

Supreme Court asked to strike down Medicare as unconstitutional

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Medicare is increasingly under attack by social and economic elites. An unprecedented threat is the *Chaouilli v. Quebec* case heading for the Supreme Court of Canada on June 8, 2004, alleging Medicare is unconstitutional. Joining the case to ask the Supreme Court to open the door to a full-fledged private health insurance system in Canada is a group of 10 senators, led by Michael Kirby and a group of for-profit health corporations.

There has been a great deal written about this important case. It deals with the issue of whether there is a Charter right to purchase private health insurance and to obtain health services paid for by that insurance, if there are unreasonable delays in the provision of these services by the public Medicare system.

Two articles by legal experts which provide an in-depth analysis of the issues involved, and their implications for the interpretation of the Charter and for Medicare, are:

Martha Jackman, Romanow Commission Discussion Paper No. 31: "The Implications of Section 7 of the Charter for Health Care Spending in Canada", on the Romanow Commission web site at: <http://www.hc-sc.gc.ca/english/care/romanow/hcc0488.html>

Stanley Hartt and Patrick Monahan, "The Charter and Health Care: Guaranteeing Timely Access to Health Care for Canadians," C.D. Howe Institute Commentary 164, on the C.D. Howe Institute web site at: http://www.cdhowe.org/pdf/commentary_164.pdf

Professor Jackman, of the University of Ottawa Law School, provides an analysis opposed to a right to purchase private health insurance (a position adopted by Romanow), while Mr. Hartt (a former chief of staff to the Prime Minister) and Professor Monahan of Osgoode Hall Law School support such a right (a position advanced by the Kirby Senate Report on health care. Together, the two articles cover the arguments that will be put forward in the *Chaouilli* case.