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CANADA'S NEW CHARTER  
OF RIGHTS FIGURES  
IN FIRST COURT  
CASE IN ST. JOHN'S

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# Canada's new Charter of Rights figures in first local court case

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Judge Edward Langdon of St. John's may be the first judge in Canada—he is the first in Newfoundland to be asked to rule on the Charter of Rights and Freedoms proclaimed Saturday in Ottawa by the Queen.

Judge Langdon received the application Tuesday from St. John's lawyer David Day Q.C. in a criminal trial at Provincial Court.

"I won't rule right away...this law only came into force on the weekend," Judge Langdon told Mr. Day, who is representing the Attorney General of Canada, and Thomas Burke, defence

counsel.

The point came up at the start of the trial of Harvey Stone, 31, of 28 Wicklow St., who is charged with possession for the purpose of trafficking on an occasion in July, 1981, and with possession on an occasion in August, 1981. The drug alleged to be involved in both charges is cannabis marijuana.

Mr. Day told Judge Langdon the Crown proposes to present evidence of alleged statements of the accused, to Constable Patrick O'Brien of the Royal Canadian Mounted Police, last August.

Mr. Day said that the

Charter of Rights, which came into force Sunday across Canada, provides in paragraph 10 (b) as follows: "Everyone has the right on arrest or detention to retain and instruct counsel without delay and to be informed of that right."

He said that before Mr. Stone is alleged to have made a statement to police last August, he was read the standard police caution. But, Mr. Day added, at the time the police did not state, and did not have to state, that the accused had the right to retain and instruct counsel after arrest.

In August, 1981, he said, the Charter of Rights and Freedoms was not part of Canadian law.

However, he referred to a Supreme Court of Canada decision which says in effect that new laws can apply to cases which are before the courts at the time the new law comes into force, in certain situations.

Mr. Day told Judge Langdon he wanted to know whether the charter applied to cases now before Canadian courts which arose before the charter came into force, but which had not been completed as of Sunday past. One such case, he indicated, was the Stone case now before the Provincial Court.

If the new charter applies



# **Canada's new Charter of Rights figures in first local court case**

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to cases before the court as of Sunday, Mr. Day said that perhaps certain Crown evidence would not be valid, and he would not occupy the court's time attempting to introduce it.

"We are making this application as much for the benefit of the accused and court as we are the Crown," he told Judge Langdon.

Mr. Day said the Charter of Rights and Freedoms is only one of the five parts of legislation legally known as the Constitution Act, 1981.

Judge Langdon said he would rule on the matter before June 23, 1982, when the case is next scheduled to come before him.