CITATION: Campaign Life Coalition et. al. v. Parliamentary Protective Service, 2026 ONSC 3401
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SUPERIOR COURT OF JUSTICE - ONTARIO

RE: CAMPAIGN LIFE COALITION and MAEVE ROCHE, Applicants

AND:

PARLIAMENTARY PROTECTIVE SERVICE, Respondents

BEFORE: C. MacLeod RSJ

COUNSEL: Hatim Kheir & Christopher Fleury, for the Applicants

Brandon Crawford & Jocelyn Rempel, for the Respondent

HEARD: March 5, 2026

DECISION AND REASONS

Introduction

[1] Even before the enactment of the *Charter* [1] freedom of expression was a core value in Canada with deep roots in the common law. In 1982, this freedom was given specific codified constitutional protection as one of the *Charter* protected rights. This recognizes the centrality of free speech in a democracy.

[2] Constitutional protection of a right, however, does not mean that the exercise of the right can always be unrestrained. Firstly, constitutional protection does not insulate the rights holder from liability or consequences if the right is abused. Unrestricted and unrestrained exercise of a right by one person will inevitably clash with the rights of others. When two protected rights are in conflict, the court must seek a balance that strives to fully respect the rights of both.[2] This arises, for example, in defamation cases or in prosecutions for sedition or hate speech.

[3] More pertinently, in the case at bar, s. 1 of the *Charter* recognizes that reasonable limits may be imposed on the exercise of rights by legislation or regulation where such limits are justified. Specifically, *Charter* protected rights are subject to such "reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society". To frame this differently, rights guaranteed by the *Charter* may not be restricted or impaired by state authority

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[1] Part 1, *Constitution Act, 1982,* 1982, c. 11 (U.K.), Schedule B, *Canadian Charter of Rights and Freedoms.*
[2] *R v Mills*, [1999] 3 SCR 668 at paras 61 – 62.

without reasonable justification consistent with the exercise of freedom and democracy. In a country governed by the rule of law, the courts are the arbiters of that question.

[4] The *General Rules for the Use of Parliament Hill* [3] is a set of rules pursuant to which the "Committee for the Use of Parliament Hill" (the Committee) approves applications to stage events, including protests, on the grounds of the Canadian Parliament Buildings. In general, events such as protests are located on the walkway in front of the Centre Block and the East and West lawns. The *Rules* permit peaceful demonstrations but prohibit signs or banners that display "obscene messages", "messages that promote hatred or violence" or since 2023, which "display explicit graphic violence or blood".

[5] The issue before the court is whether these limits as applied to the Applicants during an anti-abortion or pro-life protest were a reasonable restriction on freedom of expression. The Applicants submit that they were not and they seek a remedial order from the court.

The Rules and the Role of the PPS

[6] The *Rules* in question are imposed not by the government but by Parliament itself. The Committee consists of representatives of the Senate and House of Commons named by the speakers of each chamber. The Committee also includes representatives of the Parliamentary Protective Service (PPS), the Royal Canadian Mounted Police (RCMP), National Capital Commission (NCC), Privy Council Office (PCO), and the departments of Canadian Heritage and Public Works and Government Services. These latter entities are all bodies that have responsibility for the Parliament Buildings and environs but the committee is chaired by the representatives of the two speakers. The *Rules* are said to be an expression of Parliament's right to administer its own affairs including the areas used in the performance of official parliamentary functions.

[7] As a consequence, the *Rules* are not set out in a statute or regulation but are posted on the parliamentary web site. They are referred to in the application signed by organizations seeking permission to hold events on Parliament Hill who must also sign an undertaking to abide by the *Rules*. Once permission has been granted by the Committee, the *Rules* are enforced by the PPS which, unlike the Committee itself, is a creation of statute.[4]

[8] The question, raised by the Applicants, is whether or not these restrictions are reasonable or to the contrary, are unreasonable restrictions on freedom of expression. It is necessary to consider this in context. The *Rules* in question apply to Parliament Hill and not to the streets of Ottawa or anywhere else. They do not purport to limit the right of the Applicants to display these images elsewhere or in their literature or on the internet. They are site specific, limited to what is essentially the forecourt of the Parliament Buildings.

