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**CANADIAN LAW LIBRARY REVIEW**

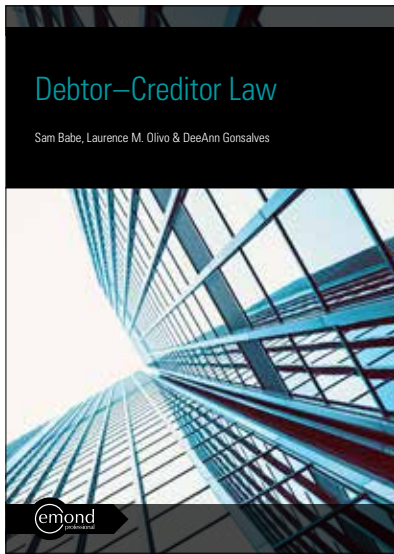
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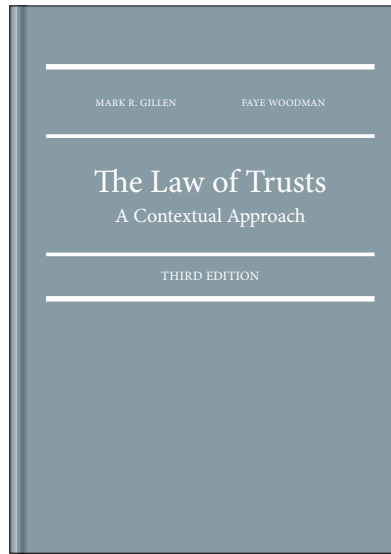


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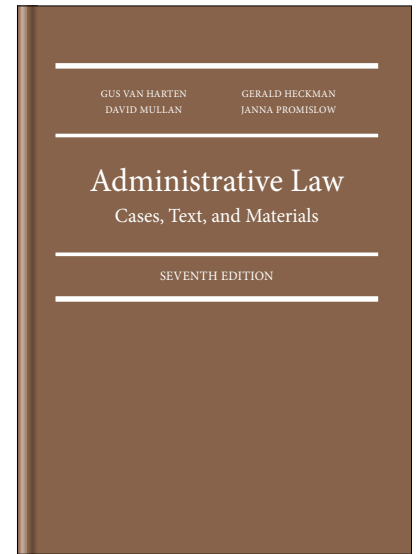
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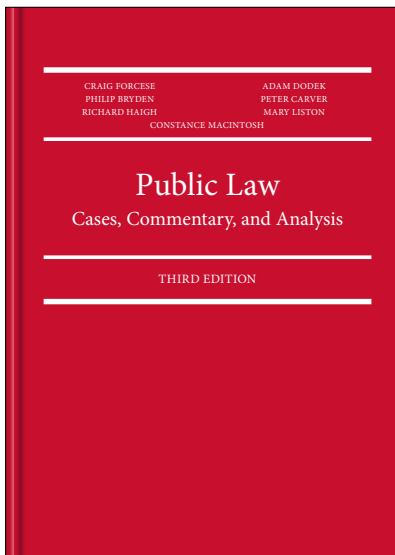
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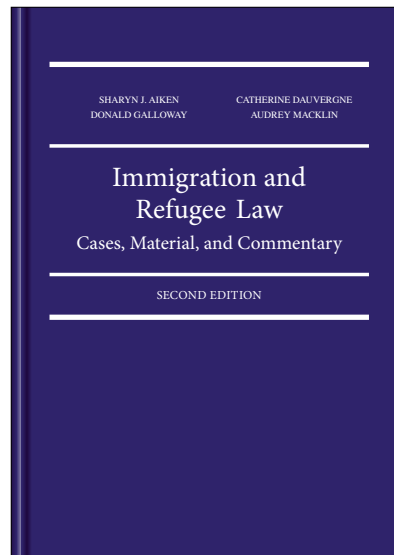
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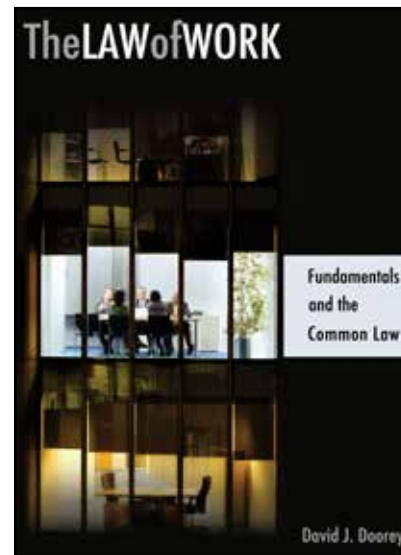
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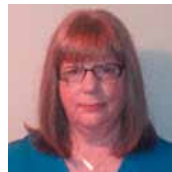
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## III From the Editor / De la rédactrice

This issue of the *Canadian Law Library Review* finds us all in the middle of the summer (except for our Australian correspondent, of course). These long and lazy days have so many of us dreaming of a weekend at the cottage, or of urban adventures involving sunning on patios or backyard barbecues; all these fleeting pleasures make it hard to knuckle down and get to work sometimes. However knuckle down we have and the summer issue of the CLLR is finally ready.

This issue brings more transitions to the CLLR. Happily, I would like to welcome John Bolan as our new features editor. John is a great addition to the team; he is a colleague and office mate of mine at the Bora Laskin Law Library. I am lucky that I get to take advantage of his wisdom on a day to day basis and now our feature writers will have that same benefit. Sadly, this issue marks Anne Abramson's last column for the CLLR as she is retiring (at least partially) from law librarianship. I have loved reading Anne's columns – her discussion of law library trends and issues and her regular literature reviews have certainly kept our readers up to date with what is happening in the law library world south of the border.

I enjoyed Melanie Bueckert's excellent presentation on statutory interpretation at the CALL Conference in Winnipeg in 2014. Luckily for those who were unable to attend the presentation itself, Melanie has converted her presentation into a two part series which we are happy to share with you. Part 1 (in this issue) will focus on finding applicable legislation and part 2 (forthcoming) will discuss applying the maxims of statutory interpretation. It is great to have an article that has practical application for all law librarians.

I don't know anyone who hasn't been called to do statutory research at least once or twice in their career.

From a more theoretical point of view, legal education is always a topic of interest for law librarians. We are on the front lines of working with new lawyers, whether we work in academic libraries or are training new articling students in the firms. Kim Clarke has recently done a comparative study of the differences and similarities between Canadian and American Legal education systems. Both systems are facing similar challenges and it is interesting to see how the challenges are being met on both sides of the border.

So what else do we have? UK elections, Black Spider Memos, dealing with mentally ill patrons, using HTTPS to prioritize your websites in Google and much much more – Keep reading.

EDITOR  
SUSAN BARKER



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Le présent numéro de la *Revue canadienne des bibliothèques de droit* nous arrive au milieu de l'été (sauf pour notre correspondant australien, évidemment). Ces journées longues et tranquilles font rêver bon nombre d'entre nous à des fins de semaine au chalet ou à des

aventures urbaines avec un patio où l'on prend du soleil ou des barbecues dans la cour; compte tenu de tous ces plaisirs éphémères, il est parfois difficile de se ressaisir et de se mettre au travail. Toutefois, nous nous sommes ressaisis et le numéro d'été de la RCBD est enfin prêt.

Ce numéro souligne d'autres changements à la RCBD. J'ai le plaisir de souhaiter la bienvenue à John Bolan, notre nouveau rédacteur en chef pour les articles de fond. John représente un excellent atout pour notre équipe; il est mon collègue et camarade de bureau à la bibliothèque de droit Bora Laskin. J'ai la chance de pouvoir profiter de son érudition tous les jours, et nos rédacteurs d'articles de fond bénéficieront désormais du même avantage. Malheureusement, le présent numéro comporte la dernière chronique d'Anne Abramson, qui prend sa retraite (du moins en partie) du domaine de la bibliothéconomie juridique. J'ai aimé lire les chroniques d'Anne; son analyse des tendances et des enjeux des bibliothèques de droit et ses revues régulières de la littérature ont certes tenu nos lecteurs au courant de la situation en matière de bibliothéconomie juridique chez nos voisins du sud.

J'ai eu la chance d'assister à l'excellente présentation de Melanie Beuckert sur l'interprétation législative dans le cadre du congrès de l'ACBD/CALL à Winnipeg en 2014. Heureusement pour ceux qui ne pouvaient pas être là, Melanie a converti sa présentation en série en deux parties, que nous sommes heureux de partager avec vous. La partie 1 (reproduite dans le présent numéro) met l'accent sur le repérage des lois applicables, et la partie 2 (à venir) traitera de l'application des principes de l'interprétation législative.

C'est bien qu'un article ait une application pratique pour tous les bibliothécaires de droit. Je ne connais personne qui n'ait pas été appelé à faire des recherches juridiques au moins une ou deux fois au cours de sa carrière.

D'un point de vue plus théorique, l'enseignement juridique constitue toujours un sujet d'intérêt pour les bibliothécaires de droit. Nous sommes en première ligne en ce qui a trait à la collaboration avec les nouveaux avocats, que ce soit en travaillant dans des bibliothèques universitaires ou en offrant de la formation à des stagiaires en droit au sein d'entreprises. Kim Clarke a récemment réalisé une étude comparative des différences et des similitudes entre les systèmes d'enseignement juridique canadien et américain. Les deux systèmes font face à des défis similaires, et il est intéressant de voir comment ces défis sont relevés de part et d'autre de la frontière.

Y a-t-il autre chose? Les élections au Royaume-Uni, les *black spider memos*, l'approche à l'égard des usagers atteints de maladies mentales, l'utilisation de protocoles HTTP pour hiérarchiser nos sites Web dans Google, et bien plus encore. Continuez de nous lire.

**RÉDACTRICE  
SUSAN BARKER**



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## CALL/ACBD Research Grant

Perhaps it is time to start thinking about your next research project. The deadline for the 2016 research grant will be March 15, 2016 and the grant will be awarded in May.

The grant can be applied to research assistance, online costs, compensating time off, purchase of software, travel, clerical assistance, etc.

There is no fixed amount for the grant but in the past years the awards have ranged from \$1400.00 to \$4400.00.

The grant comes with some expectations. Research is to be completed within two years of receipt of the award with a progress report submitted to the Committee after one year. The deliverables are a written report, publication or presentation at the CALL/ACBD conference.

For further information please visit:

<http://www.callacbd.ca/Resources/Documents/Awards/Research%20Grant1.pdf>



## III President's Message / Le mot de la présidente

Who among us is not currently undergoing some kind of workplace or professional change? The “train of change” has been swiftly heading toward many types of organizations over the last few years. Driven by disruptions attributed to technology, the economy, and client/customer demands, in industry after industry it has quashed “business as usual” and forced organizations to strive for new models to help them stay relevant and viable.

The law and library professions have not been immune to these disruptors. In an effort to pre-empt such changes in law-related organizations, last year the Canadian Bar Association explored innovation in the legal community in its CBA Legal Futures Initiative, producing the forward-thinking report *Futures: Transforming the Delivery of Legal Services in Canada*. We were fortunate at our Moncton conference in May to have former CBA president Fred Headon speak to us about our role in the changing legal industry. I encourage you to read this report if you have not already done so.

Since that time, the CBA has also been exploring its own existence and how better to deliver value to its members with its CBA Re-think project. I was fortunate to participate in the Toronto workshop and encouraged lawyers to connect with other professionals in the legal industry to help them achieve their goals. I may be somewhat biased, but I truly believe information professionals can lead the way in revealing changing needs and developing new ways of doing business in the legal industry.

The Canadian Library Association has also been looking for ways to remain viable, and has been exploring possible new models with various stakeholder groups. One vision of the future includes moving from individual membership

to becoming an association of library associations focused on advocacy efforts. CALL/ACBD has participated in these discussions, encouraging the new model to be inclusive so that special libraries and professionals other than librarians (such as library clerks, technicians and other information professionals) are represented. We await a proposed new federated libraries model from the working group this Fall.

Another sister association, the Special Libraries Association, is facing the reality of reduced vendor sponsorship monies and dropping member numbers and trying to find ways to carry on. A consultants' report on a new model was delivered to the SLA executive board and all members in May 2015. The SLA board and association as a whole are working through the recommendations from the report to find a way to implement them.

At the SLA Legal Division breakfast meeting on June 15th, Division Chair Colleen Cable gave an impassioned talk about the need to recognize the train bearing down on each of us in our respective organizations, and the need to figure a way to get off the tracks. We can no longer ignore the changes needed, both in our associations and in our workplaces. I tend to agree with her.

Past CALL/ACBD executive boards have done a stellar job keeping our association in good financial shape, planning for expenditures well in advance and adjusting spending as needed. Still, as our colleagues retire from positions without being replaced, or move to other related professions, our profession shrinks and so does the number of members in our dear association.

It is this that keeps me awake at night: how small is too

small? And how can we remain relevant to members? How can we provide support in everyone's careers, and bring value to you? And instead of trying to jump out of the way of that train of change, how can we get on board?

Really, CALL/ACBD is very much a grass roots organization, run by members for members. And therefore it only brings as much value as everyone puts into it. It only works if we all give something and participate. I encourage you (yes, you), to think about what new challenges you are facing, how you are adapting, and what you are learning in the process. Then think about how you might share this with the rest of us so we can learn from you.

CALL/ACBD provides the vehicles for us to share with each other. A blog post on the new CALLACBD.ca website, a write-up for the *Canadian Law Library Review*, a webinar proposal, a program submission to the 2016 conference, an email to the CALL-L listserv or a few tweets via Twitter can serve to enrich others' professional lives. Or perhaps you have ideas for additional ways to engage your colleagues.

As you go out and learn, I ask you to not forget about the rest of us, but instead pull us up with you. Let us help each other off those railroad tracks and onto that train, and use this association as our means to help each other.

**PRESIDENT  
CONNIE CROSBY**



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Qui parmi nous n'est actuellement pas soumis à une certaine forme de changement professionnel ou de lieu de travail? Au cours des dernières années, le « train du changement » s'est rapidement dirigé vers de nombreux types d'organismes. Stimulé par des perturbations attribuables à la technologie, l'économie et les demandes des clients et des consommateurs au sein des industries, il a mis fin à la « poursuite des activités comme à l'accoutumée » et a forcé les organismes à adopter de nouveaux modèles afin de les aider à demeurer pertinents et viables.

Les professions dans le domaine du droit et des bibliothèques n'ont pas été immunisées contre ces perturbateurs. Afin d'éviter ces changements dans les organismes associés au droit, l'Association du Barreau canadien s'est penchée sur l'innovation au sein de la collectivité juridique dans le cadre du projet de l'ABC Avenirs en droit et a publié le rapport avant-gardiste *Avenirs en droit : Transformer la prestation des services juridiques au Canada* – Pour de plus amples renseignements, visitez le site Web suivant : <http://www.cbafutures.org/The-Reports/Futures-Transforming-the-Delivery-of-Legal-Service#sthash.CHVvGdFH.dpuf>. Lors de notre conférence qui s'est déroulée en mai à Moncton, nous avons eu la chance de pouvoir compter sur l'ancien président de l'ABC, Fred Headon, qui nous a entretenus de notre rôle au sein de l'industrie juridique en évolution. Je vous incite à lire ce rapport si ce n'est pas déjà fait.

