The court seemed to be stepping way outside their bounds by expressing disfavour for the AUS elections rules and procedures. I think they were trying to import some grander natural justice concepts about procedural fairness: saying **not** that the (few existing) rules were necessarily improperly followed, **but** that procedural fairness demands more and better rules.

They seem aghast at the idea that an election could be fair if not enough rules are in place (re: their claim of an inadequate AUS code). What shocks me it that the court did not respect that fact that one of the reasons our (apparently) less codified system exists is **because** we place trust and discretion in the hands of our Elections Officials, like Naylor. Yes, perhaps a system *could* codify all the valid and invalid ways to mark a ballot, or could codify exact how a tie-break ballot should be cast, but the AUS trusted that to Matthew Naylor, someone with significant comparative experience with both elections and AMS rules.

They could be taken as saying that the AUS didn't reach some mythical standard of procedural perfection (for reasons they mention), and so the contest is invalid. What they need to realize (and the court last year did so realize in the Frederick / Mongero case) is that a body run by students is never going to achieve the level of "perfection" of a federal or provincial general election.

Naylor is right that rule-making is best done by elected persons and not by judges. I don't fault the court for being idealistic, but their clear attempt to import a brash Lord Denning-esque prose (the early jab about the two pens is classic Denning) is a tell-tale sign of a court that seems to think too highly of itself. Naylor is also correct that the court seems to think that it is actually a court; the court must realize that it is a creature of Bylaws and Code, (not a third branch of government), as such, it has a narrower ambit of analysis than it presumed for itself.

It is certainly ironic that is would claim for itself the large discretionary power, in the apparent name of natural justice, to impugn, and implicitly overturn, the democratically created AMS and AUS rules, but would then so brazenly minimize the discretion of others, such as Matt Naylor, who were chosen to effectuate those rules.

The student court does not have *Marbury v. Madison* type powers to strike down rules it does not like, just as, I would hope, it would not answer Charter challenges or Human Rights Act questions that students may, from time to time, conjure up against the AMS or its affiliates.

Colin