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[3] https://hill-colline.parl.ca/pdf/CUPH-Rules-e.pdf.

[4] *Parliament of Canada Act,* RSC, 1985, c. P-1 as amended, s. 79.52. The Act also defines "Parliament Hill" as "the grounds in the City of Ottawa bounded by Wellington Street, the Rideau Canal, the Ottawa River and Kent Street" and the "Parliamentary Precinct" as essentially any premises used by parliament, its members (other than constituency offices), the officers of parliament or the PPS. See s. 79.51 of the Act.

[9] As noted above, Parliament Hill is a defined term under the *Parliament of Canada Act*[5] which act also establishes the Parliamentary Protective Service. Parliament Hill is "the grounds in the City of Ottawa bounded by Wellington Street, the Rideau Canal, the Ottawa River and Kent Street". Parliament Hill is used by the public for various purposes. In part, it functions as a park open to tourists, members of the public and school groups. There are light shows and films projected on the Parliament Buildings themselves in the summer. Parliament Hill is also central to various celebrations such as Canada Day. The Parliament Buildings themselves are a tourist attraction including visits to the Peace Tower and the two houses of Parliament, located in temporary facilities during the extensive renovations and repairs currently underway to the Centre Block. Accordingly, Parliament Hill is also an active construction site.

[10] The *Rules* contain the following statement:

> Parliament Hill is the seat of Canada's Parliamentary democracy, a place where parliamentarians from across the country meet to make laws that affect the lives of every Canadian. Parliament is also a place to meet, a place to express views, a place to celebrate, and a place to visit.
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> Given the foregoing and the necessity to ensure it remains a safe and secure environment, it is necessary to establish general rules surrounding organized activities and events on Parliament Hill.
>
> The objectives of these General Rules are to:
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> > • Support and guide the Committee on the Use of Parliament Hill (the Committee) in the effective management of the use of Parliament Hill as it relates to requests to host events;
> >
> > • Provide guidance to the public and event organisers so that they may gather in a safe and secure environment to express their views in peaceful demonstration or otherwise hold events;
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> > • Preserve Parliament Hill as a safe and dignified space where parliamentarians and other participants in parliamentary business, or those on their way to such business, will not be obstructed; and
> >
> > • Provide all users of Parliament Hill with the information they need to assist in preserving the physical integrity, historical value and the parliamentary prestige that this property is owed

[11] Certainly not the least of the functions of Parliament Hill is to host demonstrations and public gatherings but that use is neither exclusive nor unrestricted. All organized public gatherings

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[5] RSC 1985, c. P-1, as amended, s. 79.51

must be approved and then are subject to the *Rules*. Some regulation is required to ensure that gatherings do not disrupt the work of Parliament, result in destruction of property, or have a negative impact on the heritage character of the grounds. Where there are demonstrations and counter-demonstrations, the PPS may define acceptable locations for the protestors and take measures to keep them apart or to preserve the peace.

[12] The PPS enforces the *Rules* but does not enact them. Creation of the *Rules* and approval of applications to hold events is the role of the Committee. The *Rules* are published under the authority of Parliament and not the Government of Canada. Both parties agree, however, that the *Rules* function as a "law" and are open to *Charter* challenge. Still, the nature of the *Rules* and the fact that only the PPS is a respondent has implications for how the matter was argued, and in my view, constrains the relief that it would be appropriate to grant.

[13] Ontario law requires that where a litigant seeks to challenge the constitutional validity of an "act of the parliament of Canada or the legislature" or of a regulation or by-law made under "such an act" then the litigant must serve a Notice of Constitutional Question. That notice must be served on both the federal and provincial attorneys general. Such a notice is also required if an Applicant seeks a remedy under s. 24 (1) of the *Charter* in "relation to an act or omission of the Government of Canada" or Ontario.[6]

[14] Despite the fact that the *Rules* are neither an Act of Parliament nor a regulation under such an act and despite the fact that the PPS does not operate under the supervision of the Government of Canada or Ontario, the Applicants did serve a notice of constitutional question. Unfortunately, neither Attorney General appeared or took any position on the matter. Accordingly, the court is without the assistance of the chief law officers of the Crown. Both the Government of Canada and that of Ontario were silent. As I will discuss, no other entity was made a party or put on notice, other than the Respondent PPS.

