES AND JUDGES' REASONS ARE ALL REAL.



IMMIGRATION OFFICE, 1982



SATNAM SINGH

I THOUGHT CANADA WELCOMED REFUGEES!



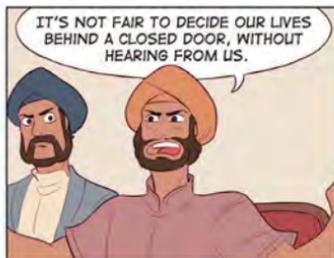
I CAN'T GO BACK TO INDIA! I DON'T KNOW WHAT MIGHT HAPPEN TO ME THERE.



THEY READ ALL YOUR DOCUMENTS. I'M SORRY, BUT YOU CAN'T STAY.



PLEASE, JUST LET US TALK TO THEM!



IT'S NOT FAIR TO DECIDE OUR LIVES BEHIND A CLOSED DOOR, WITHOUT HEARING FROM US.



WHAT ABOUT YOUR FAMOUS CHARTER OF RIGHTS?



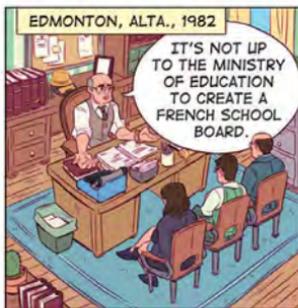
THAT'S FOR CANADIANS.



IT'S RIGHT HERE IN SECTION 7. "EVERYONE HAS THE RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON."



# LANGUAGE AND LEARNING



IN 1990, THE SUPREME COURT OF CANADA AGREED WITH THE PARENTS. THE JUDGES SAID THE CHARTER GIVES KIDS THE RIGHT TO GO TO SCHOOL IN EITHER FRENCH OR ENGLISH, EVEN IF MOST PEOPLE AROUND THEM SPEAK THE OTHER OFFICIAL LANGUAGE.



# FAIR PLAY



AT FIRST JUSTINE LOST HER CASE. BUT THE ONTARIO COURT OF APPEAL EVENTUALLY SAID THE ONTARIO HOCKEY ASSOCIATION HAD TO CHANGE ITS RULES TO FIT WITH THE CHARTER. THE OHA FOUGHT THE DECISION ALL THE WAY TO THE SUPREME COURT OF CANADA, WHERE IT LOST IN 1987.



# POINT OF FAITH





IN 2006, THE SUPREME COURT OF CANADA SAID THE SCHOOL'S COUNCIL WAS WRONG TO BAR GURBAJ MULTANI FROM WEARING HIS KIRPAN AT SCHOOL. THE JUDGES NOTED THAT THE CHARTER GUARANTEES FREEDOM OF RELIGION. THEY SAID RESPECT FOR CULTURAL AND FAITH DIFFERENCES ARE PART OF THE FOUNDATION OF OUR FREE AND DEMOCRATIC COUNTRY.



# JUST FOR YOU

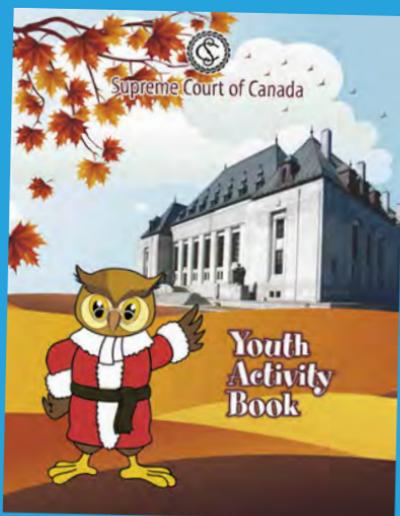
Discover more about Canada's Charter of Rights and Freedoms for yourself.



## TOP COURT

The Supreme Court of Canada stands in Ottawa, just down the street from the Parliament buildings. No matter where you live, your teacher can book a virtual guided tour for your class.

Click on the Visits tab to download this activity book from the Supreme Court of Canada's website.