Depuis, l'ABC s'est penchée sur sa propre existence et a examiné la façon de mieux créer de la valeur pour ses

membres grâce à son projet de réinvention de l'ABC. J'ai eu la chance de participer à l'atelier de Toronto et j'ai encouragé les avocats à se lier avec d'autres professionnels de l'industrie juridique afin de les aider à atteindre leurs objectifs. J'ai peut-être quelque peu un parti pris, mais je crois sincèrement que les professionnels de l'information peuvent jouer un rôle de chef de file en dévoilant les besoins changeants et en établissant de nouvelles façons de faire des affaires au sein de l'industrie juridique.

L'Association du Barreau canadien a également cherché des façons de rester viable et a examiné de nouveaux modèles possibles avec divers groupes d'intervenants. Une vision de l'avenir prévoit de passer d'une adhésion individuelle et de se transformer en une association formée d'associations de bibliothèques qui serait axée sur la défense des droits. L'ACBD/CALL a participé à ces discussions et a insisté pour le nouveau modèle soit inclusif afin que les bibliothèques spéciales et les professionnels autres que les bibliothécaires (comme les commis de bibliothèque, les techniciens et les autres professionnels de l'information) soient représentés. Nous attendons que le groupe de travail soumette une proposition de nouveau modèle de bibliothèques fédéré cet automne.

Une autre association sœur, la SLA, fait face à la réalité de la diminution des commandites et du nombre de membres et tente de trouver des façons de poursuivre ses activités. Un rapport préparé par des consultants sur un nouveau modèle a été remis au conseil de direction de la SLA et à tous les membres en mai 2015. Le conseil de la SLA et l'association dans son ensemble étudient les recommandations énoncées dans le rapport afin de trouver une façon de les mettre en œuvre.

Lors du petit-déjeuner de travail de la division juridique de la SLA qui s'est déroulé le 15 juin, la présidente de la division, Colleen Cable, a prononcé un discours passionné sur la nécessité de reconnaître le train qui se dirige sur nous au sein de chacun de nos organismes respectifs et le besoin de trouver une façon de nous écarter de son chemin. Nous ne pouvons plus ignorer les changements qui doivent être apportés au sein de nos associations et nos lieux de travail. Je suis portée à être d'accord avec elle.

Les derniers conseils de direction de l'ACBD/CALL ont accompli un travail exceptionnel en maintenant notre association en bonne forme financière, en prévoyant les dépenses bien à l'avance et en ajustant les dépenses au besoin. Malgré tout, à mesure que nos collègues prennent leur retraite sans être remplacés ou se recyclent vers d'autres professions connexes, notre profession diminue ainsi que le nombre de membres au sein de notre chère association.

Ces questions me tiennent éveillée la nuit : Dans quelle mesure le nombre est trop petit? Comment pouvons-nous demeurer pertinents pour les membres? Comment pouvons-nous soutenir la carrière de tous et vous apporter de la valeur? Plutôt que nous écarter du chemin de ce train du changement, comment pouvons-nous en faire partie?

L'ACBD/CALL est vraiment en grande partie une association locale exploitée par des membres pour des membres. Par



conséquent, elle apporte autant de valeur que les gens y apportent. Elle fonctionne uniquement si nous fournissons tous un effort et y participons. Je vous invite, oui vous, à réfléchir aux nouveaux défis que vous devez relever, à la façon dont vous vous y adaptez et à ce que vous apprenez dans le processus. Pensez ensuite à la façon dont vous pourriez partager cela avec le reste d'entre nous afin que nous puissions apprendre de vous.

L'ACBD/CALL nous fournit les moyens d'échanger. Un billet de blogue sur le nouveau site Web CALLACBD.ca, un publi-reportage pour la *Revue canadienne des bibliothèques de droit*, une proposition de séminaire, une soumission de programme pour la conférence de 2016, un courriel à la liste de diffusion CALL-L ou quelques gazouillis sur Twitter peuvent enrichir la vie professionnelle d'autres personnes.

Vous pourriez également avoir des idées sur d'autres façons de mobiliser vos collègues.

À mesure que vous apprenez, je vous demande de ne pas oublier le reste d'entre nous et de nous laisser plutôt cheminer avec vous. Entraidons-nous afin de nous écarter du chemin et sauter dans le train et utilisons cette association pour nous entraider.

**PRÉSIDENTE  
CONNIE CROSBY**



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## 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>>.

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*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>>.

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## III A Roadmap for Statutory Interpretation (Pt. 1)\*

By Melanie R. Bueckert\*\*

### Abstract

*While everyone might agree on the general approach to statutory interpretation in Canada, it is harder to find a step-by-step process for undertaking statutory interpretation research. This is the first of a two-part article that endeavours to fill that gap by providing straightforward guidance for finding and analyzing Canadian statutes. This part of the article focuses on how to find applicable legislation. The second part of this article (forthcoming in a future edition of Canadian Law Library Review) will centre on how to apply maxims of statutory interpretation.*

*Bien que tout le monde peut s'entendre sur une approche générale quant à l'interprétation des lois au Canada, il est plus difficile de trouver un processus par étapes pour entreprendre des recherches sur l'interprétation des lois. Ceci est la première partie d'un article en deux parties qui cherche à combler cette lacune en fournissant des conseils simples pour trouver et analyser les lois canadiennes. Cette partie de l'article se concentre sur la façon de trouver la législation applicable. La deuxième partie de cet article (à paraître dans un prochain numéro de la Revue canadienne des bibliothèques de droit) se concentrera sur la façon d'appliquer les maximes d'interprétation des lois.*

Statutory interpretation is something lawyers do on a nearly daily basis. While most could, if prompted, outline the basics of the modern approach to statutory interpretation formulated by Driedger and adopted by the Supreme Court of Canada, a simple process for conducting statutory interpretation research is harder to find. To this end, I propose the following roadmap for statutory interpretation research:

1. Determine the relevant facts
2. Find the applicable legislation
3. Analyze the legislation in the context of the relevant facts
4. Identify the problem type
5. Apply the appropriate statutory interpretation principles

In this article, I will focus on the second phase, finding the applicable legislation.<sup>1</sup> This phase can be broken down into the following seven steps.

### Step 1: Locate your statute

At this stage, you should consider which law applies to your particular situation. Do you require the current version of the law, or the law as it stood on a specific date?

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<sup>1</sup> In order to ensure relevance for all readers, this article will focus on federal legislation.

The current consolidation of federal statutes is freely available online, organized alphabetically by title, and can be both browsed and searched.<sup>2</sup> For instance, to look for the *Interpretation Act*, you could click on the letter “I”, then scroll down and locate the title of the Act. Note that this page provides the official citation for the Act – *Interpretation Act*, RSC 1985, c I-21. This citation discloses that this statute was passed as part of the *Revised Statutes of Canada*, and therefore likely originated prior to 1985. From this page, you may also access the side-by-side bilingual version by clicking the download icon or the letters “PDF”. If you were looking for the regulations passed pursuant to the Act, you could click on the yellow button labelled “R” at the far right of the screen. Acts that do not have regulations passed pursuant to them do not have a “Regulations” button on this page.

On the main page for a statute, the currency information is given at the top, just under the title. Links are also provided to other formats of the statute (HTML, XML and PDF). If you wished to view the Act in French, you could click “Français” at the top right-hand corner of the site. From this page, click

on the section you wish to view and it will display on your screen. If you wish to view the Table of Contents of the statute from this screen, click on the blue “Show Table of Contents” box at the right-hand side of the page.

If you only wish to display a particular section on your screen, you can modify the URL accordingly.<sup>3</sup> For example, to create a link to section 2 of the *Interpretation Act*, replace the latter portion of the URL with “section-2.html”: <http://laws-lois.justice.gc.ca/eng/acts/I-21/section-2.html>.

You may, of course, also access Canada’s statutes via CanLII.<sup>4</sup>

## Step 2: Read your statute – in both official languages

Start by reading the section(s) applicable to your problem very carefully. If you cannot read the statute in French, find someone who can. Both versions are drafted simultaneously and are equally authoritative.<sup>5</sup>



Figure 1 – Consolidated Acts on Justice Laws Website



Figure 2 – Interpretation Act on Justice Laws Website

<sup>2</sup> “Consolidated Acts”, online: Justice Laws Website <laws-lois.justice.gc.ca/eng/acts/>.

<sup>3</sup> See “How to Create Stable Links”, online: Justice Laws Website <laws-lois.justice.gc.ca/eng/LinkingGuide/>.

<sup>4</sup> “Statutes and Regulations of Canada (Federal)”, online: CanLII <www.canlii.org/en/ca/laws/index.html>.

<sup>5</sup> *Official Languages Act*, RSC 1985, c 31 (4th Supp), s. 13.

Next, check for a definition section. Usually a definition section is included at the beginning of an Act, but definitions can also be sprinkled throughout the legislation. Consider whether the definition applies to your section(s), and whether it is exhaustive or merely inclusive. Take time to note how the statute is organized. Hints as to the purpose or meaning of the statute may be found in its long title, preamble and/or purpose sections.

Look for any other sections in the same statute that use similar language. This may be done using your browser's "search" or "find" function (Ctrl+F) when viewing the "Full Document" version of the statute or by clicking "Search within this Act" at the top of the Act's Table of Contents page.

### Step 3: Trace your statute's evolution over time

#### Online

Amendment information for individual sections is normally provided (where applicable) at the end of each section. For instance, the following text appears after s. 2 of the *Interpretation Act*: "R.S., 1985, c. I-21, s. 2; 1993, c. 34, s. 88; 1999, c. 31, s. 146; 2003, c. 22, s. 224(E)." Note that in this case the 2003 amendment was to s. 2(1), but the link appears at the end of s. 2. This "breadcrumb trail" always appears at the end of a section, regardless of which subsection was the subject of the amendments.

In many cases you can click on a link to access prior versions of the statute. A list of the prior versions available on the federal laws site may be accessed by clicking "Previous Versions" on the statute's main page. If you wished to access the amending statutes themselves, you would need to visit the "Annual Statutes" section of the federal laws site, which contains content dating back to 2001. The online Canada Gazette Part III contains annual statutes published from 1998 to the present.<sup>6</sup>

Prior versions of federal statutes may also be available through CanLII. If you call up the *Interpretation Act* using CanLII, at the top of the page there is a "Versions" tab, which lists the prior versions of that statute that have been archived by CanLII. You may also compare two versions (including the current version) using this function.

At the moment, Quicklaw's point-in-time service only extends to Canada (federal), B.C., Alberta and Ontario. WestlawNext Canada does not offer a point-in-time service.

#### In Print

If your legislation dates back to the *Revised Statutes of Canada*, the process for creating a legislative history is much more paper-intensive.<sup>7</sup> For instance, the breadcrumb trail for s. 2 of the *Interpretation Act* refers to RSC 1970, c I-23. If you

wished to trace the history of that statute, you would need to resort to paper copies of the legislation. Some older statutes are available online (with a subscription) through the Law Library Microform Consortium (1867-1994)<sup>8</sup> or HeinOnline.<sup>9</sup> Annual volumes from 1873-1900 are freely available from Early Canadiana Online.<sup>10</sup>

The process for tracing the legislative evolution of a statute that existed prior to the latest *Revised Statutes of Canada* may be broken-down as follows. First, find the most recent version of the statute you need to trace.<sup>11</sup> If it is an annual statute (citation begins with "SC"), look for repeal provisions near the end of the Act. These should indicate what it replaced. Next, find the repealed legislation. Look for repeal provisions near the end of the Act. It should indicate if it also replaced an older Act. If so, look for that Act. Eventually, you will come to a revised statute ("RSC") citation. It will not likely contain any repeal provisions. Look for a table of concordance to see if the Act appeared in the prior version of the revised statutes. Otherwise, go to the next oldest annual statute volume (e.g., 1984, if tracing a revised statute from 1985) and look for the statute by name in the blue pages at the back of the book. They should provide the citation and coming into force information (e.g., whether it was part of the RSCs from 1970, or whether it was enacted after that revision). Repeat this process with all the revised statutes until you locate the earliest version of the statute. It should be an annual statute ("SC"), not a revised statute ("RSC"). Canada's federal statutes were revised in 1886, 1906, 1927, 1952 and 1970.

#### In Force Information

If the date on which the law changed is important for your research, you will need to make note of the coming into force information for the statutes you review. The last section of an Act usually specifies when the Act (or any part of it) is to come into force. Typically it comes into force on one of the following dates:

- the day the Act receives royal assent, or a specified number of days after royal assent;
- a specified date (for example, "January 1, 2015");
- a date to be fixed by proclamation;
- the date of an event (for example, the coming into force of another Act).

If no date is specified, then the Act comes into force upon royal assent.<sup>12</sup>

The *Table of Public Statutes and Responsible Ministers* lists all the chapters of the 1985 *Revised Statutes of Canada*, with their amendments and certain other Public Acts and their amendments.<sup>13</sup> LEGISInfo also provides coming into force information for bills dating back to January 1994.<sup>14</sup> Proclamation dates are formally published in Part II of the

<sup>6</sup> "Part III: Acts of Parliament", online: *Canada Gazette* <[www.gazette.gc.ca/archives/part3-archives-partie3-eng.html](http://www.gazette.gc.ca/archives/part3-archives-partie3-eng.html)>.

<sup>7</sup> For further assistance with this process, please consult Nancy McCormack & Nathalie Léonard, *Updating Statutes and Regulations for All Canadian Jurisdictions*, 5th ed (Toronto: Carswell, 2012).

<sup>8</sup> LLMC Digital, online: <[www.llmc.com](http://www.llmc.com)>.

<sup>9</sup> *Revised Statutes of Canada*, online: HeinOnline <[heinonline.org/HeinDocs/RevisedStatutesofCanada.pdf](http://heinonline.org/HeinDocs/RevisedStatutesofCanada.pdf)>.

<sup>10</sup> *Early Canadiana Online*, online: <[eco.canadiana.ca](http://eco.canadiana.ca)>.

<sup>11</sup> If the provision you need to trace is part of the *Criminal Code*, use *Crankshaw's* (available through WestlawNext Canada's Criminal Source) as a guide.

<sup>12</sup> *Interpretation Act*, RSC 1985, c I-21, s 5(2).

<sup>13</sup> *Table of Public Statutes and Responsible Ministers*, online: Justice Laws Website <<http://laws-lois.justice.gc.ca/eng/TablePublicStatutes/index.html>>.

<sup>14</sup> LEGISInfo, online: <[www.parl.gc.ca/LegisInfo/Home.aspx](http://www.parl.gc.ca/LegisInfo/Home.aspx)>.

<sup>15</sup> *Canada Gazette*, online: <[www.gazette.gc.ca/index-eng.html](http://www.gazette.gc.ca/index-eng.html)>.

Canada Gazette, which is fully searchable online back to 1841.<sup>15</sup>

#### Step 4: Look for judicial consideration of your statute (or its predecessors)

CanLII, Quicklaw and WestlawNext Canada all offer statute citators. To find cases that have cited federal statutes using CanLII, locate your statutory provision, then click on the section number. The pop-up window will indicate the number of times the provision has been cited. Clicking on the words “Citing documents” will bring up a list of them.

In Quicklaw, the first step is to locate the statutory provision. This can be done by searching or browsing. From the statute’s page, click on “Note up with QuickCITE” or the navy blue “L” icon near the top of the screen. The results may be sorted by pinpoint reference, court, date or treatment type.