The events giving rise to the Application

[15] The Applicant Campaign Life Coalition (CLC) describes itself as a "pro-life organization, established as a not-for-profit corporation, which works at all levels of government to defend the sanctity of human life, and in particular, to oppose abortion and euthanasia". The individual applicant is a member of the Coalition holding the position of Youth Coordinator and was a participant and witness to the events in question.

[16] For decades CLC has been the organizer of an annual rally and demonstration named the "National March for Life". The march begins on Parliament Hill and proceeds through the streets of Ottawa before returning to Parliament Hill. It is sponsored by the Roman Catholic Church and various Catholic organizations as well as businesses and community organizations, committed *inter alia* to the cause of ending or reducing the incidence of abortions in Canada. They seek to sway public opinion by persuading people that abortion is morally wrong and they seek to influence lawmakers to enact legislation that "protects the rights of the unborn".

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[6] *Courts of Justice Act.,* RSO 1990, c. C.43 as amended, s 109.

[17] As part of the pro-life, anti-abortion message, the Applicants intended to display posters with photographs of what purported to be bloody and dismembered fetuses. On May 10, 2023, as part of the annual protest and the day before the March itself, CLC had organized a press conference on Parliament Hill. The individual applicant was present with other participants where they planned to display the signs depicting what the Applicant describes as "victims of abortion at various stages of development."

[18] Officers from the PPS advised the participants that they could not display the signs because they "were too graphic" and were in breach of the *Rules*. Although the Applicants complied with the direction of the PPS, they launched this Application seeking remedies for unconstitutional interference with freedom of speech.

Analysis

[19] There is no doubt that the images were graphic, bloody and disturbing. That is their point. The Applicants contend that "abortion victim photography serves as an effective tool to uncover the hidden violence of abortion, that results in the death of a human embryo or fetus". They attest to their objective to "convey the reality of abortion in Canada" and to influence people's opinions.

[20] The point of the message is to sway public opinion and to express the point of view that abortion is a form of murder because in the view of the Applicants, human life – and human rights – begin at the point of conception. The signs were described by one of the constables as "abhorrent". That is undoubtedly true and is precisely the objective of communication designed to persuade members of the public that abortion itself is an abhorrent practice.

[21] Needless to say, there is a different point of view anchored in commitment to a woman's right to choose whether or not to carry a child. Many would reject the Applicants' thesis that human life and human rights begin at the point of conception. There is no general acceptance of the idea that the rights of an unborn fetus should always take priority over the rights of the living. There is active debate about the point where termination of pregnancy is ethical and should be legal.

[22] No pro-choice organization is before the court or is a party to these proceedings. The court is not called upon to adjudicate the merits of the Applicant's message. The issue is whether they have the right to communicate that message in any way they choose on Parliament Hill unconstrained by the rule in question.

[23] The Respondent is not an advocacy organization and is not here to challenge the legitimacy of the Applicants' beliefs or points of view or to argue for the point of view of other parties that are not before the court. In its factum, the Respondent does not dispute the right of the Applicants to advocate their strongly-held beliefs. Nevertheless, the Respondent led expert evidence and spent much time in argument in relation to the accuracy and truthfulness of the Applicant's signage. The Respondent accuses the Applicants of using images that are misleading, exaggerated and out of context, misrepresenting the reality of abortions conducted in Canada and of doctoring images for maximum impact

[24] There is conflicting evidence concerning the accuracy of the images, competing expert evidence and requests that I disqualify or exclude that evidence. As I will discuss, however, I do

not find it necessary to resolve that debate because the scientific or medical accuracy of what the pictures display is not germane to the questions that must be answered.

[25] In the first place, the accuracy of the images plays no role in qualifying the photographs as protected expression under s. 2 (b) of the *Charter.* The right of the Applicants to promote their beliefs and points of view are protected whether or not the expression is truthful or accurate. A point of view need not be truthful or accurate to be protected speech.

