

**ACALL
CBD**

CANADIAN LAW LIBRARY REVIEW

**REVUE CANADIENNE DES
BIBLIOTHÈQUES DE DROIT**



**VOLUME/TOME 40 (2015)
No. 2**

An essential guide to practising

DEBTOR-CREDITOR LAW

Debtor–Creditor Law
Sam Babe, Laurence M. Olivo,
DeeAnn Gonsalves
Softcover • Published April 2015
672 Pages • \$140
ISBN 978-1-55239-626-1

This handbook offers practical examples and instructional guidance on how to navigate debt collections and protect creditor rights in court proceedings. Written to reflect a litigator's expertise, this invaluable resource includes:

- Sample forms, filings, and orders
- Detailed coverage of subjects ranging from Small Claims Courts matters to complex commercial restructurings
- Proceedings from the collection of unsecured and consumer debts to enforcement of secured business loans and commercial insolvencies

Proudly introducing the first Emond Professional Series title.



emond.ca



416-975-3925



orders@emond.ca



416-975-3924

III CONTENTS / SOMMAIRE

5	From the Editor De la rédactrice	
7	President's Message Le mot de la présidente	
9	Featured Articles Articles de fond <i>Edited by Amy Kaufman and Rex Shoyama</i>	
	<i>Google Under the Surface</i>	9
	By Megan Maddigan	
	<i>Charting Law's Cosmos: Toward a Crowdsourced Citator</i>	13
	By Mark Phillips	
26	Reviews Recensions <i>Edited by Kim Clarke and Nancy McCormack</i>	
	<i>Canadian Copyright Law</i>	26
	Reviewed by Leslie Taylor	
	<i>Canadian Guide to Uniform Legal Citation</i>	28
	Reviewed by Melanie R. Bueckert	
	<i>The Canadian Law of Unjust Enrichment and Restitution</i>	29
	Reviewed by Catherine Cotter	
	<i>Canadian Political Structure and Public Administration</i>	29
	Reviewed by Dani Pahljje	
	<i>The Comprehensive Guide to Legal Research, Writing and Analysis</i>	30
	Reviewed by Donata Krakowski-White	
	<i>Defending Battered Women on Trial: Lessons from the Transcripts</i>	31
	Reviewed by Emily Landriault	
	<i>Indigenous Healing: Exploring Traditional Paths</i>	31
	Reviewed by Gilles Renaud	
	<i>International Law: A Critical Introduction</i>	32
	Reviewed by Leslie Taylor	
	<i>The Lawyer-Judge Bias in the American Legal System</i>	33
	Reviewed by Caitilín O'Hare	
	<i>Making the Most of the Cloud: How to Choose and Implement the Best Services for Your Library</i>	34
	Reviewed by Margo Jeske	
	<i>F.A. Mann: A Memoir</i>	35
	Reviewed by Gilles Renaud	
	<i>Mitigation and Aggravation at Sentencing</i>	36
	Reviewed by Goldwynn Lewis	
	<i>Protection of Privacy in the Canadian Private and Health Sectors 2014</i>	36
	Reviewed by Christine Watson	
	<i>The Use of Foreign Precedents by Constitutional Judges</i>	37
	Reviewed by Neil Campbell	
	Bibliographic Notes Chronique bibliographique <i>Submitted by Susan Jones</i>	
45	Local and Regional Update Mise à jour locale et régionale <i>Edited by Sooin Kim</i>	
47	News From Further Afield Nouvelles de l'étranger	
	<i>News from the UK</i>	47
	Jackie Fishleigh and Pete Smith	
	<i>Letter from Australia</i>	50
	Margaret Hutchison	
	<i>Developments in the U.S. Law Libraries</i>	51
	Anne L. Abramson	

CITED AS Can L Libr Rev

Canadian Law Library Review is published 4 times a year by the Canadian Association of Law Libraries.

Subscription price (non-members) \$90.00
Publications Mail – Registration No. 10282

© Canadian Association of Law Libraries / Association canadienne des bibliothèques de droit
ISSN 1180-176X

CITÉ Rev can bibli dr

Revue canadienne des bibliothèques de droit est publiée 4 fois par année par l'Association canadienne des bibliothèques de droit.

Abonnement annuel (non-membres) 90.00\$
Envoi de publication enregistrement no. 10282

III EDITORIAL BOARD / COMITÉ DE RÉDACTION



EDITOR
RÉDACTRICE EN CHEF
SUSAN BARKER
Digital Services and Reference Librarian
Bora Laskin Law Library
University of Toronto
E-mail: susan.barker@utoronto.ca



BOOK REVIEW EDITOR
RÉDACTRICE DE LA REVUE DE LIVRES
NANCY MCCORMACK
Librarian and Associate Professor
Lederman Law Library, Faculty of Law
Queen's University
E-mail: nm4@queensu.ca



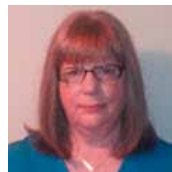
ASSOCIATE EDITOR
RÉDACTRICE ADJOINTE
WENDY HEARDER-MOAN
WHM Library Services
E-mail: wendy-hm@cogeco.ca



BOOK REVIEW EDITOR
RÉDACTRICE DE LA REVUE DE LIVRES
KIM CLARKE
Director,
Bennett Jones Law Library, Faculty of Law
University of Calgary
E-mail: kim.clarke@ucalgary.ca



EDITOR EMERITUS
RÉDACTRICE HONORAIRE
NANCY MCCORMACK
Librarian and Associate Professor
Lederman Law Library, Faculty of Law
Queen's University
E-mail: nm4@queensu.ca



INDEXER
INDEXEURE
JANET MACDONALD
Macdonald Information Consultants
E-mail: janet@minclibrary.ca



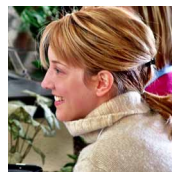
ADVERTISING MANAGER
DIRECTRICE DE LA PUBLICITÉ
EVE LEUNG
Business Development Researcher
McMillan LLP
E-mail: eve.leung@mcmillan.ca



FRENCH LANGUAGE EDITOR
RÉDACTRICE AUX TEXTES FRANÇAIS
NATHALIE LÉONARD
Head, Reference Services and Law Libraries
Brian Dickson Law Librarian
Université d'Ottawa
E-mail: nleonard@uottawa.ca



FEATURES EDITOR
RÉDACTRICE DE CHRONIQUES
AMY KAUFMAN
Chief Librarian
Lederman Law Library
Queen's University
E-mail: kaufman@queensu.ca



COLUMN EDITOR
BIBLIOGRAPHIC NOTES
RESPONSABLE DE LA RUBRIQUE CHRONIQUE BIBLIOGRAPHIQUE
SUSAN JONES
Technical Services Librarian,
Gerard V. La Forest Law Library
University of New Brunswick
E-mail: susan.jones@unb.ca



FEATURES EDITOR
RÉDACTEUR DE CHRONIQUES
REX SHOYAMA
Online Development Manager
Carswell, a Thomson Reuters business
E-mail: rex.shoyama@thomsonreuters.com



COLUMN EDITOR
LOCAL AND REGIONAL UPDATE
RESPONSABLE DE LA RUBRIQUE MISE À JOUR LOCALE ET RÉGIONALE
SOOIN KIM
Faculty Services Librarian, Bora Laskin Law Library
E-mail: sooin.kim@utoronto.ca



PLANNING AND SOLICITATIONS EDITOR
RÉDACTRICE POUR LA PLANIFICATION ET SOLLICITATIONS
SUSANNAH TREDWELL
Manager of Library Services
Davis LLP
E-mail: stredwell@davis.ca



PRODUCTION EDITOR
DIRECTRICE DE LA PRODUCTION
ROSEMARY CHAPMAN
National Officer
CALL/ACBD
E-mail: office@callacbd.ca

See edition, and
edition.
editor, n. [1. éditeur] 2. ...
& -or. 1. One who edits
for publication; one who
edition. 2. One who d
the publication of a new
editorial (L., ed.) [1. éd

III From the Editor / De la rédactrice

Spring is here and it is time for the annual Canadian Association of Law Libraries Conference being held this year in Moncton. I always enjoy the conference; it is a great time to catch up with old friends and to make new ones and it is also an excellent way to keep from becoming professionally stagnant. I hope this issue will arrive in your in-boxes in time for the conference. In the last couple of years, the Canadian Law Library Review has adopted a vastly different publishing model and I would love to hear your feedback on the changes we have instituted.

Speaking of changes, this is the last issue in which Amy Kaufman will be acting as our Features Editor. I can't say enough to thank Amy for all the wonderful work she has done since she came on board as the Features Co-Editor in 2007. I would not have been able to make the transition to Editor without her and I owe her a great debt of gratitude. But never fear, Amy will still be around and is still involved with the Association, becoming the Chair of the Canadian Abridgment Editorial Advisory Board this year. John Bolan, who conveniently shares my office, has agreed to join the editorial board as co-editor with Rex and together, I am sure, they will continue Amy's and her predecessors' tradition of excellence and high editorial standards. We must also say a sad farewell to Susannah Treadwell who is stepping down as our Planning and Solicitations Editor. Susannah was very successful in inveigling a number of authors who might not have considered writing for the CLLR to submit articles for consideration and as a result we have been able to achieve our goal of including more law firm oriented material than in previous years. We have not filled that position yet and if you are interested in getting involved with the CLLR, please consider joining us.

Just recently I was having a conversation with one of the Deans here at the Faculty of Law. We were talking generally

about the process of training law students in conducting effective legal research. We started out by talking about the idealized process of legal research, we all know the drill ... start with authoritative secondary sources and then move from there to finding the law itself. But where we differed in our approach was in my suggestion that since the reality is that students are going to start their research with Google and to be quite honest, even we, the experts sometimes do the same, we have to acknowledge that fact and incorporate Google into our training. Students need to know about both the pitfalls and the promise of Google as a legal research tool. If you have been thinking about this too, then take a look at Megan Maddigan's article, *Google Beneath the Surface*. This article provides some good practical techniques for either making your own research more efficient or helping students take advantage of some of the hidden search and refinement functions that Google provides. If we have to bow to the inevitable then we might as well make the most of it for ourselves and for our students and this article shows us how.

Speaking of an ideal approach to legal research, we all know that research isn't complete until we have noted-up the case law we have located. Noting-up a case allows us to identify leading cases and make sure those cases are good law. Mark Phillips' comprehensive *Charting Law's Cosmos: Toward a Crowdsourced Citator* examines the current publishing paradigm of existing legal citators and finds it sorely lacking. Rather than merely pointing out the problems Mark has come up with a novel approach to building a citator, founded on the wisdom of the masses. His article is a call to action and a very different approach to legal publishing. It will be interesting to see if such an approach is workable. If anyone from CanLII has a response to Mark's call to action I am sure we would love to hear it.

I hope you enjoy this issue. I am looking forward to seeing you in Moncton and hearing any comments you might have on the new direction the CLLR has taken.

**EDITOR
SUSAN BARKER**



Le printemps est arrivé, ce qui annonce la tenue de la Conférence annuelle de l'Association canadienne des bibliothèques de droit qui aura lieu, cette année, à Moncton. C'est toujours un plaisir pour moi d'assister à la conférence; c'est l'occasion parfaite de renouer avec les vieux amis et de s'en faire des nouveaux. C'est également un excellent moyen de ne pas stagner professionnellement. J'espère que le présent numéro arrivera dans votre boîte de réception à temps pour le congrès. Au cours des deux dernières années, la Revue canadienne des bibliothèques de droit (RCBD) a adopté un modèle de publication très différent et j'aimerais beaucoup recevoir vos commentaires sur les changements que nous avons apportés.

Parlant de changements, le présent numéro est le dernier pour lequel Amy Kaufman remplira les fonctions de rédactrice en chef d'articles de fond. Je ne saurais suffisamment remercier Amy pour le merveilleux travail qu'elle a accompli depuis qu'elle s'est jointe à nous à titre de corédactrice d'articles de fond, en 2007. Je n'aurais jamais pu faire la transition vers le poste de rédactrice en chef sans elle et je lui dois toute ma reconnaissance. Mais n'ayez crainte, Amy est toujours là et elle joue toujours un rôle au sein de l'Association, étant devenue cette année la présidente du Comité consultatif de rédaction du Canadian Abridgment. John Bolan, avec qui j'ai l'avantage de partager mon bureau, a accepté de faire partie du comité de rédaction en tant que corédacteur avec Rex et ensemble, j'en suis certaine, ils sauront maintenir la tradition d'excellence et les normes de rédaction élevées d'Amy et de ses prédécesseurs. Nous tenons aussi à dire au revoir à Susannah Treadwell qui quitte ses fonctions de rédactrice pour la planification et les sollicitations. Susannah a réussi avec brio à inciter plusieurs auteurs, qui n'auraient peut-être pas envisagé d'écrire pour la RCBD, à soumettre des articles pour examen en vue de leur publication et, par conséquent, nous avons été en mesure d'atteindre notre but d'inclure plus de contenu s'adressant aux cabinets d'avocats que par les années passées. Nous n'avons pas encore pourvu ce poste, alors si vous souhaitez vous impliquer dans la RCBD nous vous invitons à considérer vous joindre à nous.

Tout récemment, je me suis entretenue avec un des doyens ici à la faculté de droit. Nous avons discuté de façon générale du processus de formation des étudiants en droit sur la façon d'effectuer des recherches juridiques efficaces. Nous avons d'abord parlé du processus idéalisé de la recherche juridique; nous connaissons tous l'exercice : commencer avec des sources secondaires faisant autorité et à partir de celles-ci trouver la loi elle-même. Mais là où nous

n'étions pas d'accord sur notre approche résidait dans ma suggestion voulant que puisque dans la réalité les étudiants vont amorcer leur recherche dans Google, et pour être bien honnête, que même nous les experts le faisons parfois, nous devons reconnaître ce fait et incorporer Google dans la formation. Les étudiants doivent être mis au courant à la fois des pièges et des promesses de Google en tant qu'outil de recherche juridique. Si vous y avez également pensé, alors je vous invite à jeter un coup d'œil à l'article de Megan Maddigan intitulé *Google Beneath the Surface* (Google en profondeur). Cet article fournit de bonnes techniques pratiques, que ce soit pour rendre votre propre recherche plus efficace ou pour aider les étudiants à tirer pleinement parti des fonctions de recherche et de raffinement cachées qu'offre Google. Si nous devons nous incliner devant l'inévitable, alors autant en retirer le maximum, aussi bien pour nous que pour nos étudiants, et ledit article nous indique comment le faire.

Parlant d'une approche idéale pour la recherche juridique, nous savons tous qu'une recherche n'est pas complète tant que nous n'avons pas mis à jour la jurisprudence que nous avons trouvée. La mise à jour d'un cas nous permet de cerner les arrêts-clés et de nous assurer que ceux-ci constituent des règles de droit applicables. L'article exhaustif de Mark Phillips intitulé *Charting Law's Cosmos: Toward a Crowdsourced Citor* traite du paradigme d'édition actuel des citeurs juridiques existants qu'il considère nettement inadéquat. Plutôt que de simplement faire ressortir les problèmes, Mark élabore une nouvelle approche pour la création d'un citeur fondée sur la sagesse des masses. Son article constitue un appel à l'action et présente une approche à l'édition juridique très différente. Il sera intéressant de voir si une telle approche est réalisable. Si quelqu'un au ministère de la Justice est en mesure de répondre à l'appel à l'action de Mark, nous aimerions vraiment en être mis au courant.

J'espère que vous apprécierez le présent numéro. Il me sera agréable de vous voir à Moncton et de prendre connaissance de tout commentaire que vous voudrez bien exprimer au sujet de la nouvelle orientation de la RCBD.

**RÉDACTRICE
SUSAN BARKER**





III President's Message / Le mot de la présidente

I have been a CALL member since 2005. I've now had the opportunity to be involved in many aspects of our association, from making program proposals, to moderating conference sessions, to speaking at conference sessions; from conference planning, to publishing in CLLR and now being involved in the actual governance of our association.

Throughout the process I have gained a real appreciation of the importance of having professional networks to facilitate communications about all aspects of the work we do every day. The importance of having access to both formal and informal avenues for enhancing our learning and improving our professional practice cannot be overstated – if this profession is to continue and to thrive well into the future – we must stay strong as a professional network.

When we lose touch with other professionals in our area of expertise, when we get out of sync with changes to the technology that affect our work and the commercial and non-commercial legal information distribution networks that we rely upon; when we are isolated from learning opportunities and not kept up to date with changes to other areas that affect our working lives, such as management theories, advocacy strategies, interpersonal development, etc. – we lose the edge that is needed to stay relevant and focussed in a professional landscape continuously shaken up by change.

Despite the "busy ness" of daily life, there is always room for growth, development and voluntary service to our profession. As we move into the next phase of CALL, I would encourage everyone to re-commit to CALL, and to actively engage in outreach to colleagues in the profession who may not yet have come to appreciate all of the benefits of being part of such a dynamic network.

Thanks to everyone who worked alongside me during my time as President – you have added great richness to my journey!

**PRESIDENT
ANNETTE DEMERS**



Je suis membre de l'ACBD depuis 2005. J'ai eu l'occasion de prendre part à de nombreuses facettes de notre association, que ce soit de préparer des propositions de programmes, d'animer des séances de conférences, de prononcer un discours dans le cadre de séances de conférences, de planifier les conférences, de publier des articles dans la Revue canadienne des bibliothèques de droit et, maintenant, de faire partie de la gouvernance actuelle de notre association.

Tout au long du processus, j'ai pu vraiment comprendre à quel point les réseaux professionnels étaient importants pour faciliter les communications concernant toutes les facettes de notre travail quotidien. On n'insistera jamais trop sur l'importance d'avoir accès à des moyens formels et informels d'enrichir notre apprentissage et d'améliorer notre pratique professionnelle – si cette profession vise à continuer et à prospérer dans le futur – notre réseau professionnel doit demeurer solide.

Lorsque nous perdons contact avec les autres professionnels de notre domaine de compétence, lorsque nous perdons le fil des changements apportés à la technologie qui touchent notre travail et les réseaux commerciaux et non commerciaux de distribution de l'information juridique sur lesquels nous nous appuyons, lorsque nous sommes à l'écart des possibilités d'apprentissage et ne sommes pas bien informés des changements qui surviennent dans d'autres secteurs qui touchent notre vie professionnelle, comme les théories de la gestion, les stratégies de défense des intérêts, le développement interpersonnel, etc., nous perdons l'avantage nécessaire pour demeurer pertinents et concentrés au sein d'un milieu professionnel sans cesse secoué par les changements.


Malgré l'affairement de notre vie quotidienne – il y a toujours place à la croissance, au développement et au service volontaire au sein de notre profession. En passant à la prochaine étape de l'ACBD, j'aimerais tous vous inviter à renouveler votre engagement envers l'ACBD et à participer activement aux activités de sensibilisation des collègues de la profession qui ne sont peut-être pas encore conscients de tous les avantages qu'il y a à faire partie d'un tel réseau dynamique.

Je remercie toutes les personnes qui ont travaillé à mes côtés au cours de mon mandat de présidente – vous avez grandement enrichi mon expérience!

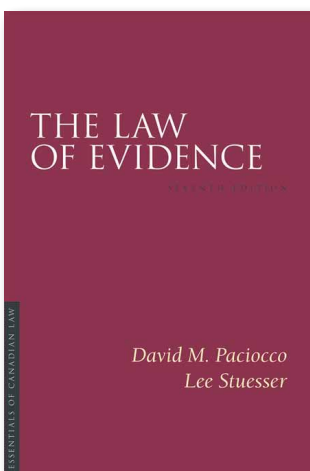
**PRÉSIDENTE
ANNETTE DEMERS**



new from IRWIN LAW

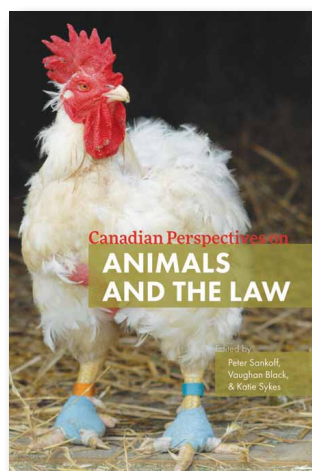
The best in Canadian law books, bar none. contact@irwinlaw.com  @irwinlaw

14 Duncan Street, Suite 206
Toronto, ON M5H 3G8
1.888.314.9014 (toll free)
416.862.9236 (fax)



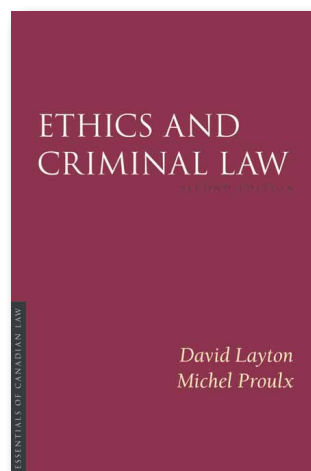
The Law of Evidence, 7/e

David M. Paciocco
& Lee Stuesser
978-1-55221-386-5
(softcover)
\$65.00



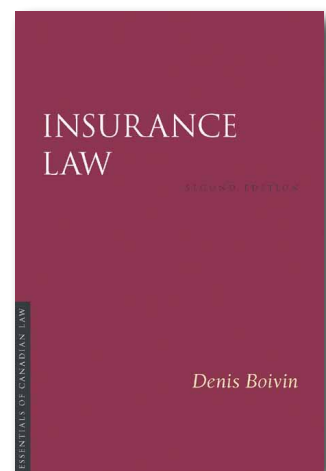
*Canadian Perspectives on
Animals and the Law*

Peter Sankoff, Vaughan
Black & Katie Sykes
978-1-55221-382-7
(softcover)
\$80.00



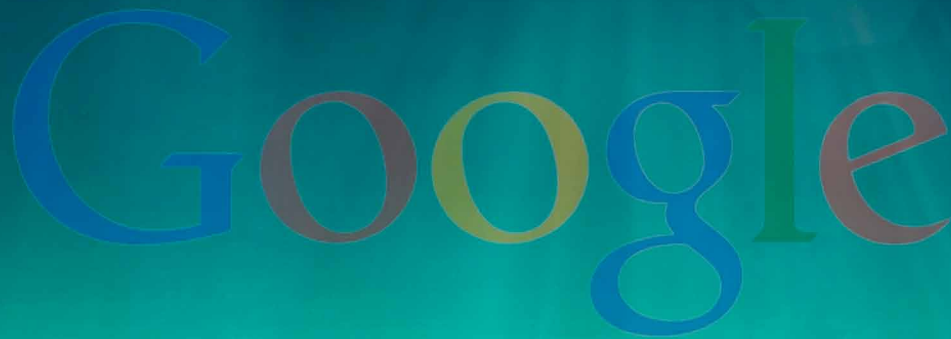
Ethics and Criminal Law, 2/e

David Layton
& Michel Proulx
978-1-55221-378-0
(softcover)
\$65.00



Insurance Law, 2/e

Denis Boivin
978-1-55221-388-9
(softcover)
\$75.00



III Google Under the Surface*

By Megan Maddigan**

Abstract

Generally the world of “Googling” is not one closely associated with finding credible legal information. But Google has built in advanced techniques for searching that allow you to shine a light on even the most cumbersome platforms and reveal legal documents, commentary and guides with impressive precision. With a few simple techniques, you can harness this power to search efficiently and find results that may have otherwise eluded you.

En général, quand on se réfère au monde de « Google », on ne l’associe pas étroitement avec la possibilité de faire de la recherche d’information juridique crédible. Mais Google a intégré des techniques de pointe permettant de faire de la recherche qui apportent un certain éclairage même sur les plates-formes les plus encombrantes, et qui permettent de révéler des documents juridiques, des commentaires et des guides avec une précision impressionnante. À l’aide de simples techniques, vous pouvez maîtriser ce pouvoir pour rechercher efficacement et pour trouver des résultats qui vous auraient sinon échappés.

Know Thy Machine

To maximize the potential of something, you need to understand a little about how it works. This is very true of Google. Google’s “About us” page begins with this description:

Larry Page, our co-founder and CEO, once described the “perfect search engine” as something that “understands exactly what you mean and gives you back exactly what you want.”¹

The web currently has approximately 60 trillion individual pages and is growing at an astronomical rate.² Google does something that appeals to the heart of every librarian – it meticulously searches the pages (generally referred to as crawling, although a much more dignified task than the word suggests) and keeps track of them in an index. This index, however, is not your usual card catalogue – the information is so vast, it needs to be cross-referenced by an algorithm. The algorithm is a huge math equation that is made to guess what you want to see. Think of it like the librarian who takes clues during a reference interview as to what you really want to see – when a client asks for a precedent and then starts talking about forms, this usually means that they mean an example form instead of a precedent-setting case. Google’s

* © Meghan Maddigan 2014

** PLTC Instructor, Law Society of British Columbia

¹ Google, About Us, online: <<http://www.google.ca/about/company/products/>>.

² Google, How Search Works, online: <<http://www.google.ca/intl/en/insidesearch/howsearchworks/thestory>>.

equation is made up of over 200 factors and changes all the time, as Google's engineers seek to refine it. These factors include the way you order your words, where your searches come from and your past searches.

This equation is precisely where the power lies. Instead of relying on Google's best guess, you can take control of a number of the variables and tell Google what you mean. You can also harness the power of all of that engineering to make existing websites function more predictably.

Without further ado, here are a few of my favourite advanced ways to search Google.

Natural Language Operators

Google is usually used as the example of the anti-boolean search. That said, there are a couple of operators that you can use in Google that can expand your control.

“OR”

The first is the word “OR.” Google will automatically search “and” but will not search “or.” Using this term will allow you to search for something authored by Chief Justice McLachlin or Justice Iacobucci whereas a standard Google search would look for both.

Asterisk (*)

The asterisk will replace words in a search. This allows you to search for a number of variations on a principle. For example, “* negligence” will turn up “contributory negligence, comparative negligence, clinical negligence,” etc.

Minus sign (-)

The minus sign will tell Google that you would like it to omit a search word. For example, you could search for “fraudulent misrepresentation –negligent.” You could also run a search and exclude certain results or sites like “negligence -wikipedia.org.”

A complete list of operators that Google recognizes is available here: <https://support.google.com/websearch/answer/2466433>

The Power of the Filter

Google is equipped with several post-search filters to streamline your results and push to the top what is most relevant to your particular inquiry. After you run a search, a number of filters will appear directly under the search box. Filter options include Web, News, Images, Books, Maps, Videos, More, and Search Tools.

See Figure 1 - Filters (below).

Date

To access the date filter after you run a search, click on “Search Tools.” This filter needs little explanation but can be exceptionally useful, particularly if you want to quickly see treatment of a topic after a critical change in the law. You can restrict by anything after a specific date (definitely my preferred option) or more generally, such as “Past year.”

