Top court rulings dating back to 1876 now online

Full library of decisions available on website

The Supreme Court of Canada has delivered many historical decisions, but until now they have been tucked away in legal archives, the purview of researchers. Now, thanks to an army of digital scribes, all of the Supreme Court of Canada’s decisions, dating back to 1876, are easily accessible online for anyone to see.

They include such cases as Edwards v. Canada, which established that women were “persons” in 1930, and R. v. Feeney, which prevented police from entering homes without a warrant.

“The Supreme Court’s website is a treasure trove of information about the history and workings of the court,” said Adam Dodek, a law professor at the University of Ottawa and expert on public law. “This now makes the full library of Supreme Court decisions available to the public, to researchers and to lawyers. “

Previously, the vast archive of historical decisions was only available in hard copy or through fee-based legal databases.

The new database was created by the Supreme Court and Lexum — a software company specializing in legal information — the Canadian Legal Information Institute and law foundations across the country.

They worked to upload the sizable amount of information available and plug any holes in the existing database.

This new wealth of information will be of most interest to lawyers and judges, who can now freely scan precedents and historic landmark cases dating back to times when even the SCC was second to London’s Judicial Committee of the Privy Council.

“One of my favourite decisions is the famous Person’s Case which said that women are considered ‘persons’ under the Constitution and could be appointed to the Senate,” said Dodek.

The case was brought by five women from Alberta — Emily Murphy, Henrietta Muir Edwards, Nellie McClung, Louise McKinney and Irene Parlby

“The Supreme Court of Canada held that women were ineligible for appointment. The Judicial Committee overturned that decision. “

Such was the state of affairs until 1949, when appeals to the Judicial Committee were abolished, and the SCC became the highest court in Canada.

Today there is a sculpture of the “Famous Five” on Parliament Hill, showing them tri-
umphantly brandishing the judgment.

The archives capture everything, from big landmark decisions like Robertson and Rosetanni v. R. (1963), which ruled the Bill of Rights prohibited restrictions on rights as opposed to granting them, to R. v. Feeney (1995), which established police cannot enter a private dwelling without a warrant.

Legal buffs will also delight in lesser-known, but just as important decisions. They include CCH Canadian Ltd. v. Law Society of Upper Canada (2004), advising looser fair dealing standards under the Copyright Act and which paved the way for parody and satire exceptions from copyright infringement. Today, Canada and Australia are the only countries with such a law on the books.

Or what about R. v. Vu (2013), establishing privacy rights for computers as a “separate place” and thus requiring their own special warrants to search?”

Some archives speak to darker moments in the SCC’s history, like a case in 1939 where the issue was whether “Indians” included “Eskimo.” The allwhite court decided northern Inuit would be considered Indians. Then there’s Re Gray from 1918, which allowed the censorship and suppression of publications. Dodek says this case is one he still teaches in his class.

Others speak to the importance of the Church — Roman Catholic and Protestant — in our early communities. In Brassard et al. v. Langevin (1877), parish priests in Charlevoix, Que., were found to be interfering in local polls. The SCC held the election of MPs would be void if they were found to have benefited from such influence.

Then there’s the 1877 case of James Johnston v. The Minister and Trustees of St. Andrews Church Montreal. Johnston paid the church for a “first-class” pew in advance, but found strangers occupying his place during some services, and “his books and cushions removed.”

The SCC held St. Andrews had to honour its agreement and provide him with the pew he had paid for.

Lesser known, but important rulings will be of interest to legal buffs