If you are using WestlawNext Canada, you have two options. You could click “Statutes and Regulations” under “Primary Sources” on the home page, then click “Find and KeyCite a Statute or Regulation by Name” under the “Tools and Resources” on the right-hand side of the screen. Or, from the home page, you could click on the tab labelled “Find and KeyCite by Name”, and then click “Find and KeyCite a Statute or Regulation by Name”. Once you have located the relevant section, you can either click on the “Citing References” tab or the large green “C” icon. There are a number of filters you can apply (or combine), including date, jurisdiction, citation frequency, treatment, document type or pinpoint. This functionality is available on the left-hand side of the screen.

All of these services now provide the ability to search for keywords within these results. It should be noted that the results of these note-ups often vary, so it is useful whenever possible to compare two or three of the services for a more comprehensive search.

It should be noted that these online citator tools only track the current version of the statute. To look for judicial consideration of a previous version of a statute, you will likely have to resort to the paper version of the Abridgment’s *Canadian Statute Citations*.<sup>16</sup>

#### Step 5: Consult Hansard to determine legislative intent

Federal Hansard materials are available online on Parliament’s website.<sup>17</sup> Earlier materials are also available via Early Canadian Online.<sup>18</sup>

The easiest way to access federal Hansard material for a particular bill is through the LEGISInfo website.<sup>19</sup> From

that site you can access detailed status information, press releases, departmental backgrounders, Library of Parliament research papers, as well as all relevant Hansard transcripts relating to individual bills. If you expand the plus sign box under “Second Reading”, you can click on the date link to view the Hansard entry for that day. As a general rule, the focus for statutory interpretation research purposes should be on second reading, as well as any committee proceedings. At the federal level, it is important to consider proceedings in both the House of Commons and the Senate.

#### Step 6: Search for similar language in other statutes

You may conduct keyword searches of federal legislation using the Justice Laws website, CanLII, Quicklaw or WestlawNext Canada.

To search using the Justice Laws site, you may use either the Basic Search or Advanced Search links featured on the left-hand side of the page. You may then choose to search within Acts or regulations using the drop-down box.

If you are looking for a specific defined term, WestlawNext Canada offers a unique service. Using the legislation search template, there is an ability to search defined terms across statutes from multiple jurisdictions. This service is available on WestlawNext Canada by navigating to the Statutes and Regulations page, then clicking the word “Advanced” next to the orange Search button.

If you locate any similar language in other statutes, your next step should be to look for any relevant judicial consideration of those provisions.

#### Step 7: Consult the *Interpretation Act*

Review the *Interpretation Act*, RSC 1985, c I-21 and determine if it affects your particular interpretation dilemma. Next Steps: Apply relevant maxims of statutory interpretation. In the second part of this article (forthcoming in a future edition of *Canadian Law Library Review*), I will expand upon phases four and five of the roadmap set out above. In essence, it involves consulting leading statutory interpretation texts,<sup>20</sup> then looking for relevant cases applying the pertinent maxim(s) in similar situations.

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<sup>16</sup> In some instances, older statutes and their judicial consideration are listed in WestlawNext Canada, but the coverage of this service does not appear to be comprehensive.

<sup>17</sup> *Debates (Hansard)*, online: Parliament of Canada <[www.parl.gc.ca/HouseChamberBusiness/ChamberSittings.aspx?View=H&Parl=41&Ses=2&Language=E&Mode=1](http://www.parl.gc.ca/HouseChamberBusiness/ChamberSittings.aspx?View=H&Parl=41&Ses=2&Language=E&Mode=1)>.

<sup>18</sup> *Historical Debates of the Parliament of Canada*, online: Library of Parliament <[parl.canadiana.ca/?usrlang=en](http://parl.canadiana.ca/?usrlang=en)>. Note that official reporting (Hansard) did not begin in the Senate until 1871 and in the House of Commons until 1875 (see “The Early Debates of Parliament”, online: Parliament of Canada <[www.parl.gc.ca/about/parliament/reconstituteddebates/index-e.asp](http://www.parl.gc.ca/about/parliament/reconstituteddebates/index-e.asp)> for “reconstituted” debates).

<sup>19</sup> *Supra* note 14.

<sup>20</sup> Ruth Sullivan, *Sullivan on the Construction of Statutes*, 6th ed (Markham: LexisNexis Canada, 2014); Pierre-André Côté, Stéphane Beaulac & Mathieu Devinat, *The Interpretation of Legislation in Canada*, 4th ed (Toronto: Carswell, 2011); The Honourable Michel Bastarache et al, *The Law of Bilingual Interpretation* (Markham: LexisNexis Canada, 2008).



# III Convergence and Divergence: A Tale of Two Legal Education Systems\*

By Kim Clarke\*\*

## Abstract

*This paper gives an overview of the legal education systems in Canada and the United States and provides points of similarity as well as differences. It delves into the history of these systems, current developments, and questions for the future.*

*Cet article donne un aperçu des systèmes d'éducation juridique au Canada et aux États-Unis et souligne des points de similitude ainsi que des différences. Il plonge dans l'histoire de ces systèmes, dans les développements actuels, et soumet des questions pour l'avenir.*

## Introduction

The Canadian and American legal education systems, while developing independently, have been influenced by each other, resulting in several points of convergence. They use the same entrance exam (the Law School Admissions Test or “LSAT”), are generally three years in length, have developed curriculums with a mix of substantive law and skills-based courses, offer courses of nearly identical content, and – recently – many Canadian law schools have begun granting the American J.D. degree rather than the originally British LL.B.

Legal education-related issues including accreditation of law schools, competencies graduates should possess, the use of distance education teaching methods, and the role of apprenticeships have been studied in both countries in recent years. These studies, their recommendations and subsequent actions taken to reform legal education, have resulted in several points of convergence and divergence between the U.S. and Canada.

## Accreditation

A significant historical divergence between the two legal education systems was the issue of accreditation.<sup>1</sup> While American law schools have been subject to accreditation processes since early in the twentieth century, Canadian law schools have not undergone similar oversight until very recently.

## The United States

All American law schools are subject to accreditation pursuant to either federal or state law. The federal Department of Education has the responsibility of appointing accreditors for all professional schools and institutions of higher education that want to receive federal student financial aid. In 1952, the Department of Education authorized the ABA's Section of Legal Education and Admissions to the Bar to act as the

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<sup>1</sup> Accreditation is the act of recognizing a school “as having sufficient academic standards to qualify graduates for ... professional practice”: *Black's Law Dictionary*, 10th ed, sub verbo “accredit”.

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accreditor for legal education. Prior to this, the ABA had already been independently performing this role as early as 1921, by developing Standards for Legal Education and publishing a list of ABA-approved law schools that met those standards.<sup>2</sup> Not every law school seeks ABA-accreditation, so state bar associations have developed their own accreditation requirements which must be met by law schools prior to their graduates being allowed to take that state's bar exam.<sup>3</sup> California, for example, has 19 law schools that are currently accredited only by the State Bar of California's Committee of Bar Examiners.<sup>4</sup>

The ABA is legislatively required to develop accreditation and pre-accreditation standards to which all law schools seeking accreditation must adhere.<sup>5</sup> Their standards are very comprehensive in terms of both breadth and depth and standards address all aspects of law schools' operation, including:

- Program of Legal Education (Chapter 3)
- Admissions and Student Services (Chapter 5)
- Library and Information Services (Chapter 6)
- Facilities (Chapter 7)<sup>6</sup>

Chapter 6 contains six standards, most containing subsections, and eight interpretation notes addressing all matters relating to the law library, including the library's budget, administrative autonomy from the university, qualifications of the library director, and the essential materials that form the library's core collection.<sup>7</sup>

The ongoing accreditation process for ABA-accredited law schools comprises two parts: an annual questionnaire and a "full sabbatical site evaluation every seven years."<sup>8</sup> The annual questionnaire seeks data on all aspects of the current operation, including information on the school's budget, faculty, facilities, and first year students' entry LSAT and grade point averages, to ensure that the law school continues to meet the standards. The sabbatical review is much more comprehensive. Along with the annual questionnaire, the

law school must complete a Site Evaluation Questionnaire that requires providing an in-depth written report<sup>9</sup> along with metrics. The site evaluation team, composed of five people including a law library director, conducts a multi-day onsite visit to ensure that the information being provided is accurate and to probe concerns or questions arising from the school's responses to the Site Evaluation Questionnaire. The team members have complete autonomy to ask any questions they deem necessary to acquire the information needed for the site report. The school has the right to respond to any concerns or erroneous information contained in the site report.<sup>10</sup>

Notwithstanding the ABA's long history of accrediting law schools, there is no guarantee that they will continue in this role in the future. In the past decade questions have been raised about the ABA's performance in this role and some have even called upon the Department of Education to replace it. These concerns include:

- In 2006, the United States Commission on Civil Rights explored whether the ABA, through Standard 211, was "pressuring institutions to practice unlawful racial preferences in [their] admissions" practices.<sup>11</sup>
- In 2007, at the request of the Chairman of the Committee on Education and Labor, the federal Government Accountability Office ("GAO") investigated the process through which the ABA is appointed as the national accrediting body and probed concerns raised about the ABA's accreditation process.<sup>12</sup>
- In 2009, the GAO also conducted an investigation into whether the ABA's accreditation process affects the cost of legal education and the potential impact of those higher costs on the ability of minority and lower income students to attend to law school.<sup>13</sup>
- In 2011, the National Advisory Committee on Institutional Quality and Integrity, the federal body that reviews all accrediting agencies' renewals, found the ABA to be in non-compliance with 17 regulations governing accrediting agencies.<sup>14</sup>

<sup>2</sup> ABA Section of Legal Education and Admissions to the Bar, *ABA Standards and Rules of Procedure for Approval of Law Schools 2013-2014* (Chicago: ABA, 2013) at v, online: <[http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2013\\_2014\\_final\\_aba\\_standards\\_and\\_rules\\_of\\_procedure\\_for\\_approval\\_of\\_law\\_schools\\_body.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2013_2014_final_aba_standards_and_rules_of_procedure_for_approval_of_law_schools_body.authcheckdam.pdf)>..

<sup>3</sup> Generally, ABA-accredited law schools, regardless of their location, are deemed to be accredited by the state's accreditor and are not required to undergo the state's accreditation process. See e.g. the State Bar of California, Committee of Bar Examiners, "Accredited Law School Rules", at 4.102 (Adopted July 2007), online: <<http://rules.calbar.ca.gov/LinkClick.aspx?fileticket=d-EEG4iWTQM%3d&tabid=1227>>.

<sup>4</sup> The State Bar of California, "Law Schools," online: <<http://admissions.calbar.ca.gov/Education/LegalEducation/LawSchools.aspx#cals>>. Information current to January 2015.

<sup>5</sup> 34 CFR §602.16.

<sup>6</sup> ABA Section of Legal Education and Admissions to the Bar, *ABA Standards and Rules of Procedure for Approval of Law Schools 2014-2015* (Chicago: ABA, 2014), online: <[http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2014\\_2015\\_aba\\_standards\\_and\\_rules\\_of\\_procedure\\_for\\_approval\\_of\\_law\\_schools\\_bookmarked.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2014_2015_aba_standards_and_rules_of_procedure_for_approval_of_law_schools_bookmarked.authcheckdam.pdf)>.

<sup>7</sup> *Ibid* at 51.

<sup>8</sup> ABA Section of Legal Education and Admissions to the Bar, *The Law School Accreditation Process* (Revised August 2013) at 8, online: [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/2013\\_revised\\_accrreditation\\_brochure\\_web.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2013_revised_accrreditation_brochure_web.authcheckdam.pdf) [*Law School Accreditation Process*]

<sup>9</sup> As the Assistant Dean for Library and Information Resources at Pacific McGeorge School of Law from 2004-2008, I was a member of the team that gathered the information and wrote the report during our sabbatical site evaluation. This process actually began two years prior to our scheduled site evaluation, and our final response to the Site Evaluation Questionnaire was so thorough that along with the appendixes, it filled two 4" hinged binders.

<sup>10</sup> *Law School Accreditation Process*, *supra* note 8.

<sup>11</sup> Elia Powers, "Law Schools and Diversity Standards" *Inside Higher Ed* (19 June 2006), online: <<https://www.insidehighered.com/news/2006/06/19/civil-rights>>.

<sup>12</sup> United States, Government Accountability Office, *Higher Education: Issues Related to Law School Accreditation* (Washington: Government Accountability Office, 2007), online: <[www.gao.gov/assets/260/257492.html](http://www.gao.gov/assets/260/257492.html)> [Issues Related to Law School Accreditation].

<sup>13</sup> United States, Government Accountability Office, *Higher Education: Issues Related to Law School Cost and Access* (Washington: Government Accountability Office, 2009), online: [www.gao.gov/new.items/d1020.pdf](http://www.gao.gov/new.items/d1020.pdf)

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The ABA has been criticized for standards that focus on inputs, such as entering students' grade point averages, LSAT scores, faculty-student ratio, number of seats in the library, and the number and size of the classrooms, rather than outputs that demonstrate the effectiveness of the educational program at the law schools.<sup>15</sup> The only outputs sought prior to 2014 were the bar passage rate for the state in which the greatest number of their students took the bar exam, and the nine month employment rate.

While the Department of Education has continually renewed the ABA's application as the national accrediting agency for legal education, it has not shown whole-hearted support of the ABA. Federal accrediting agencies can be renewed for up to five years, but the ABA's renewal period is often much shorter. Its 2006 renewal application, for example, was only granted for 18 months<sup>16</sup> and its most recent application (2013) was granted for 3 years.<sup>17</sup>

## Canada

The Canadian experience with legal education accreditation is the exact inverse of the American situation. No Canadian legal organization has been legislatively authorized to accredit law schools, either federally or provincially. Provincial law societies have the authority to regulate the legal profession, including the authority to establish legal education programs for students-at-law (i.e. articling students) and practicing lawyers in their province. Some even have statutory authority to work with the law schools to develop instructional materials or examinations<sup>18</sup> or to confer law degrees<sup>19</sup>, but none have been given the authority to directly accredit or regulate law schools. The law societies now indirectly accredit law schools through their power to regulate the credentials that applicants to the provincial bar admission courses must possess.

The provincial law societies have delegated some of their regulatory powers to the Federation of Law Societies of Canada ("Federation"), their national coordinating organization, which ensures consistency in policy and procedure development and application. In 2009, the Federation, on behalf of the law societies, established a uniform national requirement regarding competencies (skills and knowledge) that graduates of Canadian law schools and foreign-trained lawyers must possess in order to be

considered for admission to any common law provincial bar.<sup>20</sup> This report was approved by all common law provincial law societies in 2010. The Federation's Canadian Common Law Program Approval Committee ("Approval Committee") was given the role of accrediting body, with the mandate to ensure that all graduates of Canadian law schools are in compliance with the national requirements.<sup>21</sup>

The impact of the required competencies list on the law schools was immediate. Every law school was forced to review its curriculum to ensure that its courses cover the specified information and skills and make certain that students are required to take all the courses necessary to ensure they have acquired all the competencies. Most faculties had to either add content to required courses or move some elective courses into the required course category to ensure that all students graduated with these competencies.

