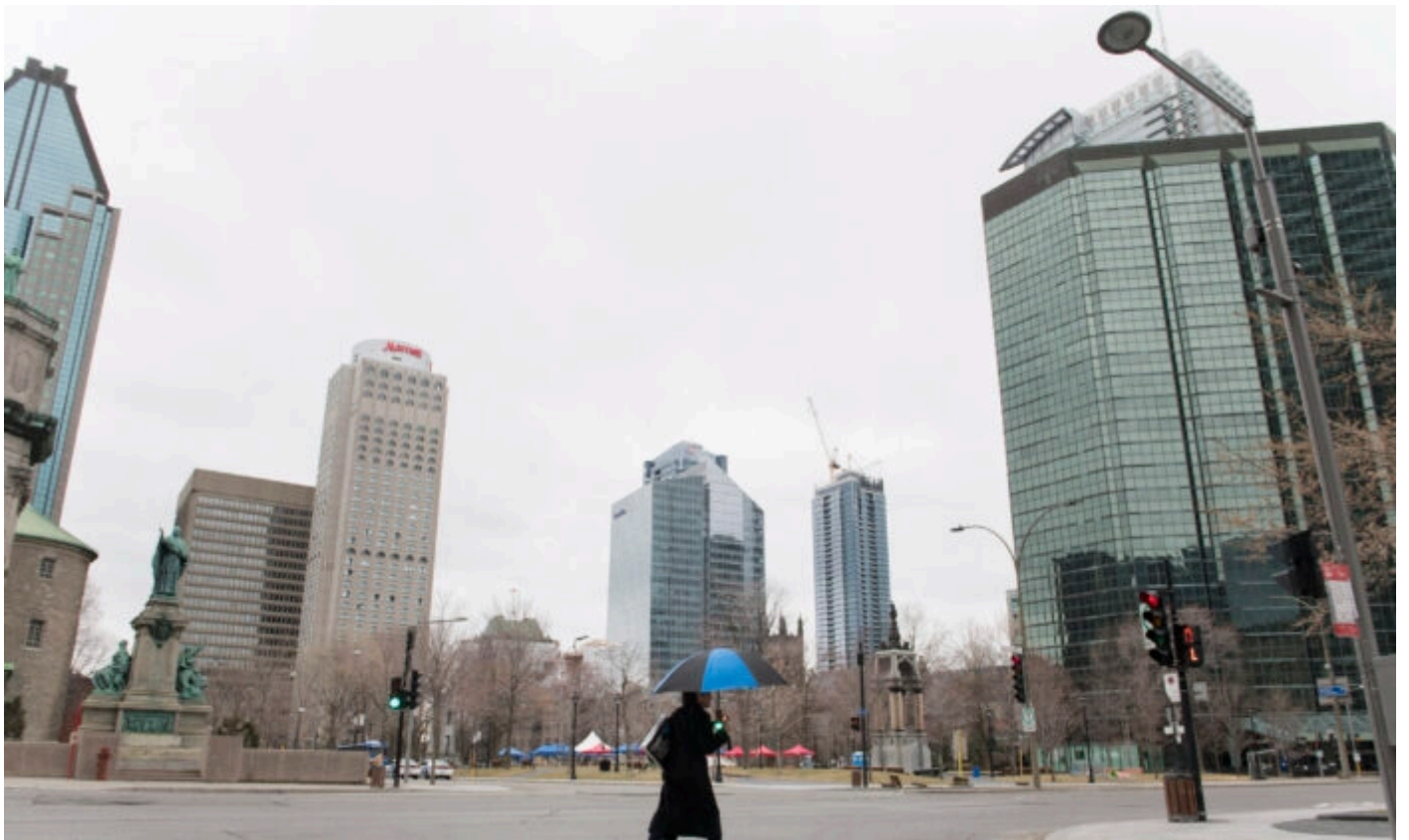


# John Carpay: Ultimately, Protecting Fundamental Freedoms Depends on a Citizenry That Cherishes a Free and Virtuous Society

6 7 Save



A woman crosses an empty street in downtown Montreal on April 5, 2020. The Canadian Press/Graham Hughes



By John Carpay

11/26/2024


Updated: 11/26/2024

A A Print

## Commentary

People naturally look for the easiest, quickest, and simplest solution to a problem. When suffering from headaches, most people prefer taking a pill to researching what might be causing the headaches. Taking a pill to get rid of an unpleasant symptom is not wrong. But when symptoms persist, it becomes necessary to delve deeper into the root cause.

**Share** This same human impulse to find quick and easy solutions can be seen in politics and law: people hope that improving the wording of a law will solve their problems and protect them from abuse by government. Current controversies [about revising the Alberta Bill of Rights](#) are an example.

 The [Alberta Bill of Rights](#) is provincial legislation that (in theory) requires every law of Alberta to be construed and applied so that it does not infringe the individual's freedoms of religion, speech, assembly, association, etc. The Alberta Bill of Rights also protects (in theory) the right to liberty, security of the person, and enjoyment of property, and the right not to be deprived thereof except by due process of law.

However, the Alberta Bill of Rights did not assist [Sheila Annette Lewis](#) when she fought for her right to a life-saving organ transplant that was denied to her because she refused to get injected with the COVID vaccine that was still in clinical trials at the time. Lawyers provided to Ms. Lewis by the Justice Centre expressly argued the Alberta Bill of Rights. The Alberta Court of King's Bench declared that "there is no need to consider the claim under the Alberta Bill of Rights because if the Charter claims fail, her claim under the Alberta Bill of Rights will necessarily fail as well."

