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Assignment#2

LIBR 533 Legal Information Sources and Services

Sheriff Ola (MLIS Candidate)

Date 12 March 13, 2018

Federal point-in-time research

1. Access to Information Act, RSC 1985, c A-1

a. What is the full name of this act?

Ans: An Act to extend the present laws of ~~Canada~~ that provide access to information under the control of the Government of Canada ✓

b. List all of the amendments made to section 13 of the Act since 1985.

Ans:

- 2000, c. 7, s. 21; ✓
- 2004, c. 17, s. 16; ✓
- 2005, c. 1, ss. 97 and 107, c. 27, ss. 16 and 22(1); ✓
- 2006, c. 10, s. 32; ✓
- 2008, c. 32, s. 26; ✓
- 2009, c. 18, s. 20; ✓
- 2013, c. 25, s. 20; ✓
- 2014, c. 1, s. 18, c. 11, s. 21; ✓

c. What is the citation to the version of this act that was in force before it was Revised in 1985?

Ans: 1980-81-82-83, c. 111, Sch. 1 "1". ✓

d. Explain the process you took to find this information.

Ans: In finding the above information, my first course of action was locating the current consolidation of the respective Act, Access to Information Act, RSC 1985, c A-1. I did this by using both the Justice Laws and CAN LII online tools to locate said consolidation document. The text of the full name of the Act was contained just below the title of the document. The list of amendments made to section 13 could also be found in the footnotes of the section 13 of the document. Again, I was able to access the citation to the version of the Act before it was revised in 1985 by reviewing footnotes in the section one (1) of the document that contained the text for the short title. ✓

Provincial point-in-time research

2. Land Title Act, RSBC 1996, c. 250

a. List all of the amendments to section 11 of this act since the 1996 Revision.

Ans:

- 2003-66-35; (Royal Assent) ✓
- 2004-66-73 (B.C. Reg. 16/2005) ✓

b. What section number was this provision in the 1979 revision of the Land Title Act?

Ans:

- Section number 11 ✓

c. What is the citation for the 1979 version of this act? ✓

- RS1979-219-11

d. Were there any amendments to this section between 1979 and 1996? If so, list them.

- Yes, there was one amendment. With a citation of: 1984-26-10 ✓

e. Explain your process to find this information.

Ans: Regarding finding the required information on this specific Act, I used the online tool, BC Laws, where I went to the public Statutes and Regulations link and selected "Land Title Act [RSBC 1996] c. 250." From there I chose "Act Point in Time". From the table in the Act Point in Time page, I selected the date that corresponded to "Section 11" from the table of content. The information that came up revealed the list of amendments to section 11 of the Act since 1996 (or before 2003/2004). This answered the first question. In Finding the rest of the information about the Land Title Act [RSBC 1996] c. 250, I went to the "Historical Table" section of the Land Title Act [RSBC 1996] c. 250 and reviewed the "Legislative History" column which listed citations for the legislation that enacted or amended sections between the 1979 Statute Revision and the 1996 Statute Revision. The displayed information showed the 1979 citation of the Act as RS1979-219-11. This indicates that "11" in the citation represented the section number of the Act at that point in time. The citation, 1984-26-10 was listed immediately after the RS1979-219- ✓

11, which revealed that 1984-26-10 represented an amendment to the section 11 of the act between 1979 and 1996. ✓

3. Find the "Persons Case."

✓ Ans: The "Persons Case" was a constitutional ruling that established for Canadian women the legal right to be appointed to the Canadian senate. The ruling also established an official and legal recognition of women as "Persons" meaning that women could no longer be denied basic rights such as participation in government based on narrow interpretation of the law.

What is its name and citation?

Ans: The Persons Case is officially known and cited as: Edwards v. Canada (Attorney General), [1929] UKPC 86, [1930] AC 124 *italize*

Find 5 cases that cite the Persons Case. Select those you would consider to be most relevant to a matter originating in British Columbia and explain your selection.

Ans:

- **British Columbia (Milk Board) v. Bari Cheese Ltd., 1991 CanLII 1150 (BC CA):**

✓ This case cited the section 95 of the Canadian constitution (which grants Canadian Provinces the power to enact legislation with respect to agriculture and others), and argued that if in Edwards v. Attorney General for Canada, 1929 CANLII 438 (UK JCPC), [1930] A.C. 124, it was right for the word "Person" to be interpreted by the Privy Council in an Act of 1867 relating to appointment of senators as including women, then couldn't it be argued that the legislation in question (section 95 of the constitution) is a law relating to agriculture?

- **Architectural Institute of British Columbia v. Lee's Design & Engineering Ltd. et al., 1979 CanLII 2789 (BC SC):**

✓ in this case, in attempt to establish a distinction between two professions: architecture and engineering, as well as devise an appropriate meaning of the word architecture, the Persons Case was cited in support of the argument that often words connote different meanings in different legislative contexts.

