

Courts have greater interpretive role, claims justice

Charter giving justices a "creative role"

by Elisabeth Eid

"Canadian courts have extended their power" under the new constitution, says Justice D.C. MacDonald.

Because of the entrenched Charter of Rights and Freedoms, judges have a greater "interpretive" and "creative" role in the legislative process.

MacDonald was invited by the Constitutional Law Association to speak on the role of judges under the new Charter last Thursday.

The questions people are asking, says MacDonald, are will the charter "revolutionize" the role of the Supreme Court in Canada? And "under the new charter will judges be able to truly legislate?"

It is important to understand, said MacDonald, that although the traditional common law view holds that "judges don't make law but

find it," in actual practice judges have demonstrated the ability to legislate.

"It is false to say that judges did not legislate before the charter," said MacDonald.

MacDonald commented, "Common law, the process of ruling by precedence, allows room for change and revision of the law. Government legislation is often ill-defined and it is left up to the courts to interpret it and if need be "create" the law.

A major problem facing judges today is how to interpret the Charter of Rights. One example used by MacDonald was the case of the right of retail stores to remain open on Sundays. This case falls under the freedom of conscience and religion.

MacDonald said this is a "newly

addressed question" which requires a judge to discover "what principle of freedom of conscience and religion is to be examined."

MacDonald stressed "judges must interpret a case of the charter by searching for a governing principal."

Finding a governing principal - the guidelines for deciding a case - is challenging for those cases with precedents, but is even more difficult when involving a completely new case, said MacDonald.

He added that a new section, namely section 15 on equality, will be added to the charter in 1985. "A search for principle under this section will be difficult." Furthermore, "Section 15 will have a dynamic and startling effect" on the nature of judicial rulings.

The Charter of Rights, said MacDonald, "enhances and widens the legislative ability of the judiciary.

The response of judges to their

"extended area of influence," is to interpret the Charter as a search for principle, and through principle to create the law.

Careers days

For the sixth consecutive year AIESEC Edmonton (International Association for Students of Economics & Commerce) is hosting Careers Day, the only career fair held at the university.

Careers Day enables students to talk to company representatives and obtain accurate and helpful career information. These informal discussions help the students prepare themselves for future employment by being more qualified for job interviews and information sessions.

Over 30 companies from nursing, school boards and hospitals to accounting and high technology firms will be participating. This year we also will be featuring Canada Manpower's Choice Computer, a career information system that all students should be interested in.

Careers' Day will be held at Dinwoodie Lounge in the Student's Union Building on Thursday, October 4th from 10:00 am to 3:30 pm. All students are welcome to attend and there will be no admission charge.



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Correction

The amount of money the Students' Union is required to put into the SU building reserve is \$3.50 per student per year, not \$150,000 as reported in the article "SU surplus expected" (Gateway, September 27)

Also, the SU debt crisis reached its peak in 1981 at over \$1 million, not \$300,000 as had been reported.

News writers meeting Tuesday at 4:00 in 282 SUB.

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