[26] That statement of the law was articulated by the Supreme Court of Canada when it struck down the offence of "spreading false news" in *R. v. Zundel.*[7] The court held that "tests of free expression frequently involve a contest between the majoritarian view of what is true or right and an unpopular minority view".[8] The Supreme Court specifically held that, the courts cannot take into account the content of the communication in determining if it is protected under s. 2 (b) of the *Charter.* The court rejected the idea that even deliberate lies were automatically excluded from protection.[9]

[27] This does not mean the protected right can never be restrained or that the exercise of the right will be free of consequences. But this is properly a consideration under s. 1 and not the scope of the right to freedom of expression itself. The second part of the analysis under s. 1 of the *Charter* asks whether a restriction "prescribed by law" can be "reasonably justified in a free and democratic society". While the provision of the *Criminal Code* under which Mr. Zundel was prosecuted was struck down by the court, a different result was obtained in the *Keegstra* case. There, while the speech in question was protected by s. 2 (b) of the *Charter*, the overriding interest in preventing hate propaganda targeting a specific group was recognized as a reasonable restriction and the applicable provision of the *Code* was upheld.[10] This included the imposition of a form of reverse onus in the form of the "truth defence".

[28] In short, the accuracy or inaccuracy of the pictures depicted on the Applicants' posters are not germane to whether the right is protected. The right of the Applicants to promote their beliefs and points of view are protected. This is not in dispute in this proceeding. The Respondent readily concedes that the rules are a restraint on freedom of speech.

[29] Conceivably, in this age of "fake news" and "deep fake images", the truthfulness or accuracy of expression could factor into a s. 1 analysis. This could occur if legislation prohibited or penalized displaying images that were misleading or false (providing the legislation did not fall afoul of the analysis in *Zundel*). That is not the case here. The *Rules* simply contain a blanket ban on obscene images, hate speech and (now) graphic bloody images. I therefore consider the question of whether the images are exaggerated or misleading to be irrelevant. Certainly, the outcome of this Application cannot turn on different methods of dating the age of a fetus.

[30] The pertinent question is whether the actions of the PPS to enforce the rules by prohibiting the display of the images was a reasonable restriction on freedom of expression on the day in

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[7] *R v Zundel*, [1992] 2 SCR 731.
[8] *Zundel* at 753, line h.
[9] *Zundel* at 755, line d.
[10] *R v Keegstra,* [1990] 3 SCR 697.

question. In that regard, it is important to note that the amended rules prohibiting graphic bloody images were not in effect when the Applicant applied for permission to protest on Parliament Hill. Although the amendment and the 2023 *Rules* had technically come into effect on the day in question, the Applicant could not have known of that specific prohibition because the Rule had not yet been published. The PPS conceded this fact and relied on the prohibition against obscene messages or messages promoting hate or violence contained in the 2018 *Rules*.

[31] This seems problematic. It is conceded that the images would not meet the *Criminal Code* definition of obscenity. Relying on a determination by the individual officer that he considered the images to be obscene under the dictionary definition "strongly repulsive to the sense of decency and propriety" renders the question both vague and arbitrary. On the other hand, relying on the prohibition of messages promoting hate or violence is also problematic. The web site linked to the images by a QR code, describes abortion as murder and those involved in abortion as murderers. It is a bit of a leap to categorize the images as promoting hate or violence by that reason alone. Indeed, as cautioned by Dickson CJ, in *Keegstra,* a trier of fact must be cautious not to infer intent from the fact that he or she finds a message hateful or shocking.[11]

[32] While the Applicants deny that the images were obscene or promoted hatred, their actions evince a certain awareness that the images would be controversial. They were hidden at first. The Applicants complied with the request to show the officers what the concealed posters contained and they complied with being advised that they could not display the pictures on "the Hill". Presumably, the images did not form part of the Application and they had not been vetted by the Committee when approving the Applicant's event.

[33] Turning to the law, the framework for determining if a legislative restriction on a *Charter* right was reasonable or not was outlined by the Supreme Court of Canada in the *Oakes* decision.[12] In that decision the court set out a framework that includes the following:

a. The onus in demonstrating that a restriction is reasonable lies upon the party seeking to impose the restriction.

b. The evidence must be cogent and persuasive and make clear to the court the consequences of not imposing the limit.

c. The party imposing the restriction must demonstrate why a less restrictive option is not practical.

d. The objective which the limitation is designed to serve must be of sufficient importance to warrant overriding a constitutionally protected right or freedom and the objective must relate to concerns that are pressing and substantial in a free and democratic society.