- **PHS Community Services Society v. Attorney General of Canada, 2008 BCSC 661 (CanLII):** in this case, the “Living Tree” doctrine that was pioneered in the Persons Case, *Edwards v. Attorney General for Canada*, 1929 CAN LII 438 (UK JCPC), [1930] A.C. 124 (PC) at p. 136, was cited to explain the evolving nature of the constitutional provision underlying separation/division of federal and provincial jurisdictional powers in the area of health care. ✓
- **Morton v. British Columbia (Agriculture and Lands), [2009] 7 WWR 690:** This case involved concerns raised with regards to the jurisdiction of the province of British Columbia to enact legislation with respect to finfish aquaculture in the Province’s coastal waters. Here too, the Persons Case, *Edwards v. Attorney General for Canada*, 1929 CAN LII 438 (UK JCPC), [1930] A.C. 124 (PC) at p. 136, was cited to provide interpretation (or rather clarity) on the separate (respective) federal parliamentary and provincial legislative powers as outlined in ss. 91 and 92 of the Canadian Constitution Act, 1867, and argued that the “Living Tree” doctrine described in the famous Persons Case provided interpretation of the powers of each levels of governments as being evolutionary and must be tailored to the changing political and cultural realities of Canadian society. ✓
- **Victoria (City) v. Adams, [2009] 4 WWR 303:** this case concerned the prohibition against erecting temporary shelter on public property that is contained in the Parks Regulation Bylaws and the Streets and Traffic Bylaws of the City of Victoria, and in which the defendants asserted that this prohibition infringes on s. 7 of the Canadian Charter of Rights and Freedoms which grant rights to life, liberty and security of person. In sum, the defendants argued that section 7 of the Charter includes positive benefits, that is, an obligation of government to provide for citizens (in this case adequate shelter). And citing the infamous “Living Tree” doctrine of the Persons Case, *Edwards v. Attorney General for Canada*, 1929 CAN LII 438 (UK JCPC), [1930] A.C. 124 (PC) at p. 136, it was argued that s. 7 of the Charter could one day be interpreted (expanded) to include positive benefits and that the Charter must be viewed as a “living tree” capable of growth and expansion within its natural limits. ✓

4. Find 5 cases that apply the Federal Child Support Guidelines in British Columbia. How did you find this information?

Ans:

- The federal Child Support Guidelines, a federal policy which outline requirements for the maintenance of spousal support for children in a marriage union in the event of separation of spouses, is enabled by the Divorce Act, RSC 1985, c3.
- List of cases that apply the Federal Child Support Guidelines in British Columbia include:
 1. **K.A.L. v. J.P.R., 2011 BCPC 183 (CanLII):** Involved application by self-represented father for child support in amount set out in the Federal Child Support Guidelines, and also asked for special/extraordinary expenses by claiming undue hardship. This application was made against the respondent step-father of child. ✓
 2. **F. v. M. and G., 2011 BCPC 451:** Involved father of child seeking retroactive child support based on higher imputed annual income than that reported by ex-wife. Also sought retroactive Guideline child support from child step-father ✓
 3. **M.A. v. G.A., 2013 BCPC 416 (CanLII):** This case involved a number of filed applications including for reduction of child support payment, as well as others. The judge based his ruling on the Federal Child Support Guidelines. ✓
 4. **S.J.D. v. S.A.G., 2015 BCPC 370 (CanLII):** This case also involved several matters whose resolution are set out in the Federal Child Support Guidelines, including matters such as joint custody and guardianship of children, shared parent arrangement of children's residence and payment of child support including provision for review of child support within a set date. ✓
 5. **R.T.M. v. V.A.M., 2007 BCPC 342 (CanLII):** This case also involved several of the matters covered in the Federal Child Support Guidelines including deciding residency of children/dependents, payment (retroactive) of child support by one ex-partner, as well as agreed upon access to children/dependant. ✓

How I found this Information:

- I went on CANLII and selected the Provincial Court of British Columbia link since I realised from the question that I would be dealing with judicial cases in British Columbia. In the "Document Text" field among the search boxes, I typed "Federal Child Support Guidelines". A number of cases were called up by the search, and I selected from among them, ones I considered were directly related to the Federal Child Support Guidelines. An earlier background search on Justice Laws website revealed the Federal Child Support Guidelines' link to the Divorce Act, RSC 1985, c3. From this linkage, I deduced that the Federal Child Support Guidelines are tied with family law, and so I was looking out for cases within this field law since I assumed they would be the most likely to apply these guidelines.