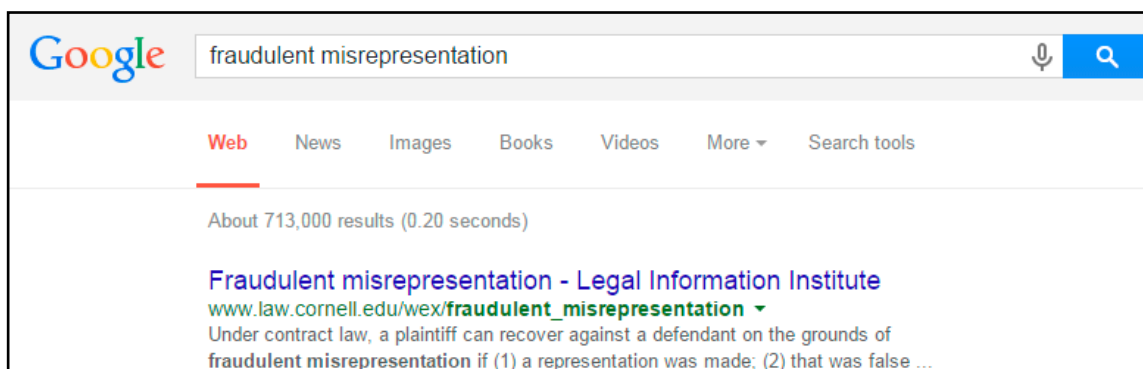
See Figure 2 – Date Filter (on page 12).

Image Search

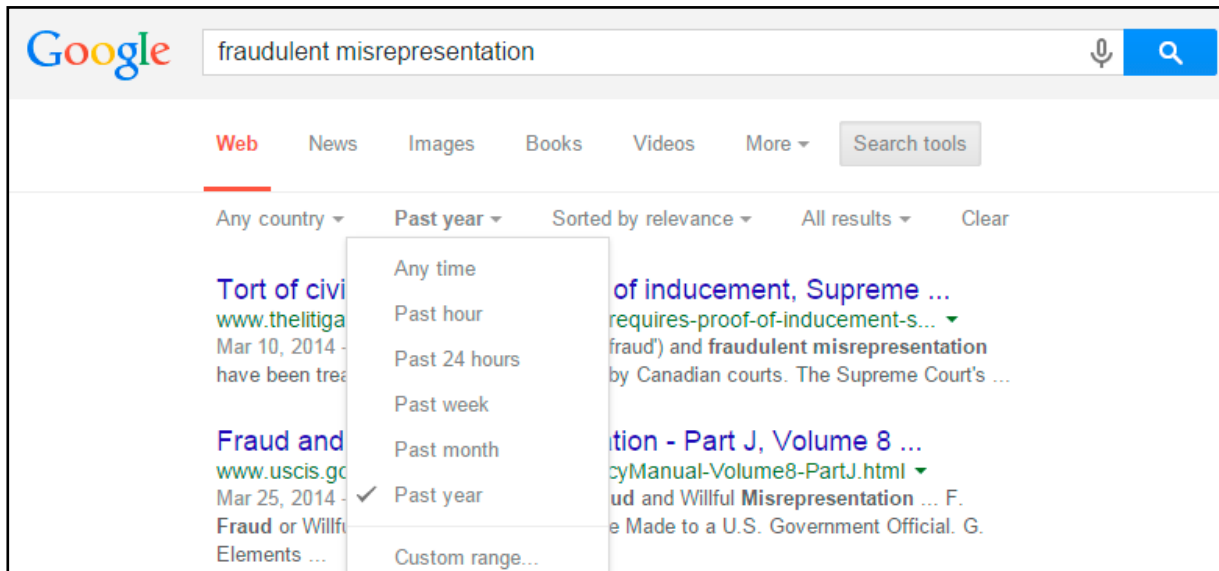
Click on “Images” to turn up images that have been tagged with your particular search term. Once you are on this page, selecting the “Search Tools” feature will allow you to further filter by fascinating tags such as type of file (are you looking for a photograph or clip art?), colour, and size. You can also identify usage rights, revealing which images are free from copyright to use for presentations and the like. One helpful way to consider using this search is for addresses: searching an address will often show you photographs of the surrounding environment, logos of businesses, etc., that share that address, and sometimes even blueprints for the building.

Book Filter

Google has indexed millions of books and even maintains a separate site just for searching them (<http://books.google.com/>). This search function will allow you to reveal millions of titles that you can preview, locate on WorldCat and sometimes even read in their entirety for free. However,



[Figure 1 – Filters]



[Figure 2 – Date Filters]

even without going directly to the books search engine, you can activate this index by filtering by books. After running a search, simply select “Books,” and, like an image search, it will allow you to further narrow your search by timeframe, jurisdiction, and discover whether a preview or free version of the book is available. The book preview can be particularly helpful when you are searching for a legal treatment of a particular issue because it will take you directly to the page. While viewing the book preview, clicking on “Find in a library” reveals the WorldCat listing to determine which libraries near you might have the book on hand.

Reading Level

Also available on the filters is a “Reading Level” option, found when you click on “Search Tools” and open up the “All Results” dropdown menu. Setting this filter to the “Advanced” reading level can be a good way to get directly into the more scholarly material on a topic.

See Figure 3 – Reading Level Filter (below).

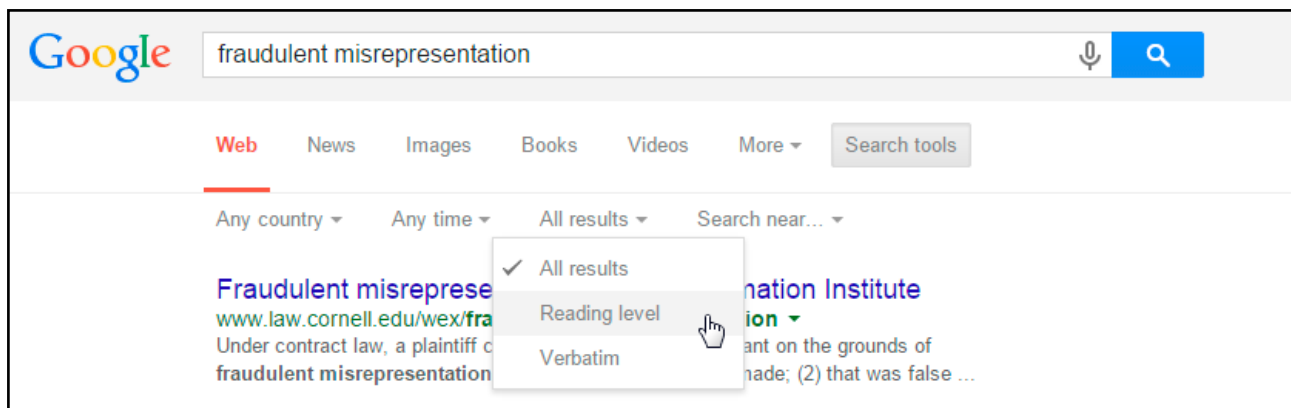
Advanced Search Options

Go International

Google assumes you want to see results from your geographic location, which can be handy – but not always. Sometimes you want to see what material exists in another jurisdiction. If you open the “Advanced Search” page (accessible from the “Settings” link located at the bottom right hand corner of the Google search home page) you can indicate the region you want your results to come from. This can be an excellent way of doing research on how “undue influence” has evolved in the United Kingdom, for example.

Site/Domain Search

The site/domain search is an extremely underutilized tool in the world of legal research but it can be helpful to use because many of the sites that we search on a regular basis have less than ideal search platforms. The site/domain search allows you to search only a specific website for your terms, bringing the power of Google to an internal site search. Essentially this is done by combining “search words + site:url.” For example, if I wanted to run a search



[Figure 3 – Reading Level Filter]

on what legislative materials might exist on the Parliament of Canada's Legisinfo website, I might search, "dna data bank site:www.parl.gc.ca/LEGISinfo." This shows me the search results, a preview of what is contained, and perhaps most important to me, the dates of each piece. What is more, I now have access to all of those great filters (like date) to narrow my results.

You are not restricted to only searching a single site. For example, if I wanted to see everything that the federal government was publishing on the dna data banks, I could search "dna data bank site:.gc.ca". This would search all sites that end in .gc.ca.

Filetype Search

Another very useful strategy is to search for only one type of file like a powerpoint (ppt), a Word file (doc), or a scanned image (pdf). To enable this search you simply add your search terms with the word "filetype:_____". For example, you could search to see if there have been any powerpoint presentations uploaded on the topic of British Columbia's latest wills legislation by searching, "Wills, Estates and Succession Act filetype:ppt". An excellent way to find legal guides and forms is to use "filetype:pdf". This can also be a good way to turn up more scholarly articles.

Google Scholar

Speaking of scholarship, do not forget to check Google Scholar <<http://scholar.google.ca/>> as this index combs through millions of academic and scholarly articles from around the world. In particular, this is an excellent way to locate international treatment of your subject. In many cases, the full text of the article is linked directly and if not, the site will provide you with finding information and often a

preview. Finally, advanced features here will allow you to note up where the article is being discussed and can send you an alert if a new article references it.

Custom Search Box

This function was created to assist web designers who wanted to embed a Google search box onto their own websites. That said, it is a great tool for individuals who tend to search the same websites over and over. For example, I created a custom search box that searches the primary Canadian legal blogs all at once. To create a custom search of your own, go to www.google.com/cse/. Once you have identified your preferred websites, add the custom page to your favourites and you're all set.

Combining search strategies

All of these tips really come to life when you start combining them. For example, I could search for the court forms for either a Notice of Family Claim or a Notice of Civil Claim on official British Columbia sites with the following search: "form notice of * claim site:bc.ca filetype:pdf". I could then use filters to ensure that I was only looking at forms uploaded in the last two years.

Another quick tip? The fastest way to get a printable version of a CanLII case is to run a quick search this way: "morin canlii filetype:pdf". The very first result then will be the printable version of your case.

As Google's engineers constantly refine the algorithms, the search results will evolve over time. Speaking a bit of the Google language will help you tailor and define your results and ultimately let you decide what you want to see instead of letting Google decide for you.

Feature Article Submissions to the CLLR are Eligible for Consideration for the Annual \$500 Feature Article Award

To qualify for the award, the article must be:

- pertinent to both the interests and the information needs of the CALL/ACBD membership;
- relevant to law librarianship in Canada;
- excellent in content and style, as shown in its research and analysis, and its presentation and writing;
- not published elsewhere and preferably written specifically for the purpose of publication in *Canadian Law Library Review / Revue canadienne des bibliothèques de droit*.

The recipients of the award are chosen by the Editorial Board. One award may be given for each volume of *Canadian Law Library Review/Revue canadienne des bibliothèques de droit*. Award winners will be announced at the CALL/ACBD annual meeting and their names will be published in *Canadian Law Library Review/Revue canadienne des bibliothèques de droit*. Should the article be written by more than one author, the award will be given jointly.



III Charting Law's Cosmos: Toward a Crowdsourced Citator

By Mark Phillips**

Abstract

This paper proposes a crowdsourced alternative to existing legal research tools such as CanLII, Quicklaw, Westlaw, and Azimut, which would allow users to directly contribute legal information such as citator content, and proposes a reorganization of such tools by more thoroughly taking into account the conceptual structure of legal texts. The author suggests that adopting these strategies may make significant contributions to access to justice as well as holding the key to overcoming research tools' stagnation in certain respects over the past three decades.

Cet article propose une solution de rechange participative aux outils de recherche juridiques actuels tels CanLII, LexisNexis/Quicklaw, WestlawNext et Soquij, qui permettrait aux utilisateurs de contribuer directement aux informations juridiques, notamment au contenu des citeurs. Cette solution propose également une réorganisation de ces outils pour qu'ils soient plus sensibles à la structure conceptuelle des textes juridiques. L'auteur suggère que l'adoption de ces stratégies pourrait permettre un apport important à l'accès à la justice ainsi que de surmonter l'immobilité présentée, sur certains aspects, par ces outils de recherche lors des trois dernières décennies.

Introduction

Expert legal information contributed voluntarily by internet users is becoming increasingly abundant, yet remains ignored by both open access and commercial legal research services. A number of prominent Canadian jurists, for example, publish their analysis on legal web logs, which now number more than four hundred in Canada, enough that ten years ago annual awards were organized to recognize the best among them.¹ Wikipedia users have meanwhile collaborated to provide what are essentially digest summaries of a vast array of Canadian, US, and UK Supreme Court decisions.² This work – as well as much more – is available free of charge, and was prepared without remuneration.

This paper proposes that legal research services invite users to contribute tertiary legal information, and citator data in particular, to strengthen the services' effectiveness, which I suggest in turn is likely to bolster access to justice. To my knowledge crowdsourced legal tools remain a relatively unexplored strategy. The Canadian Legal Information Institute (CanLII) made a small step in this direction in

* © Mark Phillips 2015. This article was peer reviewed.

** B.C.L. /L.L. B., McGill University; Honours B.Sc. in Computer Science, University of Manitoba. I am grateful for the suggestions and advice of David Lametti, Daniel Poulin, my anonymous peer reviewers, and the editors of the C.L.L.R., although the views expressed in this article are entirely my own.

¹ "2014 Clawbies: Canadian Law Blog Awards" (31 December 2014), online: Canadian Law Blog Awards <clawbies.ca/2014-clawbies-canadian-law-blog-awards>.

² See e.g. "R v Kapp", online: Wikipedia <en.wikipedia.org/wiki/R._v._Kapp>.

April of 2014 when it launched CanLII Connects,³ an open discussion forum on Canadian case law, but CanLII is carefully keeping this service entirely separate from its primary legal data.⁴ While this article was in review, Casetext, a US crowdsourced legal platform that adopts many of the techniques described in this article, was also re-launched and later incorporated a crowdsourced citator called WeCite, developed in conjunction with the Stanford Center for Legal Informatics.⁵

A Continuing Impasse in Legal Research Methodology

[B]ind reliance on research that focuses merely on words, and not on concepts, poses the same hazards that lawyers encountered in the late nineteenth century. Lawyers run the risk that word searches will uncover reams of marginally relevant precedent superficially on point, thereby distracting them from engaging in critical analysis or structuring of the underlying legal principles.

*John G. Roberts, Jr., Chief Justice of the United States*⁶

From the time hefty collections of case law first began to be stored electronically in the 1960s, full-text search has consistently remained the predominant tool for retrieving legal documents.⁷ Despite computers' ability to match text many orders of magnitude faster than humans, studies have consistently demonstrated significant dangers with using full-text search in the context of legal research. In the first major study in 1985, a group of lawyers were asked to construct full-text searches until they were confident they had retrieved at least 75 per cent of all relevant legal documents. They ultimately retrieved, on average, only 20 per cent.⁸

Contemporary readers might be tempted to downplay the significance of the study because it measured retrieval of all relevant results rather than returning the most relevant results first. Despite the superficial similarity between keyword searches in legal research and an everyday Google search, in which retrieving the most relevant results first really is critical, in legal research the more important factor is that the search be exhaustive. Former LexisNexis CEO Lou Andreozzi warned, for example, that for practising lawyers, "[t]here's nothing more embarrassing than to go into court with an outdated case."⁹ Although Andreozzi was himself then hawking the product to cure the problem he described, his warning is not excessively exaggerated. Canadian legal research experts caution that "finding everything is often important in law; one side can easily gain the upper hand in court by referring to a case about which the other side is unaware or is unprepared to challenge."¹⁰

Beyond embarrassment and weak pleadings, lawyers may also expose themselves to professional liability when their research is not up to par. The British Columbia Court of Appeal holds this is true even in omitting relevant authority adverse to their client's interests:

[C]ounsel has a duty to be aware of all cases in point decided within the judicial hierarchy ...

It is not necessary in these reasons to go into the exceptions to this duty. It is not the same as the duty to one's client to be persuasive which often requires counsel to produce authorities outside the hierarchy of British Columbia.

But these points must be made:

³ CanLII Connects, online: <www.canliiconnects.org>.

⁴ Three other recent projects bear only a superficial resemblance to the crowdsourced citator proposed in this article. First, in 2010 Timothy Armstrong demonstrated that crowdsourcing could effectively digitize historical US statutes, but users in his study merely transcribed enactments as they would any other historical text, contributing no legal expertise of their own – in fact they likely had none to contribute. See Timothy K Armstrong, "Crowdsourcing and Open Access: Collaborative Techniques for Disseminating Legal Materials and Scholarship" (2010) 26:4 Santa Clara Computer & High Tech LJ 591 at 619. Second, initiatives have emerged attempting to make use of crowdsourcing in the legislative process, but this is unrelated to legal research. See e.g. "California Legislator Launches Country's First Crowdsourced Bill" (1 January 2014), *The Stream* (blog), online: <america.aljazeera.com/watch/shows/the-stream/the-stream-officialblog/2014/1/1/california-legislatorlaunchescountrysfirstcrowdsourcedbill.html>; The Open Ministry, "Open Ministry – Crowdsourcing Legislation", online: <openministry.info>. Finally, an open-source citator has been described and demonstrated by Rowyn McDonald & Karen Rustad, "The Berkeley National Reporter: Building a Free, Open Source Legal Citator" (Masters Final Project Report, UC Berkeley, 2012), online: UC Berkeley <www.ischool.berkeley.edu/programs/mims/projects/2012/legalcitationtracker>. Although the source code of the citator software they built is freely available, users cannot themselves interact with the citator data, which is derived algorithmically by processing the texts of judgments. McDonald and Rustad never describe their citator as being crowdsourced, and indeed to understand it as such would mean that the "users" would be judges who "contribute" written reasons, which stretches the concept of crowdsourcing past its breaking point. This paper restricts its conception of a crowdsourced citator to one in which the contributors are internet users.

⁵ See "WeCite Project, to build a free legal citator" (20 March 2014), *Legal Informatics Blog*, online: <legalinformatics.wordpress.com/2014/03/20/wecite-project-to-build-a-free-legal-citator>. Law Genius, another US project, has also begun to provide some legal crowdsourcing features: "Law Genius", online: <law.genius.com>.

⁶ John G Roberts, "Remarks of the Honorable John G Roberts, Jr, Chief Justice, Supreme Court of the United States" (2008) 57 Drake LR 1 at 9.

⁷ See Daniel Poulin, Guy Huard & Alain Lavoie, "The Other Formalization of Law: SGML Modelling and Tagging" in *Proceedings of the Sixth International Conference on Artificial Intelligence and Law* (New York: ACM, 1997) 82 ("[c]omputer research in the legal field got a good start at the beginning of the '60s when Horty and his colleagues developed the first full text search systems" at 82).

⁸ David Blair & ME Maron, "An Evaluation of Retrieval Effectiveness for a Full-text Document Retrieval System" (1985) 28:3 Communications of the ACM 289 at 293. Even before Blair & Maron's study, shortcomings were apparent to others at least as early as 1975. See Robert C Berring, "Full-Text Databases and Legal Research: Backing into the Future" (1986) 1 High Tech LJ 27 at 38–39 [Berring, "Full-Text Databases"]. The authoritative text explaining these shortcomings remains the article that popularized and rigorously analyzed Blair & Maron's study the following year. See Daniel P Dabney, "The Curse of Thamus: An Analysis of Full-Text Legal Document Retrieval" (1986) 78 Law Libr J 5.

⁹ Jason Krause, "Towering Titans: LexisNexis and West are Still Battling for Dominance" (2004) 90:5 ABA Journal 50 at 53.

¹⁰ See Nancy McCormack & Michael Silverstein, "Is Taxonomy Dead? Some Observations on Teaching and Learning How to do Legal Research in Canada at the Start of the 21st Century" (2007) Canadian Legal Education Annual Review 145 at 157.

1. We do not expect counsel to search out unreported cases, although if counsel knows of an unreported case in point, he must bring it to the court's attention.
2. "On point" does not mean cases whose resemblance to the case at bar is in the facts. It means cases which decide a point of law.
3. Counsel cannot discharge his duty by not bothering to determine whether there is a relevant authority. In this context, ignorance is no excuse.¹¹

The court's attempt to limit the scope of the duty to research case law by excluding unreported decisions was inauspicious: this rule was laid down in 1992, when the internet was in its infancy and a coming rupture in the boundary between reported and unreported decisions was still largely unforeseeable.

The phenomenon of overconfidence in the results of legal research keyword searches is disappointing enough, but the more insidious issue is that researchers' near-unshakeable overconfidence in keyword searches prevents them from mitigating the problem by supplementing their results with alternative research strategies.¹² A 2005 study found, for example, that law students not only wrongly believed that their full-text electronic searches had been more effective than their use of print citators, but that they "were not willing to change their minds even when the results of the study were revealed to them."¹³

Some feel that the weaknesses inherent in keyword searches are adequately addressed by existing alternative legal research tools, such as West's digests and legal taxonomy, which allow researchers to hone in on a particular area of the law and to easily find related cases of importance.¹⁴ But keyword searches were driven to the central position in legal research, they now occupy partly as a result of significant shortcomings in those traditional tools, in particular their sluggishness at adapting to new technological, juridical, and social realities, on top of an unprecedented explosion of case law. As far back as 1909, John B. West himself warned against an ossified digest system.¹⁵

It has become apparent, however, that the unwieldy immensity of categorizing systems such as the one designed by West are inherently and obstinately resistant to change, despite the requirements of changes in circumstances.¹⁶ Minor refurbishment of the West key system has been pried out slowly and painstakingly over the years, with the system largely unchanged even following the quantum leap to digital media. Robert Berring has pointed to three further technical problems inherent in legal taxonomy systems: (1) cases miscategorized by human error are difficult to correct, (2) the multi-tiered indexing system is inordinately complicated to understand and often arbitrarily constructed, and (3) private editors are bestowed with a significant power to shape the law, which must necessarily fit their prior classification system.¹⁷

Legal research tools once evolved at a rate that kept pace with the ever-growing body of enactments and case law. Justice Benjamin Cardozo lamented the expansion of a chaotic body of jurisprudence and sought to "bring certainty and order out of the wilderness of precedent,"¹⁸ at roughly the same time and place the West Publishing Company relieved the pressure by making watershed advances in citation systems, pagination, and especially comprehensive headnote classification.¹⁹

If, in contrast, legal information retrieval techniques are now at a relative standstill, while the volume of available case law continues growing at an unprecedented pace, this will return jurists to a renewed "information wilderness."²⁰ Jurists are warning that as "the sheer mass of recorded information grows beyond the capacity of any attorney or judge to control ... the edifice of common law threatens to collapse under its own weight."²¹

Even those legal researchers who are conscious of the weaknesses of full-text search remain stuck having to familiarize themselves with two separate and fundamentally different tools, each of which is ill-adapted to the context of contemporary legal research. A number of writers have resigned themselves to this predicament. Lee F. Peoples argues that the shortcomings of full-text search have spilled over and contaminated the common law itself, which has

¹¹ *Lougheed Enterprises Ltd v Armbruster* (1992), 63 BCLR (2d) 316 at paras 30–32, [1992] 2 WWR 657 (BCCA).

¹² See McCormack & Silverstein, *supra* note 10 at 156–57.

¹³ *Ibid* at 157, on the study described in Lee F Peoples, "The Death of the Digest and the Pitfalls of Electronic Research: What is the Modern Legal Researcher to Do?" (2005) 97 Law Libr J 661 at 668–70.

¹⁴ See e.g. McCormack & Silverstein, *supra* note 10 at 154.

¹⁵ John B West, "Multiplicity of Reports" (1909) 2 Law Libr J 4 at 7: "Perhaps nothing has done more to prevent the permanency of digests than the false theory that cases and propositions dealing with changing conditions may be made to fit a rigid classification system instead of permitting the classification to change gradually with the growth of the case law. The classification of today will be as inadequate in the future as the classification of the past is at this time. We no longer need such titles as Piracy, and our forefathers did not require such titles as Street Railways, Electricity, Telegraphs and Telephones, etc., etc. Law is at all times an approximation of the ideals of justice then predominant. Each year has its peculiar public problems, and the current law is the solution which each year finds thereto. The next year finds new problems and new solutions of the old ones. A rigid permanent classification scheme is as impossible of attainment as the universal code. The digester bound to a fixed classification soon finds himself sorely pressed to make certain cases 'fit the classification.'"

¹⁶ Berring, "Full-Text Databases", *supra* note 8 at 35–36.

¹⁷ *Ibid* at 34–37.

¹⁸ Benjamin Cardozo, *The Growth of Law* (New Haven: Yale University Press, 1924) at 1.

¹⁹ See generally F Allan Hanson, "From Key Numbers to Keywords: How Automation has Transformed the Law" (2002) 94:4 Law Libr J 563 at 567–69; Berring, "Full-Text Databases", *supra* note 8 at 29–37.

²⁰ Julie M Jones, "Not Just Key Numbers and Keywords Anymore: How User Interface Design Affects Legal Research" (2009) 101:1 Law Libr J 7 at 10.

²¹ Hanson, *supra* note 19 at 565.

begun to degenerate into a highly casuistic, incoherent, unpredictable shambles.²²

But what if this problem is not inherent in digital technology itself, but simply in the way research tools are imagined, structured, and implemented? Beyond words and characters, contemporary electronic legal research tools must also become sensitive to ubiquitous units of legal meaning, such as appeals, legal issues, legislative provisions, and constitutional challenges,²³ and allow users to navigate seamlessly between them. Some tools are slowly awakening to this potential,²⁴ but a more profound restructuring is needed.

Furthermore, research services have failed to pay sufficient attention to producing quality tertiary legal information – or having their users produce it collectively. Jurists will be familiar with primary legal information (legislation and case law) and secondary legal information (legal commentary), but may be less familiar with tertiary legal information, which consists of “finding tools that include no substantive discussion of points of law, such as the West digests and key numbers.”²⁵ Tertiary information is the antidote to unmanageable excesses of case law²⁶ but is both expensive to continuously update and difficult to organize, at least when traditional techniques from print media are carried over to the digital age.

Case Study: *R. v. Collins*

Consider the existing citator treatment of the 1987 Supreme Court case of *R. v. Collins*,²⁷ which set out two distinct legal tests: the Charter standard for warrantless searches by police²⁸ and the determination of when to exclude improperly obtained evidence under section 24(2) of the Charter.²⁹

What are legal researchers viewing this case likely to want to know? The answer will depend largely on which legal issue they are interested in. *Collins*' section 24(2) test has now been replaced twice, most recently in *R. v. Grant*.³⁰ Researchers interested in section 24(2) will usually want to find *Grant* as quickly as possible. If their interest, however, is in the standard for a warrantless search, *Grant* is of no consequence, and they will appreciate knowing that *Collins* remains good law on the question.

Existing Canadian electronic legal services are ill-equipped

to meet these needs. First, WestlawNext Canada and LexisNexis Quicklaw's citators each operate on the scale of a case, not a legal issue. Second, the citator information they return is unwieldy both in its size and its presentation.

