

Case Law Update: Quebec (Attorney General) v Canada

March 30, 2011

By Jordan Glick

2011 SCC 11 (Released March 3, 2011)

Social Law Canada Assistance Plan Cost-sharing Statutory Interpretation

In this case, the Supreme Court of Canada held that the federal government was not obligated to share in historical costs relating to two distinct social services that were provided by the province of Quebec under the *Canada Assistance Plan*, RSC 1985, c C-1 (“CAP”). CAP was repealed by the *Budget Implementation Act*, 1995, SC 1995, c 17, ss 31-32.

The Attorney General of Quebec challenged the federal government’s refusal to share in the cost of: (1) social services provided in schools (“SSS”) between 1973 and 1996; and (2) support services provided to persons with disabilities living in residential resources (“SSPD”) between 1986 and 1996. Quebec argued that pursuant to the agreement that was signed with the federal government in 1967, the federal government was obligated to share in the costs of programs designated as “welfare services provided in the province”, which included both SSS and SSPD.

The federal government took the position that SSS were a much broader service than provided by CAP. SSS provided services to all students, regardless of socio-economic background, and therefore did not fit within CAP’s mandate to address issues of poverty and to protect the most vulnerable in society. With respect to SSPD, the federal government submitted that it was already providing funds for “adult residential care services” pursuant to the *Federal-Provincial Fiscal Arrangements and Established Programs Financing Act*, 1977, SC 1976-77 c 10, and that pursuant to CAP, the federal government was excluded from having to share in costs in areas in which it was already providing funding pursuant to any other act of parliament.

In dismissing the appeal, the court concluded that SSS were not established for the sole purpose of addressing poverty issues and were therefore too remote to bring their services within the ambit of CAP. The court additionally found that the federal government was not responsible for contributing to SSPD as it had already shared in the costs of the same targeted services pursuant to a separate act of parliament.

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