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THE CANADIAN CHARTER OF RIGHTS

McLeod, Takach, Morton, Segal

Release No. 9, September 2025

This resource is a practical working text that will shorten preparation time and be a valuable in-court reference. It deals with the ever expanding effect of the *Charter* on the issues arising in criminal proceedings and the prosecution of statutory offences. Organized conceptually rather than in chronological order by section of the *Charter*, this work pulls together the reported and unreported case law determining the impact of the *Charter* on the legislative provisions, the substantive law and the practice in this area.

This release features case law and commentary updates to Chapters 5 (Life, Liberty and Security of the Person), 6 (Search and Seizure), 12 (Trial Within a Reasonable Time), 15 (Presumption of Innocence and Fair and Public Hearing), 25 (Equality Rights), and 28 (Remedies — General).

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Highlights:

- **Search and Seizure — Reasonable Expectation of Privacy — Borders** — While the Court of Appeal for Ontario held there to have been a reasonable expectation of privacy in the Event Data Recorder (“EDR”) in the car lawfully seized, the appellate court held the extraction of the EDR itself also to have been lawful — unlike a distinct object that may have been found within the vehicle, the EDR comprised a component of the motor vehicle forming part of the “thing” that would afford evidence of commission of the offence, under s. 489(2): *R. v. Attard*, 2024 ONCA 616, 2024 CarswellOnt 12337 (Ont. C.A.).
- **Presumption of Innocence and Fair and Public Hearing — “fair . . . hearing”** — The Court of Appeal for Ontario held the trial judge to have erred in allocating only the first 12 peremptory challenges to the selection of the 12 jury members while reserving the next two challenges for the selection of the alternative jurors. Finding that s. 11(d) of the *Charter* had not been breached, the appellate court applied the curative proviso in dismissing the appeal: *R. v. Zhou*, 2024 ONCA 658, 2024 CarswellOnt 13479 (Ont. C.A.).