WestlawNext Canada and Quicklaw each list thousands of subsequent cases relevant to *Collins*. Quicklaw's *Collins* citator data page (see Figure 1 on page 18) begins by confusingly indicating that it is simultaneously part “1 of 7” and part “6 of 7” of the full set. Part way down is a table summarizing the annotation categories of each of the cases. Notice that a single case has been categorized as “Not Followed/Non suivi.” This refers to *R. v. Grant*, yet there is no easy way to determine as much because *Grant* is not listed among the hundreds of decisions on the page, and the table has no hyperlink to allow clicking through to decisions “Not Followed.”³¹

Notice also in Figure 1 that the table of citing cases includes a column entitled “Annotations,” which indicates the way each citing case treated *Collins*, and another entitled “Signal,” indicating the subsequent treatment of each citing case itself, which can lead to confusion. As if these problems were not enough, lawyers who came simply to learn about warrantless searches have still gained nothing for their efforts.

WestlawNext Canada's citator addresses these issues to some degree (see Figure 2 on page 19). If the service still retrieves an overwhelming number of cases, at least they are not presented alongside so much stray information. If *Grant* is not the first result retrieved, at least it appears thirteenth, following recent decisions which have not yet been classified. The distinction between each citing case's treatment of the current case and the subsequent treatment each citing case itself received is somewhat more visually obvious, as the icons appear immediately beside the case name. It includes a field labeled “depth,” but this “provides a visual indication on how extensive the discussion about the cited case is”³² which, although helpful, is less so than would be an indication of relevance: even cursory discussion can serve to overrule a prior case. In other respects, Westlaw's citator suffers from the same shortcomings and in particular, there remains no ability to separate the case by legal issue.

In fairness to LexisNexis's service, a drop-down box in

²² Peoples, *supra* note 13 at 665.

²³ Some authors have hinted at this problem, but in the limited context of the loss of legal meaning when moving from traditional print-based legal tools to electronic full-text search. See e.g. Hanson, *supra* note 19 at 581: “Earlier research tools and methods managed ... legal materials by classifying them ...” “On the other hand, electronic tools and techniques ... are not dependant on established categories.”

²⁴ For example, CanLII has begun providing links from certain cases to relevant scholarly literature, and allows users viewing enactments to conveniently search for references to specific provisions in case law, statutes, and regulations.

²⁵ Hanson, *supra* note 19 at 571.

²⁶ See *ibid* (“the status of tertiary sources has risen considerably” at 585).

²⁷ [1987] 1 SCR 265, 38 DLR (4th) 508.

²⁸ *Ibid* at paras 21–28.

²⁹ *Ibid* at paras 29–43.

³⁰ 2009 SCC 32, [2009] 2 SCR 353. It had been replaced earlier in *R v Stillman*, [1997] 1 SCR 607, 185 NBR (2d) 1.

³¹ *R v Grant* is found on a different page indicated as both “2 of 7” and “1 of 7.”

³² “KeyCiting Cases and Legislation: WestlawNext Canada Quick Reference Card” (Thomson Reuters, 2013), online <http://www.carswell.com/DynamicData/AttachedDocs/UserGuides/WLNC_KeyCitingCasesLegis_QRC.pdf>

LexisNexis® Quicklaw® Start Page Sign Out Contact Us Help
Helpdesk: 1-800-387-0899

[Court Cases - All Canadian Court ...](#) > [/.../](#) > [Linked Documents \(7\)](#) > [Document \(1/7\)](#)

Help

View 1 of 7

R v. COLLINS (Part 6 of 7) — [1987] S.C.J. No. 15; [1987] A.C.S. no 15; [1987] 1 S.C.R. 265; [198... CASCC

R v. COLLINS {Part 6 of 7}

[1987] S.C.J. No. 15; [1987] A.C.S. no 15; [1987] 1 S.C.R. 265; [1987] 1 R.C.S. 265; 38 D.L.R. (4th) 508; 74 N.R. 276; [1987] 3 W.W.R. 699; J.E. 87-516; 13 B.C.L.R. (2d) 1; 33 C.C.C. (3d) 1; 56 C.R. (3d) 193; 28 C.R.R. 122; 1987 CanLII 84; 15 W.C.B. (2d) 387; 1987 CarswellBC 94

Court: 1987 Supreme Court of Canada **Related Content**
[Find case digests](#)
[Résumés jurisprudentiels](#)

[History of Case](#) | [Summary of Judicial Considerations](#) | [Citing Cases](#) | [Commentary Referring to this Case](#)

History of Case Help -

Annotations	Case Name/ Intitulé de la cause	Citations/ Références Jurisprudentielles	Court/ Tribunal	Date	Signal/ Code signalétique
Reversing/Infirmité	R v. COLLINS	[1983] B.C.J. No. 2307; 148 D.L.R. (3d) 40; [1983] 5 W.W.R. 43; 5 C.C.C. (3d) 141; 33 C.R. (3d) 130; 5 C.R.R. 1; 9 W.C.B. 387	BCCA	1983/3/22	
Same Case/Procédure connexe	R v. COLLINS	[1982] B.C.J. No. 2335; 3 C.R.R. 79; 8 W.C.B. 509	BCCoCt	1982/10/5	

Summary of Judicial Considerations Help -

Annotation	Number of References/ Nombre de références
Not Followed/Non suivi	1
Followed/Suivi	1130
Followed in minority opinion/Suivi par une minorité	10
Questioned/Critiqué	8
Distinguished/Distingué	15
Explained/Expliqué	189
Mentioned/Mentionné	3143
Cited in dissenting opinion/Dissident	119
Cited/Cité	32

Citing Cases Help -

Search within Citing Cases

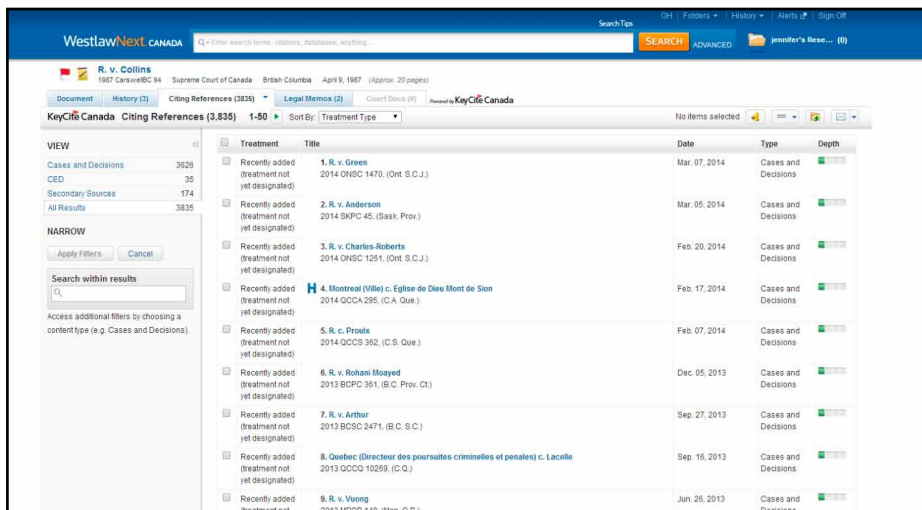
Filter By: Treatment Jurisdiction All Jurisdictions
 Federal
 Alberta
 British Columbia

Court All Canadian Courts
 All Canadian Appellate Courts
 All Federal Courts
 Privy Council

Sort By:

Annotations	Case Name/ Intitulé de la cause	Citations/ Références Jurisprudentielles	Court/ Tribunal	Date	Signal/ Code signalétique
Cited/Cité	R. c. Duhalme	[2014] J.Q. no 1534 Locus Para 13	QCCQ(ChCrim)	2014/3/21	
Mentioned/Mentionné	Église de Dieu Mont de Sion c. Montréal (Ville de)	[2014] J.Q. no 931 Locus Para 43; 2014 QCCA 295; EYB 2014-233246	QCCA	2014/2/17	
Mentioned/Mentionné	Proulx c. R.	[2014] J.Q. no 759 Locus Para 15; 2014 QCCS 362; J.E. 2014-525; 2014EXP-976	QCCS	2014/2/7	
Cited/Cité	Platinum Produce Co. v. Ontario (Ministry of the Environment)	[2014] O.E.R.T.D. No. 8 Locus Para 105	ONEnvRevTrib	2014/1/27	
Mentioned/Mentionné	R. c. Fonteneau	[2014] J.Q. no 659 Locus Para 65; 2014 QCCM 17	QCCourMun	2014/1/27	
Mentioned/Mentionné	LSJPA - 144	[2014] J.Q. no 678 Locus Para 9; 2014 QCCS 314	QCCS	2014/1/13	
Mentioned/Mentionné	Anderson c. R.	[2013] J.Q. no 17520 Locus Para 18; [2013] Q.J. No. 17520; 2013 QCCA 2160; J.E. 2014-69; EYB 2013-230638; EYB 2014-230638; 2014EXP-125	QCCA	2013/12/12	
Mentioned/Mentionné	R. c. Gélinas	[2013] J.Q. no 14218 Locus Para 208; 2013 QCCM 272	QCCourMun	2013/12/6	
Mentioned/Mentionné	M. J. v. R.	[2013] J.Q. no 18883 Locus Para 10	QCCS	2013/11/28	

[Figure 1] Quicklaw citator data for R v. Collins as of 6 April 2014. Reproduced with permission of LexisNexis Canada Inc. All Rights Reserved.



[Figure 2] WestlawNext Canada citator data for R. v. Collins as of 24 March 2014. Reproduced by permission of Carswell, a division of Thomson Reuters Canada Limited.

their citator also allows sorting by annotation, and will display *Grant* as the first result, but only after changing this option, and only when the researcher happens to be on the correct one of the seven possible results pages for *Collins*. LexisNexis also helpfully displays dozens of pieces of commentary which refers to *Collins*, but it is inconvenient to find so far down the page, and is sorted alphabetically by title,³³ rather than indicating the legal issue addressed, or the type of discussion it contains, whether positive treatment, negative treatment, offering clarification or explanation.

Two other Canadian citators fare even worse. CanLII provides a “Noteup” tool which also retrieves thousands of distinct cases citing *Collins*.³⁴ However, absent any treatment

information, sorting by “relevance” gives the first eight results as 2011 Municipal Court of Quebec cases. *Grant* becomes a mere needle in a haystack.³⁵ CanLII’s design is much cleaner and more uncluttered than the commercial services’, but its citator cannot keep up.

The citator included in the Quebec-focused service Azimut has the most difficulty of all with *Collins*, erroneously listing *Grant* alphabetically toward the middle of its list of decisions which mentioned *Collins*, and reporting that no decisions have treated *Collins* negatively.

Ironically, it is a foreign jurisdiction’s citator that provides the only clean and straightforward result set immediately



[Figure 3] JustCite citator for Collins v The Queen as of 6 April 2014. Reproduced with permission of Justis Publishing Ltd.

³³ With references to *Halsbury’s Laws of Canada* preceding external articles.

³⁴ See online: CanLII <canlii.org/en/#search/origin1=/en/ca/scc/doc/1987/1987canlii84/1987canlii84.html&nquery1=1987%20CanLII%2084%20%28SCC%29&linkedNoteup=>.

³⁵ Although CanLII also included a tool called “Reflex”, which has now been folded into its newer “show headnotes” feature, and which CanLII referred to as a “citator,” this tool displays only previous cases and legislation cited by *Collins*, as well as case history, all without treatment information. See article by former CanLII Executive Director: Janine Miller, “The Canadian Legal Information Institute: A Model for Success” (2008) 8 *Legal Information Management* 280 at 282. See also Daniel Poulin, Eric Paré & Ivan Mokanov, “Reflex: Bridging Open Access with a Legacy Legal Information System” (2005) [unpublished, 7th International Conference on Computerization of Law via the Internet] online: Chair on Legal Information <informationjuridique.ca/docs/publications/reflex2005.pdf> at 1.

The screenshot shows the JustCite website interface. At the top, there is a search bar containing the text "anns v merton london borough council" and an "Advanced search" button. Below the search bar, the page title is "Anns v Merton London Borough Council 1977". The main content area is divided into several sections: "Summary" (Tort - Negligence - Persons owed duty of care), "Key Subsequent Treatments" (listing cases like Department of the Environment v Thomas Bates and Son Ltd), "Key Cases Considered" (listing cases like Anns v Merton London Borough Council and Dutton v Bognor Regis Urban District Council), "Recent Articles" (listing articles like "A Lesser Splash: Trade Associations, Builder Insolvency and Tort Liability"), and "Legislation Considered" (listing acts like Limitation Act 1939 s. 2). On the right side, there are "Full Text Links" for "HOUSE OF LORDS (ENGLAND)" and "COURT OF APPEAL (CIVIL DIVISION)". The footer contains contact information for the Help Desk and Support.

[Figure 4] JustCite citator for *Anns v Merton London Borough Council* as of 6 April 2014. Reproduced with permission of Justis Publishing Ltd

bringing *Grant* to the researcher’s attention (see Figure 3). The UK commercial citator JustCite displays *Grant* second under “Key Subsequent Treatments.” Treatment is indicated by way of a single, colour-coded short phrase, rather than disjunctive icons and annotations. JustCite still does not separate cases by issue – the first case it lists addresses the other issue, search and seizure – but it begins to integrate different types of legal documents into closer harmony with hypertext media.³⁶ For example, its page for *Anns v. Merton London Borough Council*³⁷ (see Figure 4) presents legislation, secondary sources, and prior and subsequent cases all side-by-side.

Economic Limitations

Beyond the technical limitations in current citators already examined, further weaknesses are inherent in the for-profit

business model. Law reporting in the common law tradition has been under the control of private publishers since the thirteenth century,³⁸ and today in Canada and the broader common law world two companies, West and LexisNexis, hold a “near duopoly”³⁹ on legal publishing, and the ownership of private publishers is on a trajectory of further concentration.⁴⁰ As I have already noted, these companies’ historical innovations in the area of legal publishing have been enormous, but their contributions have not come without a cost.

The most serious of these is that quality legal information is necessarily not available to everyone, but instead only to the few who can afford it, and access to justice is built out of the system from the outset.⁴¹ When legal publishing, outside of case law and statutes, is largely controlled by private companies, the effect can be to deepen the class divide within

³⁶ This approach is consistent with the idea of law as web. See e.g. TA Smith, “The Web of Law” (2007) 44:2 San Diego LR 309. The analogy may be particularly fruitful in the area of crowdsourced tertiary legal information.

³⁷ [1977] UKHL 4.

³⁸ Peter Clinch, “The Use of Authority: Citation Patterns in the English Courts” (1990) 46:4 Journal of Documentation 287 at 291.

³⁹ Daniel Poulin, Andrew Mowbray & Pierre-Paul Lemyre, “Free Access to Law and Open Source Software” in *Handbook of Research on Open Source Software: Technological, Economic, and Social Perspectives* (Hershey, PA: Information Science Reference, 2007) 373 at 374; Anton Geist, “Using Citation Analysis Techniques for Computer-Assisted Legal Research in Continental Jurisdictions” (LL M Thesis, University of Edinburgh, 2009) at 32–34, online: Social Science Research Network <ssrn.com/abstract=1397674>. For recent US statistics, see Laura K Justiss, “A Survey of Electronic Research Alternatives to LexisNexis and Westlaw in Law Firms” (2011) 103:1 Law Libr J 71.

⁴⁰ Daniel Poulin, “Free Access to Law in Canada” (2012) 12:3 Legal Information Management 165 at 171 n 5 [Poulin, “Free Access in Canada”]. See also Deborah K Hackerson, “Access to Justice Starts in the Library: The Importance of Competent Research Skills and Free/Low-Cost Research Resources” (2010) 62:2 Me L Rev 473 at 477; Justiss, *supra* note 39.

the justice system.⁴² The high cost of legal information has been an important contributor to a lack of public access to the full spectrum of legal information, while legal publishers have aggressively sought to protect their monopoly.⁴³ In 2004, for example, Thomson-Carswell, owners of Westlaw Canada, requested a permanent injunction against the Law Society of Upper Canada to prevent the Law Society from keeping a photocopier in its library and from making photocopies of excerpts of library materials for its members.⁴⁴ The company is currently defending against a class action claiming that its “Litigator” service illegally sells access to court documents such as facts that have been included in the service without the consent of the document’s authors.⁴⁵ Even SOQUIJ, the public entity established in Quebec to gather and disseminate legal information, consistently fought not to share its historical case law until finally ordered to do so by the Quebec Court of Appeal in 2000.⁴⁶

But it is not only those who can’t afford legal research services who suffer from concentrated private ownership: even customers themselves fall victim to its caprice whenever maximizing profitability demands it. Robert Berring recounted asking one legal publishing vendor representative about potential for technical improvement of the company’s search capabilities, who responded with surprisingly frank indifference:

He pointed out that lawyers are not complaining about what the system produces; instead they are complaining about how difficult it is to use and how much it costs. To invest \$5,000,000 in implementing a new search system could demonstrably improve research effectiveness, but that might raise costs and might introduce a new layer of difficulty for the user and thus would be counterproductive. The money would be better spent in marketing.⁴⁷

Daniel Poulin has suggested publishers’ profit motive results in underserving whole areas of the law in which the primary litigants are low-income, and who thus constitute a less-appealing market, such as youth justice and social law,⁴⁸ and that law libraries are growing increasingly concerned as

their ownership of legal materials has been supplanted by temporary licensing of the same texts.⁴⁹ Technological and conceptual breakthroughs in legal research tools cannot occur if those who control the tools are unmotivated to achieve them.

Crowdsourcing

The alternative approach to legal research I suggest in this article is based on *crowdsourcing*, which is the completion of tasks by aggregating the work of many voluntary contributors. In the mid-nineteenth century, for example, editors compiled the first edition of the *Oxford English Dictionary* by appealing to the English and American public to mail in examples in print illustrating the use of words. Following the initial appeal alone, volunteers sent in some six million standardized submission slips.⁵⁰ In subsequent appeals, the 1,029 pigeonholes that editors had built to store the slips turned out to be inadequate as “the sheer weight of the slips became unmanageably large.”⁵¹ Digital technologies have now dramatically simplified many such practical difficulties in aggregating user contributions, and crowdsourcing is primarily associated with projects coordinated using the internet, including everything from Wikipedia’s free encyclopedia, to the popular Firefox web browser, to the crowd-funding of scientific research.⁵²

Crowdsourcing projects have developed strategies to foster the development of a committed user base, fairness among contributors, and most importantly, high-quality content. But none of these problems can be solved in a theoretical vacuum. Instead, websites that solicit user content have continuously tested and reworked strategies as new obstacles and new opportunities present themselves.

Whenever user data is involved, mechanisms are needed to weed out both poor, yet well-intentioned user contributions, and malicious or abusive user behaviour. To the extent that in most people’s minds the notion of “user-generated content” evokes the comment sections of online news services, they could be forgiven for being cynical about the notion of quality user-generated content.

⁴¹ Although the Supreme Court has recently begun to make stronger statements regarding access to justice, the Court still only appears to be willing to state that constitutional protection extends against unaffordable court fees, not unaffordable lawyer fees. See e.g. *Trial Lawyers Association of British Columbia v British Columbia (Attorney General)*, 2014 SCC 59, 375 DLR (4th) 599 (“when hearing fees deprive litigants of access to the superior courts, they infringe the basic right of citizens to bring their cases to court” at para 45); *British Columbia (Attorney General) v Christie*, 2007 SCC 21, [2007] 1 SCR 873 (there is no “general constitutional right to counsel in proceedings before courts and tribunals dealing with rights and obligations” at para 27).

⁴² See e.g. United Nations Development Programme and Commission on Legal Empowerment of the Poor, *Making the Law Work for Everyone*, vol 1 (2008), online: United Nations Rule of Law <www.unrol.org> (“[e]mpowering the poor through improved dissemination of legal information” is a “first-step strateg[y] towards justice” at 64).

⁴³ Daniel Boyer, preface to *Canadian Abridgment Case Digests*, 3d ed, 1 reissue, vol 1 (Toronto: Thomson Carswell, 2008) (“[o]ne of the first commercially-viable abridgments was printed by Charles Viner on special paper, watermarked to avoid piracy” at ix).

⁴⁴ *CCH Canadian Ltd v Law Society of Upper Canada*, 2004 SCC 13, [2004] 1 SCR 339. The injunction was denied. On private publishers’ effect on the adoption of neutral citation in the Wisconsin, see Peter W Martin, “Neutral Citation, Court Web Sites, and Access to Case Law” (19 December 2006), online: Cornell Law Faculty Publications <scholarship.law.cornell.edu/lrsp_papers/70>.

⁴⁵ The class action was certified in *Waldman v Thomson Reuters Corporation*, 2012 ONSC 1138, 99 CRR (4th) 303. A settlement agreement reached by the parties was recently rejected because “the proposed Settlement is not fair, reasonable, and in the best interests of the Class Members” (*Waldman v Thomson Reuters Canada Limited*, 2014 ONSC 1288 at para 8, aff’d 2015 ONCA 53).

⁴⁶ *Wilson & Lafleur inc c Société québécoise d’information juridique*, 2000 CanLII 8006, 98 ACWS (3d) 809 (QCA).

⁴⁷ Robert Berring, “Chaos, Cyberspace and Tradition: Legal Information Transmogrified” (2007) 12 Berk L Tech J 189 at 209.

⁴⁸ Poulin, “Free Access in Canada”, *supra* note 40 at 170.

⁴⁹ *Ibid* at 165.

⁵⁰ Simon Winchester, *The Surgeon of Crowthorne: A Tale of Murder, Madness, and the Love of Words* (London: Viking, 1998) at 96.

⁵¹ *Ibid* at 133.

⁵² See Thomas Lin, “Scientists Turn to Crowds on the Web to Finance Their Projects” *New York Times* (11 July 2011) online: <nytimes.com/2011/07/12/science/12crowd.html>

But the techniques used by online news sites generally employ only the crudest form of quality control: moderators are paid to manually remove comments which violate the site's policies.⁵³ These policies usually set an extremely low threshold for quality, perhaps only forbidding libellous, slanderous, or racist content. Poor content and poor behaviour tends to attract more of the same. Additionally, the site's users, the people most directly affected by the quality of available content, have no say in determining which content is worthwhile to them and which is not.

Strategies to foster quality control can be roughly divided into two categories: those based on discussion and dispute resolution, and those based on automated aggregation of user input.

The former approach is typical in generating content that is more complicated, such as Wikipedia articles. Although the site encourages user contributions by allowing immediate edits to be made to nearly any page on the site,⁵⁴ it has also developed a number of processes to coordinate between users, including dispute resolution⁵⁵ and collective decision-making processes.⁵⁶

The latter approach is better suited to simpler tasks, such as choosing the "best" among a set of user contributions according to given criteria. In some cases, a set of moderators is empowered to "upvote" or "downvote" particular content on the site, with the hope that the best and worst will end up with the most and least votes, respectively. This strategy is commonly employed on sites where users themselves, rather than employees of the site, are moderators. Some sites then allow users to choose to hide all content with less than a particular "score" in terms of votes, or only show the best-ranked comments by default.⁵⁷ Others, instead of hiding content, simply reorder it so that the "best" or highest-voted appears first.⁵⁸

Both moderation methods by themselves present difficulties which are resolved by still more subtle techniques. One such difficulty is that bad content or wrong answers may still prevail if enough ill-informed users believe in them and vote them up. Another is that partisan or malicious users may deliberately sway the outcome away from the best answer. A number of techniques, developed over time through trial and error, are used to counter the problem. Most notable among these are the concepts of meta-moderation, which allow users to curtail poor or abusive behaviour by voting on moderation choices themselves, and reputation, which allows the input of users with greater expertise to be given greater weight.⁵⁹ Visitors to websites making use of these techniques would be hard pressed not to recognize that the chances of encountering relevant, insightful content is far superior to that found on news sites using cruder forms of moderation.⁶⁰

That the results will never be perfect is no shortcoming. A crowdsourced citator would be no different in this respect than existing commercial products in that results must always be verified by the researcher. A citator's goal is to simplify the research process. Even absent obvious human or algorithmic error, which is a possibility for any citator, there is additionally uncertainty in the interpretation of the case itself, which always evolves over time.

Beyond quality results, proponents of crowdsourcing techniques have also put forward claims that the approach advances goals of equitable and democratic social relations. A full discussion of this topic is outside the scope of this article, but it is worth noting that even if such claims are wildly overblown and the moderation techniques above constitute a form of censorship, as has been alleged,⁶¹ such systems are still categorically more egalitarian and more democratic than the current private duopoly in legal publishing described above.

⁵³ See e.g. Globe & Mail, "Community Guidelines", online: <theglobeandmail.com/help/community-guidelines/article4229672>. The Globe essentially follows the model described, although it allows a modicum of user input through flagging of comments which violate the terms and conditions for review by the moderators.

⁵⁴ Wikipedia, "Wikipedia:Be Bold", online: <en.wikipedia.org/wiki/Wikipedia:Be_bold> (Wikipedia's "Be Bold" motto "can be explained in three words: 'Go for it'").

⁵⁵ See e.g. Wikipedia, "Wikipedia:Dispute Resolution", online: <en.wikipedia.org/wiki/Wikipedia:Dispute_resolution>.

⁵⁶ See e.g. Wikipedia, "Wikipedia:Decision Making Process", online: <en.wikipedia.org/wiki/Wikipedia:Decision_Making_Process>.

⁵⁷ See e.g. Slashdot, "Slashdot Moderation", online: <slashdot.org/moderation.shtml>. Slashdot's moderation system has been explored in detail by scholars. See e.g. Cliff Lampe & Paul Resnick, "Slash(dot) and Burn: Distributed Moderation in a Large Online Conversation Space" in *Proceedings of the SIGCHI Conference on Human Factors in Computing Systems*, Vienna, 2004 (New York: ACM, 2004) at 543.

⁵⁸ See Stack Exchange, "Welcome to English Language & Usage Stack Exchange", online: <english.stackexchange.com/about>.

⁵⁹ Although meta-moderation and reputation are the predominant tools, they are not the only ones. Slashdot, for example, limits the moderation power given to users and allows it to expire. This is done both to avoid allowing users to accumulate moderation credits in order to use them all to sway a certain issue they feel strongly about, but also to encourage users to moderate promptly and often. See *supra* note 57. CanLII Connects employs a similar strategy, and is "accepting contributions from anyone with a demonstrated capacity for legal analysis," although this appears to be manually determined by their administrators, rather than algorithmically. This approach may be more accurate, but is a deterrent to prospective contributors and poses difficulties for administrators when the rate of new contributors to vet becomes large. See "Watch This Space on April 4th" (3 April 2014), *CanLII Connects* (blog), online: <blog.canliiconnects.org/post/81621517336/watch-this-space-on-april-4th>.

