



Case in Brief: **Ontario (Attorney General) v. Working Families Coalition (Canada) Inc.**

Judgment of March 7, 2025 | On appeal from the Court of Appeal for Ontario
Neutral citation: 2025 SCC 5

The Supreme Court concludes that a spending limit on third-party political advertising violates the right to vote.

Section 37.10.1(2) of Ontario's *Election Finances Act* ("EFA") restricts the amount that "third parties" can spend on political advertising in the year before a provincial election period. Third parties are citizens and groups who aim to provide information to other citizens and draw attention to issues of importance to them. The EFA limits spending by third parties on political advertising to \$24,000 in any one riding and to \$600,000 in total during the 12-month period before the election period. It also restricts political advertising by political parties, but only during the six months right before the election period. During that time political parties may spend up to \$1,000,000. They are not subject to any spending limits before that six-month period.

A civil society organization, several unions and individual citizens challenged the constitutionality of the EFA's spending limit on third parties, arguing that the provision infringes the right to vote guaranteed by section 3 of the *Canadian Charter of Rights and Freedoms*. The application judge concluded that the challenged provision did not violate section 3 as the law respected the right of voters to meaningfully participate in the electoral process through an informed vote.

A majority of the Court of Appeal allowed the appeal and concluded that section 37.10.1(2) violated the right to vote under section 3, given that the spending limit was not carefully tailored and the application judge had made no findings supporting his conclusion that the spending restrictions were enough to support a modest informational campaign. The majority declared the challenged spending limit to be invalid.

The Attorney General of Ontario appealed to the Supreme Court of Canada. It argued that Court of Appeal had applied the wrong legal test and failed to defer to the application judge's factual findings.

The Supreme Court has dismissed the appeal.

A spending limit will infringe section 3 of the *Charter* if it allows political actors or third parties a disproportionate voice in the political discourse given their roles in the electoral process.

Writing for the majority of judges, Justice Karakatsanis concluded that the third party spending limit in section 37.10.1(2) of the EFA infringes the right to vote in section 3 of the *Charter* and is therefore constitutionally invalid. By design, section 37.10.1(2) creates absolute disproportionality, which is a disproportionality that is so marked on its face that it allows political parties to drown out the voices of third parties on political issues from reaching citizens during an entire year of legislative activity. As Justice Karakatsanis wrote, "[m]eaningful participation in the electoral process includes an informed vote, as it is only with access to information that citizens can vote in a way that accurately reflects their preferences". The spending limit cannot be saved under section 1 of the *Charter* as it is not justified in a free and democratic society because the law does not minimally impair the right.

Breakdown of the decision: *Majority:* Justice [Karakatsanis](#) dismissed the appeal (and Justices [Martin](#), [Kasirer](#), [Jamal](#), and [O'Bonsawin](#) agreed) | *Dissenting:* Chief Justice [Wagner](#) and Justice [Moreau](#) would have allowed the appeal | *Dissenting:* Justices [Côté](#) and [Rowe](#) would have allowed the appeal for different reasons

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