Through these competency requirements, the Federation and the law societies have had a direct impact on the curriculum of all the common law faculties of law in Canada. Their interest in the operation of the law schools does not end with the curriculum, however. The Federation also developed standards or requirements regarding the academic program and learning resources which the law schools must meet in order for their graduates to be eligible for entry in a bar admission course. These institutional requirements were designed to "reflect current practice in Canadian law schools,"<sup>22</sup> so existing schools should be able to meet them. The academic program standards stipulate entrance requirements for students, the minimum number of years or course credits students must take, and acceptable instructional methods. The learning resources standards address the number of qualified faculty members, the adequacy of the facility, information and communication technology, and lastly the law library. Unlike the ABA's standard, the Canadian law library standard is very general, requiring the law school to maintain a library "in electronic and/or paper form that provides services and collections sufficient in quality and quantity to permit the law school to foster and attain its teaching, learning and research objectives."<sup>23</sup> In its application of this standard, the Federation actually seeks similar information to that which the ABA requests for the ABA standards, specifically:

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<sup>14</sup> Eric Kelderman, "American Bar Association Takes Heat from Advisory Board on Accreditation" *The Chronicle of Higher Education* (9 June 2011), online: <http://chroniclecareers.com/article/American-Bar-Association-Takes/127869/> (subscription required).

<sup>15</sup> See e.g. William M. Sullivan, et al. *Educating Lawyers: Preparation for the Profession of Law* (San Francisco: Jossey-Bass, 2007) [*Carnegie Report*] and Roy Stuckey et al, *Best Practices for Legal Education: A Vision and a Road Map* (Columbia, SC: Clinical Legal Education Association, 2007), online: [www.cleaweb.org/Resources/Documents/best\\_practices-cover.pdf](http://www.cleaweb.org/Resources/Documents/best_practices-cover.pdf) [Best Practices].

<sup>16</sup> *Issues Related to Law School Accreditation*, *supra* note 12.

<sup>17</sup> United States, Department of Education, *Accreditation in the United States* (last modified 13 January 2015), online: [www2.ed.gov/admins/finaid/accred/accreditation\\_pg7.html#law](http://www2.ed.gov/admins/finaid/accred/accreditation_pg7.html#law).

<sup>18</sup> *Legal Profession Act*, CCSM c L107, s 43.

<sup>19</sup> *Law Society Act*, RSO 1990, c L8, s 60(2).

<sup>20</sup> Federation of Law Societies of Canada, Task Force on the Canadian Common Law Degree, Final Report (October 2009) at 8, online: [http://www.flsc.ca/\\_documents/Common-Law-Degree-Report-C%281%29.pdf](http://www.flsc.ca/_documents/Common-Law-Degree-Report-C%281%29.pdf) [Task Force on the Canadian Common Law Degree].

<sup>21</sup> Federation of Law Societies of Canada, "National Requirement for Approving Canadian Common Law Degree Programs," online: <http://www.flsc.ca/en/national-requirement-for-approving-canadian-common-law-degree-programs/>.

<sup>22</sup> Task Force on the Canadian Common Law Degree, *supra* note 20 at 39.

<sup>23</sup> *Ibid* at 42.

- Overview of library staff complement, qualifications and reporting structure.
- Overview of library facilities and description of collection and collections policies.
- Overview of library acquisitions budget.
- General description of support services available to the faculty, students and other library users.<sup>24</sup>

There are two methods of demonstrating compliance with the Federation's requirements: the Program Approval Model and the Individual Student Approval Model.<sup>25</sup> As its name suggests, the latter method allows students to demonstrate that they meet the requirements by providing their transcripts from a law school which certifies that the student has taken the necessary courses to meet the national requirements.<sup>26</sup> This model would be helpful for students who have taken courses at and have transcripts from multiple law schools, especially foreign law schools, as the other model would not necessarily be available to them. The Program Approval Model is the most utilized compliance method, however. Under this method, the law school must verify that their educational program, especially their required courses and their course content, ensures that their graduates all meet the national requirements. The Dean explains how the national requirements are met in an annual report.<sup>27</sup> The Federation is essentially putting the Canadian law schools through an accreditation review process every year through the annual report requirement, as it is reviewing all aspects of the schools' education programs.

### Required Competencies

In 2007, the legal education system in North America was shaken up by the release of the *Carnegie Report* and *Best Practices* reports, which forced law schools to hold mirrors up to see how they were failing their students and the profession by not teaching skills necessary to be successful in practice.<sup>28</sup> Partially as a result of these reports, both the Federation and ABA undertook separate reviews of the skills and knowledge law students should possess when entering the legal profession. While the committees studying this issue agreed on many issues, such as the value of educational outputs, their final recommendations diverged on the level of specificity expressed in their competency requirements.

### Canada

As mentioned above, in 2010, the Federation released a list of competencies, skills, and knowledge that all applicants to provincial bar admissions course must possess. The list is both broad and narrow in scope. Requirement 1 identifies the main skills the applicants must possess, under three main categories of problem-solving, legal research, and oral and written legal communication. Each of these requirements contains several specific skills graduates must have. Requirement 1.2 addresses the legal research skills that graduates must possess:

The applicant must have demonstrated the ability to,

- identify legal issues;
- select sources and methods and conduct legal research relevant to Canadian law;
- use techniques of legal reasoning and argument, such as case analysis and statutory interpretation, to analyze legal issues;
- identify, interpret and apply results of research; and effectively communicate the results of research.<sup>29</sup>

The national requirement also requires the applicants to demonstrate an understanding of professional responsibility and ethics, "the core legal concepts applicable to the practice of law"<sup>30</sup> and the interrelationship between different areas of law. Specifically, applicants must understand the "foundations of law" and the basic principles of both private and public law.<sup>31</sup> Several examples of each of these foundational areas of law are provided on an inclusive list. While the Federation chose to be quite specific in terms of the competencies, skills and knowledge students must possess upon graduation from law school, the ABA adopted a more general approach.

### The United States

It has taken the ABA a century to incorporate graduation competencies in their standards. The ABA standards have historically focused on inputs such as entering students' grade point averages and LSAT scores. In October 2007, the Chair of the Section of Legal Education appointed a Special Committee on Output Measures ("Output Measures Committee") which was tasked with determining "whether and how we can use output measures, other than bar passage

<sup>24</sup> Federation of Law Societies of Canada, Common Law Degree Implementation Committee, *Final Report* (August 2011) at 29, online: <[http://www.flsc.ca/\\_documents/Implementation-Report-ECC-Aug-2011-R.pdf](http://www.flsc.ca/_documents/Implementation-Report-ECC-Aug-2011-R.pdf)> [Common Law Degree Implementation Committee].

<sup>25</sup> *Ibid* at 30.

<sup>26</sup> *Ibid* at 31-32.

<sup>27</sup> Law schools must be in compliance with the national requirement by 2015. Law schools have been submitting annual reports to and receiving feedback from the Approval Committee since 2012, to allow the schools to make the necessary changes to ensure they are in compliance by 2015. *Ibid* at 34-35.

<sup>28</sup> *Supra* note 15.

<sup>29</sup> Task Force on the Canadian Common Law Degree, *supra* note 20 at 8.

<sup>30</sup> *Ibid* at 10.

<sup>31</sup> *Ibid* at 10, Requirements 3.1-3.3.

<sup>32</sup> ABA Section of Legal Education and Admissions to the Bar, *Report of the Outcome Measures Committee* (27 July 2008) at 1, online: <[http://www.law.nyu.edu/sites/default/files/ECM\\_PRO\\_057971.pdf](http://www.law.nyu.edu/sites/default/files/ECM_PRO_057971.pdf)> [*Report of the Outcome Measures Committee*].

and job placement, in the accreditation process.”<sup>32</sup> The Outcome Measures Committee determined that the change was possible and recommended that the existing standards be reframed to “adopt a greater and more overt reliance on outcome measures.”<sup>33</sup> The Section of Legal Education and Admissions to the Bar accepted the recommendation and developed new standards for legal education which focused more on outputs achieved by the law schools.<sup>34</sup> These outputs include the competencies, skills and knowledge law school graduates should possess. Instead of developing a proscriptive list of competencies, the ABA required the 200 ABA-accredited law schools to “establish and publish learning outcomes”<sup>35</sup> which will achieve the objectives of their specific program of legal education. The ABA provides some guidance, however, requiring the learning outcomes to include competency in the following:

- a. Knowledge and understanding of substantive and procedural law;
- b. Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
- c. Exercise of proper professional and ethical responsibilities to clients and the legal system; and
- d. Other professional skills needed for competent and ethical participation as a member of the legal profession.<sup>36</sup>

This “flexible, mission-driven,”<sup>37</sup> almost free market approach allows law schools to “fashion outcome measures and assessment mechanisms that reflect any special missions the law school has adopted”<sup>38</sup> while experimenting with new models of instruction and assessment to see which methods work best.

Many law schools began developing learning outcomes after the Outcome Measures Committee’s Report was released in 2008. Given the generality of the standard’s wording, it is not surprising that schools have taken very different approaches to their learning outcomes. Some schools have utilized a minimalistic approach, developing a few non-specific, broad learning outcomes, such as:

1. Students will understand the fundamental principles of Civil Procedure, Contracts,

2. Criminal Law, Property, Structures of the Constitution, Torts, Professional Responsibility, and a large number of elective courses.
3. Students will be able to engage in legal analysis, reasoning and problem solving.
4. Students will be able to perform legal research.
5. Students will be able to communicate effectively orally and in writing regarding legal matters.
6. Students will be able to recognize and resolve ethical issues in light of ethical, moral and religious principles.
7. Students will have the ability and desire to engage in lifelong learning and service.<sup>39</sup>

Other schools have developed more comprehensive and specific learning outcomes; several of them are similar to the competencies developed by the Federation.<sup>40</sup>

Along with the general school-wide learning outcomes, American law schools are also implementing outcome measures for educational programs, such as their clinical programs and their legal research and writing programs, and for individual courses. These outcomes can be tailored to the specific program or course, so they are much more specific yet still supportive of the broader school-wide measures. An excellent example of program-specific learning outcomes is Santa Clara’s first year legal research and writing program, known as LARAW, which contains 70 specific learning objectives, including 16 legal research measures.<sup>41</sup>

The lack of specificity in some learning outcomes would make it extremely difficult to determine when a student did not meet the outcome. What does being able to “perform legal research” mean? What resources do they need to be able to utilize? Do they need to be able to develop appropriate research strategies and a sound research process? Or must they simply be able to find a case? It will be interesting to see if after seeing the discrepancy in the identification of skills and the depth of specificity in the schools’ learning outcomes, the ABA provides more guidance to law schools.

## Distance Education

The two national accreditors also currently have different approaches to the integration of distance education in legal education.

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<sup>33</sup> *Ibid* at 54.

<sup>34</sup> The Section’s standards were adopted by the ABA’s House of Delegates in August 2014. James Podgers, “Law school accreditation standards breeze through House of Delegates with minimal fuss,” *ABA Journal* (12 August 2014), online: <[http://www.abajournal.com/news/article/law\\_school\\_accreditation\\_standards\\_breeze\\_through\\_house\\_of\\_delegates](http://www.abajournal.com/news/article/law_school_accreditation_standards_breeze_through_house_of_delegates)>.

<sup>35</sup> *ABA Standards 2014-15*, *supra* note 6 at 15, Standard 301.

<sup>36</sup> *Ibid*, at 15, Standard 302.

<sup>37</sup> *Report of the Outcome Measures Committee*, *supra* note 32 at 56.

<sup>38</sup> *Ibid*.

<sup>39</sup> BYU Law, “Learning Outcomes,” online: <[http://www.law2.byu.edu/mission\\_goals\\_learning\\_outcomes/learning\\_outcomes.php](http://www.law2.byu.edu/mission_goals_learning_outcomes/learning_outcomes.php)>.

<sup>40</sup> See e.g. UNM School of Law, “Student Learning Outcomes,” online: <<http://lawschool.unm.edu/academics/learning-outcomes.php>> and University of Notre Dame, The Law School, “Educational Goals,” online: <<http://law.nd.edu/about/educational-goals/>>. Notre Dame identifies both core and valuable competencies their graduates should have.

<sup>41</sup> Santa Clara Law, “LARAW Faculty’s Articulation of Learning Objectives for First-Year LARAW,” online: <<http://law.scu.edu/laraw/learning-objectives/>>.

## Canada

While the Federation acknowledges the increased impact of, and reliance on, technology in legal education, it still requires that the majority of the instruction be conducted in-person, as it supports the development of skills and abilities that lawyers need to have.<sup>42</sup> Two-thirds of the instruction must be conducted “face-to-face ... with the instructor and students in the same classroom”.<sup>43</sup> Some synchronous distance education instruction is allowed, where the students and instructor are online at the same time, such as with video conferencing. The Federation currently does not allow for asynchronous distance education, where students access on-line instructional materials at different times, at their individual convenience. This may change in the future, however; “[a]s legal education and delivery methods continue to evolve the re-examination of this requirement will be appropriate and advisable.”<sup>44</sup>

## The United States

The ABA is more forward-looking and allows all forms of instruction to be utilized. Standard 306 defines distance education courses as those “in which students are separated from the faculty member or each other for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive interaction among students and between the students and the faculty member, either synchronously or asynchronously.”<sup>45</sup> The ABA places some requirements on distance education courses, including the following:

- students can only take distance education courses in their second or third year of law school;
- students cannot take more than 15 credits or three half courses pursuant to distance educational methods;
- there must be “opportunity for regular and substantive interaction” between the professor and each student; and
- there is “regular monitoring of student effort by the faculty member and opportunity for communication about that effort.”<sup>46</sup>

## Apprenticeships

Legal apprenticeships or on-site practical legal training opportunities have also been the subject of discussion and review in both countries in recent years. These studies started from diametrically opposite positions, occurred for

different reasons, and focused on varied issues, however. They are also at different stages of review, with the American discussion in its infancy and the Canadian study having been completed in 2012.

## Canada

Following the British practice, law graduates in Canada have historically been required to article or intern with a practicing lawyer before they are allowed to be admitted to the bar. This articling period is considered part of their legal education, allowing them to develop practical legal skills that they do not learn in law school. The importance of articling to the Canadian legal profession is receding, however. The Law Society of Upper Canada (“LSUC”), which regulates the profession of law in Ontario, undertook a multi-year review of the articling process due to an ongoing annual deficit of articling positions in that province compared to the volume of applicants for the positions. As a result of this study, the LSUC developed a second pathway, called the Legal Practice Program (“LPP”), that law graduates can take to be admitted to the bar, for those who cannot or do not want to find an articling position.<sup>47</sup> The LPP consists of a four month training course followed by a four month work placement in any legal department or office.<sup>48</sup> The inaugural LPP is being undertaken in the 2014-2015, so its future is unclear; however, it is expected that LPPs could be implemented by other common law provincial law societies if it is successful in Ontario.<sup>49</sup>

While the implementation, and probable expansion, of the LPP decreases the significance of articling itself in Canada, LSUC’s decision to retain the articling requirement and develop a second apprenticeship option demonstrates the continuing value placed in on-site training.

## The United States

The American discussion and implementation of apprenticeships is still at a relatively early stage and is following a different path than in Canada. The primary focus in the U.S. has been on inserting apprentice-like opportunities, often called experiential learning opportunities, into the law school’s educational program, not adding an apprenticeship period after graduation. The calls for this type of transformation of the legal education program gained volume in 2007 with the release of the Carnegie Report and Best Practices.

While most American law schools offer clinical, internship, and simulated-practice courses, the ABA only began recognizing the importance of these skill development

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<sup>42</sup> Task Force on the Canadian Common Law Degree, *supra* note 20 at 41.