⁶⁰ This anecdotal observation appears to be supported by an emerging body of empirical research. See e.g. Stefanie Nowak & Stefan Ruger, "How Reliable are Annotations via Crowdsourcing?: A Study about Inter-annotator Agreement for Multi-label Image Annotation" in *11th ACM International Conference on Multimedia Information Retrieval*, Philadelphia, 2010 (New York: Association for Computing Machinery, 2010), online: Open Research Online <oro.open.ac.uk/25874> ("[D]ata annotation utilizing a crowdsourcing approach is very fast and cheap and therefore offers a prospective opportunity for large-scale data annotation. The results obtained in these experiments are quite promising when repeated labelling is performed and support results of other studies on distributed data annotation." at 565–66). See also Pei-Yun Hsueh, Prem Melville & Vikas Sindhwani "Data Quality from Crowdsourcing: A Study of Annotation Selection Criteria" in *Proceedings of the 2009 NAACL HLT Workshop on Active Learning for Natural Language Processing* (Boulder, CO: Association for Computational Linguistics, 2009) at 27.

Crowdsourcing initiatives and other services driven by user-created content must also contend with the imperative of developing an active and dynamic user base. Given the path-dependence of such services, the question is critical. It would be unimaginable for a new competitor to Facebook – even one offering a similar but slightly better service – to rival it: most of Facebook’s appeal to potential users is that so many other people they know are already using the service. But projects like Wikipedia, Linux, and many others which started with very limited means have demonstrated that many people are happy to voluntarily contribute intellectual labour to further a socially beneficial project when it is convenient to contribute and when they can instantaneously perceive the value added by their efforts. A full discussion of user incentives is another topic that is beyond the scope of this article, but because the field of legal citators is essentially wide open, and thus, far from being saturated to the extent of a social media site such as Facebook, the possibility appears to currently remain available.

Citators and User Data

As to benefits that might result from applying crowdsourcing techniques, legal citators could conceivably be made more comprehensive and more sensitive to the effects of subsequent treatment. Upvoting and downvoting could be used both to determine whether treatment of an earlier case is best described as “negative,” “positive,” “neutral,” “applied,” “distinguished,” “followed,” “not followed,” etc., as well as to determine the treatment’s relative weight, for example so that *Grant* would be listed first in *Collins*’ citator data. Pinpoints to specific pages or paragraphs of the decisions could be provided by users to identify the relevant portions of each case to save subsequent researchers as much time and effort as possible. User contributions could also help citators identify treatment in subsequent cases that is missed by automated searches for the case name, by including case citations that might have a typo, or by identifying cases that affect the rules established in the earlier case without explicitly citing it.

New technologies could also cause us to re-evaluate the scope of what a citator *is*. Traditionally citators are tools to track subsequent treatment of legal rules in case law.⁶² But the assumption made by most citators that legal rules are only treated by subsequent Canadian court decisions fails to reflect legal practice: legal norms can also be affected by subsequent legislative enactments, and occasionally even by foreign jurisprudence or by legal scholarship. Extending the scope of citators to include enactments and secondary legal information becomes even more appealing as these texts become increasingly available free of charge on line.⁶³

Noting up *R. v. Daviault*,⁶⁴ for example, should immediately bring to the researcher’s attention section 33.1 of the *Criminal Code*⁶⁵ as adverse authority. After the Supreme Court in *Daviault* held the *Charter* required that extreme intoxication serves as a defence to any crime including sexual assault,⁶⁶ an outraged Parliament responded by enacting section 33.1, in an attempt to simultaneously nullify *Daviault*’s effect and avoid infringement of the *Charter*. Existing citators are structured in such a way that they are unable to include section 33.1 in their results.

Incorporating scholarly writing would also be useful, for example, in a citator’s treatment of the property law case of *Re Crow*.⁶⁷ Neither WestlawNext Canada nor Quicklaw provide any negative treatment for *Crow*, but the case was initially reported in *Estates and Trust Reports*⁶⁸ alongside a scathing case note.⁶⁹ Both leading Canadian common law property textbooks suggest *Re Crow* is not good law.⁷⁰ A citator which lists no subsequent negative treatment of *Re Crow* does the researcher a disservice.⁷¹ Incorporation of doctrinal texts could be especially helpful in civil law jurisdictions such as Quebec, where doctrine carries enhanced weight as a source of law. A text such as Jean Louis Baudouin and Pierre-Gabriel Jobin’s *Les obligations* is highly relevant to many legal issues.⁷²

Re Crow also points to the third feature existing citators are unable to address: the ability to provide treatment by foreign

⁶¹ Slashdot’s practice of hiding low-ranked comments by default has been described as censorship, in particular, and even the site’s creator does not unequivocally disagree with that assessment. See *supra* note 57.

⁶² See Nancy McCormack, John Papadopoulos & Catherine Cotter, *The Practical Guide to Canadian Legal Research*, 3d ed (Toronto: Thomson-Reuters, 2010) at 193–94; Morris L Cohen & Kent C Olson, *Legal Research in a Nutshell*, 9th ed (St Paul, MN: Thomson-West, 2007) at 128.

⁶³ See e.g. “Durham Statement on Open Access to Legal Scholarship” online: Berkman Center for Internet & Society <cyber.law.harvard.edu/publications/durhamstatement>; James M Donovan & Carol A Watson, “Citation Advantage of Open Access Legal Scholarship” (2011) 103:4 Law Libr J 553; Michael W Carroll, “The Movement for Open Access Law” (2006) 10:4 Lewis & Clark LR 741; Michelle M Wu, “Building a Collaborative Digital Collection: A Necessary Evolution in Libraries” (2011) 103:4 Law Libr J 527; Jessica Litman, “The Economics of Open Access Publishing” (2006) 10 Lewis & Clark LR 779 at 783; “Harvard Law Votes Yes on Open Access” (7 May 2008), online: Berkman Center for Internet & Society <cyber.law.harvard.edu/node/4273>. This phenomenon is also proliferating in Canada, as many periodicals such as the *McGill Law Journal* and *Cahiers de Droit* are now freely available online. See also “Montreal Declaration on Free Access to Law”, online: CanLII <canlii.org/en/info/mtldeclaration.html> [“Montreal Declaration”]. This is not to speak of the increased availability of other types of previously difficult to find legal materials like municipal by-laws.

⁶⁴ [1994] 3 SCR 63, 118 DLR (4th) 469.

⁶⁵ RSC 1985, c C-46.

⁶⁶ *R v Daviault*, *supra* note 64 at 102–03.

⁶⁷ (1984), 48 OR (2d) 36, 12 DLR (4th) 415 (Ont SC HCJ)

⁶⁸ 17 ETR 1.

⁶⁹ TG Youdan, “Future Interests and the Rule in *Purefoy v. Rogers*: The Unnecessary Application of Archaic and Capricious Rules” 17 ETR 3 (agonizing that a “functionally unjustifiable result was produced by the unnecessary application of archaic and capricious rules” at 10–11).

⁷⁰ See Bruce Ziff, *Principles of Property Law*, 5th ed (Toronto: Carswell, 2010) (“nothing prevented a court, in 1984, from refusing to follow a decision that was not binding upon it and which appears to possess no contemporary *raison d’être*” at 275); Mary Jane Mossman & William F Flanagan, *Property Law: Cases and Commentary*, 2d ed (Toronto: Emond Montgomery, 2004) (if the same issue were heard today, prior adverse authority “likely ... would be found persuasive” at 323).

⁷¹ This extension of citators to integrate secondary sources would have to proceed with significant caution. Law journals constantly churn out articles criticizing court decisions, which generally provide no serious basis to undermine the legal principles the decision established. But because users of legal research tools are well aware of this reality, an adequate system of user moderation should easily resolve the worry.

R v Collins, [1987] 1 SCR 265

Full Text | Citation Information | Noteup | Reflex | Contribute | Français

Warrantless Search ¶ 21–28

Jurisprudential Treatment

See all

- ▶ Followed in *R v Clayton* 2007 SCC 32 ¶ 128
- ▶ Followed in *R v AM* 2008 SCC 19 ¶ 13, 41–42, 82
- ▶ Applied in *R v Mann* 2004 SCC 52 ¶ 36–45

Legislation Considered

See all

- ▶ *Canadian Charter of Rights and Freedoms* (UK) 1982, c 11, s 8

Scholarly Treatment

See all

- ▶ Swanepoel, *Warrantless Search and Seizure in Criminal Procedure: A Constitutional Challenge* (1997) 30:3 Comp & Int'l LJS Afr 340 at 357

Charter Exclusion of Evidence ¶ 29–43

Jurisprudential Treatment

See all

- ▶ Not Followed in *R v Grant* 2009 SCC 32 ¶ 59–128
- ▶ Explained in *R v Stillman* [1997] 1 SCR 607 ¶ 67–128

Legislation Considered

See all

- ▶ *Canadian Charter of Rights and Freedoms* (UK) 1982, c 11, s 24(2)

Scholarly Treatment

See all

- ▶ Santoro, *The Unprincipled Use of Originalism and Section 24(2) of the Charter* (2007) 45:1 Alta LR 1
- ▶ Fraser & Addison, *What's Truth Got to do with it?: The Supreme Court of Canada and Section 24(2)* (2004) 29:2 Queen's LJ 823

[Figure 5] Mockup demonstrating one possible form a future citator might take.

cases, and cases which occurred prior to the case at hand. The secondary sources just mentioned rely significantly on the UK case of *Re Robson*,⁷³ which provides adverse authority, in criticizing *Re Crow*. A further improvement would be a citator which allowed Canadian treatment of foreign cases themselves to be noted up, which might be particularly helpful with respect to appeals from Supreme Court of Canada decisions to the Privy Council.⁷⁴

Figure 5 presents a hypothetical look at what a crowdsourced citator might look like when applied to the case of *Collins*: an uncluttered interface bringing together a few of the most important examples of treatment from a variety of legal sources, making wide use of hyper linked pinpoint citations,

separating treatment by legal issue, and allowing easy access to the cited documents.

Legislation citators could also benefit from adopting the same strategies, making statutes and regulations essentially self-annotating on a continuous basis, ideally making the purchase of an annually re-annotated *Criminal Code* or *Quebec Civil Code* redundant.⁷⁵

This type of citator structure may be in greater harmony with both the strengths of digital technologies and with the interrelationship of legal texts, by being attuned to the reality that the “text of a case is not dynamic, but its significance is.”⁷⁶

Implementation Details

Given the relationship of commercial publishers to their customers – and especially their non-customers – they are likely poorly-positioned to solicit help from users in improving their legal databases. Building a successful for-profit business from voluntary user contributions is certainly not unprecedented, and nothing categorically precludes a successful for-profit crowdsourced citator. But such a project would have to overcome the difficulty of developing a strategy to make it appealing to its customers, especially if the contribution of free labour is going towards a resource that is to remain the property of the company (a resource that has traditionally made use of paid researchers to carry out similar work).

CanLII, on the other hand, possesses six strengths which make it particularly well-positioned to undertake a crowdsourced citator as described in this article: (1) it has a public interest mandate and a professed commitment to open access;⁷⁷ (2) it operates in the Canadian market, where studies suggest commercial citators are less reliable than their US counterparts,⁷⁸ making it easier to attract the necessary user base; (3) its developers have shown a commitment to promoting open source technologies (albeit an inconsistent one)⁷⁹ which would facilitate community-developed support tools;⁸⁰ (4) it is among the most mature and well-respected of all open access legal information sites, matching or surpassing commercial services in virtually all respects apart from its lack of a robust citator;⁸¹ (5) the site's developers strive to “respect the inherent structure of legal

⁷² Pierre Gabriel Jobin avec la collaboration de Nathalie Vézina, *Les obligations*, 6th ed (Cowansville, Québec: Yvon Blais, 2005).

⁷³ [1916] 1 Ch 116. See Youdan, *supra* note 69 (“Robson was directly relevant and should have been applied” at 11).

⁷⁴ The painful approach currently recommended by experts is to note up treatment of UK cases by Canadian courts by constructing manual word proximity searches and then tediously combing through the results. See McCormack, Papadopoulos & Cotter, *supra* note 62 at 198–99. Making this approach even more burdensome, the results come without any treatment information, so the researcher cannot discover whether a UK case has been accepted or rejected by Canadian courts without reading all cases in full.

⁷⁵ See e.g. Renaud Baudouin, *Code Civil du Québec Annoté* (Montreal: Wilson & Lafleur, 2002); David Watt & Michelle Fuerst, *Tremear's Criminal Code* (Toronto: Carswell, 2012); Graham Garton, “The Canadian Charter of Rights Digest”, online: CanLII <canlii.org/en/commentary/charterDigest/>.

⁷⁶ JDS Armstrong & CA Knott, *Where the Law Is: An Introduction to Advanced Legal Research*, 3d ed (St Paul MN: Thomson-West, 2006) at 134.

⁷⁷ Poulin, “Free Access in Canada”, *supra* note 40 at 171 n 5.

⁷⁸ “If one word had to be chosen to sum up legal citators’ treatment of case law in Canada, it would be inconsistency. The inconsistent case treatments that were found within each citator were as evident as the differences that were found between them.” Gregory Wurzer, Aleksandra Zivanovic & Rhonda O’Neill, “Canadian Electronic Legal Citators: An Evaluation of their Accuracy and Efficiency” (2004) 29 Can L Libr Rev 68 at 68. On the other hand, a 2000 review of the US citator *Shepard’s* was generally favourable. See JF Spriggs, II & TG Hansford, “Measuring Legal Change: The Reliability and Validity of Shepard’s Citations” (2000) 53:2 Political Research Q 327. See also Carole A Levitt & Mark Rosch, “Are All Citator Services Created Equal?: A Comparison of Google Scholar, Fastcase, Casemaker, LexisNexis, WestlawNext, and Bloomberg” (2012), online: <liblog.law.stanford.edu/wp-content/uploads/2013/01/Are-all-Citators-Created-Equal.pdf>.

information”;⁸² and (6) it receives its core funding from the Canadian Federation of Law Societies, cushioning it enough from day-to-day funding worries to undertake a project of this size, a privilege unavailable to other small projects.

But other groups such as law libraries and law schools bring together a number of the same strengths attributed to CanLII above, and might also reasonably attempt a crowdsourced citator project. Many of the world’s Legal Information Institutes are run by teams of fewer than five people.⁸³ Even a newly-formed small group of dedicated people could likely accomplish a prototype and could build on CanLII’s work with relative ease by making use of CanLII’s recently released programmer API.⁸⁴ This type of project might begin to assemble a repository of case law with the help of initiatives such as the Quebec Court of Appeal decision mentioned earlier, which ordered SOQUIJ to make its historical case law available. In rolling out a crowdsourced citator, could CanLII (or some other service) potentially expose itself to legal liability where the information proves to be unreliable? Could such a service transform a “legal information institute” into a “legal advice institute”? A negative answer to these questions is certainly not out of the question. Commercial publishers have already explored this possibility with respect to automated citators. In 1995, Howard Turtle of the West Publishing Company observed that “[a]utomated retrieval systems that look smart (or are marketed as ‘intelligent’) can easily be interpreted as doing more than they are. In developing retrieval tools we must find ways to provide easy access to relevant materials without giving the searcher a false sense of security.”⁸⁵ Because there would be less pressure on a non-commercial publisher to instill such false security in its users, it should therefore be relatively simple to accurately describe the service to its users as it is: a tool to assist legal researchers, who must always be sure to verify the accuracy of the tool’s results themselves.⁸⁶

Conclusion

Legal culture has a habit of treating emergent influences with scepticism, as potentially destabilizing forces. The fear is

sometimes that new cultural and technological phenomena will prove to be a fleeting trend and lack proven staying power, while at other times lawyers – who are feeling especially vulnerable in recent years – recoil at the possibilities of having their specialized skills made redundant.

However, crowdsourced services have firmly established themselves as vital, if not comprehensive, research tools in a variety of areas. Given the impasse that has resulted from the suboptimal but long-dominant keyword search research method, the growing burdens on lawyers that result from an ever-increasing corpus of texts having legal force, and given that most people do not have the financial means to access legal services and information of reasonable quality, (which has in recent years been recognized as constituting a crisis in itself), it appears to be an auspicious moment to explore crowdsourced legal research tools, and citators in particular. Producing a citator is essentially a set of simple tasks well-suited to automated aggregation of user content. Complicated tasks like the creation of case summaries or legal treatises, which are more akin to Wikipedia articles, would require techniques that provide for discussion and dispute resolution. Identifying legal issues within a case might be achieved using a combination of both approaches. The basic insight is that as soon as a single legal researcher becomes aware that, for example, Grant has overturned Collins, there is no reason for every subsequent lawyer to repeat the work. And just as free software advocates have suggested substituting the traditional project management paradigm of a top-down “cathedral” with that of a participatory “bazaar,”⁸⁷ a participatory citator might shift legal research tools from structuring law as “empire” to law as “cosmos.”⁸⁸ providing excellent service to the firm’s clients.

⁷⁹ Poulin, Mowbray & Lemyre, *supra* note 39 at 378 states that LexEDO, CanLII’s publishing platform software, was distributed under a free software license. This appears not to currently be the case, but perhaps they will reconsider.

⁸⁰ The appearance of projects such as the open source citator made by McDonald & Rustad, *supra* note 4, suggest that other interested contributors would soon present themselves. Wikipedia, for example, allows users to make use of automated tools to carry out tedious tasks and allows users to develop their own tools. See Wikipedia, “Wikipedia:Tools”, online: <en.wikipedia.org/wiki/Wikipedia:Tools>; Wikipedia, “Wikipedia:Proposed tools”, online: <en.wikipedia.org/wiki/Wikipedia:Proposed_tools>. Diane Murley, “In Defense of Wikipedia” (2008) 100 Law Libr J 593. CanLII has already taken a promising step in this direction with the CanLII API. See CanLII, “Introducing the CanLII API”, online: <developer.canlii.org> [CanLII API].

⁸¹ Comprehensiveness is perhaps CanLII’s only other significant weakness when compared to commercial services. See Gary P Rodrigues, “The Murky Waters of Case Law Databases: CANLII and the Quest for Comprehensive Case Law Databases” (3 April 2013) *Slaw* (blog), online: <slaw.ca/2013/04/03/murky-waters-and-case-law-databases>.

⁸² Daniel Poulin, “Fifteen Years of Free Access to Law” (Delivered at the 9th International Conference on Computerization of Law via the Internet, Florence, 30-31 October 2008) [unpublished].

⁸³ Daniel Poulin et al, “Free Access to Law: Is it Here to Stay? Good Practices Handbook” (11 December, 2012)) at 8, online: Social Sciences Research Network <ssrn.com/abstract=2187751>.

⁸⁴ CanLII API, *supra* note 80. One tool that has already been built with the CanLII API is CommonCases. The CommonCases website allows up to ten CanLII case URLs to be entered, and displays a list of citations which all of the entered cases cite. See “Common Cases”, online: <commoncases.ca>.

⁸⁵ Howard Turtle, “Text Retrieval in the Legal World” (1995) 3 Artificial Intelligence and Law 5 at 48.

⁸⁶ Existing Canadian legal research services already do this. One such service warns that their product “does not constitute legal opinion or legal advice and is prepared solely for review by the lawyer who requested the research”. See OnPoint Legal Research Law Corporation, “Disclaimer”, online: <onpointlaw.com/disclaimer>.

⁸⁷ See Eric S Raymond, *The Cathedral and the Bazaar: Musings on Linux and Open Source by an Accidental Revolutionary* (Cambridge, Mass: O’Reilly, 2001).

⁸⁸ This conceptual dyad was coined in the context of a reimagining of legal pedagogy. See Nicholas Kasirer, “Bijuralism in Law’s Empire and in Law’s Cosmos” (2002) 52:1–2 J Legal Educ 29. Kasirer’s phrase, in turn, alludes to Ronald Dworkin, *Law’s Empire* (Cambridge, Mass: Belknap Press, 1986).

Call for Submissions

Canadian Law Library Review/Revue canadienne des bibliothèques de droit, the official publication of the Canadian Association of Law Libraries, publishes news, developments, articles, reports and reviews of interest to its members. Surveys and statistical reviews prepared by the Association's Committees and Special Interest Groups, regional items and the proceedings of the Association's annual conference are also published.

Contributions are invited from all CALL members and others in the library and legal communities. Bibliographic information on relevant publications, especially government documents and material not widely publicized, is requested. Items may be in English or French. Full length articles should be submitted to the Features Editor and book reviews to the Book Review Editor. All other items should be sent directly to the Editor. Prior to publication, all submissions are subject to review and editing by members of the Editorial Board or independent subject specialists; the final decision to publish rests with the Editorial Board. If requested, articles will undergo independent peer review. Items will be chosen on their relevance to the field of law librarianship. For copies of the Style Guide please consult the CALL website at <<http://www.callacbd.ca>>.

The Association is unable to make any payment for contributions. Authors will receive one complimentary copy of their article upon publication. The Canadian Association of Law Libraries does not assume any responsibility for the statements advanced by the contributors to, and the advertisers in, the Association's publications. Editorial views do not necessarily represent the official position of the Association.

Canadian Law Library Review/Revue canadienne des bibliothèques de droit is indexed in the *Index to Canadian Legal Literature*, *Index to Canadian Legal Periodical Literature*, *Legal Information and Management Index*, *Index to Canadian Periodical Literature*, and *Library and Information Science Abstracts*.

Canadian Law Library Review/Revue canadienne des bibliothèques de droit, l'organe officiel de l'Association canadienne des bibliothèques de droit, publie des informations, des nouveautés, des articles, des rapports et des recensions susceptibles d'intéresser ses membres. Des enquêtes et des relèves statistiques préparés par les divers comités de l'Association et par les groupes d'intérêt spécial, des nouvelles d'intérêt régional et les procès-verbaux du congrès annuel de l'Association sont également publiés.

Tous les membres de l'ACBD ainsi que toute autre personne intéressée à la bibliothéconomie et faisant partie du monde juridique sont invités à soumettre des articles. La revue sollicite également des commentaires bibliographiques d'ouvrages de nature juridique et plus particulièrement de publications officielles et de documents peu diffusés. Les contributions peuvent être soumises en français ou en anglais. Les articles de fond doivent être envoyés à la personne responsable des recensions. Avant d'être publiés, tous les textes seront revus par des membres du Comité de rédaction ou par des spécialistes de l'extérieur. La décision finale de publier relève toutefois du Comité de rédaction. Les articles pourront, sur demande, faire l'objet d'un examen indépendant par des pairs. La priorité sera accordée aux textes se rapportant à la bibliothéconomie juridique. Pour obtenir des exemplaires du Protocole de rédaction, visitez le site web de l'ACBD au <<http://www.callacbd.ca>>.

L'Association ne peut rémunérer les auteurs et auteures pour leurs contributions, mais ils ou elles recevront un exemplaire de leur article dès parution. L'Association canadienne des bibliothèques de droit n'assume aucune responsabilité pour les opinions exprimées par les collaborateurs et collaboratrices ou par les annonceurs dans les publications qui émanent de l'Association. Les opinions éditoriales ne reflètent pas nécessairement la position officielle de l'Association.

Les articles publiés dans Canadian Law Library Review/Revue canadienne des bibliothèques de droit sont répertoriés dans *Index à la documentation juridique au Canada*, *Index to Canadian Legal Periodical Literature*, *Legal Information and Management Index*, *Index to Canadian Periodical Literature* et *Library and Information Science Abstracts*.



III Reviews / Recensions

Edited by Kim Clarke and Nancy McCormack

***Canadian Copyright Law*, fourth edition. By Lesley Ellen Harris. Hoboken, New Jersey: Wiley & Sons Inc., 2014. xviii, 350 p. Includes index. ISBN 978-1-118-07851-8 (cloth).**

Have you ever wondered what your rights are as a copyright holder in a work you have created? Do you ever wish to know how much of another person's work you can legally use? Would you like to know what your rights and obligations are as a librarian under the *Copyright Act*? If you answered yes to any of these questions, then this book may be for you.

Canadian Copyright Law, 4th edition, is a guide to copyright law written for the layperson. The author, Lesley Ellen Harris, brings to the fore her extensive experience managing copyright issues as a lawyer and presents this complex area of the law in a straightforward and accessible way.

The first two chapters provide an overview of copyright law. For those who are new to the topic, Harris explains how copyright fits within the larger regime of intellectual property law, and she also provides a brief history of how copyright law has evolved in Canada. Of particular interest to many readers will be her outline of the changes that took place in 2012 when the *Copyright Modernization Act* (CMA) came into effect. The CMA has transformed the Canadian copyright regime, and has had a particular impact on the ways in which Canadians can legally use and interact with digital content. Some of the provisions of the act have benefitted owners of copyright materials, such as the prohibition on the removal of digital locks. Other provisions are of greater benefit to users, such as the ability to create YouTube 'mash ups' using protected materials, and the expanded definition

of fair dealing to include education, parody and satire.

The remaining chapters are devoted to particular aspects of copyright law. A range of topics are covered including duration of copyright, rights protected by copyright, limitations on rights, exploitation of rights, copyright infringement and remedies. One chapter provides advice to users on how to legally use copyrighted material by obtaining permissions from the copyright owner. The final chapter provides an overview of American copyright law.

Throughout the book, Harris explains the law in a straightforward and accessible way, using plenty of concrete examples that illustrate the practical application of the law. The reader can easily dip in and out of particular chapters to find the information that he or she requires to answer a particular question. At the end of the book, there are several appendices containing legal forms and applications that a copyright holder may be interested in using. There is also a table of contents and a robust index, which make the book easily navigable.

The intended audience for the book, as stated on the front cover, is both creators and users of copyrighted material. However, I found the book to be more heavily focused on the needs of creators/owners and less focused on the needs of users. Harris offers plenty of good advice for creators and owners on how to protect your work and respond to unauthorized uses of your work. However, if you are interested in reading a critical treatment of the law or exploring the topic of users' rights in depth, then you may find this book wanting.

An iceberg floating in the ocean, with only the tip visible above the water surface. The rest of the iceberg is submerged, illustrating the concept of hidden information.

JustisOne

Intelligent search facility

Visualisation tools

Retrospective analysis

Case citation information

... are just the tip of the iceberg.

**There is even more to discover at one.justis.com.
Sign up for your free trial now.**

Email us: sales@justis.com

Call us: +44 (0)207 284 8080

This book is a welcome addition to the body of writings on copyright law coming from a well-respected expert in the field. The straightforward language and tone is accessible to all readers. Creators and owners of copyright will surely find this book invaluable for answering any number of questions. This book would be appropriate for law libraries as well as libraries serving the general public.

**REVIEWED BY
LESLIE TAYLOR**

Reference/Technical Services Librarian
Queen's University

Canadian Guide to Uniform Legal Citation, 8th ed.
Toronto: Carswell, 2014. xxvi, 602 p. Includes index and appendices. ISBN 978-0-7798-6076-0 (hardcover) \$123.00. ISBN 978-0-7798-6075-3 (softcover) \$66.00.