Sheila Annette Lewis died in August 2023, even after proving that she had acquired natural immunity to COVID, and long after the government's "safe and effective" claim about the vaccine had been discredited.

In another ruling, [Ingram v. Alberta](#), the court declared that lockdowns “were clearly enacted for a valid legislative purpose, to control the spread of the Covid-19 virus and to protect the healthcare system and vulnerable persons.” On that basis, the court upheld the violation of the rights and freedoms supposedly protected by the Alberta Bill of Rights. This reasoning is slightly different from what is found in *Sheila Annette Lewis v. Alberta Health Services*, but the outcome is identical: Courts are now interpreting the Alberta Bill of Rights as not providing any protection to citizens.

When it comes to protecting the rights and freedoms of citizens, the Canadian Charter of Rights and Freedoms has not proven to be better than the Alberta Bill of Rights. Under Section 1 of the Charter, judges have upheld lockdowns, travel restrictions, and vaccine passports as justified violations of our Charter rights and freedoms. Judges have done so without even explaining in their rulings why they preferred the government’s evidence over the evidence presented by citizens.

In theory, Section 1 of the Charter makes it difficult for governments to violate citizens’ rights and freedoms. In practice, judges have used Section 1 like a rubber stamp. Judges have upheld the violations of Charter freedoms while deliberately turning a blind eye to the lockdown harms that damaged so many people. Judges have not required governments to prove in court that their health orders achieved more good than harm. Courts allowed unelected, unaccountable health bureaucrats to issue health orders that violated the rights and freedoms of millions of people, removing the democratic accountability that would otherwise come through a vote of the people’s representatives in Parliament or in a provincial legislative assembly.

With courts having effectively rendered the Alberta Bill of Rights useless for protecting the rights and freedoms of citizens, and with judges having turned Section 1 of the Charter of Rights and Freedoms into a licence for governments to violate our rights and freedoms, what was Daniel Smith’s United Conservative government to do?

There were—and are—no silver bullets available.

The court in *Ingram v. Alberta* ruled that the Alberta Bill of Rights includes an implied “internal limit similar to Section 1 of the Charter.” But this “internal limit” is more like a complete negation of rights and freedoms, which are easily dismissed in the face of a “valid legislative objective.”

On Nov. 21, the Alberta government introduced an amendment to the Bill of Rights to add language that is better than the language found in the Canadian Charter of Rights and Freedoms. The Charter says violations of rights and freedoms must be “demonstrably justified,” whereas the Alberta Bill of Rights will say (if Bill 24 passes) that restriction on freedoms must be “demonstrably and proportionately justified based on evidence.” To be justified, restriction on freedoms must be proportionate to the actual benefit realized. Governments must support their laws with evidence, not with shoot-from-the-hip modelling and fearmongering.

Bill 24 seeks to [improve the status quo](#). However, even the perfect Alberta Bill of Rights (if people could agree on what that looked like) could be twisted into something useless by credulous judges who see government as being like God, or another Supreme Being who can neither deceive nor be deceived. Regardless of what our laws and constitutions might say, judges will never protect citizens from abuse if judges naively see government as all-good and all-wise.

This brings us back to my opening comment about alleviating symptoms versus curing the disease. Occasional headaches can be dealt with by taking a pill, but daily or frequent headaches likely have some root cause that should be discovered and dealt with.

Ultimately, the free society is protected not by the words of the Charter or the Alberta Bill of Rights, but only by virtuous citizens who understand freedom in their minds, and who cherish freedom in their hearts.

Canada in the 2020s is far removed from this ideal. Widespread support for utterly unscientific lockdown measures were a symptom that showed how Canadians placed very little value on their

fundamental freedoms. Another symptom was the willingness of Canadian judges, when upholding violations of Charter rights and freedoms, to follow media reports rather than the evidence placed before courts.

The cure for the disease is to create a society and forge a culture in which citizens, politicians, and judges cherish a free and virtuous society. Small improvements to our laws are one way to move the needle towards this goal.

*Views expressed in this article are opinions of the author and do not necessarily reflect the views of The Epoch Times.*

**Sign up for the News Alerts newsletter.** You'll get the biggest developing stories so you can stay ahead of the game. [Sign up with 1-click >>](#)



**John Carpay**

Author

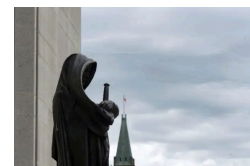
Lawyer John Carpay is president of the Justice Centre for Constitutional Freedoms (jccf.ca).

---

### Author's Selected Articles

#### **John Carpay: Canadians Need Legislation to Protect Their Rights**

Oct 11, 2024



---

#### **John Carpay: Protests Must Be Handled Under the Rule of Law, Not Politics**

Apr 30, 2024



---

#### **John Carpay: Nova Scotia's New Privacy-Violating Law Invites a Court Challenge**

Apr 25, 2024



# John Carpay: RCMP Report to Federal Government Sees Democracy as a Threat

Apr 11, 2024



Copyright © 2000 - 2024 The Epoch Times Association Inc. All Rights Reserved.

[Cookies Settings](#)