5. Find the litigation history of Bruno Appliance and Furniture, Inc. v. Hryniak, 2014 SCC

8. Include citations and court levels.

- First Case: Bruno Appliance v. Cassels Brock & Blackwell LLP, 2010 ONSC 5490
Court Level: Superior Court of Justice, Ontario
Date(s): May 26, 27, 28 and June 18, 2010
Outcome: Summary judgement in favor of Mauldin and Bruno against Hryniak.
Appealed by Hryniak
- Second Case: Combined Air Marshall Services Inc. v Flesch, 2011 ONCA 764 [Flesch]
Court Level: Court of Appeal for Ontario
Date: December 5, 2011
Outcome: Summary Judgement in favour of Mauldin and Bruno upheld. Again appealed by Hryniak.
- Third Case: Bruno Appliance and Furniture, Inc. v. Hryniak, [2014] 1 SCR 126
Court Level: Supreme Court of Canada
Date(s): January 23, 2014
Outcome: Summary Judgment again upheld.

Get me background information on the Carter v Canada right to die case that was handed down from the SCC in 2015 and 2016. What led up to it and what actions resulted from the case? (the answer to this question should include news, and legal sources including citations for relevant case law and legislation)

- *The case*

Carter v. Canada (Attorney General), [2015] 1 SCR 331, 2015 SCC 5, involved a Supreme Court of Canada case in 2015 presided over by Chief Justice Beverley McLachlin where euthanasia or assisted suicide was declared legal, and the provision struck down from the Criminal Code, thus granting Canadians adult and mentally stable individuals suffering severe and intolerable medical conditions the right to be medically assisted in taking their lives (Supreme Court of Canada, 2015). ✓

Who were involved and which laws were at stake?

The case involved several parties, including lead plaintiff Lee Carter who suffered from degenerative spinal stenosis and Gloria Taylor, an amyotrophic lateral sclerosis patient. Others included the British Columbia Civil Liberties Association as well as various civil and religious advocacy groups across Canada. The main laws that applied in the case were the Canadian Charter of Rights and Freedoms (section 7), and the Criminal Code, ss 14, 241(b). According to section 14 of the Criminal Code at the time, it was a criminal ✓ offence to aid or abet others in committing suicide.

Which Events Led to the Case?

In 2011, the British Columbia Civil Liberties Association successfully brought a law suit ✓ challenging both sections 14 and 241(b) of the Criminal Code – which primarily were responsible for the prohibition of medically assisted suicide – on the grounds that they both violated Section 7 of the Canadian Charter which provides for right to life, liberty and security of person, as well as Section 15(1) which provides for equality. On June 12 ✓ 2012, the Supreme Court of British Columbia ruled that legal prohibition against assisted dying was unconstitutional. In October 2013, this decision was overturned in a 2-1 decision by the Court of Appeal of British Columbia after the federal government filed an appeal against the verdict. A counter appeal against the 2013 decision was then filed at ✓

the Supreme Court of Canada by the British Columbia Civil Liberties Association, which they won. This was the Carter v Canada (AG) case. (BCLA, n.d.) ✓

What was the verdict, and what reason(s) were used by the SCC to justify it?

According to an article by a group of medical practitioners that appeared on the Globe and Mail newspaper, the verdict in Carter v Canada (AG), restricts medically assisted dying to only "competent adults who clearly consents to the termination of life and have grievous and irremediable medical condition, including illness, disease or disability, that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition". (Guichon et al., 2015). The Court argued that the then legislation was too broad in its prohibition of assisted dying for competent and matured adults. It however added some tough limitations to the verdict that were to be strictly enforced. This included a requirement of a death certificate to be issued by an independent medical examiner, not the treating physician, to ensure the accuracy of reporting the cause of death. After the Supreme Court handed down the verdict, it was suspended for about 12 months in order to give the Canadian parliament time to draw the necessary legislation to replace the section 14 provision. However provincial courts were allowed to approve assisted death until the new federal legislation that was being prepared by the Canadian parliament could be drawn. ✓ ✓

Aftermath of verdict and resulting legislation(s) ✓

In June 2016, the House of Commons in the Canadian Parliament finally passed Bill C-4 in June 2016, which permits qualified medical professionals to assist patients who are terminal to end their lives. According to an article in the Toronto Star, an attempt to expand the right to die during the subsequent Senate debate was rejected by the House of Commons, and on 17 June, 2016, the Bill was approved and given royal assent after a final vote. (McCharles, 2016). The article also argued that majority of the members of parliament agreed with the provision by the House of Commons that only patients suffering from incurable illnesses and whose natural death could be reasonably predicted qualified for medically assisted death. Some amendment proposed by the Senate were accepted and incorporate into the bill, including requirements for patients to be advised

✓ about alternative care and restricting of family members from acting on behalf of patients in assisted dying matters and decisions.

excellent summary + info