Ah, the “*McGill Guide*,” how we love and loathe thee. The eighth edition of the “Red Book” did not attempt any changes on the scale of those advanced in the seventh edition (who knew how many people cherished periods in citations?). However, the eighth edition does include a number of relatively minor changes, such as:

- Sections on “pinpoints” (s 1.5) and “online resources” (s 1.6) were added to the General Rules tab;
- Point-in-time statute citations are addressed in s 2.1.2;
- Several items were deleted as standalone pieces and integrated into other areas, such as the sections on official electronic versions of statutes (former s 2.1.6), or the law in Nunavut (former s 2.4);
- The Quebec regulations section was revised (s 2.5.2.10);
- More detail was added regarding case citations from online databases (s 3.8);
- The section on non-parliamentary government documents was revamped (s 4.2);
- First Nations treaties were added as a standalone entry under “International Materials” (s 5.1.8);
- An entry on encyclopedias was added (s 6.4.3);
- Citation rules are now provided for the *Canadian Encyclopedic Digests* online (s 6.5.1.2) and *Halsbury's Laws of Canada* in print and online (s 6.5.2);
- A section on working papers was added (s 6.21);
- Enhanced citation rules have been provided regarding online citations, such as blogs and social media (s 6.22);
- A general section was added regarding common law jurisdictions in the Foreign Sources tab (s 7.1);

- The United Kingdom section now addresses retroactive neutral citations (s 7.3.2.5.1.4) and online databases (s 7.3.2.10);
- Online databases and American cases are now addressed in s 7.4.2.8; and
- Online databases and Singaporean cases are now addressed in s 7.8.2.6.

Generally speaking, what were formerly termed “electronic services” in the seventh edition are now referred to as “online databases.” Some new abbreviations have also been added to Appendix E, including separate ones for WestlawNext and WestlawNext Canada.

While I was pleased to see increased inclusion of online citation rules (including reddit!), I am certain that the new rules will lead users to complain about the choices made by the editors regarding such citations. Why, for instance, must the entire text of a tweet be included in its citation?

As a Manitoban, I must also note that the eighth edition of the *McGill Guide* does not address the fact that Manitoba's online statutes are now official.¹ It also fails to note that the practice in Manitoba is to include the “The” in all references to Manitoba statute titles in legal documentation.² Given these deficiencies regarding my home province, I suspect that other smaller jurisdictions have similar quibbles regarding their treatment in the Ontario/Quebec-centric *McGill Guide*.

This is the first edition of the *McGill Guide* available online. However, it is a special add-on to your subscription to WestlawNext; clearly, Carswell is still clinging to their for-profit publication strategy for this product, despite growing opposition to such an approach regarding the leading Canadian citation guide.³ As noted in Mr. Justice Laskin's foreword to this edition, “[e]very four years, beginning in 1986, the *McGill Law Journal* has published a new edition of the *Canadian Guide to Uniform Legal Citation*.” As long as we are willing to buy it (especially if there are no other respected alternatives), it appears unlikely that a new approach will be taken before 2018.

It seems to me that people outside the academic sphere disdain the ever-increasing complexity of the *McGill Guide*; they are beginning to question whether it suits their legal citation needs. Not many courts have adopted the *McGill Guide*; some have even prepared their own citation guides, whether for parties appearing before them or for their own judgments. It seems as though the time may be right for a simpler, practice-focused citation guide that is freely available online. But until that time comes, or online tools like Cite This For Me are perfected,⁴ you will need to buy a copy of the eighth edition.

**REVIEWED BY
MELANIE R. BUECKERT**

Legal Research Counsel
Manitoba Court of Appeal

1 *The Statutes and Regulations Act*, SM 2013, c 39, Sch A, s 27(1)(d) and *Official Copy Regulation*, Man Reg 131/2014.

2 See *The Interpretation Act*, SM 2000, c 26, s 39(1).

3 See, for example, <<http://www.slaw.ca/2014/12/08/legal-citation-beyond-the-mcgill-guide/>> and <<http://www.slaw.ca/2008/11/10/a-modest-proposal-the-mcgill-guide/>>.

4 <<https://www.citethisforme.com/guides/mcgill-en>>. See also <<http://www.slaw.ca/2013/06/14/legal-citation-style-a-wicked-problem-in-legal-information/>>.

The Canadian Law of Unjust Enrichment and Restitution. By Mitchell McInnes. Markham, Ont: LexisNexis Canada, 2014. cl, 1785 p. Includes table of contents, table of cases, index, and abbreviations of commonly cited texts. ISBN 978-0-433-43819-9 (hardcover) \$295.00.

According to Professor Mitchell McInnes in the preface to *The Canadian Law of Unjust Enrichment and Restitution*, the law of unjust enrichment is not easily explained or understood – a problem given that McInnes describes this area of law as being “the third branch of private law” (p vii). He outlines several reasons why this might be so, noting that much of the confusion comes from differing models of unjust enrichment between Canadian common law and civil law, as well as Canadian courts intermingling the two models. Yet, as McInnes explains, the case of *Garland v Consumers’ Gas Co*, 2004 SCC 25 altered the understanding of unjust enrichment in Canada so completely that McInnes’ original manuscript had to be completely rewritten before it could be published.

At 1785 pages, McInnes’ completed work is an intimidating one. The table of contents itself is 41 pages long. Well organized and extremely detailed, *The Canadian Law of Unjust Enrichment and Restitution* is exceptionally thorough, touching on a wide array of private law matters. The book is organized into nine segments – introduction; basic principles; non-purposive transfers; donative intent; contract; disposition of law; other legal, equitable or statutory obligations; restitution; and defences – which expand on and explain the law as it pertains to each heading. There is also a short section comparing the law in the United States, England, and Australia, which is helpful in understanding the unique nature of unjust enrichment in Canada.

Periodically, the author includes tables and illustrations to help clarify difficult concepts and provides excellent visual guides for readers. For example, two illustrations outlining the issue of subrogor’s identity are provided on pages 1459 and 1460, along with a detailed explanation. As the tables and illustrations are peppered throughout the book, it would have been helpful to have included a table of illustrations for ease of reference, as well as some practical documents, such as a sample statement of claim that forwards an unjust enrichment claim. Such added material would have made the book more useful for readers who are in practice.

The Canadian Law of Unjust Enrichment and Restitution has the potential to become a seminal text in the area of unjust enrichment in Canada. This book is very well written, and is exceptionally dense and scholarly in nature. It is appropriate for law students, legal academics, judges and practicing lawyers; however, due to its sheer length, a lawyer or judge will want to review carefully the table of contents to find the passages most relevant to his/her particular case. This monograph is certainly not for a novice; the topic is difficult enough for those who are legally trained, let alone for a person who has no legal background. Due to the nature of unjust enrichment, an understanding of private law issues is necessary in order to truly understand this area of law.

REVIEWED BY
CATHERINE COTTER
Reference/Instruction Librarian
University of New Brunswick Law Library

Canadian Political Structure and Public Administration. By Geoffrey J. Booth, Laura E. Booth, & Andrew J. Rowley, 4th ed. Toronto: Emond Montgomery Publications, 2013. xi, 202p. Includes bibliographic references, exercises, figures, glossary, index, and table of contents. ISBN 978-1-55239-478-6 (softcover) \$86.00.

The 4th edition of *Canadian Political Structure and Public Administration* is aimed at students pursuing careers in policing, public safety and law enforcement who require a practical and readable introduction to Canadian politics, government and public administration. The authors include a faculty member who has taught courses in public safety and emergency services at Georgian College in Ontario, a journalist and a communications consultant, researcher and writer.

The book is divided into four parts: Introductory Concepts, Political Structure, Public Administration and Bringing It Home (discussion on the benefits of becoming a more involved and informed citizen). Each part is subdivided into either one or more chapters. An Appendix that reproduces *The Canadian Charter of Rights and Freedoms*, as well as a Glossary and an Index are found at the end of the book.

Each chapter has a similar structure, and includes an outline with page references, a section on expected learning outcomes, content focussing on a particular area of interest, marginal notes that highlight the concepts that are being illustrated, a Get Real! section (where the authors apply the academic concepts discussed in the chapter with real world Canadian issues), a chapter summary, key terms with page references, notes and exercises. The Get Real section is a unique feature providing a better understanding of what is discussed in the chapter. The exercises include true or false, multiple choice and short answer questions.

Chapters include information on politics, power, the rule of law, the historical background of how Canada became a nation, the three levels of government, the *Constitution*, the *Charter of Rights and Freedoms*, the status of First Nations, law enforcement at the three levels of government, the theoretical concepts of bureaucracy, public administration as a field of academic study, the history of the public service, the making of public policy, government departments, regulatory agencies, crown corporations and federal and provincial agencies.

Many textbooks on the topic of Canadian politics and government are large, hefty tomes. At 202 pages, this text is about half the size of these other publications; yet, it is packed with information aimed at those who are trying to learn (or those who are in need of a refresher). A companion website, found at <<http://cpspa.emp.ca>>, provides more information, commentary and current information on a number of topics. This 4th edition also offers support to instructors and includes an instructor’s guide, PowerPoint slides and a test bank. A log in or registration is needed to access the Instructor Area. Many libraries hesitate to purchase textbooks for their collections; however, this one would be a welcome addition

to any library, especially one at the college or undergraduate university level. As an added bonus, an eBook option is available for his title.

**REVIEWED BY
DANI PAHULJE**

Liaison Librarian: Government Information,
Political Science, Public Policy (Interim)
University of Calgary Library

***The Comprehensive Guide to Legal Research, Writing and Analysis.* By Moira McCarney, Ruth Kuras, Annette Demers, Shelley Kierstead. Toronto: Emond Montgomery Publications, 2013, 472 p. Includes appendixes, index, and credits. ISBN 978-1-55239-607-0 (hardcover) \$140.00. Also available as Student Edition (softcover) \$90.00 and as Student Edition eBook – 1 year subscription, \$59.00.**

This one-volume text draws on legal writing and research courses in the Faculty of Law at the University of Windsor. Created for students wishing to acquire essential competencies and problem solving skills, the book includes elements of the LRW Manual course, further developed by Moira McCarney and Ruth Kuras with updated research chapters by Annette Demers. Other contributors include legal research expert Shelley Kierstead (Osgoode Hall Law School), practicing lawyer Rose Faddoul, and professional law librarians from across the country.

The material is divided into five parts comprising fourteen chapters: Part I: “Becoming a Competent Lawyer” focuses on developing required competencies emphasized by the Federation of Law Societies; Part II: “Legal Research” (federal and provincial resources, case law, secondary source, international research essentials, and research plans); Part III: “Legal Analysis;” Part IV: “Legal Writing and Oral Advocacy;” and Part V: “Applying Legal Skills to Legal Practice.” In addition, the book includes three useful appendices: “Comprehensive Sample Problem;” “Academic Success: Transitioning from Law School to Practice;” and “Glossary of Terms.”

The text offers systematic and practical instructions in an easy-to-follow format. The authors obviously designed the content and structure with law students and budding lawyers in mind. Similar books addressing this subject fall short in terms of clearly explaining the legal research process step by step. Extensive pedagogical features address this shortcoming, as, for example, a “Research Tasks” table that relates various research problems to a corresponding discussion of the issue in each chapter. Specific step-by-step instructions guide the reader to methods of finding information in print and online.

The undeniable strengths of this guide for me are the provincial subdivisions and extensive coverage of commercial and non-commercial decisions, both in print and online. Also useful

is the citation format guide with instructions for retrieving decisions, and a superb discussion of Secondary Sources with many screen shots aiding visualization of the research process. A “Learning Outcomes” section at the end of each chapter further enhances the pedagogical value of the book.

The book, helpfully, is illustrated with many full-color graphs and high-resolution screen captures. Online examples and research tasks extracted from both commercial publishers and open sources are provided. Another visually appealing and useful feature is separating each province by page colour. In this way, once you are familiar with the organization of the book, there is no need to consult the Table of Contents in order to locate the province of interest.

In the face of daunting online wide access to legal information, the law librarians’ mandate is to overcome the limitations of Google-based research, and in this respect the authors place emphasis on the importance of accuracy, currency, and authenticity as well as the adherence to proper citation formats.

What sets this book apart is the emphasis on legal analysis and writing. The last three chapters deal with applying legal skills to legal practice and transitioning from classroom to courtroom, including interviewing clients and working with a civil file.

Most valuable of all, this text will give law professionals the necessary insight to understand what they are researching and why. This context is too often lost in a world of instant information; hence the provision of a framework for focused application of acquired skills, empowering students to manage legal information according to their needs. The guide offers a unique balance of traditional print research techniques and current online methods. However, any publication that includes URLs raises concerns about the longevity of the links, given the rapidly changing content, location, and complexion of web resources. Presumably the online subscription provides for updates; the printed book is also quite expensive – another reason to opt for the more affordable electronic subscription.

As a reviewer, I’m surprised that the guide does not discuss the judicial system of any of the Canadian territories. Barring this minor quibble, however, I wholeheartedly concur with the Honourable Thomas A. Cromwell of the Supreme Court of Canada, who in the book’s *Forward* writes: “[...] I envy the chance that current law students and professionals will have to benefit from the breadth and depth of this book.” Despite the print version’s high price, the guide should be a useful go-to resource for novice law librarians and seasoned lawyers alike.

**REVIEWED BY
DONATA KRAKOWSKI-WHITE**

Judges’ Librarian
Province of Nova Scotia, Department of Justice, Halifax

***Defending Battered Women on Trial: Lessons from the Transcripts.* By Elizabeth Sheehy. Vancouver, BC: UBC Press, 2014. 469p. Includes notes and index. ISBN 978-0-7748-2652-5 (paperback) \$34.95.**

In *Defending Battered Women on Trial*, author Elizabeth Sheehy tackles the tough subject of women who have killed their abusive partners and how such acts were dealt with by the Canadian legal system. Using trial records and transcripts of actual court cases between 1990 and 2005, Sheehy lays out the stories of these women's lives and of the tragic circumstances that led to the acts in question. She explains court proceedings in plain language, and, helpfully, often discusses the difference between Canadian courts and what a reader might have seen on American television programs. The book examines eleven cases in detail, each chapter laying out the stories of particular trials. In certain chapters, two or three women's stories are grouped together to illustrate the common experiences they shared.

Sheehy uses the first chapter to describe a groundbreaking case where "battered woman syndrome" was used to establish self-defence. She provides background information on the trial and the people involved as well as facts retrieved from the transcript in a narrative structure that makes the case easy to follow. The psychology behind battered woman syndrome is described in detail in this first chapter, not only through the testimony of expert witnesses, but also with the help of statistical information. The author dissects the defence and prosecution in each case, praising certain strategies, while outlining the risks inherent in other strategies. She is quick, however, to paint the prosecutors in many of these cases as the villains, with cross-examinations often described as "attacks." Likewise, there is an occasional tendency to portray the women as almost saintly in the writing.

Each chapter attempts to address factors that can affect battered women's access to justice in cases where they kill their partners. Two separate chapters are devoted to issues of battered Aboriginal women, discussing issues of racism and colonisation and their affect, not only on these women's lives, but on their interactions with Canada's legal system. Other chapters address financial and educational barriers, social stigma and issues of addiction that contributed to these women's situations.

A useful table is included in the book, providing the general facts of the ninety-one cases in Sheehy's study. This table provides a digestible view of the types of defences mounted and their relation to the outcomes of these cases, allowing the reader to answer questions like how many times a self-defence/battered woman syndrome defence has resulted in an acquittal.

The concluding chapter offers solutions to problems in the

legal system and the barriers faced by battered women in society as a whole. These solutions serve to accomplish what I suspect may have been a goal of Sheehy's in writing this book; to inspire advocacy among its readers. It is difficult to read through the tragic stories of these eleven women and not be convinced that there is much more the legal system could do for them.

REVIEWED BY
EMILY LANDRIAULT
Copyright Services Librarian
University of Ottawa Libraries

***Indigenous Healing: Exploring Traditional Paths.* By Rupert Ross. Toronto: Penguin, 2014. 344p. ISBN 9780143191100 (Paperback) \$20.00.**

This is the third book by Mr. Ross on the subject of the justice system's failings in the case of Canada's First Nations, and it is doubtless the most important as measured by its potential future impact. The first two, *Dancing with a Ghost: Exploring Aboriginal Reality* and *Returning to the Teachings: Exploring Aboriginal Justice*, were penned while the author was an assistant Crown Attorney in the District of Kenora, Ontario, and were based on his extensive experiences in many remote aboriginal communities, often plagued by violence, substance abuse, sexual violence and despair. They had the advantage of having been written when Mr. Ross was an active member of the Bar, arguing on behalf of the community as the representative of the State. This latest title, however, is the work of a retired litigator who has turned his extensive skills as an advocate to pursuing a dream of justice for both the native and non-native communities.

Indigenous Healing represents a sort of doctoral dissertation on the subject of the re-integration of the various communities that have been devastated by the colonial experience,⁵ not least by the Residential Schools, and the establishment of what might best be described as "achieving harmonious justice." As a result, this latest book is grounded upon many decades of practice and, more importantly, of devoted study of the various paths that may best lead to establishing "right relations" in the sense of respecting the needs of all parties from a restorative perspective. Further, the author has obviously spent months in anxious soul-searching prior to writing his text as he attempted to apply the knowledge he has gained through extensive hands-on experience and direct study of the teachings of Elders, notably female ones. The result is a philosophical prescription seeking to overcome the barriers to ultimate justice posed by our rigid forms of trials and sentencing.

Indigenous Healing is a rich, textured and insightful argument in favour of a far more enlightened approach to addressing

⁵ A number of Australian texts have explored this issue quite fully including A.D. Buti, *Separated: Aboriginal Childhood Separations and Guardianship Law* (Annandale, NSW: Federation Press, 2004). See also A. Day et al, *Anger and Indigenous Men* (Annandale, NSW: Federation Press, 2008) and Harry Blagg, *Crime, Aboriginality and the Decolonisation of Justice* (Annandale, NSW: Federation Press, 2008).

the needs of a group of Canadians that have suffered so much by reason of racism, exclusion, and the fundamental inability of the rest of the country to understand the profound messages being advanced by the First Nations.

Indeed, as a judge, perhaps the greatest benefit I have gained from reading this page book is the many explanations of why our traditional emphasis on “orality” and “spontaneous responses” to questioning in the context of an adversarial system lead not only to a failure to understand what is meant to be communicated by the Aboriginal witness, but to the functional equivalent of deciding facts as though the witness spoke a language that was not understood, and described things, persons and places that were totally foreign. Demeanor evidence in the case of the members of the Aboriginal community is greatly misunderstood, that much is well known,⁶ but Ross suggests that the disconnect between the information sought to be imparted by the Native witness and what is actually perceived is far greater than is thought at present. This book contributes to our knowledge of so vital a subject.

**REVIEWED BY
GILLES RENAUD**
Ontario Court of Justice

***International Law: A Critical Introduction.* By Wade Mansell and Karen Openshaw. Oxford: Hart Publishing, 2013. xxiv, 262 p. Includes index. ISBN 978-1-84946-097-2 (softcover) £16.95.**

International Law: a Critical Introduction, written by Wade Mansell and Karen Openshaw offers a thought-provoking look at the concepts, principles and rules of international law through the lens of present-day international events. Wade Mansell is a professor of International Law at the University of Kent, Canterbury and has published numerous books and articles on the subject of public international law. Karen Openshaw holds a PhD in Public International Law from the University of Kent, as well as a Post-graduate diploma in international law and international relations.

This book is significant because it advances the argument that “...international law reflects a particular distribution of power among states, and this in turn dictates the interests that international law serves” (p 1). It is unique among other texts that claim to introduce the subject of public international law because of the critical perspective that it offers. This perspective is informed by the premise that the remarkable disparity between rich and poor nations is wholly incompatible with the concept of justice. In my opinion, the authors are successful at providing a learned overview of the topic of public international law and at developing their thesis through an analysis of contemporary international events.

Parce que les gens avec qui vous faites affaire
n'ont pas leur passé écrit dans le front,

servez-vous des Plumitifs pour mettre en lumière
les informations qui auraient pu vous échapper.

Les Plumitifs vous permettent de consulter, pour l'avancement de vos dossiers, les fichiers de l'ensemble des palais de justice du Québec. Ce service est unique et centralisé. Il s'agit d'un service en ligne qui donne accès à l'historique des différents dossiers judiciaires de nature civile, criminelle ou pénale du Québec, en plus de donner accès à la plupart des greffes des cours municipales de la province.

Visitez lesplumitifs.soquij.qc.ca pour plus de détails.



The opening chapters are intended to provide the reader with an introduction to the structure and institutions, as well as some of the key principles in international law. In chapter 1, the authors describe some of the key differences between international law and domestic law, as well as the sources of international law. Chapters 2 and 3 introduce the legal concepts of sovereignty, self-determination and territory, and legal personality and the place of the individual in international law. Chapter 4 covers the obligations of a state through both treaties and the concept of state responsibility. Finally, chapter 5 provides an overview of the structure of the United Nations and the key principles expressed in the *UN Charter*. These are very suitable topics for a text that purports to be 'introductory' in nature.

The remaining chapters cover topics that the authors consider to be central to an understanding of the international legal regime, while at the same time acknowledging that certain topics are just too large to be included in an introductory text. Chapter 6 addresses human rights and the rise of the individual in international law. This is followed, in chapters 7 and 8, with a consideration of how disputes are settled in international law through both peaceful and forceful means. On the other hand, topics such as world trade and development, climate change, and refugee law have been excluded for reasons of length, not relevance, according to the authors.

In the final chapter, entitled "The Misery and Grandeur of International Law," the authors provide an in-depth critique of the notion of American exceptionalism. In this critique,

they dissect the writings of several American academics and government officials who argue that the United States should have special status in the international legal regime beyond the status already accorded to it as a permanent member of the UN Security Council. Moreover, they claim that the notion of American exceptionalism threatens to destroy the concept of the rule of law in the international community. The authors then proceed to examine the ways in which international law has been ignored during the Israeli-Palestine conflict. This leads to the conclusion that international law cannot achieve its promise of maintaining peace and the protection of human dignity so long as powerful states like the United States and Israel continue to regard its compliance as optional.

The concepts and ideas covered throughout the book are richly illustrated with many examples of contemporary cases and events. The authors' analysis of these cases and events through the lens of power strongly contributes to the development of their thesis. My one critique is that the authors seem to assume that their readers' knowledge of international events is as extensive as their own, which is not necessarily the case especially considering the word "introduction" in the title. However, it is these cases and events that add richness to the concepts and ideas and thoroughly engage the reader.

In conclusion, this book offers a critical examination of international law through the lens of the relationship between international law and power. The authors, drawing on a deep well of expertise, effectively develop their argument by

Because it's not written all over their faces.

Use Plumitifs to get the critical information you might be missing.

Plumitifs is a unique, centralized online resource that helps you keep your files up-to-date. It provides easy access to court files from all of the courthouses in Quebec. Use it to consult the history of civil or criminal court cases decided in Quebec, as well as municipal court registries from across the province.

Visit lesplumitifs.soquij.qc.ca for more details.



analysing a wide range of contemporary international law cases and events. Therefore, I believe this book would be an excellent supplementary text for those who wish to gain a deep understanding of international law and international relations. The reader should be cautioned however, that the book is not as “introductory” as its title suggests, and as such, it is most appropriate and valuable to those who already possess a scholarly background in the subject matter. I recommend this book as an addition to any academic Law Library or to any Social Sciences & Humanities library that serves an international relations programme.

**REVIEWED BY
LESLIE TAYLOR**

Reference/Technical Services Librarian
Lederman Law Library, Queen's University

***The Lawyer-Judge Bias in the American Legal System.* By Benjamin H. Barton. Cambridge; New York: Cambridge University Press, 2011. viii, 303p. Includes bibliographic references and index. ISBN 9781107616141 (softcover) \$34.99.**

The Lawyer-Judge Bias in the American Legal System is Benjamin Barton's first book. Barton is a Professor of Law at the University of Tennessee College of Law, and his articles on the legal profession, legal ethics, and legal education have been widely published by law journals. *The Lawyer-Judge Bias in the American Legal System* expands on ideas previously brought forth through Barton's articles on lawyer regulation and bias towards the legal profession.

Barton argues that judges intentionally favour the interests of the legal profession (that is to say, bar associations) over those of the public, the consequences of which are broad and detrimental. He asserts that this bias exists primarily because the vast majority of American judges are former lawyers. A number of high profile cases support his theory, including *Miranda v Arizona*, 384 US 436, 86 S Ct 1602 (1966) and *Legal Services Corporation v Velazquez et al*, 531 US 533, 121 S Ct 1043 (2001). An entire chapter is devoted to analyzing the collapse of Enron, which saw senior executives and accountants face severe penalties while the lawyers who worked for Enron walked away from the ordeal relatively unscathed.

The book is organized into twelve chapters. Chapters 1 and 2 provide the framework for the book's argument and structure. Chapters 3 through 9 contextualize the lawyer-judge bias in different areas of law and discuss legal regulation. The result of this structure is that the chapters are relatively self-contained, which allows them to be read out of order, should a particular area of law be of interest to the reader. The topics which are discussed are constitutional criminal procedure, civil constitutional law, torts, evidence and civil procedure, and the business of law. In later chapters, Barton argues that the lawyer-judge bias is contributing to the increasing complexity of American law, which benefits those who provide legal services but not those who seek

legal services. Some possible solutions to this problem are presented in the final chapter.

The book's finding aids include a table of contents and index. The cases cited in the book appear in the index and may have been better served by a separate table of cases to allow readers to quickly identify the full citation as well as case references within the book. Each page is generously footnoted which makes locating additional material simple, although a separate bibliography would have been useful for quickly locating sources.

Barton's book has been cited in several articles and conference papers which explore legal ethics and the legal profession. It fits into a broader selection of books which have discussed judicial bias and legal ethics, including judicial impartiality. Many of these works analyze the problem of judicial bias in the context of gender or race, so this is an important addition to the existing literature on legal ethics and judicial impartiality.

Law students and faculty will be interested, as will anyone with an interest in legal ethics or the American judicial system. The book certainly puts forth some thought-provoking ideas, and is presented in a fairly accessible style with thorough explanations and an informal tone. It would make an interesting and valuable addition to any academic law library.

**REVIEWED BY
CAITILÍN O'HARE**

Bora Laskin Law Library
University of Toronto Faculty of Law

***Making the Most of the Cloud: How to Choose and Implement the Best Services for Your Library.* By Robin Hastings. New Jersey: Scarecrow Press, 2014. 95 p. Includes index. ISBN 9780810891098 (softcover) \$48.**

Do you have a willingness to test and experiment? Are you ready to consider alternatives to your current in-house server-based services? If so, this guidebook, with its solid introduction to cloud computing, should help. The book highlights popular cloud services most relevant for smaller libraries or libraries without a strong IT presence. It also offers assistance in finding, evaluating and procuring these services.

