

Supreme Court to Determine Province's Power to Seize Drug Proceeds

On December 20, 2007, the Supreme Court of Canada announced that it would hear the petitioner's appeal of [Attorney General of Ontario v. Robin Chatterjee](#) [1]. The case is an appeal of a decision of the Ontario Court of Appeal (dated May 30, 2007) in which the court upheld the constitutionality of Ontario's Civil Remedies Act. The Act allows the province to "seize assets if it can prove, on the [civil standard] balance of probabilities that the assets were obtained 'in whole or in part' due to illegal activity" [2]. The purpose of collecting the proceeds of unlawful activity is to compensate victims of crime and remove the financial incentives for crime.

In the decision, the Court of Appeal ruled against the petitioner, Robin Chatterjee, holding that the legislation did not violate the division of powers under the Constitution Act, 1867 because the legislation was not criminal in nature. The Court also dismissed Chatterjee's claim that the legislation violated s. 11(d) of the [Charter of Rights and Freedoms](#) (the presumption of innocence until proven guilty), and was unconstitutional because the Act mandated a lower threshold for the burden of proof (the civil standard instead of the criminal standard of proof beyond a reasonable doubt) [3].

The case involves an issue of national importance. Alberta, Manitoba, Saskatchewan and British Columbia have all enacted similar legislation (although Alberta's has yet to be proclaimed in force). The case also has historical significance; in the prohibition years between 1920 and 1930, the provinces enacted similar laws to confiscate liquor from illegal bootlegging operations.

Cases

- [Attorney General of Ontario v. \\$29, 020 in Canadian Currency, Exhaust Fan, Light Ballast, Light Socket \(in rem\) and Robin Chatterjee](#), 2006 ONCA 406.

Sources

- Robert Todd, "Supreme Court will hear challenge to property seizure law" Law Times (7 January 2008).
- "Top court to hear challenge of law that allows property seizure" CBC News (20 December 2007).
- Martha Peden, "Province's ability to seize drug proceeds upheld" Centre

for Constitutional Studies (5 June 2007).

[1] 2006 ONCA 406.

[2] Robert Todd, "Supreme Court will hear challenge to property seizure law" *Law Times* (7 January 2008).

[3] For a summary of the Court of Appeal's decision, see: Martha Peden, "Province's ability to seize drug proceeds upheld" *Centre for Constitutional Studies* (5 June 2007).