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Supreme Court of Canada Refuses Exemption from Religious Classes

The hope that the religious rights of parents in education would be definitively settled floundered in the recent decision by the Supreme Court of Canada in ***S.L. and D.J. (Appellants) – and- The Commission scolaire des Chenes and Attorney General of Quebec***. This was due to the fact that the Court found that Quebec's 2008 Mandatory Ethics and Religious Culture program (ECR) which replaced Catholic and Protestant programs of religion and moral instruction in Quebec's schools, did not infringe the parents' freedom of religion or interfere with the parents' ability to pass their faith on to their children. The parents had argued before the court, that the program was not neutral, and that their children were being exposed to a form of religious relativism which interfered with parents' abilities to pass their faith on to their children, and the programs confused their children.

The court concluded, however, that the program was neutral and that exposing children to a comprehensive presentation of various religions, without forcing the children to join them "does not in itself constitute indoctrination of students so as to infringe the parents' freedom of religion".

The court concluded that the parents' personal disagreement with the program was not sufficient to establish a violation of their religious rights under the Charter. It is significant that the legal challenge of the controversial program had commenced immediately following its implementation in the Quebec schools, so its application at that time, remained still vague and sketchy.

As a result, Mr. Justice LeBel stated that the limited record before the court did not preclude a future legal challenge of the program, if more information about the impact of the program, disclosed it has infringed the parents' religious rights. In the meantime, the ECR program remains in effect in Quebec, and its impact on the religious faith of the children and the parents' religious rights remains to be determined – hopefully not harming too many children in the process.
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