The author uses the NIST definition of cloud computing to situate the reader:

Cloud computing is a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. (NIST Special Publication 900-145, <<http://csrc.nist.gov/publications/nistpubs/800-145/SP800-145.pdf>>)

The author reminds us that “[t]he cloud changes constantly, as do real-life in-the-sky clouds, and staying a step ahead of the curve is difficult. Knowing the basics of how things work in the cloud, though, will help.” (p 88). Each chapter, therefore, contains general principles of what a librarian should look for in a cloud provider.

Benefits to cloud computing outweigh the drawbacks, the reader is told, but all elements should be considered in the decision-making process. The first step is to have clear goals for each service being considered. To assist, the book highlights features of various sectors of cloud-computing services, presenting them in a way that allows readers to determine if they would be of value and whether the potential risks would be acceptable to an organization.

The author provides alternatives to mainstream software solutions (e.g. free file-sharing software SugarSync which offers more storage space than Dropbox), and highlights the importance of networking with colleagues to ask questions about new tools, reviews and evaluation. Particular emphasis is placed on the management of patron-access computers (relevant to law libraries of all sizes), both in terms of access and the selection of software.

The chapter on Security reminds readers that a due diligence review of what vendors offer and a thorough evaluation of security measures is required for any service and is particularly important when it is being delivered through the cloud. Keeping safe in the cloud and protecting the privacy of information (especially that related to patrons) is of utmost importance for all libraries.

The book concludes with a Checklist for Cloud Vendors which contains a list of questions to ask when you start to evaluate a cloud service. Also included is a short list of reading materials for those interested in keeping library data, including that of patrons, secure from hackers.

As librarians are acutely aware, numerous articles and books exist which address cloud computing in libraries and which serve to introduce this topic to non-IT librarians. This book fits well into that group. Its strength lies in its ease of use, readability, and practical hints and tips, serving as a good starting point for those interested in finding alternative and (often) free solutions.

Attractively presented, this book is easy to read and well-indexed. A more thorough list of readings on topics other than security would have been helpful, however, and despite a commitment to supplement the Resources section with a regularly checked and updated website, no updates were found by this reviewer at <www.rhastings.net>.

These comments aside, the book will be of interest to non-technical librarians who wish to become better informed about cloud computing. Librarians working in law libraries with limited IT resources who want to know if cloud services are the right fit for their organizations or their personal research endeavours will also find this material useful.

REVIEWED BY
MARGO JESKE

Brian Dickson Law Library
University of Ottawa

F.A. Mann: A Memoir. By Geoffrey Lewis. Oxford: Hart Publishing Ltd., 2013. 170p. ISBN 9781849465632 (Hardcover) \$45.00.

Last year at this time, I reviewed a memoir outlining the remarkable life and achievements of a prominent Jewish lawyer, the late Dame Rose Heilbron, and I find myself once again extolling the virtues of a similar book. *Rose Heilbron: The Story of England's First Woman Queen's Counsel and Judge*, was written by her daughter, Ms. Hilary Heilbron, Q.C., and I wrote at that time: “This biography is a highly readable account of an extraordinary individual...These well-written pages provide a detailed and masterfully woven account of the life and times of an advocate who blazed a trail for so many others...” I find the same words of tribute are equally apposite to describe this excellent account of a remarkable individual (and of the no less stellar accomplishments of his wife, Dr. Lore Mann), from early life in Germany prior to the Nazi regime, to the flight to England to evade tyranny, and to the many accomplishments in the field of international law and legal scholarship.

Written by a friend and professional colleague, the book chronicles the life of Dr. F.A. Mann. His career as a solicitor and scholar was the envy of the British Bench and Bar for many decades, an envy made greater in that Dr. Mann trained in Germany in the civilian tradition of the Continent and in his mother tongue prior to starting all over in England. His future prominence was heralded by the publication of his text, *The Legal Aspects of Money*, a book which has been often re-printed to continued acclaim.

Thereafter, nothing hindered his ascension to the lofty heights – not the war to defeat Nazism, not anti-Semitism, and not the post-war economic and social upheaval. No obstacle was capable of preventing the many talents of F.A. Mann from gaining prominence in his profession, not least his obstinate passion in putting forward his clients' causes, domestically and very often abroad, including the claims of so many Jewish refugees seeking justice in rebuilding their lives after the Holocaust. Indeed, not only did Dr. Mann assist in the “legal” reconstruction of his country of birth, he went on to teach in Germany and garnered even greater acclaim for his talent and industry.

My only complaint about the book is that Dr. Mann's relationship with Sir Michael Kerr, himself a distinguished member of the British Bar, later a prominent judge, who also hailed from Germany and whose family fled persecution by the Nazis, was not explored at greater length. For those interested, Kerr's biography, *As Far As I Remember*, is worth a read.

This memoir of F.A. Mann, like all books written by friends and admirers, may be susceptible to the accusation that objectivity is compromised, but such fears may be safely put aside after considering the contents as a whole and the historical record which is presented for review. In the final analysis, we are in Mr. Lewis' debt for authoring this outstanding biography by means of which we may study and learn from an example on how best to overcome adversity and to achieve one's potential, for the betterment of all humanity.

REVIEWED BY
GILLES RENAUD
Ontario Court of Justice

***Mitigation and Aggravation at Sentencing.* Edited by Julian V. Roberts. New York: Cambridge University Press, 2014. xvii, 304 p. Includes bibliographic references and index. ISBN 9781107659988 (Paperback) \$41.99.**

In light of controversial new rules regarding mandatory minimum sentences in Canada, *Mitigation and Aggravation at Sentencing* is a welcome and timely exploration of the factors that go into determining whether a sentence is more or less severe. Part of the Cambridge Studies in Law and Society series, *Mitigation and Aggravation at Sentencing*, "is the first major book devoted to the topic" (p. xiii) and includes essays written by legal scholars from England and Wales, Canada, Australia, New Zealand and South Africa. The book originated from a sentencing seminar held in 2008, and is edited by Julian V. Roberts, professor of criminology at the Faculty of Law, University of Oxford, and member of the Sentencing Council of England and Wales.

In fourteen stand-alone essays, contributors consider various sentencing factors such as provocation, intoxication, public attitudes, racial and social background, and personal circumstances. The essays include analysis of empirical research as well as theoretical exploration of concepts and justifications.

For example, in "Personal Mitigation in England and Wales," Jessica Jacobson and Mike Hough present findings of an empirical study they conducted on the impact of personal mitigation at sentencing. Their research considers observational results of sentencing hearings and interviews with sentencers from England and Wales. The authors conclude that their "findings serve as a corrective to the belief that judges primarily sentence the offence, and only secondarily take offender characteristics into account." (p 163) In "Equality Before the Law: Racial and Social Background Factors as Sources of Mitigation at Sentencing," Kate Warner compares the different ways in which courts in Australia and Canada deal with the cultural and social background of Aborigine and First Nation offenders in light of the principle of equality before the law. Lastly, in "The Search for Principles of Mitigation: Integrating Cultural Demands," Allan Manson explores the cultural construction of 'sympathy'

and poses a number of critical questions regarding its legitimacy for mitigation at sentencing. He argues that "*the sentencing process employs a complex decision-making matrix that goes beyond normative principles.*" (p 41)

Mitigation and Aggravation at Sentencing is a thought-provoking book that encourages further study of the factors that go into sentences. The cross-national comparison of the theories and practices of mitigation and aggravation is a strength of the book as it allows assumptions and norms to be brought to the forefront for consideration. This book is highly recommended for legal scholars, criminal law practitioners and law students alike.

REVIEWED BY
GOLDWYNN LEWIS
Ottawa, Ontario

***Protection of Privacy in the Canadian Private and Health Sectors 2014.* By Michael W. Drapeau & Marc-Aurèle Racicot. Toronto: Carswell, 2013. lii, approx. 1650 p. Includes bibliographical references and indexes. ISBN 978-0-7798-5278-9 (softcover) \$93.50.**

Protection of Privacy in the Canadian Private and Health Sectors 2014 is a convenient, albeit hefty, reference book containing an annotated compilation of private sector and health sector privacy legislation. Rules for information privacy – the collection, use, disclosure, protection, and disposition of our personal information – exist in legislation at both the federal and the provincial/territorial levels. This work covers the legislation governing information privacy in the private sector and in the health sector for all Canadian jurisdictions.

The book is divided into two parts. Part I covers protection of privacy in the private sector. The legislation comprising this part includes the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 (PIPEDA), and the substantially similar acts from British Columbia, Alberta, and Quebec. PIPEDA and the similar acts set out rules for how private sector organizations may collect, use and disclose personal information in the course of commercial activities. While PIPEDA is not a health-specific statute, it can potentially impact health information because the health sector is a mix of private and public entities.

Part II deals with protection of privacy in the health sector and includes legislation specific to that sector. The privacy of health information is influenced by numerous regimes, including provincial sector-specific legislation and PIPEDA. There is a trend toward enacting sector-specific legislation to protect personal health information, and legislation from seven provinces is included in this part.

Each jurisdictional section in part I and in part II begins with a substantial introduction to the jurisdiction's legislation, summarizing information under such headings as rationale,

scope, purpose, application, definitions, oversight and enforcement, appeals, offences and penalties, and actions for damages. This content would be helpful for the researcher who is unfamiliar with the jurisdiction's legislation or who requires a quick reference source. A detailed index is found at the end of each jurisdictional section. A table of concordance for the four substantially similar private sector statutes, and a table summarizing statutory delays under PIPEDA, are both included in part I.

The legislation is annotated with commentary, case law, and secondary sources. The annotations are organized under various specific headings. Decisions are summarized clearly and concisely. The annotations in part I are quite extensive, and they include court and administrative tribunal decisions. In part II, decisions of administrative tribunals are excluded and there are comparatively fewer annotations, likely because the statutes have not received much judicial consideration to date.

What distinguishes this book from other books on Canadian information privacy legislation is that it contains all of the private sector and health sector legislation, with annotations. The jurisdictional indexes, combined with the extensive annotations, make for a very useful publication overall. I believe researchers would be able to locate relevant decisions and secondary sources, where they exist, without much trouble using this book. Most law libraries and even health libraries would find this book a valuable addition to their collections. Also, it would likely be extremely useful to individuals who frequently work with protection of privacy legislation, such as those employed in the privacy and access to information field.

**REVIEWED BY
CHRISTINE WATSON**

Law Librarian
Alberta Law Libraries

***The Use of Foreign Precedents by Constitutional Judges.* Ed. Tania Groppi and Marie-Claire Ponthoreau. Hart Publishing: Oxford and Portland, Oregon, 2013. Xxv, 431. Includes table of cases and table of legislation. ISBN 978-1-84946-271-6 (hardcover) £60.00, 9781849466592 (softcover) £30.00.**

Canada abolished criminal appeals to the Judicial Committee of the Privy Council (JCPC) in 1938 and in all matters in 1949. These are watershed dates in the development of a uniquely Canadian jurisprudence, similar to the way that Canada's success at the battle of Vimy Ridge in 1917 helped transform the nation from a *de facto* colony to a sovereign and independent state. Nonetheless, it can also be argued that sending final appeals to the JCPC allowed Commonwealth countries to create an expansive legal milieu for the use of foreign precedent in domestic decisions. Ironically, Canada's colonial past may have opened the way for its present approach to legal pluralism and internationalism.

The JCPC of course, is still very much alive <<http://www.jcpc.uk>>. Sharing space with the Supreme Court of the United Kingdom in the Middlesex Guildhall in London, the JCPC describes itself as "the court of final appeal for the UK overseas territories and Crown dependencies that have retained the appeal to Her Majesty in Council or, in the case of Republics to the Judicial Committee." That JCPC also has jurisdiction to hear appeals *inter alia* from the Arches Court of Canterbury, the Chancery Court of York, Prize Courts, the court of Admiralty of the Cinque Ports, and the High Court of Chivalry may suggest that it is little more than an historic relic of the British Empire.

Yet, New Zealand only abolished appeals to the JCPC in 2003, which raises the question of whether and how much the legal systems of the Commonwealth influence each other in appellate decisions, particularly for constitutional or human rights matters. In contrast, countries like the United States or some of the civil legal systems in Europe have a very different approach to foreign precedent.

This book aims to answer some of these questions through the larger project of an empirical assessment into the use of foreign case law by constitutional judges in selected national courts. The editors, both comparative constitutional law scholars, have provided an exemplary introduction setting out exactly what the book is about. They begin by referring to the growing academic literature of the last decade that has postulated a growth in the "transjudicial communication" in constitutional law. Most of this literature has focused on theoretical aspects, or the divergence between the restrictive practice of the United States Supreme Court (USSC) and other national courts, or the divergence between civilian and common law jurisdictions. They assert, however, that there have been comparatively few empirical studies into the citation practices of foreign law by constitutional judges.

The editors here want "to address this void, presenting data on 16 different constitutional or supreme courts, organized according to a common methodology including both a quantitative and a qualitative analysis: the goal is to assess, beyond the vast amount of theoretical scholarship, the reality and true extent of transjudicial communication between courts by looking directly at case law." (p 3) Essentially, this is an edited collection of individual research projects undertaken by legal scholars under the umbrella of the International Association of Constitutional Law (<http://www.iacl-aidc.org>) and the Department of Public Comparative Law at the University of Siena.

The book is organized into two parts. Part one covers constitutional courts that often resort to foreign precedents: Australia, Canada, India, Israel, Ireland, Namibia, and South Africa. Part two covers national constitutional courts that rarely cite foreign precedents: Austria, Germany, Hungary, Japan, Mexico, Romania, Russia, Taiwan, and the United States. This is a mixed bag of mostly civil jurisdictions, and the editors openly state that they have purposely paid more attention to these, as they and the chapter reporters

are predominantly trained in civil law, and work or study in civil law jurisdictions. However, the editors don't see this as a criticism of their methodology, as one of their stated propositions is that there is an increasing convergence of judicial practice in civil and common law that makes their study's conclusions generally relevant to lawyers and scholars of both systems.

The chapters on each jurisdiction are further subdivided into two parts: an analysis of the constitutional and legal context, followed by the results and findings of the empirical research. The constitutional and legal context includes a brief sketch of each nation's legal history, constitutional structure, current legal system, and a summary of whether it is a common, civil, or mixed judicial system.

By necessity, the empirical research focuses on what the editors call "explicit citations," not clearly defined, but taken to mean references to foreign law given in formal citation style in the body of written judgments. They sensibly leave out "implicit citations" or "hidden influences" on these national courts. As far as possible, the editors asked the individual authors to use a consistent approach across all sixteen national studies. The authors were asked to exclude citations to foreign statutes, constitutions, foreign legal literature, and international case law and treaties. It is worth reminding readers that the citation of foreign precedents in constitutional cases is not quite the same as the use of International Law in domestic courts (a much larger discussion, for which see *inter alia* Gib Van Ert, *Using International Law in Canadian Courts*, 2d ed (Irwin)).

The editors further asked the chapter authors to classify explicit citations into three categories:

1. Citations used at the very first stage of interpretive process where the reason in the foreign case is used as a guide.
2. Citations used for the purpose of "probative comparison."
3. Citations cited as an example not to be followed.
4. For practical reasons, the timeline for each national study has been left up to the individual researcher to be consistent with the overarching goals of the research.
5. The writing itself is, of course, academic in style and content, and well footnoted, but somewhat complex for a plodder like myself. Fortunately, the chapters are well illustrated with figures and graphs, which I found to be the most useful parts of the country reports.

The author of the Canadian chapter, with the great name of GianLuca Gentili, at the time a Ph.D. candidate in Comparative Public Law at the University of Siena, is up front in saying that the chapter "presents an empirical analysis of the SCC's decisions issued between 1982 and 2010" (p 40). At first, I thought that given the academic credentials of the author, this would be a data-heavy slog. However, despite

the fact he used the word "hermeneutical" too many times for my liking, he did a terrific job with the topic.

The contextual section gives a succinct and sound summary of the development of Canadian constitutionalism from colony to independent state, including the *British North America Act*, the establishment of the Supreme Court of Canada, the effect of appeals to the Judicial Committee of the Privy Council, the advent of the *Charter of Rights*, and the repatriation of the constitution. The start of the timeline at 1982 clearly recognizes that the *Charter* was a game changer in term of the citation of foreign precedents by the SCC, which I believe is generally acknowledged, but the qualitative and quantitative results of the empirical research gives some valuable, and at times surprising, insight into Canadian *Charter* jurisprudence.

It appears that common law systems, in general, are more prone to citing foreign precedents than civil law systems, but why the practice should be prevalent in Canada is also due to some unique cultural and historical factors. First, as a member of the British Empire and later the Commonwealth, Canada shared in a practice that considered the common law as a single, unified system shared amongst sister countries that inherited their legal systems from England. Second, the fact that Canada is a hybrid system, with both civil and common law within one nation, means that Canadian courts were by nature open to accepting foreign legal systems and adopting legal materials to domestic needs. Third, as international covenants and treaties played an important role in the drafting of the *Charter*, it was natural that reference would be made to foreign cases in looking at human rights issues in the formative stage of *Charter* jurisprudence.

As the *Charter* was also heavily influenced by the U.S. *Bill of Rights*, the question arises as to what extent U.S. jurisprudence is influential with the SCC. This is where the conclusions are thought provoking. The charts and accompanying narrative show that the use of foreign precedents peaked during the formative stages of *Charter* jurisprudence between 1986/87 and 1990, and steadily declined thereafter. Although citation to US and UK cases amounted for 88 percent of the foreign citations, the research showed a dichotomy between human rights issues and separation of powers issues: English and domestic cases are predominantly cited in federalism decisions, and U.S., Australian, New Zealand and European Court of Human Rights for human rights cases. However, while the SCC appears to be generally receptive to looking at US cases as a source for comparison, the research shows that in the majority of cases, the results achieved by US courts have not been followed. (p 63). Indeed, the author states the Court "is willing to be receptive to foreign solutions only when they are compatible with the principles informing Canadian society and its legal system." (p 64)

In conclusion, the author finds that Canada has a mature legal system with little need to rely upon foreign jurisprudence, and, indeed, he sees the Canadian *Charter* as equal to the US *Bill of Rights* as a model for other nations. The SCC itself "appears genuinely to perceive itself as operating within a

“world wide rights culture’ implying a genuine, optimistic view of legal cosmopolitanism and a ‘sincere outward-looking interest in the views of other society.” (p 67).

The U.S. chapter is also informative for Canadian researchers. The author of this chapter does a fine job of condensing the ongoing scholarly debate in US legal scholarship about the use of foreign legal sources by the Supreme Court in constitutional cases. In no other country has the citation of foreign cases stirred such heated debate, but that the antipathy to foreign law seems to be coming from the political branches of government rather than the Court itself or legal scholars. Summarizing the law review articles on the subject, the author gives three prime reasons given as objections to the use of foreign law:

1. The use of comparative materials as a threat to democracy and national sovereignty.
2. The technical difficulties of foreign law research.
3. The risk of an incorrect application of foreign law in the U.S. context due to social, cultural and economic differences.

Besides this, the author notes that there seems to be movement toward a more expansive judicial approach, as illustrated by in the leading case of *Lawrence v. Texas* 539 US 559 (2003) where the majority of the USSC relied upon a judgment of the European Court of Human Rights. In conclusion, while the US Supreme Court does not refer to foreign cases as freely as other countries, particularly Commonwealth countries, it is the leading exporter of constitutional ideas to other national Courts as demonstrated by the empirical data. Indeed, as the editors highlight, for constitutional and human rights decisions, the “US Supreme Court remains a landmark reference for almost all other foreign courts” (p 430). However, the editors also point out that this can be only partly explained by the influence of the U.S. constitution and *Bill of Rights* upon the constitutional history of other countries, and they insightfully point to the substantial “influence of US legal culture on legal education,” and particularly upon graduate legal education, in the world (p 419).

The concluding chapter of the book opens by reiterating the inherent problems in this type of empirical research, with a summary of the generalized results from the national courts that were studied. For example, from 1982 to 2010, the SCC cited foreign precedents in a total of 377 cases out of 949 decided (39.7%). By contrast, in the US during the years of the Rehnquist Court (1986-2004) only 0.3% of cases cite foreign case law, and citations are almost absent in the years of the Roberts Court from 2005 to 2010. Of the studied jurisdictions, Russia, clocking in only 6 cases out 11,000, turns out to be the most hostile to the use of foreign precedents. They probably don’t think much of Canadian Vodka either.

These results of course are very relative to where you stand. A Canadian might see the U.S. results as appalling, while an American could equally see the Canadian results as just the

puerile vestiges of a colonial past. The beauty of empirical studies like these, however, is that there is an honest attempt to base conclusions upon hard data. The editors conclude that the data leads to a number of generalized, but helpful conclusions, itemized in the concluding chapter according to the same scheme as the structure of each chapter.

The audience for this last chapter I take to be legal academics in this field. The chapter would also be of great use for advanced legal researchers – those who understand the fine points of case law, and who appreciate that written judgments are not indivisible units. Citation to foreign judgments can appear in all types of judicial opinions: majority, concurring, and dissenting. In keeping with the view that Canadian law is a settled legal system, while Canadian constitutional courts are open to foreign precedents, the highest percentage of citation to foreign precedents are found in majority and dissenting decisions, and not in “per curium” decisions (p 421). Further, and interestingly, “Canadian judges appear to cite foreign precedents more frequently when they overturn government action than when they uphold it” (p 425). As a result, the editors conclude that “the [Supreme Court of Canada] is willing to be receptive to foreign solutions only when they are compatible with the principles informing Canadian society and its legal system” (p 426).

As can be seen from the foregoing, this is not a book to read from cover to cover. It is for browsing and dipping, although a general index would have made this much easier. Its strong point is the empirical data that can be mined from the studies that form the basis of the individual national reports. Although empirical legal research was all the rage some years back, the enthusiasm appears to have cooled. However, it is true there is not enough of this kind of research, and for the serious researcher and scholar what there *is* should be reviewed and studied. The excellent expositive footnotes in the chapters, and particularly in the Canadian report, provides an excellent source for identifying the relevant literature, which is what a good footnote should do.

For Canadians, I recommend reading the introduction, the U.S. and Canadian chapters, and some or all of the chapters on India, Australia, and South Africa, as well as the conclusion. All in all, this is a good book – well worth reading and it certainly should be acquired by Canadian academic and judicial law libraries.

REVIEWED BY
NEIL CAMPBELL
Law Librarian, Retired
Victoria, BC

WestlawNext[®] CANADA

**IT'S EASIER TO
END YOUR DAY
WHEN YOU KNOW
IT'S THE END
OF YOUR SEARCH.**



With **WestlawNext Canada** you can research in a way that's most natural for you and not miss a thing. Search across multiple content types, then further sort and filter results to focus on what's relevant.

WestlawNext Canada continuously recommends related content that you may not have considered so fewer searches are required. Less Searching. More Finding.

Discover more at westlawnextcanada.com

00227MO-A49183



THOMSON REUTERS



III Bibliographic Notes / Chronique bibliographique

By Susan Jones

Teresa M. Keenan, “Resource Description and Access: Cataloging Standards Affect Reference Service” (2014) 42:3 Reference Services Review 446-466.

In the last issue of *Canadian Law Library Review*, I wrote enthusiastically about the implementation of Resource Description and Access (RDA), the new cataloguing standard. Like most of the literature on RDA, that article focused on the impact of implementation on cataloguers, managers, and other technical services staff. This article, however, offers a different perspective on the impact of RDA and one that has received little attention to date. In this article, author Teresa M. Keenan, Associate Professor and Head of Bibliographic Management Services at the Maureen and Mike Mansfield Library at the University of Montana, writes about how the implementation of RDA affects reference librarians.

Some of you may wonder why reference librarians need to know anything about RDA. As the author notes, though, reference librarians often serve as the mediators between the library’s catalogue and its users, and given that RDA determines how and what information about a resource is recorded and appears in the catalogue, it’s important they have a basic understanding of the new descriptive standard. The author begins her article by providing a brief introduction to RDA and discussing her review of the existing literature on the topic. The largest part of the article, and the focus of this summary, is given over to a discussion of the major differences between the Anglo-American Cataloguing Rules (2002) (AACR2) and RDA and the significance of these changes to reference librarians.

The author describes RDA as the newest version of cataloguing best practices. These new best practices are characterized by a user-focused approach to the description of resources with an emphasis on capturing the data that will help users find, identify, select, and obtain the resources they seek. This data not only includes a resource’s characteristics and attributes, but also its relationships with persons and other resources. Although the author goes into some detail about her review of the literature on the topic of RDA, suffice it to say that most of the work to date is geared to technical services staff and largely neglects what RDA means to reference librarians and the end users of library catalogues. In comparing AACR2 and RDA, the author focuses only on those changes with the greatest impact for reference librarians and end users. These changes, and the ones summarized here, include the concept of main entry and the elimination of the “rule of three,” the “take what you see” approach to transcription, the elimination of the general material designator, the greater emphasis on relationships, and finally, enriched authority records.

The concept of main entry is one of the major underpinnings of AACR2. Using AACR2, cataloguers are instructed to use the first-named author as the main entry. However, if there are more than three authors named on the resource, or none at all, then the title is used as the main entry. In the case of three or more authors, the first-named author appears in the cataloguing record’s statement of responsibility, while the others are replaced by a set of ellipses and the Latin abbreviation *et al.* This practice is commonly referred to as the “rule of three.” To understand why this practice was developed, one need only remember that this rule, and many

others, dates back to the time when descriptive cataloguing was required to fit on a 3x5-inch card.

Under RDA, the concept of main entry is replaced by the primary access point. Unlike AACR2, the number of authors listed on a resource doesn't determine the primary access point. The first-named author is still used as the primary access point, or the title where no author can be identified, but all other authors, regardless of their number, can be added to the bibliographic record as additional access points. So what is the significance of this change in cataloguing rules for reference service and library users? Including all contributors to a resource improves searching and discovery within the library catalogue. For example, when all authors of a resource are recorded by the cataloguer, there's a greater chance that students will find resources co-authored by their professor even if that professor isn't the first-named author. The second change between AACR2 and RDA discussed by the author is the approach to transcribing information. While AACR2 instructs cataloguers to transcribe what they see, there are in practice many exceptions that require cataloguers to abbreviate information, use Latin phrases, and truncate or omit information. For example, "Third revised edition" on a book's title page is shortened to "3rd rev. ed." in the cataloguing record. Also, the Latin phrases *sine loco* and *sine nomine* are used when a cataloguer can't identify an item's place of publication and publisher.

