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THÈMES CANADIENS

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WHAT'S INSIDE

THE CHARTER at 20

IT IS A PLEASURE FOR ME TO ASSUME THE POSITION OF GUEST EDITOR FOR THIS SPECIAL ISSUE OF CANADIAN ISSUES DEDICATED TO EXPLORING THE POSITION OF THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS IN THE LIFE OF CANADIANS TWENTY YEARS AFTER IT WAS PROCLAIMED.

A brilliant team of scholars, advocates, judges and legislators examine the *Charter* from a variety of perspectives. I am grateful to all my friends and colleagues for having accepted the invitation to contribute, and for having produced such a rich array of *Charter* analysis. There is much serious thinking in the pages that follow; the reader is in for an intellectual treat.

Senator Serge Joyal begins our examination by recalling vividly the Special Joint Committee on the Constitution of which he was co-chair. This unique committee was a principal architect of the *Charter* and helped to create a new *Charter* politics which has forever changed the political configuration of Canada. Chief Justice Beverley McLachlin then gives a fascinating look at the work of the Supreme Court in an exclusive interview with the magazine's Robert Israel. She explains why the *Charter* requires «a different kind of judging»; particularly because «judges have to be open to policy arguments, they have to consider the impact of what they are deciding and how it's going to play out in the real world, as well as considering the doctrinal implications for what they're deciding».

Gerald Gall and Charlene Hiller review the interesting, but heretofore unexplored literature of speeches by Justices of the Supreme Court. They find that the Supreme Court is discharging a major educational function. Alain Robert Nadeau then considers the position of the Supreme Court as «un catalyseur des rapports sociaux». He clarifies the limits which the court must observe in this role.

Senator Gérald Beaudoin considers five recommended modifications to the *Charter*, some – the right to strike, the right to private life and the utility of the notwithstanding clause – of great consequence. Julius Grey reviews achievements of *Charter* jurisprudence in taming egregious prohibitions on expression. He warns of new dangers to liberty from the recently aroused concern about security and terrorism. Joseph Magnet and Sina Ali Muscati, writing together from perspectives of a Jew and a Muslim, consider why many in the Muslim world harbour resentment against the West, and what the democracies can do to deal with the root causes of terrorist hatred. They then test the new federal anti-terrorism legislation against the discipline required in a *Charter* based democracy.

Marie-Hélène Giroux helps us to think about the relevance of the *Charter* to the increasingly complex notion of democratic citizenship. New dimensions of citizenship, she explains, create tension between the respect for the individual and the group from which the individual nourishes identity. Jack Jedwab offers a statistical rebuttal to those who claim that Quebecers have found the Canadian *Charter* objectionable.

Pierre Thibault examines how *Charter* jurisprudence refines the underpinnings of classical liberalism. He takes us on a tour of what liberty, equality and tolerance have come to mean for the individual in a liberal society. In a very interesting look at the *Charter*'s section 15, Derek Bell reviews how the courts deal with the difficult question of equality rights for the poor. He offers a prognosis about what to expect from the courts in future cases implicating equality rights in cases founded on wealth distinctions. Finally, Catherine Christopher examines the impact of the *Charter*'s section 27 on multiculturalism in Canada.

This special issue of *Canadian Issues* stimulates renewed interest in a host of fascinating intellectual and jurisprudential challenges. The ACS conference *Canadian Rights and Freedoms: 20 Years Under the Charter* in April 2002 will allow for a deepening of the discussion that the distinguished contributors open in the pages that follow.

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