<sup>43</sup> Common Law Degree Implementation Committee, *supra* note 24 at 21.

<sup>44</sup> *Ibid* at 22-23.

<sup>45</sup> *ABA Standards 2014-15*, *supra* note 6, Standard 306 at 19.

<sup>46</sup> *Ibid*.

<sup>47</sup> The Law Society of Upper Canada, Articling Task Force, *Pathways to the Profession: A Roadmap for the Reform of Lawyer Licensing in Ontario* (25 October 2012), online: <<http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147489848>>.

<sup>48</sup> The Law Society of Upper Canada, “The Pathways Pilot Project,” online: <[www.lsuc.on.ca/uploadedFiles/pathways-fact-sheet-EN.pdf](http://www.lsuc.on.ca/uploadedFiles/pathways-fact-sheet-EN.pdf)>.

<sup>49</sup> Geoff Ellwand, “Betrayed, beguiled and abandoned?” *Canadian Lawyer* (4 February 2013), online: <<http://www.canadianlawyermag.com/4501/Betrayed-beguiled-and-abandoned.html>>.

opportunities in their standards in 2014. Its recently revised standards now require every student to take at least one experiential learning course for a total of at least six credit hours, which is the equivalent of two half-year courses or one full-year course.<sup>50</sup> This requirement could be satisfied with a field placement, participation in an on-campus legal clinic, or through a simulation course. The ABA no longer leaves the discretion of apprenticeship opportunities to the individual law schools; rather they require schools to provide “substantial opportunities” for law students through law clinics, field placements, and pro bono legal services.<sup>51</sup> “Substantial opportunities” is not defined in the standards’ interpretation notes so it is not known how many courses would actually be required. It is too early to know whether this focus on skills and learning outcomes will increase satisfaction with the practice-readiness of graduates and silence the discussion regarding the high cost of legal education.

A secondary discussion on apprenticeship opportunities has recently arisen over concerns about the soaring cost of legal education. President Obama, himself a lawyer, suggested that “[i]n the first two years young people are learning in the classroom. The third year they’d be better off clerking or practicing in a firm, even if they weren’t getting paid that much. But that step alone would reduce the cost for the student.”<sup>52</sup>

Washington and Lee University’s School of Law educational program appears to match President Obama’s vision, but only on the surface. The school completely transformed its third year curriculum in 2010, “moving students out of the classroom and into the real world of legal practice.”<sup>53</sup> Their third year curriculum provides students with a blend of simulated and real world experiential learning opportunities. Students must take:

- a two-week skills-based immersion course at the beginning of each term, the fall course dealing with litigation and alternative dispute resolution methods and the second course focusing on solicitor practice skills;
- four elective courses, including an experiential course and three substantive law courses taught in a problems-based method rather than with the traditional case-method; and
- a semester-long professionalism course.<sup>54</sup>

Students must pay tuition on their third year courses, however, so this approach does not reduce the cost of their law degree.

Several American law schools currently offer two-year degrees; however, they are accelerated degrees which means the students must take the same number of course credits as in three-year degrees but in a shorter period of time.<sup>55</sup> This, of course, will not reduce the overall cost to law students. Reduced course credit or true two year law degrees are not possible under the existing ABA standards as graduates are required to take at least 83 credit hours of instruction.<sup>56</sup>

Canadian law schools voluntarily offer many similar experiential learning opportunities as their American counterparts. With the additional apprenticeship opportunities of articling and the LPP, it is unlikely that the Federation will follow the ABA’s example of developing standards specifying the number of experiential learning opportunities graduates must possess.

## Conclusion

It is not just legal education that is undergoing review in the United States and Canada. Both the Canadian Bar Association (“CBA”) and the ABA recently determined they needed a clearer vision of the future of the legal profession in their respective countries. The CBA Legal Futures Initiative’s study has concluded with the release of *Futures: Transforming the Delivery of Legal Services in Canada*<sup>57</sup> in August 2014. The ABA’s Commission on the Future of Legal Services is in the very preliminary stages of its project, having just created a working group and releasing a brief, *Issues Paper on the Future of Legal Services*<sup>58</sup> in November 2014, soliciting comments from interested parties. While the two associations are at different stages of activity, they are reviewing similar issues, including allowing non-lawyers to perform some legal tasks and functions. The ABA Commission’s Regulatory Opportunities working group has been specifically tasked with considering the CBA *Futures* report in its deliberations, which raises the possibility of points of convergence in the final reports.

Given the proximity of the two countries and the strong connectivity between our business and legal communities, it is not surprising that the American and Canadian regulators often explore similar issues regarding legal education. Given the differences in the foundations upon which our legal education systems have developed, with Canada building on the British system and having more socialistic underpinnings than the United States, it is also not surprising there are points of divergence. This weaving of convergent and divergent points, however, results in an interesting comparison between the two legal education systems and the potential for many years of future discussion.

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<sup>50</sup> ABA Standards 2014-15, *supra* note 6 at 28, Standard 303(a)(3).

<sup>51</sup> *Ibid* at 28, Standard 303(b).

<sup>52</sup> Dylan Matthews, “Obama thinks law school should be two years. The British think it should be one.” *Washington Post* (27 August 2013), online: <<http://www.washingtonpost.com/blogs/wonkblog/wp/2013/08/27/obama-thinks-law-school-should-be-two-years-the-british-think-it-should-be-one/>>.

<sup>53</sup> Washington and Lee University School of Law, “The New Third Year,” online: <[law2.wlu.edu/thirdyear](http://law2.wlu.edu/thirdyear)>.

<sup>54</sup> *Ibid*. The students must also perform at least 40 hours of law-related service.

<sup>55</sup> See e.g. Northwestern Law, “Accelerated JD,” online: <[www.law.northwestern.edu/academics/degree-programs/jds/ajd/](http://www.law.northwestern.edu/academics/degree-programs/jds/ajd/)>, and Pepperdine School of Law, “Accelerated Option,” online: <<http://law.pepperdine.edu/academics/juris-doctor/accelerated-option/>>.

<sup>56</sup> ABA Standards 2014-15, *supra* note 6 at 21, Standard 311.

<sup>57</sup> The Canadian Bar Association, CBA Legal Futures Initiative, *Futures: Transforming the Delivery of Legal Services in Canada* (August 2014), online: <<http://www.cbafutures.org/CBA/media/mediafiles/PDF/Reports/Futures-Final-eng.pdf?ext=.pdf>>.

<sup>58</sup> ABA Commission on the Future of Legal Services, *Issues Paper on the Future of Legal Services* (3 November 2014), online: <<http://www.americanbar.org>>.



## III Reviews / Recensions

Edited by Kim Clarke and Nancy McCormack

***Christchurch Crimes and Scandals 1876-99.* By Geoffrey W. Rice. Christchurch: Canterbury University Press, 2013. 260p. Includes B&W illustrations. ISBN 978-1-927145-51-7. (Paperback) \$35.00**

On many occasions I have noted the advice of Professor J.J. Wigmore that “The lawyer must know human nature. He [or she] must deal understandingly with its types and motives. These he [and she] cannot all find close around ... For this learning he [or she] must go to fiction which is the gallery of life’s portraits.”<sup>1</sup> I have never suggested, however, that a lawyer may not obtain quite valuable guidance and assistance in understanding both human nature *and* in developing the skills of an advocate by reference to actual cases debated before the courts. In this vein, an advocate would be well advised to read *Christchurch Crimes and Scandals 1876-99* as it contains splendid examples of the psychology to be employed (or avoided) when examining witnesses. In addition, this book illustrates ably a number of the “human” issues that touch upon credibility and reliability – the bread-and-butter of fact finding – such as bias, emotion, and memory affected by intoxicants, to name but three.

The author, a retired professor of history at the University of Canterbury, has written a number of well-received books and is enjoying his retirement by pursuing his interest in the history of Christchurch. One of his prior texts, entitled *Christchurch Crimes 1850-75: Scandal and Skulduggery in Port and Town* contains all of the elements for a successful

publication, notably the fascination with crime, and his second book of this nature is also likely to garner even more critical praise. My endorsement, as noted briefly, is based on the book’s value to the advocate but it could easily be defended on the basis of the book’s capacity to entertain. Having said so, it must be understood that this is not a work of academic history, but rather a personal selection of interesting cases, drawn from newspaper reports, that the author has found to be quite compelling.

I wish to make plain that counsel engaged in both civil and criminal litigation will profit from the many examples found in these pages. I will address each type of litigation in turn. The first example in the criminal context arises out of a prosecution for possession of stolen goods. The accused spontaneously remarked something apparently quite prejudicial, as recorded at page 35. “I suppose you have come about the timber...” is what he stated upon seeing the police officers attending his yard. Of course, the material had been recently stolen. In this instance, one might argue that the comment is thoroughly innocent in that the lumber was placed in the open, though storage was readily available, and the lack of dissimulation speaks volumes as to the innocent nature of the possession.

The second example teaches the advocate to avoid “big” words and, more to the point, avoid attempting to make a person look bad in the eyes of the Court unless you are likely to win the point. In the course of the trial for an accusation

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<sup>1</sup> Refer to “A list of One Hundred Legal Novels” (1922), 17 III L Rev 26 at 31 and page 2 of G. Renaud, *L’évaluation du témoignage: un juge se livre* (Cowansville: Les Editions Yvon Blais, 2008).

of arson, a witness stated that he had been treated at the hospital for an eye disease. Defence counsel then asked "... are your olfactory nerves diseased also? To which the witness replied "What factory?" (p76). The slight amusement gained would have dissipated well before the final submissions and the point raised would be countered with a submission to the effect that "Counsel could not impeach the substance of the testimony, so...he or she attacked the citizen merely trying to assist the court..."

Accused persons sometimes present their counsel with some difficulty. In one instance, a person accused of a stabbing stated to the police: "He was only sorry that he had missed the victim's heart..." and, in addition, on the question of premeditation, he had "been waiting several days to pot him..." Finally, as to remorse, the accused in that case indicated "Even if he met the victim 25 years hence he would still 'pot' him!" (p 31).

An example of a judge warning a witness to not change his or her evidence is also provided: "if you don't give your evidence properly you will be sent to jail ... If you don't answer the questions I shall send you to jail forthwith ..." (pp 56-57). Later on, when the witness explained that he was most likely drunk and therefore could not remember what happened, the judge responded: "why did you not say that before?" The point for the civil litigator who is advantaged by the "modified" testimony is that he or she ought to object! The trial judge is precluding the witness from changing what was inaccurate or false testimony and this may be highly prejudicial. The time for the evaluation of credibility and reliability is at the end of the trial, not at any earlier point. That being said, this type of "shifting" may result in the absence of a credible finding," i.e., "the witness changed his mind so often that nobody could be sure when he was telling the truth..." (p158).

The book also focusses our attention on the plight of counsel called upon to appear before some form of administrative tribunal presided over by lay persons. Counsel might object to the hearsay nature of the evidence being led, only to have the court or tribunal respond: "I take all sorts of gossip here ... If it helps to elucidate the facts." (p 49). It is helpful if counsel prepares for this type of situation well in advance, having regard to the rules that govern the reception of evidence for such a tribunal and the general rules of admissibility that may be cited in opposition to the testimony. In other words, counsel should not wait for this type of problem to appear; counsel should always have authorities at hand to neutralize certain potential situations.

The law teacher or senior counsel seeking an example of cross-examination being interrupted by a "saucy" witness and what to do in such cases might review pages 74 and 75. The author sets out how the witness was told by counsel not to be facetious to which the witness responded something to the effect he "was putting salt on counsel's tail." When counsel complained that the witness was impertinent, the trial judge told the witness he had no right to make such

remarks while also reminding counsel that he was not to comment on the evidence since it provoked the witness. Later on, when the same counsel made a sarcastic remark, the trial judge reminded him that he ought not to treat the witness's evidence as if it was unworthy of credit.

Further on, the book makes reference to the ability of a potential witness to have "cultivated his expressionless poker face..." (p 114), a subject of concern to all advocates and again, and it is suggested that a well-prepared advocate has considered the possibility that demeanour evidence will arise.

Many more examples might be cited, but limitations of space intrude. I conclude by noting that the book is generally interesting given all of the fascinating characters we encounter in the witness box, and out of court including Lord Balfour and Rudyard Kipling. In my view, the cases discussed make for compelling and instructive reading and, as a happy coincidence, teach the advocate a number of important lessons in the art of persuasion.

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

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*Extra-Legal Power and Legitimacy: Perspectives on Prerogative.* Eds. Clement Fatovic & Benjamin A. Kleinerman. Oxford: Oxford University Press, 2013. 244 pages. ISBN 978-0-19-996553-3 (hardcover) \$85.00.

Study of the reaction of democratic states to instances of emergency arising, for example, as a result of the threat of terrorism, is very timely. A direct line of historical evolution can be traced from the 9/11 attack through the Iraq and Afghanistan wars, to the more recent rise of the so-called Islamic State and jihadi terrorism. At the outset of this difficult period, the United States enacted the *PATRIOT Act*. Today, the Government of Canada is asking Parliament to grant it new powers through Bill C-51, the *Anti-terrorism Act, 2015*. These legislative responses highlight one of the fundamental internal dilemmas of democracy: how far can a democratic state based on the rule of law stray from legality to defend democracy before it puts the integrity of democracy in jeopardy?

The subject-matter at hand is precisely on the border between law and politics, and the editors of this book, both political scientists, treat the work as such. From the perspective of the reviewer, a lawyer, it would have been useful at the outset to develop a set of crisp definitions of the concepts and to use the terminology consistently through the text. Some of the terminology and concepts discussed include:

#### ORDINARY CIRCUMSTANCES

- Constitutional system

- Rule of law
- Legal authority
- Legal power
- Stable, predictable laws
- Court adjudication
- Legitimacy arising from legality

## EMERGENCY SITUATIONS

- Discretionary power
- Extraordinary action
- Extra-legal or prerogative power
- Arbitrary behaviour
- Auto-interpretation

In addition to the problem of this somewhat unstructured use of language, it would have been useful to set out the following categorization of sources of legal authority that can have meaning in both the American political system, to which the book relates, and to other democratic systems such as that of Canada.

Statute-based or other law-based governance
Use of discretionary powers authorized by statute or otherwise by law
Prerogative measures that are in fact extra-legal

Regrettably, discretion and prerogative are not sufficiently distinguished in the book. The author's reference to John Locke, who defined prerogative as the "power to act according to discretion, for the public good, without the prescription of the law, and sometimes against it" (p 22) is unfortunate, as in our modern understanding it confuses the notions of discretion and prerogative.

While the subject-matter of this book worthy of investigation and also necessitates informed discussion, its structure is somewhat lacking in focus. The first two-thirds are historical in nature, and interesting in their own right, but the reader is left to wonder whether the chapters on earlier practices are sufficiently relevant to inform the analysis of the specific practices of the last decade.

The most valuable parts of the book are the last two chapters, by Mark Tushnet and Jack Goldsmith respectively, both Harvard law professors. They deal with the constitutional trauma that has recently raged in the United States. Tushnet contrasts political constitutionalism with legal constitutionalism, highlighting the question of the proper grounding of restraints on government and governmental self-restraint in democracy. Goldsmith's treatment of legal interpretation and therefore of the role of legal advice and government lawyers is particularly noteworthy. The equation of tendentious or erroneous legal interpretation with prerogative power should impress upon lawyers acting for the executive branch at the highest levels the importance of the autonomy of legal reasoning from strategic political

imperatives. This chapter is based on the experience of the United States but the lessons to be learned from it apply equally in other states that intend to be genuinely democratic.