In transcribing information, RDA also instructs cataloguers to transcribe what they see, but unlike AACR2, it discourages the use of abbreviations and Latin phrases. An edition statement like "Third revised edition" appears as "Third revised edition" in the cataloguing record and the lack of any publication information is represented by the phrases "place of publication not identified" and "publisher not identified." RDA also permits cataloguers to include additional information about a resource that's omitted when following AACR2. For example, following RDA, cataloguers can include information about a resource's manufacturer and any additional dates appearing on the item. These changes in the approach to transcription are particularly significant to library users. Without abbreviations and Latin phrases, cataloguing records are easier to read and understand, and matching items in hand with the records in the catalogue can be done with greater confidence. Furthermore, the option to include additional information about an item improves searching and discovery within the catalogue.

The third change described by the author concerns the use of the general material designator (GMD) in cataloguing records. Users will recognize the GMD as the bracketed information about format appearing with the title information (e.g., [videorecording], [electronic resource]). AACR2 instructs cataloguers to use the GMD for non-print formats, but it's not an instruction that's been carried over to RDA. Under RDA, more specific and accurate information about a resource's format is recorded in three new fields. For example, following AACR2, a streaming video is described simply as an electronic resource, but using RDA, it's

described as a two-dimensional moving image and an online resource that's viewed on a computer.

The importance of these changes for reference librarians and library users is two-fold. For one thing, the elimination of the GMD results in a change in the appearance of the cataloguing record. Users accustomed to seeing this information alongside the titles in a list of search results will need to look for that information elsewhere. Furthermore, where that information appears in an RDA record depends on the integrated library system and the configuration of its settings. Secondly, the inclusion of more accurate and detailed information about the format of a resource can impact how users construct their searches of the catalogue. Users who include information from the GMD in combination with title keywords to limit the number of search results may need to employ new search strategies to obtain similar results.

The fourth change in cataloguing practice concerns the emphasis on relationships in RDA. Using AACR2, information about a resource's relationships to other resources and persons was limited to unstructured, textual note fields. Using RDA, however, these relationships are described in a structured format that's easier for computers to decipher and collect into a meaningful set of results. Needless to say, this change has implications for searching and discovery in library catalogues. It also impacts the ability of reference librarians and users to find the resources they seek, to understand the relationships among resources, and to understand the relationships between resources and persons.

The fifth and final change discussed by the author is about authority records. As background for non-cataloguers, authority records provide the established or authoritative form of personal and corporate names, titles, and subjects used in cataloguing records to provide predictable and efficient searching. RDA's guidelines, such as the one that provides for the elimination of abbreviations, also apply to the creation of authority records. For example, "Montana Dept. of Transportation" is the authorized form of that corporate name under AACR2, but using RDA, the term department isn't abbreviated. Similarly, the authorized form of the old testament of the Bible is "Bible. O.T." using AACR2, but its authorized form using RDA is "Bible. Old Testament."

The significance of this change for reference librarians and library users is that cataloguing records are easier to read. It can also impact how users construct their searches of the library catalogue. Libraries that outsource the maintenance of their authority records can be assured that records will be updated quickly, efficiently, and on a large-scale fashion, while libraries that perform this work in-house or not at all are left with a catalogue that contains different forms of the same access point. In the latter case, reference librarians will play an important role in educating users on how best to search the catalogue to capture the varying forms of authorized headings. The author urges reference librarians to consult their technical services departments to clarify its approach to authority maintenance.

After reading the author's article, it's clear that RDA implementation is not and should not be the concern of only cataloguers and technical services staff. There's a range of people affected by the implementation of RDA and it's important to include these people in the transition to the new cataloguing standard. Information and training for reference services staff will ensure they understand how the changes to cataloguing and authority records affect the display of information in the catalogue and its functionality.

As a final note, the author's article also includes a brief history of cataloguing and while not summarized here, it may prove useful to non-cataloguers. Readers may also want to consult the full article for the author's helpful diagrams which illustrate and underscore the significance of the changes brought about by RDA.

Kathleen Darvil & Sara Gras, "The Missing Piece: Teaching Cost Recovery as Part of Cost-Effective Research" (Spring 2014) 22:2 Perspectives: Teaching Legal Research and Writing 107-111. Available online: <<http://info.legalsolutions.thomsonreuters.com/pdf/perspec/2014-spring/2014-spring-2.pdf>> (accessed 1 January 2015).

I think it's safe to say that online cost-effective research is a part of the legal research curriculum at most law schools, but what about cost recovery? More and more law schools are taking measures to turn out graduates that are practice-ready, so it makes sense to combine cost-effective online research training with practical information about cost recovery. In this article, authors Kathleen Darvil and Sara Gras, academic law librarians working in Brooklyn, New York and Washington, D.C., outline the basic methods law firms use to recover their online research costs from clients. They also suggest ways that instructors can incorporate this information into their legal research classes.

In 2013, the authors conducted a survey of academic law librarians to understand better the current state of cost-effective legal research training and what role, if any, cost recovery plays in that training. One-hundred and forty-three out of 151 respondents to the survey reported teaching cost-effective research in their classes. In addition to low-cost and no-cost research options and cost-effective search strategies for using commercial databases, the majority of respondents also reported providing information to students about the retail pricing of Westlaw and LexisNexis, as well as the transactional, hourly, and flat rate billing models of those commercial services.

While an awareness of retail price lists and cost-saving search strategies is important for students, it doesn't reflect the reality of the cost recovery process at law firms, according to the authors. Furthermore, although 89 percent of respondents acknowledged the importance of teaching students about cost recovery, only 23 percent of academic law librarians had a practical understanding of law firms' cost

recovery methods. If it's important for students to learn about cost recovery, then the authors assert that it's important for academic law librarians to understand how law firms recover their online research costs.

The authors describe three strategies for recovering online legal research costs: traditional proportional billing, all-inclusive billing, and no billing. It's important to note at this point that the American Bar Association's Committee on Ethics and Professional Responsibility has stated that law firms can't profit by the recovery of their costs and that clients should benefit from any discount from online vendors.

Using the traditional proportional billing method, law firms pass on the discount from their flat rate contract. To explain, when a law firm agrees to a flat rate contract with a vendor, the law firm is provided with access to the vendor's online service for a fixed price. The firm, therefore, pays the same monthly charge regardless of how much the online service is used. If the retail value of the law firm's actual monthly usage exceeds the monthly charge, then the difference represents a discount in online research costs. In the traditional proportional billing model, any discount in online research charges is passed on to the client for that month. If there is no discount that month, then the client pays the retail rates for any online research expenses. With this model, the client's charges for online research may vary from month to month.

The second cost recovery method is all-inclusive billing. Using this approach, clients are charged a fixed fee per search, per minute, or per hour. Unlike the traditional proportional billing method, with all-inclusive billing, the client's charges for online research are more predictable from month to month. The third approach to cost recovery is no billing. The authors acknowledge that this isn't an option for all law firms, especially those with multimillion dollar contracts for commercial services. Still, the authors offer a few reasons why some law firms may want to use this approach. For one thing, it's a benefit to the client. Second, it allow the firm's lawyers to focus on the research itself, rather than its cost. And third, it eliminates the need for any complex calculations of the costs to be passed on to the client.

The authors offer a few suggestions for those wondering how to incorporate cost recovery into legal research classes. Their first suggestion is to consult the experts. The approach to recovering the costs of online research varies from law firm to law firm, so academic law librarians may want to consider a presentation from their law firm counterparts involved in the cost recovery process. If that's not possible, then they'll want to discuss the aforementioned billing methods with their students. Law firm librarians, though, aren't the only experts. Vendor representatives can provide students or instructors with information about firms' various approaches to cost recovery, as well as tips on cost-effective research. The authors also suggest that academic law librarians alleviate the fears students may have about using their firms' online services when they can no longer rely on their free student access. Instructors should explain how law firms use

vendors' retail pricing sheets and encourage students to ask their employers about their cost recovery methods.

To conclude, the strategies academic law librarians employ to teach their students about cost-effective online research and cost recovery will depend on the amount of time and resources available. A little knowledge on this front, however, will go a long way to building confident and practice-ready students as they launch their professional careers.

Jeffrey A. Blois, "The Tip of the Iceberg: Legal Intelligence Platform Delivers "Insights"" (May 2014) 18:7 AALL Spectrum 27-29. Available online: <<http://www.aallnet.org/mm/Publications/spectrum/Archives/Vol-18/No-7/insights.pdf>> (accessed 4 January 2015).

I haven't written much about competitive intelligence in this column, but as the author notes in this article, it's a vital part of the business of law today. Author Jeffrey A. Blois is the Director of Research & Information Services at Foley & Lardner, one of the United States' largest law firms with 20 offices around the world and 40 physical libraries. In this article, he describes the process of selecting a new platform to streamline the delivery of competitive intelligence to the firm's personnel.

At Foley & Lardner, the library's top priority is the delivery of information to the firm's lawyers and staff. In this case, there are two types of "information." The first type of information is the research required by the firm's personnel in the carriage of their files. The second type is competitive intelligence. The author defines competitive intelligence as knowledge about clients, industries, and other law firms that lawyers use to maintain good relations with their clients and to identify new business development opportunities. Understanding what constitutes competitive intelligence, though, is only one part of the delivery of this type of information. The other part is how to gather and distribute the information in a way that's efficient and meaningful to the end-user. It's this part of the delivery of competitive intelligence that law firms have struggled with over the years, according to the author. Many rely on what the author calls a patchwork of incomplete and ineffective channels, such as industry trade publications, RSS feeds, and Google alerts.

The author set out to streamline the aggregation and delivery of competitive intelligence at Foley & Lardner and it was a task he didn't take lightly. The firm had long been one of InformationWeek's top 500 companies focused on client innovation and it aimed to stay on the list. That goal, along with the importance of competitive intelligence to the firm's business development efforts, meant that the stakes were high in moving from patchwork to portal.

There were certain functions that were essential in any new competitive intelligence tool at the firm. The first was that all information had to be funnelled through a single channel. Having a one-stop shop through which personnel could

access all available information sources was key to dealing with information overload. Second, the new tool needed to be able to find relevant information from a variety of sources and to present that information in a range of different and mobile-friendly formats. Third, personnel needed to be able to customize the information they received through the new tool. With over 900 lawyers at the firm, each with their own experience and interests, they needed to be able to define the scope of their competitive intelligence needs to get only what they required. It was this latter requirement that led the author and his team to reject a number of potential tools in favour of an aggregator-like product.

After assessing a number of tools, the author's team selected a service by Manzama. Comparing it against the firm's wish list of required functionality, Manzama's tool is able to collect most of the competitive intelligence the firm's personnel desires. Moreover, it can collect that information from a vast array of sources, including news articles, blog entries, press releases, and social media. It also permits end-users to specify the type of information they want and the format in which they receive it (e.g., via online dashboard, email, mobile app). Another factor that worked in its favour is that Manzama is tailored to the legal industry. Its competitive intelligence tool includes a built-in legal taxonomy and allows end-users to search for content by practice area, industry, client name, and law firm. Another advantage is that Manzama allowed the firm to brand the tool under its own name. By calling it Foley Insights by RIS (Research & Information Services), it was felt the firm's personnel would be assured they were using a tool that had been tested thoroughly and had garnered the hard-won approval of their own colleagues in RIS.

The work of the author and his team didn't stop with the selection of a new competitive intelligence tool. Rolling out the service to the firm's personnel was another important component of the project. The rollout began with the firm's management committee, whose profiles were set up by staff in RIS. Profiles were then established for other groups in the firm, including partners, associates, paralegals, and professional staff in all departments. The author and his team believed that this proactive approach to introducing the new service would be received more favourably and with greater enthusiasm than requiring end-users to set up their own profiles and searches. With over 1,000 subscribers to Foley Insights by RIS and a lot of positive feedback, the author deems the project of moving from patchwork to portal a great success.



||| Local & Regional Update / Mise à jour locale et régionale

Edited by Sooin Kim

Ontario Courthouse Libraries Association (OCLA)

There have been many changes in the Ontario Courthouse Libraries Association, some on a happy note, and some on a sad one.

On January 19, 2015, Lisa Doracka, Library Assistant at The Law Association of the District of Cochrane passed away. Lisa will live on through the kindness, and warmth that she showed all of us. She will be sadly missed by her OCLA colleagues.

Librarian, Amanda Ward-Pereira of the Algoma District Law Association began her maternity leave as of January 23, 2015. Former OCLA member Brenda Carbone has taken up the helm in Algoma while Amanda is away. We wish Amanda all the best with babyhood and we welcome Brenda back to the fold.

Library Technician, Karen Thuss-Hardy started on Tuesday, February 3rd, 2015 at the County of Perth Law Association. Karen is a recent graduate of the Mohawk College Library and Information Technician Program. She has also completed the Law Clerk Administration Program at Fanshawe College. We're happy to say that Wendy Hearder-Moan will be around in a consultative role to help Karen through the transition period. OLCA isn't ready to say good-bye to Wendy just yet!

SUBMITTED BY CHRIS WYSKIEL
Hamilton Law Association

Toronto Association of Law Libraries (TALL)

TALL members gathered at the Arts & Letters club on November 27 to celebrate the association's 35th Anniversary and ring in the holiday season with their annual season social. The evening featured Ontario's Ombudsman, Andre Marin as the guest speaker, and TALL members remained afterwards for an evening of conversation, food, beverages and door prizes from generous vendors. Members also came together at various venues for lunch & learn sessions on topics like securities research, SharePoint and summer instruction programs. The Publisher's Liaison Committee arranged for an information session on the Lexis-CCH merger from LexisNexis for TALL members on November 20, an event which was, not surprisingly, sold-out.

SUBMITTED BY JOHN BOLAN
Instructional and Reference Librarian
Bora Laskin Law Library

Winnipeg Law Libraries Group (WLLG)

Connie Crosby, Principal at Cosby Group Consulting and Vice President of CALLACBD, and Karen Sawatzky, Librarian, Tapper Cuddy LLP presented at the Manitoba Bar Association Midwinter conference, in a session on Knowledge Management. Connie appeared as a panelist, along with local lawyer Barney Christianson, and Karen moderated the session.

SUBMITTED BY KAREN SAWATZKY,
Librarian, Tapper Cuddy LLP

**Montreal Association of Law Libraries (MALL) /
Association des bibliothèques de droit de Montréal
(ABDM)**

There have been many new happenings at MALL since the start of 2015. We organized two workshops for the members. On March 26, 2015, Maître Stephanie Thurber gave an eye-opening presentation of the impact of the new Copyright Law on libraries services. The session was hosted by the Degrandpré Chait Law Firm. On April 15, 2015, there was a presentation on Time and Email Management by Formations Qualitemps at the Chambre des Notaires du Québec. MALL members learned valuable new tips in regards to organizing time.

There will be elections this spring (date to be determined) for a new Vice-President and Treasurer of MALL. We invite all MALL members interested in volunteering and promoting awareness of legal librarianship to consider applying for one of the two positions.

Il y a eu plusieurs nouveautés à l'ABDM depuis le début de 2015. Nous avons organisé deux conférences pour les membres. Me Stéphanie Thurber est venue expliquer l'impact de la nouvelle loi sur le droit d'auteur sur les services offerts par les bibliothèques le 26 mars 2015 au cabinet d'avocat Degrandpré Chait. Nous avons aussi eu une présentation sur la gestion du temps et des courriels par la firme Formation Qualitemps le 15 avril 2015 à la Chambre des notaires du Québec. Les membres de l'ABDM ont pu apprendre des trucs et astuces pour mieux organiser leur temps.

Il y aura des changements cette année au niveau du comité exécutif de l'ABDM avec l'élection de deux nouveaux candidats aux postes de Vice-Président(e) et de Trésorier (ière). Nous invitons les membres de l'ABDM qui désirent

consacrer du temps à la bibliothéconomie juridique de postuler pour un des deux postes.

SUBMITTED BY MARYVON CÔTÉ
MALL President / Président de l'ABDM

Vancouver Association of Law Libraries (VALL)

Julie Clegg of Toddington International was the guest speaker for the VALL's November seminar. Her presentation "Finding Those Who Don't Want to Be Found Using Social Media and Other Cyber Tools" was excellent. VALL members learned a lot and were truly amazed how much information can be found on social media and through the online tools. At this meeting VALL also paid tribute to Peter Bark, one of the founding members of VALL, who passed away 24 years ago but whose legacy continues through the Peter Bark Professional Development Bursary.

The last event of 2014 was a December Social which was generously sponsored by Blake, Cassels & Graydon LLP. It was a fun event and the VALL members had a great time catching up over a glass of wine with colleagues and alumni, VALL honored and lifetime members.

For more information about VALL, please visit the website at <<http://www.vall.vancouver.bc.ca>>

SUBMITTED BY LARISA TITOVA
Manager of Research and Information Services
Blake, Cassels & Graydon LLP

Deadlines / Dates de tombée

Issue	Articles	Advertisement Reservation / Réserve de publicité	Publication Date / Date de publication
no. 1	November 1/1 novembre	November 15/15 novembre	February 1/1 février
no. 2	February 1/1 février	February 15/15 février	May 1/1 mai
no. 3	May 1/1 mai	May 15/15 mai	August 1/1 août
no. 4	August 1/1 août	August 15/15 août	November 1/1 novembre

MEMBERSHIP, SUBSCRIPTIONS, BACK ISSUES / ADHÉSION, ABONNEMENTS, NUMEROS ANTÉRIEURS:

CALL National Office/Secrétariat ACBD
720 Spadina Ave, Suite 202
Toronto, ON, M5S 2T9
Telephone: (647) 346 – 8723
Fax/Télécopieur: (416) 929 – 5256
E-Mail: office@callacbd.ca



III News from Further Afield / Nouvelles de l'étranger

Notes from the UK

London Calling!

By Jackie Fishleigh*

Hi Folks!

I have a variety of legal issues to bring you this time.

Court Allows Injunction Sent via Twitter

New Law Journal reports that a law firm, SGH Martineau, had asked the courts for an injunction to prevent an undesirable far-right group from trespassing on a university campus. The problem was to the difficulty in serving the papers to a group that was mainly organised via social media. The judge not only granted the request to serve papers via Twitter but also granted a further injunction against one of the defendants which compelled him to cause the group's offshore web hosting company to post the original injunction on the group's website!

This meant that two injunctions were actually served and goes some way to show that not all judges live in an ivory tower!

Top Law Firm Trainee Posts Inflammatory You Tube Video Blaming the Paris attack on Non-Muslims

Aysh Chaudhry, a trainee solicitor at Clifford Chance made headlines across the UK media this week after uploading a 21-minute rant in which he blamed the Paris attack on non-Muslims who "killed our people and raped and pillaged our

resources." Chaudhry makes reference to non-believers as "kuffar." It has not emerged whether his employers will take any action about this video which was made in the wake of the shootings at the offices of the French satirical magazine Charlie Hebdo.

US ABS Zooms in on London

Legal Zoom is now licensed with the Solicitors Regulation Authority here to provide reserved legal activities.

The company is one of the best-known legal brands in the US. It says it has prepared more than 2 million legal documents such as wills and living trusts online.

It has already announced a partnership with the well established UK law firm network QualitySolicitors.

Acclaimed TV Drama Panned for Catalogue of Inaccuracies in Court Room Scenes

The second series of *Broadchurch* (ITV) recently hit UK screens with over 7 million viewers tuning in. I understand that Series One was broadcast on Canada's Showcase Channel. *Broadchurch* has won countless awards and been a huge ratings success.

The *Daily Mail* drew attention to 10 errors including a body being exhumed on flimsy grounds without the permission of the deceased's family. In reality a body belongs to the coroner. The UK Ministry of Justice said "it is inconceivable it would happen this way." Another mistake was grieving

parents selecting their own barrister by visiting her at her luxury beach hut(!) In any murder case the Crown Prosecution Service would select an appropriate barrister without consulting the family at all. "Prosecutions are brought by the state in the name of the Queen on behalf of society at large" explained legal expert Baroness Helena Kennedy. She also pointed out that the judge was wearing the wrong type of wig i.e. a barrister's rather than a judge's wig.

It is unusual for a TV show to contain so many glaring errors. There are often complaints about the lighting of historical dramas (Wolf Hall), mumbling and inaudible regional accents (Jamaica Inn) however. I was involved in carrying out some historical legal research for Downton Abbey – the BBC goes to huge lengths to make things authentic.

The *Solicitors Journal* cited a number of inaccuracies which had rankled with members of the legal profession including potential witnesses sitting in court listening to proceedings before giving evidence and legal arguments (over the admissibility of a confession) being conducted in front of the jury. It also highlighted the fact that the fictional trial took place just weeks after the crime had been committed – highly unlikely to occur in reality given the state of the criminal justice system i.e. very slow!

And Now for Something Completely Different.

I assume there are Monty Python fans in Canada?! Maybe even you. Well I was lucky enough to get along to one of the Monty Python reunion O2 shows in London last summer and thoroughly enjoyed the performance. In John Cleese's autobiography *So, Anyway*, he reveals that the shows were prompted by a bill for over £800,000 legal costs received by the Pythons following a failed legal battle they took on over the division of profits from their musical, *Spamalot*.

Chilcot Inquiry Report on the 2003 Iraq War Delayed until after Election in May

This hugely important Inquiry led by Sir John Chilcot began its work in 2009 and held its last public hearing in 2011.

It has been looking into the reasons for the UK's involvement in the 2003 US-led invasion, which toppled Saddam Hussein, and the aftermath of the conflict, which saw UK troops remain in Iraq until 2009. Whatever conclusions are drawn will be of great interest to the public and the media, but above all the families of the many servicemen and women who gave their lives.

In a letter to Prime Minister David Cameron, Sir John said "very substantial progress" had been made since his last update, but said the process of allowing people who were criticised in the report to respond was still taking place.

He could give "no accurate estimate" of a completion date but that it would take "some further months" and could see "no realistic prospect" of publication before the General Election on the 7th of May.

These revelations were greeted with anger and derision by MPs, party leaders and the media.

Greek Election Result Likely to Spark Euro Zone Crisis

The anti-austerity Syriza party has just won Greece's backing, putting the country on a possible collision course with the EU over its massive bailout according to many commentators.

With nearly 75% of the votes counted, Syriza is projected to win 149 seats, just two short of an absolute majority, though that number could change.

Left-wing party leader Alexis Tsipras, who wants to renegotiate Greece's debt i.e. not pay large chunks of it, said "the Greeks wrote history." German leader Angela Merkel is unlikely to view this aspiration sympathetically.

Whether Greece will have a future as a member of the European Union remains to be seen. The commentator I like to read on this topic is Vicky Pryce, chief economic adviser at the Centre for Economics and Business Research. Despite the name she is Greek and wrote a book on the subject called *Greeconomics*. She feels the key here is compromise which doesn't come naturally to Greek politics. Concessions will need to be made on both sides and from the start to avert a crisis.

The Greek election (and Spanish election later in the year where a similar anti-austerity candidate is also likely to win) will no doubt have a knock-on effect on our upcoming General Election during which the UK Independence Party (which wants to pull out of the European Union) is likely to gain MPs for the first time who have been originally elected as UKIP. At the moment they have two MPs who defected to UKIP from the Tories.

And finally...

It has just occurred to me that by the time of my next column our General Election will almost be upon us! I can honestly say that no one here has a clue what the outcome will be! We are still getting used to having a set date in accordance with the Fixed-term Parliaments Act 2011. For decades the Prime Minister pulled the trigger and often either picked a period when his/her party was riding high in the opinion polls or held out until the last possible moment. This time the date is set in stone for Thursday 7th May 2015.

Until next time!
JACKIE

Notes from the Steel City

By Pete Smith**

As I look out of my office window I can see the ice and snow covered paths – winter is truly here, although not on the scale it is over the water! Here's what's caught my eye since the last column.

Legal Aid

The effects of cuts in legal aid have been covered in previous columns. As access to professional representation becomes more difficult, the courts have seen an increase in the number of litigants-in-person, with the associated delays and frustration that well-meaning but ill-informed people bring. Even with the help of McKenzie Friends, university law clinics, and pro bono advice the court process can be difficult to negotiate.

Several recent family cases have shown how lack of access to professional representation can be potentially devastating. In one case¹, parents who had their child removed from them faced a long and difficult struggle to prove their eligibility for legal aid. During this time their child remained separated from them. The parents faced the prospect of going to a final hearing without representation, which the President of the Family Division said was “unthinkable.”² Matters were made more complex by the fact that both parents have learning difficulties and so another layer of administration was added to the legal aid proceedings.

In his judgment Munby P said that “The parents can be forgiven for thinking that they are trapped in a system which is neither compassionate nor even humane” and went on to ask, “Is this really the best we can do?”³

In the current climate it is hard to give an answer other than “yes” to that question. The current government is committed to the legal aid regime set out in its *Legal Aid Sentencing and Punishment of Offenders Act 2012* (LASPO) and it is unlikely that an incoming government would reverse many of the cuts, regardless of complexion. Labour have committed themselves to a *review* of elements of the system and to co-operation with lawyers to find savings to fund the outcomes, rather than pledging new money. Things would of course be different if the UK follows Greece in electing an anti-austerity government, but that seems unlikely!

The Aftermath of Charlie Hebdo

The attack on the offices of satirical magazine *Charlie Hebdo* and other attacks in the days which followed opened up once again the debates around free speech and the balance between security and privacy.

The coming together of many world leaders in Paris was impressive, but many pointed out the seeming hypocrisy of the event. Many of the leaders marching in support of freedom of expression could charitably be said to have a patchy record in their own countries. Others pointed out that Boko Haram had carried out a large scale attack in Nigeria, leaving thousands dead, and there was little coverage in the press and a much more muted response from western politicians.

Turning to legal responses, the *Counter-Terrorism and Security Bill* was in the House of Lords. In response to the

attack in Paris, David Cameron argued that there should be no communications which could not be read – this comment has been seen as an attack on encrypted communications. As part of this approach, amendments were tabled to the *Counter-Terrorism and Security Bill* which in effect were the same as those in the earlier – failed – *Communications Data Bill*. This Bill, popularly known as the “Snoopers’ Charter,” would have created wide and deep data collection and retention powers. However, as noted, it did not make it through Parliament. The attempt to include it in the *Counter-Terrorism and Security Bill* also failed, as members of the Lords were not convinced by the arguments for extending surveillance powers to the extent laid out in the amendments. The loss of disks containing sensitive information, such as data relating to the shooting of Mark Duggan – the immediate cause of the 2011 riots – has further called into question government plans for data interception. If they cannot be trusted with such data, it is argued, how can they reasonably be trusted with the data from a mass surveillance programme?

The Prime Minister has been clear that such provisions would form part of a future Conservative government programme. The Deputy Prime Minister argued *against* rushing to increase surveillance plans. This is just one area of tension between the Coalition partners, all of which makes the upcoming election so interesting!

Magna Carta

And we must of course mention Magna Carta, this year being the 800th anniversary of its sealing at Runnymede. A number of events are planned, and one of the remaining copies has been on a tour already.

