

What is the major legal issue of this case?

- Does the manner in which the search was conducted infringe upon the s.8 rights of the student?

Sub legal issues

- Is a civilian in authority, with the support of the police an agent of the police?
- What is the extent of the reasonable expectation of privacy for students in a school?

Powers of s.24(2)

- S. 24(1) says that anyone whose Charter rights have been denied or infringed can go to the courts and ask for a remedy
- s.24(2) says that if evidence for a case was acquired through means that infringe on other Charter sections, the evidence must be thrown out if including it would defeat the integrity and consistency of the justice system

Case at all court levels

- Was there a search by the police
 - The RCMP constable did not search the accused, but the answer to this question lies in whether the vice-principal was an agent of the police.
 - Clear that the vice-principal, Mr. Cadue, was in cooperation with the police, pursuant to their school's code
 - Would the exchange happen identically if the police were not involved?
 - Yes, Mr. Cadue's main motivation was to uphold school integrity and the incident jeopardized the physical and psychological integrity of other students. His search of the accused and his locker would have occurred similarly what he would have done if the RCMP constable
 - Although Mr. Cadue was in cooperation with the RCMP constable, they did not agree upon a plan to use to arrest the student (no "agreed strategy") and Mr. Cadue's searches would have occurred almost exactly to how they would have been carried out had the police not been there. Therefore, Mr. Cadue was not acting as an agent of the police
- Type of search
 - Warrantless, since there was no order from the courts to search the boy - Mr. Cadue searched him because of suspicion of possessing and dealing drugs
- Reasonable search?
 - The modified standard for reasonable searches:
 - Is the search in this location appropriate?
 - It can be inferred from the relevant Education Act that teachers and principals are authorized to conduct searches on their students
 - Has the search been carried out in a reasonable manner?
 - The search was carried out in a sensitive and reasonable manner as it was not very intrusive
 - Surrounding Circumstances
 - Both Mr. Cadue and the accused are male
- Was there a violation of s.8
 - No, for the reasons outlined in why the search was reasonable, Mr. Cadue's search of the accused was reasonable and not a violation of s. 8

Agree/Disagree that the vice principal was an agent of the police and so his search would have to adhere to a police standard for a reasonable search?

- Determining if Mr. Cadue was an agent of the police lies in the answer to would the exchange between the accused and Mr. Cadue have taken place, in the form and manner in which it did take place, but for the intervention of the state or its agents?
 - RCMP Constable Siepierski was asked to be involved as pursuant to the school policy
 - Mr. Cadue was aware that possession of marijuana is a criminal offence, and is also against school policy, so you could argue that he was an agent of the police if he created a strategy with the police to arrest the accused, but it can also be argued that his motivations were mainly to maintain the physical and psychological integrity of his students as a teacher and that criminal charges were secondary to protecting the school.
 - Although Mr. Cadue cooperated with the Constable, there is no evidence to support Mr. Cadue making an agreement with or receiving instructions from Constable Siepierski, so there was no “agreed strategy” between him and the police
 - Mr. Cadue’s search of the accused and his locker would have occurred regardless of police involvement because his motive of maintaining the physical and psychological integrity of his students drove him to investigate claims that the accused was in possession of and was dealing marijuana. Moreover, RCMP Constable Siepierski was completely passive throughout the entire interaction as he did not directly participating in the search.

Was there an agreed strategy?

- Comparing the motivations of school authorities vs those of the police officers
- Officer present during search
- Define an agreed strategy
- Was M.R. being psychologically detained

CTQ 4

Although schools are becoming harder to control, it doesn't make sense to suspend student students' rights in the interest of making it easier to enforce order and control over them in a school environment. Prime Minister Pierre Trudeau suspended the rights of he Quebecois people in order to arrest FLQ members by invoking the War Measures Act. He, too, wanted to bring law and order to the situation. But those actions were his greatest controversy. It's what threw some people over the edge. And they're doing the same things in schools.

By making students believe that they should not be given an expectation to privacy in schools is problematic as it sets up a way of thinking that they carry on into their adult lives. In a school system, the principal represents authority to the students; and that authority becomes the government when they become young adults. The expectation that students give up their expectation to privacy in school misleads them into believing that when faced with authority, privacy doesn't matter. They lose their ability to challenge or defend their own rights and protect themselves using the legal system. The legal system becomes *against* them, a tool used to suppress them.

The public school system is responsible for the education of over 90% (as of 2015) and a Person's time spent in school tend to be their most informative years –where they learn about how the real world works. So by telling them “You should expect to give up some of your rights as soon as you enter school” ultimately give them the false message that they have no legal power or representation.

Source: https://en.wikipedia.org/wiki/Education_in_Canada

This creates a further wedge between the government and its people, taking away its accountability and transparency for its future generations, who have been programmed and rewired to fundamentally never question the law, and “fear the consequences” of doing so. They believe that they can't resist the government's actions, but instead it creates an inner loathing, furthermore complicating the relationship between their relationship.