REVIEWED BY  
**GREGORY TARDI, DJUR.**

Senior Parliamentary Counsel [Legal]  
Office of the Law Clerk and Parliamentary Counsel  
House of Commons, Parliament of Canada

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***Free to Believe: Rethinking Freedom of Conscience and Religion in Canada.* By Mary Anne Waldron. Toronto: University of Toronto Press, 2013. 298 pages. Includes bibliographical references and indexes. ISBN 9781442613843 (paper) \$29.95. ISBN 9781442645554 (cloth) \$70.00. ISBN 9781442663084 (ebook) \$29.95.**

In *Free to Believe: Rethinking Freedom of Conscience and Religion in Canada*, Mary Anne Waldron, professor at the University of Victoria and visiting fellow at the University of Victoria's Centre for Studies in Religion and Society during 2009-2010, offers a critical examination of court decisions dealing with the rights and freedoms of minorities and majorities with respect to conscience and religion, both under the *Charter of Rights* and federal and provincial *Bills of Rights*. When, and under what circumstances, she asks, should the rights to freedom of conscience and religion be limited to protect the value system of the majority or vice-versa? Is there a difference between a freedom and a right? Are some human rights more important than others? What is the role of the courts and that of the legislation in defining and sometimes limiting these freedoms and rights? "Almost every aspect of public policy in Canada is affected by conflicts of beliefs that lead directly to opposing opinions of how our law should be maintained or changed" (p. 5), the author contends.

According to Waldron, the court system never established a principled approach to matters of religion and freedom of conscience and, as a result, the courts have unwittingly privileged some beliefs systems over others and imposed certain beliefs on reluctant minorities. In her examination of case law involving conflicts of conscience and religion, the author questions the decisions of and positions taken by the courts and offers alternative resolutions. Regardless of whether one agrees with Waldron's interpretations and conclusions, the discussion of these controversial issues will inevitably lead readers to reflect and question their own values and opinions. Allowing public discourse, argues the author, even if it "irritates" or infringes on someone else's rights to their own religion or system of beliefs, allows for societal advancement, and thus is integral to a functioning democracy. She disagrees, therefore, with decisions that curtail the public display of opinions or beliefs. A healthy democracy, she contends, allows for public discussion that leads to public policy advancement.

As I read this book I felt, at times, challenged, outraged and intrigued, but never indifferent. Waldron tackles issues of



religion and politics, human rights cases under federal and/or provincial legislation, conflicting rights, and freedom of conscience. She is unwavering in her defence of the right to external expression and display of beliefs and conscience, within certain parameters, and offers alternative solutions to cases where this right has been repressed by the courts. She is also very critical of instances in which the courts appear to impose a particular social agenda upon Canadians by commenting on the moral aspect of cases in contrast to what the courts argue are societal values: “I will argue that an important democratic role for our courts is to recognize the need to protect some public spaces as neutral in the face of moral conflict and to hold an even hand between opposing beliefs until some consensus in social policy is reached” (p. 98).

The author proposes the concept of human dignity as a tool to deal effectively with opposing beliefs. She interprets this concept as incorporating both ideas of freedom and equality. According to Waldron, our rights are interdependent – if my behaviour deprives you of your human dignity, then I have also denied myself of my own human dignity and the rights that would flow from it.

This is a scholarly work, more academic than practice oriented, and as such it belongs in academic libraries. However, it will be of interest to anyone investigating this aspect of Canadian laws and politics and may serve as a guide to relevant decisions for anyone practising in this area. Multiple annotations, an extensive bibliography and a couple of indexes round out the author’s effort to create a well-researched and organized work.

**REVIEWED BY**  
**ANA SAN MIGUEL**  
Judicial Education Manager  
Provincial Court of Alberta

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***Fundamentals of Contract Law.* By Laurence M. Olivo and Jean Fitzgerald. 3rd ed. Toronto, Ont: Emond Montgomery Publications, 2013. ix, 293 p. Includes bibliographic references and index. ISBN 978-0-7798-2245-4 (softcover) \$89.50.**

Written for students in a non-law degree program, this practical, plain-language text provides an introduction to contract law from the creation of contracts to discharge and remedies for breach. It is one of the few texts in this area specifically aimed at the layperson, and it succeeds in setting out the fundamentals of contract law.

The latest edition of this text contains major updates to both content and presentation. Readers are lead through the fundamentals with chapters discussing the introduction and development of contract law, formation of a contract, protection of weaker parties, contractual defects and rights, contract interpretation, discharge of contract, breach of contract and remedies, electronic contracts and e-commerce, and contract preparation and drafting. Each chapter includes

an introduction, learning outcomes, discussion related to the scope of the chapter topic, a chapter summary, key terms and review questions. Definitions, including the meaning of common Latin terms, are displayed in the margins of the pages as an aid. The book focuses on Ontario and Canada and cites case law and legislation from Canada, England and the United States.

Additional resources are available for the instructor using *Fundamentals of Contract Law* as a course text. Emond Publishing makes an Instructor’s Guide, PowerPoint Presentations for each chapter and a Test Bank with an instructor and a student version, available for free through their website. The extras are intended to guide or assist someone teaching a course in contract law.

Both authors have a wealth of experience in the subject of contract law. Laurence M. Olivo is an Osgoode Hall graduate who has practiced family law and civil litigation and performed policy work with the Ontario Attorney General Ministry. He also teaches at the Faculty of Business, Seneca College. Co-author Jean Fitzgerald has a similarly impressive resume having practiced law in Toronto and taught legal programs at colleges in Ontario and the United Arab Emirates. She currently is a legal consultant to the UAE government.

The text is one of the few resources on this topic suitable for a non-legal contract law course. The volume includes a table of contents, preface, acknowledgements, cases on point in each chapter, appendices for electronic commerce and sample contracts, a glossary and an index. The sample contracts are relevant and practical; for example the first sample is a “Dog Walking Contract.” There are footnotes and references throughout; however, there is no table of cases or bibliography. In addition, some case references are to unreported decisions and may not be easily available to readers. Nonetheless, the added instructional resources make this text a gem.

*Fundamentals of Contract Law* is a welcome addition for those in college level or non-professional programs. It provides a plain-language discussion of contract law and related concepts. The text is available in three versions – print, eBook and eBook extended – and the accompanying instructors’ resources will be appreciated by both instructors and their students.

**REVIEWED BY**  
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Information Literacy Librarian  
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Edmonton, Alberta

***Managing Cyber Attacks in International Law, Business, and Relations: In Search of Cyber Peace.* By Scott J. Shackelford. New York: Cambridge University Press, 2014. xxxix, 393 p. Includes appendix, bibliographic references and index. ISBN 9781107004375 (hardbound) \$99.00.**

In *Managing Cyber Attacks in International Law, Business, and Relations: In Search of Cyber Peace*, Scott J. Shackelford, Assistant Professor of Business Law and Ethics at Indiana University, Kelley School of Business, lays out his vision for how we can build a global culture of cyber peace. Cyber peace, he maintains, is not the absence of cyber attacks or exploitations, rather “it is the construction of a network of multilevel regimes that promote global, just, and sustainable cybersecurity by clarifying the rules of the road for companies and countries alike” (xxv, p.365). Unlike other publications that focus on the application of criminal law or the law of war to cyberspace, the author takes an interdisciplinary approach that draws on law, science, economics and politics in order to support his argument that existing governance regimes are not able to manage adequately “cyber attacks” and to make a case for how polycentric governance can be used to enhance cybersecurity globally. He defines cyber attacks broadly as “deliberate actions to alter, disrupt, deceive, degrade, or destroy computer systems or networks or the information and/or programs resident in or transiting these systems or networks” (p xxxii).

The book consists of seven chapters arranged in three parts: Foundations of Polycentric Governance in Cyberspace, Managing Vulnerabilities, and The Law, Politics, and Promise of Cyber Peace. In Part I the author lays the groundwork for the main argument, defining concepts such as cyber war, cyber espionage, cybercrime and cyber terrorism and analyzing the evolution of Internet governance in three phases, from the ad hoc organizations created by network engineers, government researchers and computer scientists, to the emergence of the Domain Name System, to the present which is shaped largely by the increasing involvement by State actors in Internet governance. He also introduces the concept of polycentric governance and examines the advantages and challenges of applying polycentric management in cyberspace. In Parts 2 and 3 he explores how polycentric governance could be applied to advance cyber peace.

Throughout, the author uses international case studies and examples, although some sections of the book are limited in scope to particular countries. The discussion of national cybersecurity strategies of the cyber powers, for example, is limited to the United States, the United Kingdom, China, Russia and Israel, while Chapter 5, “Risky Business: Enhancing Private-Sector Cybersecurity” focuses largely on the United States.

The book also includes a Forward written by Dr. Hamadoun I. Touré, former Secretary-General of the International Telecommunication Union, as well as a three-page abbreviations reference section, helpful chapter summaries and numerous tables and figures that summarize related information (for example, “Internet organizations and their functions” and “Cyber Incidents Cataloged by [United States Computer Emergency Response] Team from 2006 to 2012”). It also includes an Appendix that provides a timeline of significant cyber attacks identified by the Center for Strategic and International Studies from 1998 to 2013, which is international in scope. While there is some discussion of the law as it applies to cyberspace, the book does not include a Table of Cases.

Regardless of whether you are persuaded by the author’s argument for achieving cyber peace, this book contains a wealth of information on the history and challenges of Internet governance and cybersecurity; it is well researched and not overly technical. It is recommended for policy advisors and legal scholars working in the areas of international law and relations and information technology and the law. For more information, *Managing Cyber Attacks in International Law, Business, and Relations: In Search of Cyber Peace* can be previewed at <<https://books.google.ca/books>>.

**REVIEWED BY  
GOLDWYNN LEWIS**

Law Librarian  
Public Prosecution Service of Canada

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***Migration to Canada 2014.* By Garry R. Duncan. Toronto: Carswell, 2013. xvi, 298 p. Includes appendix, index and directory. ISBN 9780779851555 (softcover) \$49.00 - \$58.00.**

There is no doubt that finding information on the Government of Canada’s websites can be a challenge, even for savvy Canadians. I cannot imagine being someone planning to immigrate to Canada and trying to find and co-ordinate information from Citizenship and Immigration Canada, the Canada Border Services Agency and the Canada Revenue Agency. It is a good thing, then, that Garry Duncan, FCPA, FCA, CFP, retired senior tax partner of BDO Dunwoody LLP, and consultant on retirement, estate and expatriate planning, has created this single resource which offers an overview of the basic requirements for, and the tax consequences of, coming to Canada, as well as the taxation of residents.

*Migration to Canada 2014* is the third edition<sup>2</sup> of Duncan’s annual publication, written because he was unable to find a parallel resource to his book *Canadians Resident Abroad*, for people seeking to come to Canada.<sup>3</sup> The purpose of *Migration to Canada 2014* is clearly stated in its Preface: it is an outline with references to Canadian Government websites

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<sup>2</sup> The fourth edition, *Migration to Canada 2015*, was published in August 2014. It follows the same format and it appears from its table of contents to have similar, but updated content.

<sup>3</sup> Duncan, Garry. *Canadians Resident Abroad* (Toronto: Carswell, 2014).

and publications to assist the aspiring migrant (p.vii). It is not meant to be a detailed handbook on becoming a resident of Canada, nor is it meant to address tax issues related to leaving one's country of origin. Its primary audience is, therefore, non-residents of Canada planning to move here, especially those with assets and Internet access.

*Migration to Canada 2014* is easy to read and navigate. It includes a detailed table of contents as well as an index. The author writes in an informal, concise manner, very suitable for his intended audience and purpose. A useful technique he often employs is the use of question and answer boxes to give examples of his various points. He does not weigh down the book with footnotes or citations to legislation, instead he refers his readers to the appropriate government websites.

The book is comprised of two parts: the fourteen chapters of text, and the Appendix. The first chapter describes the various federal categories under which a prospective immigrant may apply to migrate to Canada if the eligibility criteria are met. The 2nd through 8th chapters focus on the tax implications of residency and the factors that the Canada Revenue Agency looks at to determine the date residency begins. Chapters 9 to 13 briefly touch on eligibility for other entitlements of residency, such as social and health insurance, and provide little more than contact information for sources of information. Chapter 14 is a paragraph on emigration from Canada. The value in the book is in its first eight chapters; the remaining chapters, described in the Preface as addressing secondary issues, could probably be dispensed with entirely.

The Appendix is large. It takes up close to half the book and it includes reproductions of a number of forms, information circulars, income tax folio chapters and interpretation bulletins from the Canada Revenue Agency's website, directories of the Canada Border Services Agency's offices, Foreign Affairs and International Trade Canada, and Canadian government offices abroad. Much of this content could, again, probably be reduced to brief descriptions, publication numbers and URLs.

That said, there is a need for a book informing potential immigrants how to qualify for immigration to Canada and the Canadian tax ramifications of doing so. Nonetheless, I wonder how the book is meant to reach its intended audience. I was only able to find English language copies in print. To follow Mr. Duncan's advice to plan their financial affairs before moving to Canada, potential migrants need to have access to the book well in advance of their arrival here. In Canada, public libraries in cities that attract immigration

may want copies, but the book is not intended to be either scholarly or comprehensive, so it would not be sought after by academic or law firm libraries.

REVIEWED BY  
**SANDRA GEDDES**  
Bennett Jones SLP

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***Principles of Administrative Law*, 6th ed. By David Phillip Jones, Q.C. & Anne S de Villars, Q.C. Toronto: Carswell, 2014. cxxvii, 868 p. Includes table of cases, bibliography, appendices and index. ISBN 978-0-7798-6332-7 (hardcover) \$241. ISBN 978-0-7798-6333-4 (softcover).**

This is the second edition of Jones and de Villars' text since the Supreme Court of Canada's revolutionary decision in *Dunsmuir*.<sup>4</sup> In this edition, the Supreme Court's more recent administrative law pronouncements have been integrated and considered, including *Figliola*,<sup>5</sup> *ATA*,<sup>6</sup> *Newfoundland Nurses*,<sup>7</sup> *Halifax*,<sup>8</sup> *Penner*<sup>9</sup> and *Agraira*.<sup>10</sup> This edition also provides some perspective on *Dunsmuir* and the post-*Dunsmuir* approach to standards of review.

Other changes from the fifth edition include revised and reorganized chapters on the *Canadian Charter of Rights and Freedoms*, subordinate legislation and remedies, as well as expanded treatment of legitimate expectations, issue estoppel, reasons for decision, injunctions and standing. The selected bibliographies remain at the end of most chapters, though they mostly contain references to older sources. As with earlier editions, several of the chapters were contributed by other authors. Attached as appendices are excerpts from five statutes and the Alberta Rules of Court, which seems like a waste of paper in this electronic age.

As someone who was first introduced to the principles of administrative law in this millennium, I have always felt that this text was organized by people with an entirely different perspective on administrative law than my own. I found that this most recent edition still refers to outmoded concepts unfamiliar to people who were introduced to administrative law more recently. While this historical perspective is no doubt useful, it sometimes overcomplicates an already complex area of the law. I note that Guy Regimbald, the author of LexisNexis' competing text on administrative law, completed law school in 2001. Unfortunately, the organization of his text very closely parallels that of Jones and de Villars. Nevertheless, it would appear that the Jones and de Villars

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<sup>4</sup> *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190.