The government and high profile law and business “partners” have put together the Global Law Summit which will take place in February. This will feature star speakers and lots of high level networking, all showcasing – according to the Prime Minister – the UK’s commitment to freedom, business, and the rule of law.

For some this Summit does not capture the spirit of Magna Carta, being as it is a high power, high price event focusing on “business” and “enterprise” with law seeming to be an afterthought, or at the best the context for a celebration of a certain view of “freedom and the rule of law.” The presence of arms dealers and representatives of less than democratic governments has also raised eyebrows. An alternative gathering, Not the Global Law Summit [NGLS], has been set up to provide what its organisers feel will be a more appropriate celebration.

To me Magna Carta is an under-the-sword compromise between two flavours of robber barons, repudiated by one side almost immediately, and only ever recognised by them when weak. One can only imagine the astonishment its authors would feel on seeing it flown as a banner for

¹ *D (A Child) (No 2)* [2015] EWFC 2

² *D (A Child) (No 2)* [2015] EWFC 2 [1]

³ *D (A Child) (No 2)* [2015] EWFC 2 [21] - [22]

democracy and the rule of law. But that is the nature of Magna Carta – it is a myth, a fetishised frozen moment in time which has been used to support all sorts of constitutional claims and will continue to do so.

All of that said I will join the many others who will visit Lincoln to see one of the remaining originals! My son has on his wall a copy that we bought on a previous visit to the Castle there.

Choices

One of Magna Carta's roles has been as supporter of democracy. As Jackie noted we will soon see our democracy in action in the May General Election. Spring seems far away as the snow falls, but no doubt the campaigning will make the time fly! Until our next column, take care!

PETE

Letter from Australia

By Margaret Hutchison***

As I write, it's summer here, though I don't know where it is at present, it's been very cool and wet lately.

Summer is typically a quiet time in Australia, though the Premier of Queensland broke the summer drowse on 6th January when he announced an early state election on 31 January giving just under 4 weeks campaigning. The Liberal National Party (LNP), led by Premier Campbell Newman will seek its second term after defeating the Australian Labor Party (ALP) at the 2012 election in the largest defeat of a sitting government in Queensland history. The LNP won 78 seats – the largest majority government in Queensland history – compared to seven for Labor, two for Katter's Australian Party, and two won by independents. This is the first time in over a century that an Australian general election is held in January. The last January election was held in Tasmania in 1913 and the last on the mainland was the New South Wales colonial election of 1874–75. If the LNP are re-elected, (it's predicted that it will be re-elected with a reduced majority, because the majority was so large in 2012).⁴ This election may challenge conventional wisdom that you don't call elections in January, as voters don't like being disturbed during their summer holidays so they will vote for the opposition. This election has been in the middle of a series of state elections. Tasmania and South Australia both went to the polls on the same day in March 2014, the 3rd time in a row this has happened.

Tasmania had a change of government with the Liberal Party winning a comfortable majority, campaigning on issues such as the termination of the Labor-Greens alliance, a pulp mill project, Tasmania's Forests Agreement, the economy and job creation, while in South Australia, the Labor government

was faced with a hung parliament, but eventually governed in its own right after a by-election caused by the death of an independent member. The issues in that state were the more usual ones of the economy, education and the state deficit. The economy was of especial concern since one of the major employers, General Motors Holden had announced that it would cease manufacturing cars in Adelaide in coming years, this along with closures by the other car manufacturers, Ford and Toyota, in Victoria meant the end of an entire industry and the ongoing effects on many other industries.

Victoria went to the polls in November, one of the few states with a fixed term election. The incumbent Liberal National Party coalition government was defeated after one term in office, with many arguing that one of the reasons for the defeat was the unpopularity of the Federal Liberal government. Other issues were a proposed new toll way under Melbourne, the loss of jobs from the car industry and Alcoa Aluminium smelter closure, and public transport.

New South Wales goes to the polls in March. As it's still the silly season there hasn't been much interest yet, although the issues will probably be the proposed sale of government electricity assets (want to buy a power pole, anyone?) and the reports of the Independent Commission Against Corruption concerning members of both the major parties.

The unpopularity of the federal government and the Prime Minister will have an effect on the NSW election. The Prime Minister's latest public relations disaster was appointing the Duke of Edinburgh to be a knight in the Order of Australia in the Australia Day honours. This was a "captain's pick," not canvassed with anyone else and the resulting public ridicule of the appointment has lingered for days. The Prime Minister, when he reintroduced knights and dames into the Order of Australia last year, also didn't consult on that occasion and there was some interesting social commentary then.

The Order of Australia was established in 1975 to recognise Australian citizens and other persons for achievement or for meritorious service. Before the establishment of the order, Australian citizens received British honours. It is similar to the Order of Canada although it has 5 grades, Knight/Dame, Companion, Officer, Member and Medal, unlike the Order of Canada's three levels. Also, unlike Canada, there are no state honours, so many more people are appointed to the Order of Australia each year than in the Order of Canada.

The insignia of the Order of Australia is based on the wattle blossom with the various grades receiving a more decorated medal the higher the grade. This is the medal of the Companion of the Order. If you receive a Medal of the Order, it's a golden ball of wattle, with no colours.

⁴ Election results update: the Liberal National Party was defeated with a considerable swing against them. The Premier also lost his seat. The larger than expected swing was put down to reaction in the country areas against the perceived Brisbane-centric government and also the federal government's policies and the Prime Minister's.



The government's attempts to compel telecommunication companies to keep metadata for two years continue. The next stage will be the threat of increased charges to users by the telecommunication companies to recoup the cost of storing the metadata. This is a ploy to get the government to contribute more towards the cost of storage. However, other groups have come out in favour of retaining the metadata. Certain government agencies will be allowed to have access to the metadata, such as the police. One agency omitted from this list is the corporate regulator, Australian Securities and Investment Commission who would like access, as it presently does, for use in its investigations into white-collar crime. This will be an ongoing issue for the coming year.

That's about all from Australia, it looks a like a year fulfilling the apocryphal Chinese proverb "May you live in interesting times"

Until next time,
MARGARET

Developments in U.S. Law Libraries

By Anne L. Abramson****

This column covers developments from September 2014 through January 2015 with a blip in the middle (October and

November) for reasons explained further at the end of this column. Let's start at the beginning of fall semester 2014 with the librarians' frequent assignment: the infamous library tour.

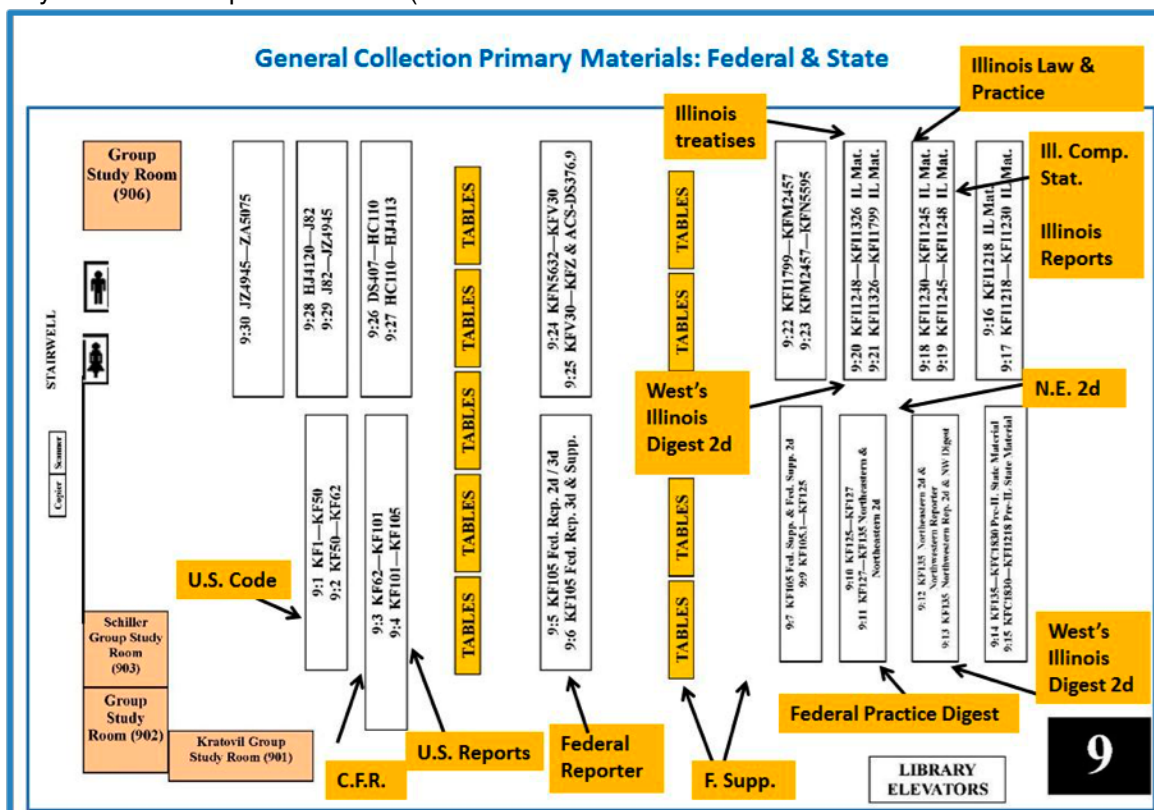
A. New and Improved Library Tour: The Annotated Map

Last fall, my colleague, Victor and I came up with what I hope is a better library tour for Prof. Sonia Green's first year Lawyering Skills class. Often I focus on using the catalog and spend quite a bit of time in class demonstrating searches for the students. This time though, we spent most of the time in the Library with the students researching an actual Illinois law question. The PowerPoint presentation and class handouts consisted mostly of annotated maps of the Library's physical space like the one below.

We knew what Prof. Green wanted us to cover and annotated the library maps accordingly. Then Victor and I were off into the stacks with our respective groups of students to show them how to find and use the highlighted resources for hands on research. The only challenge was trying not to run into each other!

B. New Format for Guest Lectures

This past semester, I tried to implement a new type of guest lecture. Instead of the usual 45 minute PowerPoint lecture, I developed a 20 minute lecture featuring some slides but mostly "live" demonstrations of how to use various resources for research. Students used the balance of class time to answer research questions with the resources that I had just demonstrated. Students continued their work on the research exercises outside of class and posted their answers to the forums on their course websites.



Human Rights Clinic

Thus, for the Human Rights Clinic last fall, I created exercises which consisted of two questions relating to each of the following types of resources: secondary sources, treaties and cases. I asked the students to post their answers to the Human Rights Clinic Research forum at the class website. These student assignments were not graded, so I did not provide individualized feedback but I reviewed their answers and posted my “model” answers to the forum together with general comments hoping that the students could thereby assess their own work. I was pleased with the student responses, in general. In hindsight though, it might be a good idea to make the exercises “count” either towards class participation or as another component of their overall course grade.

Much depends on the professor, of course, and how willing he/she is to collaborate with the librarian. In this instance, Prof. Sara Davila-Ruhaak our Human Rights Clinic director was very happy to work with me. In fact, she made my research component even more relevant by requiring the students to use the resources and skills I taught them to write and turn in a research memo after my class presentation. The short exercises I created tied in directly to the issues they had to research for this memo.

Administrative Law

It took two semesters to perfect my presentation to Prof. Ardath Hamann’s Administrative Law class, but I was very happy with the latest incarnation of this research component last fall. The results were especially good because Prof. Hamann was willing to spend time collaborating with me beforehand and also to devote considerable class time to

this research component. As Prof. Hamann is a superb classroom teacher, I learned a great deal from her “less is more” approach. She recommended spreading out coverage of the resources over a three week period rather than trying to jam them all into one session. We, therefore, opted to break my presentation into two classroom visits and assign research exercises before, between and after each visit.

Before my first visit, the students were to watch one of my regulatory research videos relating to U.S. agency websites and answer questions using such websites. I reviewed their answers and posted my model answer and comments to the research forum at the course website.

During my first class, I reviewed answers to the agency website questions and covered general sources for researching U.S. regulations, such as the *Code of Regulations* (CFR) and *the Federal Register*, and their online publication via general resources FDSys, eCFR, FederalRegister.gov and Regulations.gov. I lectured and did online demos for only about a half hour of class. During the last half hour, I had the students form teams and work on several research questions together.

For administrative research, in particular, I like to assign research questions that relate to an agency action (i.e. a proposed rule) recently in the news. The perfect news article appeared in a September, 2014 issue of the Wall Street Journal just a few weeks before my first class visit. The article related to the new practice of using trains to transport oil in the absence of pipelines. The potential hazards of transporting flammable materials by rail through cities and towns became particularly apparent to U.S. agencies after the terrible oil train fire which occurred in Lac-Megantic, Quebec in 2013. The agencies are now proposing new

Research Component of Administrative Law Course Fall 2014

*1. After the research component, I am

very comfortable doing regulatory research

comfortable doing regulatory research

somewhat comfortable doing regulatory research

not comfortable doing regulatory research

Other (please specify)

*2. After the research component, do you think you need further regulatory research training?

Yes

No

If so, please specify what such training should cover.

*3. Please rate the following features of the research component.

	not helpful	somewhat helpful	helpful	very helpful
Video tutorial	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Librarian in class lecture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In class exercises	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Exercises outside class	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PowerPoint presentations posted to class website	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Librarian posts to forum	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Student posts to forum	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify)				
<input type="text"/>				

*4. How could this research component be improved?

*5. Would you like to have a research component in any of your other classes?

Yes

No

If so, please specify:

rules to address these risks. If you do not fortuitously run across a proposed rule just in time for your class, a search for the term “proposed rule” with a date restriction in a news database should turn up some interesting articles.

In addition to using news articles whenever possible, I ask students not only to give me the answer to the questions but also to provide a detailed research path. That way, I can see that they are doing the work themselves and, if they did not come up with a correct answer, discover how they may have gotten sidetracked.

As mentioned above, the student teams had a half hour in class to find the proposed rules as described in the news article and answer various questions about them. Prof. Hamann asked the students to post their answers to the research forum at the class website by the end of the week. I, again, reviewed the students’ answers and posted my own model answer and comments to the research forum. During the two week gap between my two class visits, I created and posted two more research questions to the forum. Those questions asked the students to use general resources, Westlaw and Lexis, to research agency regulations.

During my second class visit, I reviewed answers to those interim questions. I then went on to cover specialty resources, Bloomberg Law and CCH, for researching agency regulations. I followed the same format as the first class, namely, a lecture and demonstrations during the first half hour of class and student team research exercises for the balance of class. The students had until the end of the week to post their answers to the research forum.

In addition to posting my comments and model answers to the class forum, I asked the students to answer a brief survey about the research component of the class. The survey consisted of the following five questions:

Unfortunately, only a few of the students answered the survey online, but Prof. Hamann printed out the survey and had the students answer the questions in class. The students’ written comments were especially valuable. One indicated that he/she would have liked to do a longer term research project (i.e. a memo) requiring use of the resources we discussed in class. Another student stated that he/she would have learned more working alone rather than in groups. One student did not like the class forum approach. Prof. Davila Ruhaak once mentioned to me that some students may not like the forums as they don’t wish other students to see their work. In spite of these comments, I haven’t given up on using forums just yet.

I would have liked to involve Prof. Hamann more with the students’ research activities outside of class, in particular, the answers they posted to the class research forum. I wanted Prof. Hamann to see for herself the students’ responses and the possibilities for using tools like discussion forums to interact with students outside of class. Unfortunately, she was quite reluctant to use the course website, although she supported me wholeheartedly in my efforts to utilize the website however I wished.

Bankruptcy

I used a similar approach to guest lecture to Prof. Lewis’ bankruptcy class last fall. Bankruptcy is a relatively new area for me so coming up with appropriate research questions for the class was a bit challenging. However, Prof. Lewis was able to provide some great suggestions. With his guidance, I was happy with the questions I created. The class went well, especially considering that this was the first time I used this format. It would have gone better if I could have involved the professor more with post class follow up. It took about two semesters to hone the presentations to the Human Rights Clinic and Administrative Law classes, so perhaps a similar amount of time is necessary to hone the bankruptcy presentation as well.

Lessons learned include making sure that the professor is willing to collaborate with the librarian both before and after guest presentations. Because professors are always very pressed for time, I understand that making more demands on that time is not always what they are looking for when they invite a librarian to guest lecture. However, their input is critical for the ultimate success of the research component.

Also, the quality of the answers to the research questions (indeed, whether the students even bother to answer the questions) depends on the professor’s willingness to stand behind the librarian and require the students to respond. Making the questions count somehow would likely improve student performance in this respect. As you might suspect, there is a lot of work that goes into preparing these interactive lectures, demos and exercises versus the usual PowerPoint presentation. However, during the class, the librarian and professor can be quiet for a change and enjoy letting the students work away on their exercises. It takes a little while, in fact, to get used to the quiet. ☺

I dislike the term “embedded librarian” (ugh) but that is, in essence, what we proposed to the professors at the beginning of the semester. We offered what I prefer to call an “interactive research component” to clinic professors. I think we could expand this offering to all professors teaching substantive law classes as well, especially if the course includes a paper assignment that requires the students to put their new research skills to use. This kind of class participation can be very fulfilling for librarians, students and professors alike.

C. Notable Articles & Book

Law Library Journal

Gordon Russell, *The ABA Section on Legal Education Revisions of the Law Library Standards: What Does it all Mean?* 106 L. Libr. J. 329 (2014).

As we begin to prepare for our next ABA inspection in spring, 2016, this article is very timely for us.

AALL Spectrum

Patricia Morgan, *Stop Me If You've Heard This Before: Transitions in Teaching Legal Research*, 19 AALL Spectrum 21 (Sept/Oct 2014).

This article is something of a cautionary tale to be “careful what you wish for,” as you just might get it! The librarians at University of Florida’s Levin College of Law used to teach several sections of advanced legal research. As a result of several studies lamenting the lack of research skills in new law graduates, the law school eventually asked the librarians also to teach legal research to first year law students as part of the required 1L legal writing program. This level of librarian involvement could now be the norm as more law schools try to incorporate more skills training into their curriculums. It is something to think about as we team-teach our own advanced legal research course this spring for the first time in many years.

James Hart, *Making the Horse Drink: The Design of Library Subject Guides*, 19 AALL Spectrum 13 (Nov. 2014).

This article is useful to any librarian who has to create a new electronic research guide, that is, virtually all of us at one time or another. High quality guides produced by librarians are a great service to our patrons. Such guides are ubiquitous, as all libraries now offer them and we, professional librarians, are uniquely qualified to create them. The author undertakes a detailed examination of what makes these guides most appealing to readers, including layout and use of white space, and typeface and size. We could have used this guidance when creating our own stable of “LibGuides” to make them more uniform and user friendly. The conclusion seems obvious: the appearance of the text should reflect the purpose of its content. It sounds simple but may be hard to achieve in practice. These techniques, tips and examples should help.

Mark Popielarski, *Assessing Altmetrics: Why Librarians (and Law Schools) Should Care about Altmetrics*, 19 AALL Spectrum 28 (Nov. 2014).

The world of blogs and social networks has seemingly leapfrogged beyond traditional legal scholarship. Most of us are familiar with digital repositories, BePress and SSRN, by now. I’ve used SSRN, in particular, to find recent papers and works in progress. At the suggestion of JMLS professor, Mark Wojcik, I recently explored some of SSRN’s other features such as “Top Authors” and “Top Organizations.” There are now more tools, such as Impactstory and Plum Analytics, whose express purpose is to gather data on “scholarly impact” across platforms. Given the intense competition among U.S. law schools and their sensitivity to ratings, I am sure that more and more schools are taking notice of these “alternative metrics.” In fact, I wonder if such “altmetrics” could ever end the obsession with school ratings in the popular magazine, U.S. News & World Report. If so, that would probably be a good thing.

When I think of metrics for librarians, I think primarily of Gimlet, a simple program that we have been using to collect our reference statistics for many years now. In fact, I described our adoption of Gimlet in my winter 2011 column. How time flies! Gimlet is still quite useful to us. Just recently, for example, I was asked to use Gimlet to quantify much our Chicago Bar Association (CBA) patrons are using our library. Whether we like them or not, metrics are here to stay and their role will likely expand throughout US law schools.

Joy Shoemaker, *Structured Writing: Can it Benefit Your Library?*, 19 AALL Spectrum 6 (Nov. 2014).

This article starts with a wonderful quote from William Howard Taft: “Don’t write so you can be understood, write so that you can’t be misunderstood.” When it comes to communication, there is always room for improvement. This article contains some great tips even for those of us who think we can write pretty well. Whoever heard of “chunking”? It makes perfect sense when you try to memorize the two lists of items that the author shows us side by side. Lesson: the chunked list is much easier to memorize. Other tips include providing accessible detail, a delicate task of balancing too much information with not enough.

Ning Han, *Technical Services Going Mobile: How Technical Services Librarians Can Benefit From Integrating Mobile Technologies and Devices into their Daily Workflow*, 19 AALL Spectrum 9 (Dec. 2014).

As a relatively new adopter of my iPhone, I am now intrigued by its possibilities. Just recently, for example, my friend expressed interest in a recipe that I made. I bought her a copy of the cookbook containing the recipe as a holiday gift. Before I had a chance to give the book to her, however, she simply snapped a photo of the recipe with her smart phone after I showed it to her. Who would have thought? The author of this article has certainly thought of the possibilities. As a “one person technical services department” who works with another cataloger remotely, Ning Han is using her smart phone in innovative ways to save time and labor. Our library is very different but I am wondering if we, too, could benefit from “going mobile.”

ABA Journal

Bryan A. Garner, *Stop Before You Hit Send: why it’s crucial to report your research intelligibly*, ABA Journal 24 (Sept. 2014).

Bryan Garner is the ultimate legal “wordsmith.” I remember him for the book he co-authored with US Supreme Court Justice Antonin Scalia. The book is aptly titled *Making Your Case: The Art of Persuading Judges*. Mr. Garner also writes a regular “on words” column for ABA Journal. This particular column is especially valuable to legal educators as it includes actual examples of common faults and how to cure them. If you ask your students to do short research assignments and report back with succinct answers, this column is well worth consulting.

Chronicle of Higher Education

Mark C. Taylor, *Terminal Velocity: How Fast can Human Activity Get Before it Becomes Inhuman? Speed Kills: Fast is Never Fast Enough*, Chronicle of Higher Education B6 (Oct. 24, 2014).

This commentary explores the development of our modern obsession with speed and how it has transformed both our financial and educational systems. Faster, the author convincingly argues, is not always better. In fact, it could be leading to the meltdown of the complex systems that sustain our lives. In education, our students must learn that “memory cannot be outsourced to machines.” I like how Prof. Hamann puts it best when she says to her students “your brain is better than any computer.”

Nathan Schneider, *Time to Think: Leisure Requires and Inspires Ruminating; Both are out of Fashion; The Labors of Leisure*, Chronicle of Higher Education B10 (Oct. 24, 2014).

Given that I often feel “time starved,” I was drawn to the Oct. 24, 2014 issue of the *Chronicle* by the “24/7/365” headline above a time-lapsed photo of a busy urban street corner. This particular article profiles Prof. Benjamin Hunnicutt, former professor of “leisure studies” now teaching a class on the “experience economy.” Recently, I noticed how library books and small brick and mortar stores have become something of a novelty now that many of us do most of our shopping and reading online. Perhaps the idea that physical books and stores are now anomalies is another indication that, in our rush, we are indeed missing the experience.

Reading & Webinars for ALR Course Preparation

Patrick Meyer, *Law Firm Legal Research Requirements and the Legal Academy: Beyond Carnegie*, 35 Whittier L. Rev. 419 (2014).

My colleague Gregory sent us a copy of this article which compiles the results of three studies relating to new law firm associates’ perceived lack of research skills. The studies describe the skills desired by law firms in their associates including specific resources and formats. Tables describe the kinds of research tasks done at various size law firms and whether they should be done in print or electronically. Per Gregory, the main take-aways are as follows:

1. New associates can expect to spend 45% of their time conducting research.
2. Law firms absorb much of the cost of excessive or sloppy research. New hires are not proficient in the use of free or low-cost resources.

3. New associates do not integrate print and online sources, and are often unable to use print sources, even when they are considerably less expensive and more efficient.
4. New hires are not proficient in the use of secondary sources and attempt to use case research as a starting point.

See Appendix B for some very useful, unedited comments from law firms about new hires. We hope that we can help address these concerns when we teach our advanced legal research course this spring.

Sara Sampson & Tim Gallina, *Designing Engaging Assignments for your Course* (Nov. 19, 2014).

We attended this webinar shortly before Thanksgiving break, hoping it would help us address that eternal challenge: coming up with good research exercises for our students as part of our new advanced legal research course. The program is available to registrants at the following link. <<https://www1.gotomeeting.com/register/689198209>> The speakers also provided helpful handouts.

Introduction to American Legal System by Prof. Diane Kaplan

The professor and the publisher asked me to review and make suggestions for the next edition of this title. How could I say no? Actually, I was quite pleased and honored to do it. Prof. Kaplan wrote this book with international students in mind, in particular, her Chinese students. If you are looking for an excellent introduction to the U.S. legal system for non-U.S. law students, I highly recommend.

D. New Experiences and Rediscoveries at the End of 2014

Before the first of the year, I had a number of other “firsts”. I ended 2014 by purchasing and reading my first Kindle book, *Unbroken: a World War II Story of Survival, Resilience, and Redemption* by Laura Hillenbrand, which I highly recommend, and also by undergoing my first (and hopefully last) major surgery, which I do not recommend.

This book gave me a renewed appreciation of the sacrifices made by soldiers now and in the past. I found it especially meaningful as I embarked on my post-surgery recovery phase. It also helped me to rediscover the experience of in-depth reading beyond the news snippets and emails which take up so much of our time these days.

I hope that our students will discover this type of reading for themselves. Whether in print or on a mobile device, the experience of reading is one not to be missed.

* Jackie Fishleigh, Library and Information Manager, Payne Hicks Beach.

** Pete Smith, Information Adviser, Development and Society Faculty Support Team, Sheffield Hallam University.

***Margaret Hutchison, Manager of Technical Services and Collection Development at the High Court of Australia .

****Anne L. Abramson is the Foreign and International Law Librarian at the John Marshal Law School, Chicago IL.

Please note that any and all opinions are those of the authors and do not reflect those of their employers or any professional body with which they are associated.



The Canadian Law Library Review by Canadian Association of Law Libraries is licensed under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License.

Permissions beyond the scope of this license may be available at <<http://www.callcbd.ca/en/contact/contact-us>>.

Canadian Law Library Review
is published by:

*Revue canadienne des bibliothèques
de droit est publiée par:*

**CALL
ACBD**

CANADIAN ASSOCIATION
OF LAW LIBRARIES
ASSOCIATION CANADIENNE
DES BIBLIOTHÈQUES DE DROIT
