

The Charter in the Classroom: Students, Teachers and Rights

Topic: *The Canadian Charter of Rights and Freedoms* Section 23: Minority Language Educational Rights

Case: *Abbey v. Essex County Board Education* (1999), 42 O.R. (3d) 481 (Eng.) (C.A.) on appeal from (1997), [1997] O.J. No. 2397 (Gen. Div.)

Instructional Expectations and Opportunities have been selected by provinces and territories for secondary schools and may be found in **Resources** under **Curriculum Expectations**.

Environment

- Computer lab
- Classroom set up like a court room

Required Resources

- Computer for each student (or one for every two)
- Paper, Chart paper
- Black/White Board
- “Questions for Thought” – See Appendix A
- “Questions for Introduction/Interpretation Video”
- “Case Summary” – See Appendix C

Content and Suggested Strategies

Overview/Agenda/Review:

1. Intro: Break the Class into three groups: Arguing for Abbey, Arguing for the School Board and the Jury – The Teacher is the Judge
2. Research: Explore the CC:STAR website <http://www.thecharterrules.ca> Concept 10
3. Group Work: Allow time for brainstorming and writing an argument in paragraph form
4. Presentations: Each group presents its argument, the jury then presents its decision.

Introduction:

- Outline the case for the students, explain the mock trial process.

Subject Content and Teaching Strategies:

1. Intro: Break the class into the necessary groups and explain the mock trial activity. Each group has an important role, and in order to argue their case successfully they must research the case carefully. This is also important for the jury, because its task will be to provide a reasoned explanation of its decision after hearing the arguments. It is important for the teacher to acknowledge that the Ontario Court of Appeal has indeed decided on the case already, but the jury will base its decision on the strength of the arguments.
2. Explore CC: STAR - Minority Language Rights Concept 10. Hand out the question worksheet (see Appendix B) for students to answer while watching the Introduction video and exploring other sections of the concept (students will find answers during the video). As an alternative, post the questions on chart paper at the front of the room for students to refer to while they explore and complete a guided discussion with the class. Students can also make note on the information provided on the site and begin to outline their points of argument for the trial.

3. Group Work: In a work space the group can now work together to form their argument. The chart paper can be used here to pool ideas. By the end of this work period both groups should have a polished, paragraph-long argument, ready to present to the class.
4. Presentations: The groups will select one or two members to present their arguments to the jury. The Jury will then be given time to deliberate and come up with a reasoned decision. One juror will present the reasoned decision to the class.

Appendix A

Arguing for the Essex County School Board.

Points of Argument:

Section 23 does not apply to Abbey and her family. Why?

What is the purpose of Section 23 of the Charter?

The Essex County School Board will not pay tuition for Abbey's kids to attend a French language school. Why?

Write a paragraph-long speech to present your argument.

Arguing for Susan Abbey.

Points of Argument:

Why should section 23 apply to the Abbey family?

According to the wording of the section, who are eligible to be protected by sec. 23 rights?

What is the purpose of Section 23 of the Charter?

Write a paragraph-long speech to present your argument.

Jury.

Points to consider:

How well did each group argue their position?

Since you did your own research, was anything left out of the arguments?

How would you have argued differently?

Since you know the real decision made by the Ontario Court of Appeal, did this activity convince you otherwise?

Write a paragraph-long speech to present your argument.

Appendix B
Questions for Introduction/Interpretation Video:
Section 23: Minority Language Education Rights

1. How are Minority Language Education rights under Section 23 of the *Charter* different from Immersion programs?
2. What are the 3 categories that entitled parents can fall under?
3. What is one of the main motivations behind Section 23?
4. In your own words, what is the Supreme Court's view on the purpose of Section 23?
5. In your own words, what is "substantive equality"?
6. What are the 4 major parts of the right to be educated in the official minority language under Section 23?
7. Why might minority language education require more funding than majority language instruction?

Appendix C

Case Summary

Susan Abbey's eldest child was accepted by way of an admissions committee to attend a strictly French language school in Essex County. The Essex County School Board did not operate a French language school unit, so arrangements were made for the student to attend a French school in a separate school board in Essex at the expense of the Essex County School Board. The Abbey family then moved to London, Ontario where Susan's two younger children were allowed to attend a strictly French school unit under section 23, which states that "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 or secondary instruction in the same language."ⁱ Thus, since the eldest child was allowed a French education, so too are the younger.

The Abbey's then moved back to Essex County expecting that all three of the children's rights to a French language education would be recognized. They requested to be enrolled in a school in the Windsor Roman Catholic Separate School Board and that the Essex County School Board pay the tuition fees. However, the Essex County School Board denied the request stating that the Abbey's did not qualify for section 23 rights.

After a Divisional Court decided in favour of the Essex school board holding that section 23 was not intended to protect the Abbey's, Susan Abbey took the case to the Ontario Court of Appeal. In 1999 this court allowed the appeal declaring that Susan Abbey was indeed entitled to protection under section 23, that her three children had the right to attend a strictly French language school and that the Essex County School Board was required to pay the tuition fees to a school in a separate board.

ⁱ Charter section 23 (2)