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[11] *Keegstra* at 777-8.
[12] *R v Oakes,* [1986] 1 SCR 103.

e. The means adopted must be rationally connected to the objective, impair the right as little as possible and the effect of the limitation must be proportionate to the objective.

[34] To summarize, first, it must be demonstrated that the objective of the law is sufficiently important, or pressing and substantial, to justify a limitation of *Charter* rights. Second, the law must not disproportionately interfere with the *Charter* right in furthering that objective. Proportionality will be shown if the law is rationally connected to the objective, impairs the right as little as possible, and there is a balance between the benefits of the law and its negative effects

[35] Weighed against reversing the presumption of innocence, as was the case in *Oakes,* a geographical restriction on displaying images may seem like a less serious infringement of rights. In the case at bar, the Applicants were not prohibited from presenting their beliefs but only from displaying photographs to emphasise that message while they were present on Parliament Hill. But the extent to which the right is impaired by the restriction is a factor that would enter into the analysis. It is not a reason to approach the matter differently. The *Oakes* analysis remains the framework.

[36] The Supreme Court has articulated a somewhat different approach in cases of judicial review. That was articulated in the *Doré* decision.[13] In *Doré* the court clarified that a strict *Oakes* analysis is appropriate when considering the constitutionality of a legislative enactment but not in reviewing an adjudicative decision by a statutory decision maker although balance and proportionality still lie at the heart of the analysis. Thus, in *Doré* where the Barreau de Quebec had disciplined a lawyer for intemperate language towards a judge that breached the code of professional conduct, it was found that the statutory mandate to govern the profession in the public interest justified a restriction on unfettered freedom of speech. To put this another way, the lawyer could not rely on freedom of speech as a defence to the charge of professional misconduct.

[37] While *Doré* may call for greater judicial restraint and deference in cases of judicial review, the central analysis remains the same. If the court is asked to strike down a law, then the court must determine if the restriction on the protected right reasonably balances the protected value and the objective of the legislation. If the court is reviewing the decision of a tribunal or other decision maker, then the question is whether the decision maker conducted a reasonable analysis of the same factors.

[38] The PPS is not a tribunal, adjudicator or a decision maker so in my view the *Doré* analysis does not apply. The PPS was simply enforcing a rule made by an organ of parliament. When dealing with police or other enforcement, the question is whether the enforcement breached a *Charter* right and if so whether the enforcement step can be justified. The *Oakes* factors are the framework for the analysis.

[39] In my view, enforcement of the prohibition on graphic bloody images at a time when the prohibition could not reasonably have been known by the Applicants would have been unjustified. Relying on the subjective view of the officer that the images were caught by the prohibition on

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[13] *Doré v Barreau du Québec,* 2012 SCC 12, [2012] 1 SCR 395.

messages that were “obscene” or “promoted hatred or violence” was unreasonable. It was also disproportionate.

[40] Expert evidence was led to show that there was a risk the images could be traumatizing for children, women who had undergone abortions, or others who might have encountered the images unexpectedly. There was no specific evidence that there were any children or vulnerable individuals present at the time in question nor whether any measures could have been taken to ameliorate those risks. Some might say that tolerating unpleasant even shocking expression is the price we pay in a free and democratic society and that exposure to protest messages is one of the risks, perhaps a feature, of a visit to Parliament Hill. In short, it would be very difficult if not impossible to show that prohibiting the display of the images was a reasonable and proportionate infringement of freedom of expression based on only the general prohibition on obscenity or promotion of hatred or violence.

[41] I conclude that the PPS did breach the *Charter* rights of the Applicants at the time in question. Given the framework, it was not a reasonable restriction on freedom of expression to prohibit the display of the signs.

[42] This brings the court to the question of an appropriate remedy. The only remedy the Applicants seek against the PPS is a declaration that their s. 2 (b) rights were infringed. That is appropriate.