<sup>5</sup> *British Columbia (Workers' Compensation Board) v Figliola*, 2011 SCC 52, [2011] 3 SCR 422.

<sup>6</sup> *Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61, [2011] 3 SCR 654.

<sup>7</sup> *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 SCR 708.

<sup>8</sup> *Halifax (Regional Municipality) v Nova Scotia (Human Rights Commission)*, 2012 SCC 10, [2012] 1 SCR 364.

<sup>9</sup> *Penner v Niagara (Regional Police Services Board)*, 2013 SCC 19, [2013] 2 SCR 125.

<sup>10</sup> *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 SCR 559.

text remains the most authoritative, as it has been cited more frequently by the Supreme Court than Regimbald. However, it is notable that since Regimbald's first edition was published in 2008, according to CanLII he has been cited three times, but Jones and de Villars have only been cited once in that time period.<sup>11</sup> Though Regimbald and Jones and de Villars are priced the same, Regimbald's second edition was published more recently (2015). Neither, of course, can truly compete with the depth of coverage offered by Macaulay and Sprague's *Practice and Procedure Before Administrative Tribunals* or Brown and Evans' *Judicial Review of Administrative Action in Canada*, though both are more thorough than Blake's introductory text, *Administrative Law in Canada*. Librarians seeking a solid text on Canadian administrative law will have a hard time choosing between Jones and de Villars and Regimbald, as there is very little to distinguish the two from one another, aside from the longer lineage and therefore more well-known 'brand' of the Jones and de Villars work.

REVIEWED BY  
**MELANIE R. BUECKERT**

Legal Research Counsel  
Manitoba Court of Appeal

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***Ruin and Redemption: The Struggle for a Canadian Bankruptcy Law, 1867-1919.* By Thomas G.W. Telfer. Toronto: University of Toronto Press, 2014. 328 p. ISBN 9780802093431 (Cloth) \$52.50.**

Le professeur Telfer, qui enseigne à la Faculté de droit de l'Université Western, à London, est bien qualifié pour rédiger un texte portant sur la faillite, ayant signé bon nombre d'articles à ce sujet au Canada et à l'étranger, et ayant récemment codirigé la deuxième édition de *Bankruptcy and Insolvency Law: Cases, Texts and Materials*, chez Emond Montgomery: Toronto, 2009.

Fruit d'un labeur de moine, du moins à en juger les moult documents consultés, depuis les jugements des tribunaux de l'époque en passant par les débats parlementaires sans oublier les tracts des groupes de pression cherchant à influencer le législateur, et laissant de côté les maints renvois à la correspondance de particuliers visant à faire connaître leurs doléances en rapport aux saisies ou procédures judiciaires auxquelles ils font face, *Ruin and Redemption* nous offre un commentaire fouillé et pondéré quant aux lois réglementant la faillite à cette époque.

Non content de scruter la lettre et l'esprit des divers textes législatifs que le législateur a adoptés (et, successivement, abrogés), l'auteur s'évertue à jeter à nu plusieurs projets de loi qui ont été discutés, tant au niveau des débats à la Chambre que des débats qui ont fait la une des grands quotidiens et des revues spécialisées. Il en résulte un livre bien écrit, bien pensé et bien réussi.

L'auteur a divisé son texte en trois parties, par tranches historiques, débutant par les années 1867-1880, puis 1880-1903 et, enfin, 1903-1919. Au début, il trace habilement le

contexte constitutionnel et historique, puis les motifs qui ont poussé le gouvernement central à adopté une telle loi, suivi d'un survol des justifications qui ont mené au rejet de toute loi fédérale, n'oubliant jamais de signaler le vécu des parties aux prises avec ces manques à gagner, tant débiteurs que créanciers, afin de bien illustrer le vrai portrait de ces questions épineuses. Ainsi, l'auteur s'attarde à expliquer les échappatoires qu'ont adoptées certains groupes parents, ou proches au niveau géographique, afin de contourner les lois et, de même, les moyens qu'ont choisis les tribunaux afin de favoriser les réclamations des créanciers « locaux » plutôt que ceux des « réclamants » à l'étranger. Enfin, cette première partie se solde avec un survol du rôle qu'ont occupé les diverses institutions qui ont influencé le cours des événements.

Le second volet du livre est particulièrement bien rodé, s'agissant de nous expliquer la réalité d'un jeune pays assez important au niveau de la superficie, y compris la distante Colombie-Britannique, mais qui comptait une population assez peu importante et dont la croissance financière risquait de s'étioler, faute de soutien des groupes financiers et des banques qui, évidemment, désiraient des garanties si jamais les débiteurs devaient connaître des revirements menant à la faillite. Somme toute, il fallait éviter l'attitude que l'on retrouve dans la pièce de théâtre d'Ibsen, *The Doll House*: un personnage qui doit une forte somme d'argent s'indigne qu'on puisse lui reprocher son manque de souci pour l'autre partie à ce sujet et déclare : « ... Who would bother about them? I should not know who they were. »

Au demeurant, la troisième partie explique de façon magistrale de quelle façon les efforts des « reformers » ont connu gain de cause et comment cette nouvelle loi visant à répondre aux attentes de parties à un prêt commercial qui autrement possédait des garanties insuffisantes en cas d'échec. L'auteur a réussi à réunir les éléments des discussions présentées plus tôt, notamment la réconciliation des intérêts des agriculteurs, des banques, et des créanciers éloignés, tout en bouclant la boucle, pour ainsi dire, quant aux questions qui demeuraient épineuses, surtout au niveau des recours et du rôle des provinces en ce qui a trait aux biens non assujettis à une ordonnance de saisie.

Un texte si bien réussi nous porte à poser la question qui suit : quand va paraître le second tome de cette étude portant sur la faillite, afin de traiter des années 1920 à 2015?

REVIEWED BY  
**GILLES RENAUD**  
Cour de justice de l'Ontario

***Surviving Incarceration: Inside Canadian Prisons.* By Rose Ricciardelli. Waterloo: WLU Press, 2014. 250 p ISBN 978-1-77112-053-1 (softcover) \$34.99.**

What is the experience of prisoners inside Canadian prisons? Is prison a humane form of punishment and an effective means of rehabilitation? The book *Surviving Incarceration: Inside Canadian Prisons* written by Rose Ricciardelli provides a highly informative response to these important questions for both academics and practitioners. As background, Ricciardelli interviewed fifty-six parolees and former federal prisoners who shared their stories and experiences. Using this rich data and pairing it with research and theory, Ricciardelli delivers a thorough examination of the essential topics and issues relating to the prison experience from the perspective of inmates.

To provide some context, the book begins by describing the Canadian federal prison system and the changing legislation in corrections. Following this, there is a discussion about the social hierarchy that exists in prisons and the factors that determine whether a prisoner is situated on the lower or upper rungs of the social ladder. Also discussed is the administration of penitentiaries, the realities and nature of violence, and the social norms that govern inmate behaviour.

Ricciardelli addresses how prisoners cope with the harsh realities of incarceration, and outlines the resources and programming available to them. One group of individuals who face unique challenges in prison are sex offenders, and Ricciardelli devotes a chapter to describe their experiences. Finally, the last chapter focuses on how the *Safe Streets and Communities Act*, SC 2012, c 1 (also referred to as Bill C-10) and the changing infrastructure of prisons affect inmates. Throughout the book, safety and risk are always in the background, as violence is shown to be omnipresent in prisons.

Overall, this well-researched book succeeds in providing the reader with a comprehensive picture about the factors that contribute to a prisoner's experience. Readers will appreciate that prison life consists of a multitude of unique norms, customs, and rules that shape prisoners' behaviours and feelings. The richness of the narratives the author uses throughout the book that will engage the reader and provoke an emotional response. In these narratives, not only do prisoners describe their experiences in prison, but they share their life histories, the circumstances that led them into crime, and how their incarceration has affected their loved ones. These stories allow the reader to relate better to the ex-prisoners as human beings, and consequently, the reader's assumptions about how prisoners should be regarded and treated may be challenged. As stated in the introduction "most importantly, this book is a reminder that Canadians – even those in prison – have human rights." If anything, Ricciardelli certainly accomplishes this goal.

Ultimately, Ricciardelli's book provides the reader with ample insights and information with which to form thoughtful opinions on issues concerning corrections and safety

in prisons. What is particularly effective is the way that Ricciardelli ends a number of the chapters with a set of thought-provoking questions. These questions challenge the reader to think critically about the ideas presented in the book and motivate the reader to engage in further reflection on these issues. The final set of questions in the last chapter is perhaps the most important in that the reader is asked to consider whether prisoner safety, a central theme in the book, and rehabilitation should be regarded as national priorities.

In summary, this book would be an excellent addition to any Canadian law library. Having an understanding of the lived experiences of a prisoner is valuable to individuals who provide services to prisoners and ex-prisoners who have been released into the community. Specifically, this book is highly recommended for individuals working in the fields of criminal justice, corrections, social work, human rights, and law enforcement. It will also be of value to academics in the aforementioned fields, since the book is thoroughly researched and provides many references to relevant studies and theoretical perspectives.

**REVIEWED BY  
IAN WONG**

Employment Consultant

John Howard Society of Kingston & District

***The Essential Guide to Settlement in Canada.* By Benjamin M. Bathgate, D. Brent McPherson. Markham, ON.: LexisNexis Canada, 2013. 343 p. Includes bibliographic references, cases cited, index and CD-ROM. ISBN 978-0-43347210-0 (softcover) \$90.00.**

Settlement has become the norm rather than an exception in the trial process in Canada. According to the authors, the Ontario Ministry of the Attorney General estimates that 95-97% of civil matters are settled before a trial. One explanation could be the global financial crisis and its aftermath which has led to parties looking to settle as a means of controlling costs. Other explanations for the volume of settlements include maintaining ongoing business relationships and the desire for privacy as litigation can easily affect corporate and personal reputations. These factors are all at the forefront of in-house legal counsel's practices.

*The Essential Guide to Settlement in Canada* is the only book which focuses solely on settlement in Canada. The book canvasses the fundamental principles of settlement, such as timing, what issues are covered by a settlement, and the various terms of settlement agreements. The book then turns to examine particular areas of the law, including employment law, intellectual property law, construction law, and class actions. There is also a cross-jurisdictional comparison of formal offers to settle under the various civil procedure rules in each province of Canada. Finally, the book turns its attention to enforcing settlement agreements and various issues related to complications arising from a settlement agreement that may potentially have not fully resolved the issues between the parties.

Most of the chapters are accompanied by precedent settlement agreements and ancillary documents, such as a sample settlement agreement, a form of release, a sample Pierringer agreement and a sample Mary Carter agreement, all of which are available on an accompanying CD-ROM with the book.

*The Essential Guide to Settlement in Canada* may be of assistance to junior litigators or solicitors who are less familiar with this form of dispute resolution. However, most litigators with a few years of experience will know much of what is covered in the book through their years of experience. Litigators are, perhaps, best positioned to take advantage of strategies leading to effective negotiations towards settlement as a result of their knowledge of court procedure, knowledge of the law (which is important to assessing the risk of proceeding with trial), and advocacy skills.

This book is focused on very general concepts and would be more ideal for an academic class on civil procedure that, in this day and age, should concentrate increasingly on settlement and negotiation rather than court procedures alone. Courts are actively encouraging settlement; hence the importance of learning about settlement early in one's career.

**REVIEWED BY  
MATTI LEMMENS**

*Barrister and Solicitor  
Borden Ladner Gervais  
Calgary, AB*

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***Understanding Bail in Canada.* By Gary T. Trotter. Toronto: Irwin Law Inc., 2014. 193 p. Includes glossary, Criminal Code provisions, appendices and index. ISBN: 978-1-55221-355-1 (paperback) \$34.95.**

*Understanding Bail in Canada* explains the history and operation of Canada's bail system as clearly and concisely as is possible given the complexity of the subject. Written in a manner designed to be accessible to laypersons, the book is straight forward and keeps jargon and "legal speak" at a minimum. Dialogue boxes answering questions from hypothetical readers are skillfully employed to address queries that logically arise from each chapter.

It is often difficult and time-consuming for prosecutors and defence counsel to explain how bail works to those caught up in the criminal justice system. Explanations are usually sought after contentious bail decisions, and victims, the media and the public can be critical of decisions to release accused persons on bail. Individuals accused of a crime, along with their families, find it difficult to believe in the presumption of innocence when incarceration precedes trial. As such, victims, accused persons, potential sureties and those working with them would benefit from reading the information provided on the legal, evidentiary and practical considerations at every stage of the bail process. In particular, the explanation of the role of and potential consequences to sureties is one of the best I have ever read.

The bail system balances the presumption of innocence against the need to ensure court attendance, protect society, and maintain confidence in the administration of justice. The author assists the reader in understanding the frailties of a system whose focus is the prediction of future risk. As with any human system, errors occur, sometimes resulting in persons being released and committing criminal offences while on bail. More frequently, detentions and overly onerous release conditions ruin lives, with potentially devastating consequences if an accused person is subsequently acquitted. It is only the rarer circumstance – when a person on bail offends violently – that generates public and media attention and calls for more restrictions on the availability of bail.

Many experienced practitioners of criminal law will be interested in the history of our bail system, including its common law origins and statutory evolution since 1892. Beyond history, the author's views on the true purpose of bail, the impacts of detention and coercive bail conditions, and the importance of tailoring and limiting conditions are instructive to all practitioners. In the hurried atmosphere prevalent in overly busy bail courts, a prosecutor's default position is often to request the 'kitchen sink' by way of conditions. Defence counsel, anxious to avoid a client being denied bail, may accede too readily to demands for long lists of onerous conditions to secure a prosecutor's consent to bail.

