

# **THE CANADIAN BILL OF RIGHTS vs. THE CHARTER OF RIGHTS AND FREEDOMS**

**BILL OF RIGHTS** (the “Bill”) (John D. Diefenbaker) - received Royal Assent on August 10, 1960, c. 44

An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms.

Recognizes that our Rights are God given, *not* government granted. It obligates the government to protect these Rights at all times. Property Rights are protected. Jury trial by your peers.

**CHARTER OF RIGHTS AND FREEDOMS** (the “Charter”) (Pierre Elliott Trudeau, 1982) - Quebec did not agree to and did not sign the Charter thus Royal Assent was not given. The Charter was *not* ratified nor passed into law.

The Charter guarantees the rights and freedoms set out in it subject to such reasonable limits prescribed by law. But what does “guaranteed” mean? The Charter is a totalitarian document introduced as a Trojan Horse to infiltrate our legal system to ultimately eliminate our Rights. Property rights are not protected. No jury trial - only ruling by judge.

## **Q. Does the Charter Supersede the Bill of Rights?**

A. This is a common myth. Section 26 of the Charter states all Rights that were in effect before the Charter are still in effect. As well the Statutory Instruments Act 1985 and the Emergency Act 1988 both refer to the need of the government to respect the provisions of the Bill. There has never been an act of legislation to repeal the Bill.

## **Q. What is the fundamental difference between the Bill of Rights and the Charter of Rights?**

A. The difference between the Bill and the Charter is Section 1 of the Charter, which states “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”. And if an emergency is declared, a judge can enable the government to override our Rights. The Bill recognizes that Canadians are *born* with certain unalienable Rights. No government nor judge can override them.

## **Q. Can the Bill of Rights overturn the Covid-19 mandates?**

A. Yes, if the law is Federal. It cannot overturn provincial laws, but it *can* stop them from being enforced in violation of the common law rights codified in the Bill (Sections 1[a] and [b]). All police, bylaw, public health, guardian authorities and private citizens enforcing Covid-19 measures are regulated by provisions of the Bill because all law enforcement is regulated through the Criminal Code of Canada (Section 25[1]) and therefore a Federal matter.

## **Q. Why is a jury trial so important?**

A. A jury is made up of unbiased peers who make their decision based on facts, evidence and information. Whereas a trial by judge means the judge has the sole authority to decide if the government can override your Rights using the Charter. A judge is also biased as he is hired and paid by the government thus putting him in a conflict of interest.

## **Q. Why don't most law firms and lawyers use the Bill of Rights?**

A. Is the Bill even on the curriculum in law school? The Bill has been intentionally and systematically dismissed in an effort to convince Canadians that only the Charter can be used. Lawyers and law firms use the Charter for various reasons and vested interests, eg. ignorance of the Bill, coercion by the Bar and to increase fees through legal delays. With the Bill you can self-represent and retain a lawyer as a consultant *only*, if desired.

## **Q. Can you use the Bill and the Charter together as defense in Court?**

A. No. If you use the Charter and the Bill together to defend yourself in Court, the Judge and lawyers will revert to the Charter. You can only use the Bill of Rights alone.

## **Q. Why don't I hear about big wins using the Bill of Rights?**

A. There *are* precedents on record using the Bill (see CanLII.org). When the Bill is cited, the Courts will actively discourage its use. The majority of cases using the Bill are ultimately dismissed. The Courts resist creating case law that would enshrine the Bill of Rights as precedent law.

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# Canadian Bill of Rights

1960, c. 44

## An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms Assented to 10th August 1960



**T**HE Parliament of Canada, affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them, in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada;

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

### PART I BILL OF RIGHTS

1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely:

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and
- (f) freedom of the press.

2. Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the

*Canadian Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

- (a) authorize or effect the arbitrary detention, imprisonment or exile of any person;
- (b) impose or authorize the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained:
  - (i) of the right to be informed promptly of the reason for his arrest or detention;
  - (ii) of the right to retain and instruct counsel without delay, or
  - (iii) of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;
- (d) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self incrimination or other constitutional safeguards;
- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; or
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

3. (1) Subject to subsection (2), the Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every regulation transmitted to the Clerk of the Privy Council for registration pursuant to the *Statutory Instruments Act* and every Bill introduced in or presented to the House of Commons by a Minister of the Crown, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part and he shall report any such inconsistency to the House of Commons at the first convenient opportunity.

(2) A regulation need not be examined in accordance with subsection (1) if prior to being made it was examined as a proposed regulation in accordance with section 5 of the *Statutory Instruments Act* to ensure that it was not inconsistent with the purposes and provisions of this Part.

1960, c. 44, s. 3: 1970-71-72, c. 38, s. 29; 1985, c. 26, s. 102; 1992, c. 1, s. 144(F).

4. The provisions of this Part shall be known as the *Canadian Bill of Rights*.

5. (1) Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act.

(2) The expression "law of Canada" in Part I means an Act of the Parliament of Canada enacted before or after the coming into force of this Act, any order, rule or regulation thereunder, and any law in force in Canada or in any part of Canada at the commencement of this Act that is subject to be repealed, abolished or altered by the Parliament of Canada.

(3) The provisions of Part I shall be construed as extending only to matters coming within the legislative authority of the Parliament of Canada.

### PART II

(1) Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act.

(2) The expression "law of Canada" in Part I means an Act of the Parliament of Canada enacted before or after the coming into force of this Act, any order, rule or regulation thereunder, and any law in force in Canada or in any part of Canada at the commencement of this Act that is subject to be repealed, abolished or altered by the Parliament of Canada.

(3) The provisions of Part I shall be construed as extending only to matters coming within the legislative authority of the Parliament of Canada.

*I am a Canadian, a free Canadian, free to speak without fear, free to worship God in my own way, free to stand for what I think right, free to oppose what I believe wrong, free to choose those who shall govern my country. This heritage of freedom I pledge to uphold for myself and all mankind.*

*John G. Diefenbaker*

The Right Honourable John G. Diefenbaker, Prime Minister of Canada, House of Commons Debates, July 1, 1960.



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