

the Court's determination of the "public importance" of the issues raised by an application for leave to appeal. Section 40(1) of the Supreme Court Act states that applications are to be granted if

The Supreme Court is of the opinion that any question involved therein is, by reason of its public importance or the importance of any issue of law or any issue of mixed law and fact involved in such question, one that ought to be decided by the Supreme Court or is, for any other reason, of such a nature or significance as to warrant decision by it....

This section is even more broadly phrased than Rule 10 regarding certiorari decisions in the United States (Stern *et al* 1993). Like the U. S. Supreme Court, Canada's Supreme Court refuses to develop a jurisprudence that delineates the meaning of "public importance." The Court does not explain except in very rare instances the reasons for its decisions. As one justice remarked from the bench (Crane and Brown (1993, 21):

There is no practice on the question of importance of a case. The Court will not create a jurisprudence. We have a discretion which is unfettered by anything we have previously decided.

It is only a question of what we think in each case.

Despite the Court's reticence and its insistence on a case-by-case assessment of the public importance of applications, Justice Sopinka, who currently sits on the Court, in his co-authored book on appeals in Canada offers several general indicators of "public importance" that are similar to the elements of Rule 10 in the United States. Leave applications raising these issues, Justice Sopinka advises, stand a "better chance" of being granted by the Court than those that do not (Sopinka and Gelowitz 1993, 167).

According to Justice Sopinka, "public importance" involves one or more of the following matters:

- a novel constitutional issue;
- the interpretation or application of a significant federal statute of general application;
- interpretation of a provincial statute with corresponding similar legislation in other provinces;
- an issue in respect of which there are conflicting decisions in the provincial courts of appeal;
- an issue which requires revisitation by the Supreme Court on an important question of law.

The two courts therefore are very similar with regard to their public policy importance and their discretion over the selection of cases. There are also important differences, however. In Canada, there is