You can order your very own copy of the Charter — or the Bill of Rights that came before it — from the Canadian government. You can also download a version to print at home. Just search for it using terms like “order a copy of the Canadian Charter of Rights and Freedoms”. It’s available in English and French, and more than 25 other languages, as well as in Braille.



Have you ever visited other parts of the country? Has your family ever moved to a different part of Canada? Your freedom to do those things — known as mobility rights — is guaranteed by the Charter.





# HIDDEN PICTURES



How sharp-eyed are you? See if you can find each of these objects or images in the comic **Making a Case** that starts on p. 20.

# ANSWERS

## SPOT THE RIGHTS! P. 28

Illustrator Nickia McIvor showed many activities covered by the Canadian Charter of Rights and Freedoms. Here are the ones we found. Did you see others?



## HIDDEN PICTURES P. 29



## TEACHER'S CORNER

You can find classroom material in both French and English to go with this issue of *Kayak*. Just visit [CanadasHistory.ca/charter](http://CanadasHistory.ca/charter) or [HistoireCanada.ca/charte](http://HistoireCanada.ca/charte).

# RIGHT(S) ON!



## What do you think other kids should know about their rights and responsibilities as Canadians?

Create a poster to help students at your school understand the rights they are guaranteed in the Canadian Charter of Rights and Freedoms. You can use symbols, images, descriptive writing — and don't forget a catchy title! Make sure to include at least three rights. Submit your poster at [CanadasHistory.ca/RightsPoster](http://CanadasHistory.ca/RightsPoster) and you could win a free one-year subscription to *Kayak*!



[KayakMag.ca](http://KayakMag.ca)

**Editor** Nancy Payne

**Art Director** James Gillespie

**Designer** Leigh McKenzie

**Online Manager** Tanja Hütter

**Director of Programs** Joanna Dawson

**Program Coordinator Community and Outreach**

Jean-Philippe Proulx

**Program Coordinator Youth and Education** Brooke Campbell

**Historical Advisors** Catherine Carstairs, Brittany Luby,  
Laura Madokoro

**Associate Designer** Olivia Hiebert

**Fact Checker** Nelle Oosterom

**Special Thanks** Dominique Clément, Sarah Repka

CANADA'S  
**HISTORY** [CanadasHistory.ca](http://CanadasHistory.ca)

**CEO** Bob Cox

**Publisher** Melony Ward

**Circulation and Marketing Manager**  
Danielle Chartier

**Director of Finance & Administration** Patricia Gerow

**Founding Publisher** Deborah Morrison



**KAYAK:** Canada's History Magazine for Kids (ISSN 1712-3984) is published four times a year by Canada's National History Society, Bryce Hall, Main Floor, 515 Portage Ave, Winnipeg, MB, R3B 2E9

Phone: (204) 988-9300 Fax: (204) 988-9309  
Email: [info@KayakMag.ca](mailto:info@KayakMag.ca)

Website: [KayakMag.ca](http://KayakMag.ca)

Editorial guidelines can be found on our website.

Copyright ©2023 by Canada's History Society  
All rights reserved. Reproduction without permission from the publisher is strictly forbidden.

**Member Services**  
Kayak Magazine, PO Box 699 Stn Main,  
Alliston, ON, L9R 1V9

Phone: 1-888-816-0997  
Email: [members@KayakMag.ca](mailto:members@KayakMag.ca)

One-year subscription price (4 issues):  
Canada \$16.95 (plus tax).  
Please add \$5.00 for U.S. orders and \$8.00  
for international orders.  
Single copy price: \$5.00. G.S.T. Registration  
Number 13868 1408 RT.

**PUBLICATIONS MAIL AGREEMENT**  
NO. 40063001

Funded by the  
Government  
of Canada

Financé par le  
gouvernement  
du Canada

**Canada**

Return undeliverable Canadian addresses to:  
Kayak Magazine, PO Box 699 Stn Main,  
Alliston, ON, L9R 1V9

Printed in Canada.



# Iconic Dreams

Inspired by the Hudson's Bay Point Blanket, the luxurious duvet cover set is a fresh way to bring the Canadian icon home.



**THE BAY**

[thebay.com](http://thebay.com)