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THE CANADIAN CHARTER OF RIGHTS

McLeod, Takach, Morton, Segal

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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.

Highlights:

This release features a proposed amendment from Bill C-16, *Protecting Victims Act*, under the “**Recent Legislative Developments of Note**” section on page ix in the prelims.

This release also features case law and commentary updates to Chapters 6 (Search and Seizure), 9 (Counsel on Arrest or Detention), 15 (Presumption of Innocence and Fair and Public Hearing), 21 (Cruel and Unusual Treatment or Punishment), 23 (Fundamental Freedoms), 27 (Other Rights), and 28 (Remedies — General).

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- **Search and Seizure — Search without Warrant — Pursuant to Statute — Liquor Control Legislation** — The Court of Appeal for Ontario held to be lawful, under Ontario’s former sub. 32(5) of the *Liquor Licence Act*, the officer’s warrantless searches for open alcohol in the centre console of the accused’s vehicle and of a closed gym bag found inside the cabin of the vehicle. With respect to the latter search, the appellate court interpreted the exception in subs. 32(2), “packed in baggage that is fastened closed or is not otherwise readily available to any person in the vehicle” not to include a bag that has been closed by a zipper and which could be easily accessed by an occupant of the vehicle: *R. v. Guerrier*, 2024 ONCA 838, 2024 CarswellOnt 17746 (Ont. C.A.).
- **Other Rights — Voting Rights: Section 3** — The court held the House of Assembly’s acceptance of recommendation of the Electoral Boundaries Commission not to declare a particular area of Nova Scotia an exceptional electoral district under the *House of Assembly Act* to infringe s. 3 of the *Charter*, and could not be saved or justified under s. 1: *Fédération Acadienne de la Nouvelle-Écosse et al. v. Nova Scotia (Attorney General)*, 2024 NSSC 339, 2024 CarswellNS 907 (N.S. S.C.).