[43] It is important to recognize that while all restrictions on protected rights must be justified and should be taken seriously, the impairment on freedom of expression was geographically limited, fleeting and largely devoid of consequences. The signs were not confiscated. No one was charged with an offence. The protest otherwise proceeded as planned and the images have been displayed elsewhere. The *Charter* breach did not significantly curtail the ability of the Applicants to state their views or make their position on abortion known to the public and to parliamentarians. As this situation occurred in 2023 and there is now a more specific prohibition in place against graphic bloody images, a declaration specific to the events in 2023 is appropriate. The Applicants do not seek a damages remedy or injunctive relief nor would such be appropriate in relation to the PPS.

[44] The more significant relief sought by the Applicants is an order striking down the *Rules* and the new prohibition against the display of graphic or bloody images. That new prohibition is criticized as being unreasonable, overly broad and as having been applied inconsistently.

[45] I do not consider it appropriate to entertain that relief because firstly, the maker of the *Rules* is not a party to the proceeding. Secondly, the Applicants did not apply to the Committee for permission to display the images. It would have been possible to make their case to the Committee as part of the application process. The Application process does contemplate the possibility that proposed banners or signage be reviewed by the Committee as part of the process for granting approval for a demonstration or protest on Parliament Hill with or without conditions. It seems to me that would have been the appropriate method of challenging the decision-making process or the wording of the *Rules.*

[46] If the Applicants wish to challenge the *Rules* or the Application process or the exercise of discretion by the Committee or anything about the process of obtaining approval, then either the Committee or the Speakers of both houses or all of those entities should be parties and should be on notice. As the Attorney General is not present and no one is before the court to speak for the Committee or for Parliament, the court has no evidence about the background to the rule making process, the jurisdiction of the Speakers or the Committee and no counsel to speak to the jurisdiction of the court to intrude upon the exercise of that jurisdiction. These are very significant questions with broad implications.

[47] I will observe as a general proposition that it does not appear unreasonable for there to be rules regulating conduct in or around Parliament. The Applicants argue, that of all places in the country in which the right to protest should be protected, the seat of Parliament must be of central importance. If the point of that submission is to suggest that there is some mythical status to Parliament Hill where no limits should apply, that is not a conclusion I would accept. Parliaments, court houses and other institutions where important decisions are made in a formal setting are themselves subject to rules of decorum, procedure and security that are not only justified but are essential for the functions of those institutions themselves.

[48] Parliament Hill also has various functions alluded to earlier. The Parliament Buildings and the grounds of parliament are a monument, a memorial, a park, a tourist attraction, a display of national pride and a site for protests and demonstrations. The Respondent argues that it is reasonable to regulate what can be done during a protest so that the seat of our nation's parliament is a welcoming place for all Canadians and not just the protestors. That may be so but public parks are not automatically zones in which freedom of speech can be restricted. A specific restriction on s. 2 (b) rights requires a s. 1 analysis.[14]

[49] To be clear, however, there is no evidence before the court that the actions of the Applicants were intended to disrupt parliament, to damage property, constituted a security risk or an invitation to violence. The Applicants did not seek to enter Parliament itself or display banners or signs in the hallways or public galleries, or to interrupt the law-making process. Conversely, there is no evidence that lawmakers or the public at large pay particular attention to what is displayed on Parliament Hill. Nothing in the impugned *Rules* purport to limit communication to members of parliament or to members of the public by other means.

[50] I am not prepared to rule on the regime for approving and regulating protests, the rules the Committee has created or the contents of the *Rules* themselves without the appropriate parties being before the court. The PPS is not that party and should not be called upon to justify the rules it is told to enforce.

Summary and Conclusion

[51] In conclusion, I find that the operational decision by the PPS at the time in question was a breach of the Applicant's guaranteed right to freedom of expression and was not saved by s. 1 of

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[14] *Bracken v. Niagara Parks Police*, 2018 ONCA 261.

the *Charter.* The Applicant is entitled to a declaration to that effect but no other *Charter* remedy is justified.

[52] The validity of the 2018 or 2023 *Rules*, the regime for regulating protests on Parliament Hill or the process by which the Committee approves and limits applications is not properly before the court. As these are not actions of the Government of Canada nor rules and regulations enforced by the Crown in Right of Canada, notice to the Attorney General is insufficient.

[53] The parties had agreed there should be no costs of this application and in light of the nature of the issues and my findings, that is appropriate. There will be no order as to costs.

Justice C. MacLeod

Date: June 11, 2026