Charter: A Course

A podcast about Canadian Constitutional Law & Litigation

Episode 6: Section 15 of the Charter

About the Series

Charter: A Course is a podcast created by the David Asper Centre for Constitutional Rights (the Asper Centre) and hosted by the Asper Centre's Executive Director Cheryl Milne.

Charter: A Course focuses on Canadian constitutional law and litigation. In each episode, we highlight the accomplishments of U of T Law's faculty and alumni involved in leading constitutional cases and issues. Each episode also includes a "Practice Corner", where we talk about the ins and outs of what it means to be a constitutional litigator.

Whether you are a law student, a lawyer, or just an interested person, we hope that you learn about an aspect of constitutional law and litigation that interests you in our podcast.

Episode 6 Show Notes

This episode focuses on section 15 of the Canadian Charter of Rights and Freedoms, which states that 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 based on race, national or ethnic origin, color, religion, sex, age or mental or physical disability.

With the help of our distinguished guests, constitutional litigators Mary Eberts and Jonathan Rudin (author of Indigenous People and the Criminal Justice System: A Practitioner's Handbook) we trace the history of section 15 and its development in Supreme Court of Canada jurisprudence, as well as its use in furthering the efforts to realize substantive equality for Indigenous peoples in Canada, in particular in the criminal justice system.

Mary and Jonathan also share their thoughts about the value of interveners in Charter litigation in

Canada. Find a full transcript of this episode here.

Case Links

In this episode, the following cases were discussed:

Fraser v Canada (Attorney General), 2020 SCC 28 (CanLII)
Attorney General of Canada v Lavell, 1973 CanLII 175 (SCC), [1974] SCR 1349
The Queen v Drybones, 1969 CanLII 1 (SCC), [1970] SCR 282
Corbiere v Canada (Minister of Indian and Northern Affairs), 1999 CanLII 687 (SCC), [1999] 2 SCR 203
Lovelace v Ontario, 2000 SCC 37 (CanLII), [2000] 1 SCR 950
R v Kapp, 2008 SCC 41 (CanLII), [2008] 2 SCR 483
Law v Canada (Minister of Employment and Immigration), 1999 CanLII 675 (SCC), [1999] 1 SCR 497

Alberta (Aboriginal Affairs and Northern Development) v Cunningham, 2011 SCC 37 (CanLII), [2011] 2 SCR 670
Kahkewistahaw First Nation v Taypotat, 2015 SCC 30 (CanLII), [2015] 2 SCR 548
R v Gladue, 1999 CanLII 679 (SCC), [1999] 1 SCR 688
R v Ipeelee, 2012 SCC 13 (CanLII), [2012] 1 SCR 433
R v Sharma, 2020 ONCA 478 (CanLII)

About the Asper Centre

The Asper Centre, a part of the University of Toronto's Faculty of Law since 2008, is devoted to realizing constitutional rights through advocacy, research and education. The Centre aims to play a vital role in articulating Canada's constitutional vision to the broader world. The cornerstone of the Centre is a legal clinic that brings together students, faculty and members of the bar to work on significant constitutional cases and advocacy initiatives. The Centre was established through a generous gift from U of T law alumnus David Asper (LLM '07).

Thank You's

Charter: A Course is proudly sponsored by the University of Toronto's affinity partners: **MBNA** and **TD Insurance**. We would like to thank each of our sponsors, and you can discover the benefits of affinity products here.

We would like to thank the creators of our theme music for Charter: A Course. Constitutional law professor Howie Kislowicz and law professor Rob Currie gave us the licence to use their constitutional law shanty in exchange for a donation to the Calgary Food Bank. The song's performers are: Vanessa Carroll, Rob Currie, Howie Kislowicz, Avinash Kowshik, Anna Lund, Patricia Paradis, Elin Sigurdson, Lyle Skinner, and Dave Wright. You can listen to the entire shanty here: Charter a Course. Please consider contributing to your local food bank!

Thank you to Flint Patterson, JD student at the University of Toronto Faculty of Law, for his contributions to the production of this episode.

Thank you to our wonderful guests on this episode, Mary Eberts and Jonathan Rudin!

Thank you to our audio editor Liam Morrison of Bell Room Media Solutions.

Lastly, we are very grateful to you, our listeners, for taking the time to join us on this voyage as we charter a course into podcasting!