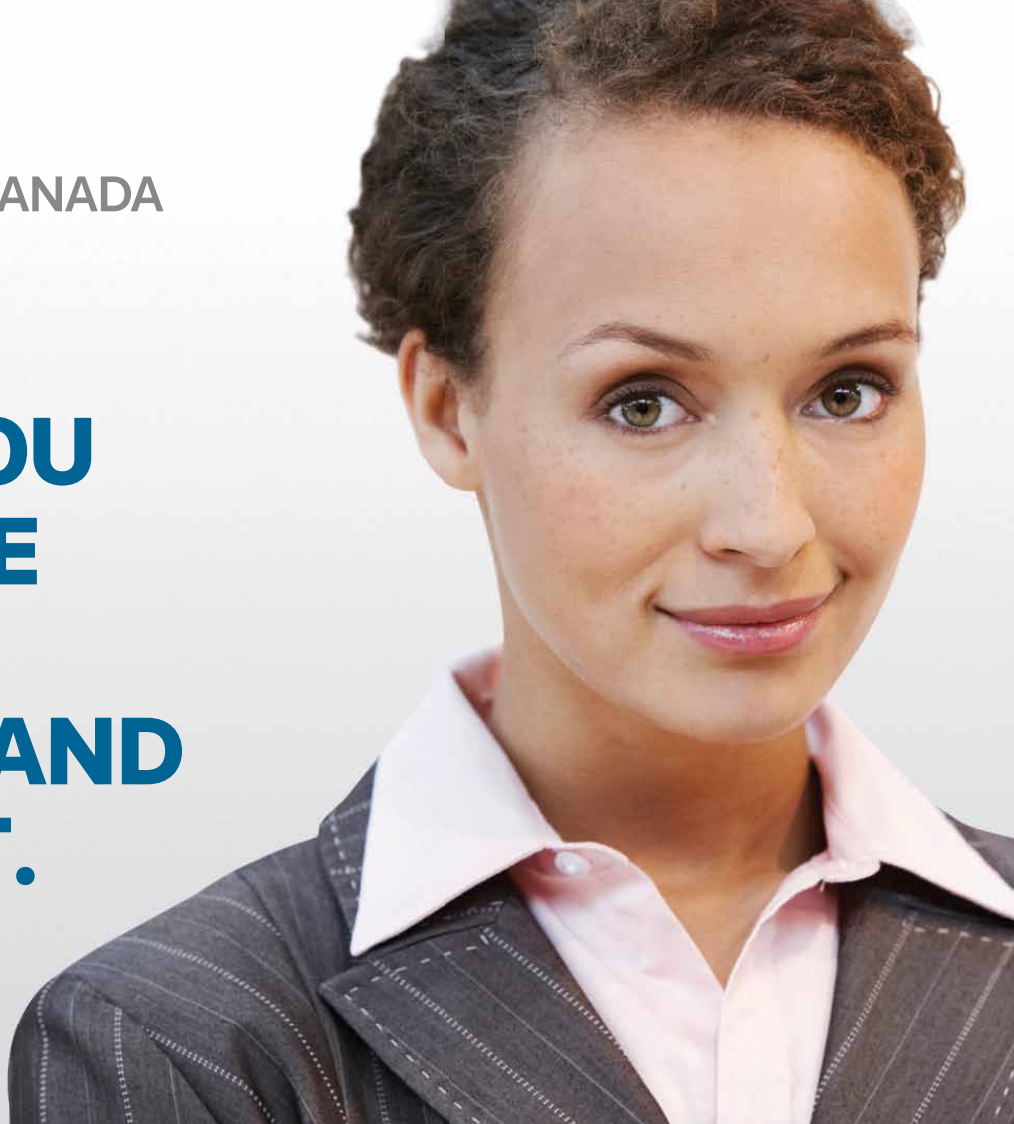
*Understanding Bail in Canada* emphasizes first principles, the need for careful consideration of the purposes of bail and the potential negative consequences connected with decisions that are too far on either end of the scale. The purposes of bail should be borne in mind by policy makers when criticism of release decisions in isolated cases leads to demands for statutory amendments restricting the ability to secure reasonable bail.

**REVIEWED BY  
DONOVAN MOLLOY, Q.C.**

*Director of Public Prosecutions  
Department of Justice  
Government of Newfoundland and Labrador*

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## III Bibliographic Notes / Chronique bibliographique

By Susan Jones

**Nick Harrell & Cindy Guyer, “Mental Illness in the Library: Ten Tips to Better Serve Patrons” (February 2015) 19:4 AALL Spectrum 22-25. Available online: <<http://www.aallnet.org/mm/Publications/spectrum/Archives/Vol-19/No-4/mental-illness.pdf>> (accessed 10 April 2015).**

If you’ve worked in a library that serves a wide range of users or provides service to the public, then at some point you’ve likely encountered a patron with mental illness. In this article, law librarians from the University of Colorado and the University of Southern California provide ten tips to better serve and improve relationships with patrons with mental illness.

The authors’ first tip is to *provide quality customer service*. It’s easy to dismiss the research needs of patrons with mental illness when their claims seem meritless and when there are so many other demands for our attention. All patrons, however, deserve the highest level of customer service, regardless of their mental health status.

The second tip is to *be clear and direct*. Patrons don’t always understand the difference between research assistance and legal advice, but for most people, a simple explanation of what we can and can’t answer as librarians suffices. Persons with mental illness, however, may continue to ask inappropriate questions. In those cases, the authors urge librarians to be clear and direct about the scope of their services and stress that they can’t provide opinions or advice on the merits of patrons’ claims. There may also be times when it’s important for librarians to advise patrons about their other

responsibilities and how much time they can devote to any one patron’s needs.

The authors’ third tip is to *be informed*. Librarians can fight the stigma of mental illness and provide better service to patrons by taking the time to learn about mental illness. A better understanding of the behaviours associated with mental illness can make encounters with affected patrons less daunting and less intimidating. And although librarians should never attempt to make a diagnosis, a familiarity with the signs and symptoms of mental illness means they can inform persons or groups who may be in a position to offer assistance to patrons, such as a dean of students, a human resources department, or a lawyers assistance program.

The fourth tip is to *collaborate with colleagues*. The authors advise librarians to seek the assistance and input of their co-workers when dealing with a difficult patron. Colleagues can provide a different perspective, share their own experiences, offer advice, and help devise solutions to problems. Colleagues can help diffuse challenging situations, too, and to this end, librarians shouldn’t hesitate to excuse themselves from a difficult encounter to secure a co-worker’s assistance. Colleagues can also serve as a sounding board for those who just need to talk about the frustration and stress of dealing with a challenging patron.

The authors’ fifth tip is to *develop and consistently enforce library rules*. Most patrons will understand what constitutes appropriate behaviour in the library, but for those who don’t, it’s helpful to be able to refer to established rules. These rules



should be posted on the library's website, at the entrance to the library, and in areas frequently used by the public. They should also be available in a form that can be easily distributed to anyone displaying inappropriate behaviour. According to industry professionals, persons with mental illness are apt to change their behaviour to conform to the rules once they've been made aware of their existence. And while it's important to have explicit rules in place, the authors note the necessity of flexibility in those rules. Rules shouldn't have the effect of alienating those with mental illness and they should allow for accommodations for those patrons.

The sixth tip is to *be creative*. The authors urge librarians to be creative in providing service and ensuring the best possible experience for patrons with mental illness. Examples include web browser bookmarks or shortcuts to frequently-used resources, along with putting simple, print-based user guides to those resources near computer workstations. As we know, not all patrons are computer literate and people with mental illness are often the most disadvantaged in society. For this reason, and because some online resources may not be available to the public, it's important to offer print resources. At the University of Southern California, staff at the law library created a *pro se* collection of self-help resources which they keep next to the reference desk. The authors also recommend creating a list of organizations in the community to which patrons can be referred when their needs are better met elsewhere.

To provide better service to those with mental illness, librarians should *frame exceptions to rules as disability accommodations*. Making modifications to established library policies and procedures may carry negative connotations, so the authors advise librarians to think of them more positively, namely as accommodations for a disability. Modifications to rules include offering a longer loan periods, helping patrons retrieve materials, or offering the use of study rooms normally available only to groups.

The authors' eighth tip is to *give power to the patron*. When it's necessary to address the conduct of a patron that's disturbing and disruptive to others in the library, librarians should focus on the behaviour and not the patron. For example, instead of telling patrons that they're disturbing others, tell them that their shouting isn't acceptable conduct in the library. In doing so, librarians empower the patrons by allowing them to choose between changing their behaviour and leaving the library.

The authors' ninth tip is to *underreact to unexpected situations*. When faced with a patron exhibiting frightening or threatening behaviour, it's best to keep one's own emotions in check. In fact, the best way to defuse a tense or scary situation is to underreact. To this end, the authors advise librarians to listen to the patron, respond slowly and calmly, and use an even and low voice when speaking. In addition, make sure to maintain an arms-length distance so the patron doesn't feel intimidated and don't attempt to mollify him or her with humour. The authors remind librarians that

their own safety and the safety of others using the library is of the utmost importance, so follow institutional policies and procedures for dealing with this type of situation.

The authors' final tip is to *respect the privacy of the patron*. Some patrons with mental illness may be uncomfortable about disclosing information they feel obligated to share in order to access the appropriate resources. In those cases, the authors advise moving to a space that affords some privacy to discuss the patron's needs. It's also important to assure the patron that their conversation will remain confidential.

As the authors note, all libraries are unique and it may not be necessary or possible to implement all of these tips. If mentally ill patrons is a topic of concern to you, then you may want to consider joining the Standing Committee on Disability Issues, part of the American Association of Law Libraries' Social Responsibilities Special Interest Section. And for more information on how to better serve patrons with mental illness, be sure to consult the list of additional resources accompanying the authors' article.

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**Dale Askey & Kenning Arlitsch, "Heeding the Signals: Applying Web Best Practices When Google Recommends" (2015) 55:1 Journal of Library Administration 49-59.**

Did you know that Google now favours websites using secure hypertext transfer protocol (HTTPS) in its search results rankings? No? Well, neither did I. Hardly a day goes by when I don't use Google, but I admit to not paying much attention to its announcements. Google's decision to prefer HTTPS, like many of its previous announcements, was largely ignored by librarians. This silence is very unsettling to the authors of this article, especially because Google's decisions can significantly impact the amount of traffic directed to library websites and digital repositories.

Authors Dale Askey, Associate University Librarian at McMaster University, and Kenning Arlitsch, Dean of the Library at Montana State University, advise that librarians would be wise to stay up-to-date with search engines' recommendations for website best practices and to act accordingly. As an example, they use Google's announcement about its preference for HTTPS over HTTP. In this article, the authors explain the difference between HTTP and HTTPS, outline the stated concerns about using HTTPS, offer three reasons why libraries should adopt HTTPS, describe the issues that library and website administrators should be aware of when deciding to use HTTPS, and offer some practical tips for implementing HTTPS.

Very helpfully, the authors provide an explanation of the difference between HTTP and HTTPS, which are the two main ways that information travels over the Internet. HTTP simply refers to hypertext transfer protocol and it first appeared in the early 1990s. HTTPS, or hypertext transfer

protocol secure, arrived a few years later. As you might have guessed, and put very simply, HTTPS is just HTTP with a layer of security. With this layer of security in place, any information moving between the server and the web browser is encrypted at both ends, thereby making it less susceptible to interference and theft.

While the security that comes with encryption is a huge benefit, a number of concerns have been voiced over the years about using HTTPS. Encrypted data means an increase in server response time and some impact upon performance. According to the authors, this shouldn't be an issue for library websites if administrators ensure hardware is kept up-to-date and that networks aren't over-taxed. Another concern is the lack of caching with HTTPS. Caching enables web browsers to quickly construct web pages without having to rely on a distant host server to transmit all the necessary data. Again, the authors don't believe this represents a serious issue for libraries. For one thing, users of library websites are, typically, in close proximity to the host server, and for another, caching has become less important with improvements in bandwidth. A final common concern is the inability of using HTTPS in a shared hosting environment. The authors note, however, that few libraries would choose to run their websites in that kind of environment and moreover, shared hosting platforms aren't commonly used on university campuses.

So with all of these concerns more or less of little significance for libraries, the authors put forth three reasons why libraries should adopt HTTPS. One, there are usually many people of varying skill levels involved in building and maintaining a library website and given our fallibilities, the encryption of some pages will be overlooked from time to time. Without HTTPS, regular audits of website pages must be conducted to ensure the presence of proper encryption. Two, it's not uncommon for users to ignore warnings about submitting personal or sensitive information online and HTTPS ensures the protection of that information. Third, many libraries provide non-HTTPS access to online resources, thereby making user's search queries and results open to surveillance. With HTTPS, users can rest assured that they're conducting their research anonymously. To sum up, implementing HTTPS on a site-wide basis transfers the responsibility of security from people to machines.

The authors view website security as an area in which libraries can position themselves as leaders in their organizations and communities. Privacy and anonymity have long been considered important values by libraries, so it's natural they would champion and lead the way to better website security. Not only can they point to themselves as examples of security consciousness and tech savviness to their organizations, but libraries could offer their website security expertise as a service to others.

There are issues to using HTTPS about which library and website administrators must be aware. The first is cost. The security certificates necessary to implement HTTPS aren't free, but thankfully, there are a wide range of types

of security certificates, each with their own prices. The higher the security concerns and level of trust required, the greater the cost of the security certificates. For example, banks and companies engaged in e-commerce are likely paying premium prices for the security certificates needed to ensure the safety and confidentiality of the information submitted through their websites. Libraries, on the other hand, can likely satisfy their security concerns with a more affordable and reasonably-priced certificate. As an example, the authors note that McMaster University Library runs its website, including access to its digital collections, with simple encryption certificates that range in price from \$10 to \$100 annually. The second issue concerning HTTPS about which library and website administrators must be aware is the need to stay current in encryption best practices. It's an area in need of reform and it's necessary that library and website administrators stay up-to-date with changes.

The authors offer some practical tips for implementing HTTPS. First, they recommend minimizing the cost of implementing HTTPS by shopping around for the best-priced security certificates. The market for security certificates is large and competitive. McMaster University Library typically uses Comodo-issued certificates, but it tends to buy the certificates from a re-seller, rather than Comodo itself in order to save money. Libraries can also save money by considering so-called wildcard certificates. The advantage to using this type of certificate is that it can be applied to numerous subdomains. So while the cost of wildcard certificates is higher, there's less hassle involved when compared to purchasing and administering security certificates for every subdomain. The authors' final piece of advice is to avoid mixing HTTP and HTTPS content on a single website document. We've probably all seen the security messages that pop up advising that some content on a web page is insecure. The actual security concern may be minimal, but the overall impression it leaves upon the user is one that library and website administrators will want to avoid.

The authors comment on the irony of the concern expressed by librarians about vendors' careless handling of patron data – referencing last year's news about Adobe Digital Editions, specifically – when so many library websites don't provide much more security for the same kind of data. Few libraries, including those of the authors, have fully implemented HTTPS on a site-wide basis. And while HTTPS isn't bulletproof and won't likely make any significant difference in Google's search results rankings for the near future, it's the best solution right now for protecting our users' security, privacy, and anonymity.

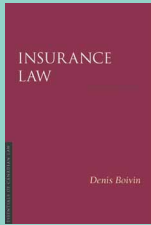
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**Elizabeth Ramsey & Amy Vecchione, "Engaging Library Users through a Social Media Strategy" (2014) 5:2 Journal of Library Innovation 71-82.**

Creating a social media presence for your organization – whether on Facebook, Twitter, or Instagram – is an easy task,

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Insurance Law, 2.e  
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Canadian insurance law is a complex mixture of federal and provincial legislation, common law, and custom. This book offers a detailed survey of this regulatory patchwork, divided into three parts. Part I provides an introduction to the creation and enforcement of insurance contracts. The subject of Part 2 is the creation of an enforceable insurance contract. Part 3 examines the principles applicable to the enforcement of insurance contracts.

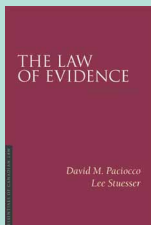
examines the principles applicable to the enforcement of insurance contracts.



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978-1-55221-382-7  
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Twelve chapters by leading academics and practising lawyers address a range of questions, situating legal analysis in the broader context of ethical and philosophical debate about justice in human-animal relationships. Topics include the Ikea monkey case, key shortcomings in Canada's animal cruelty law, the relationship between animal rights and the rights of Canada's indigenous peoples, and the emergence of animal protection in international law.

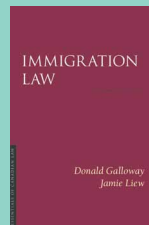
indigenous peoples, and the emergence of animal protection in international law.



The Law of Evidence, 7.e  
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For nearly two decades, *The Law of Evidence* has been relied upon both in the courtroom and in the classroom. The seventh edition provides authoritative analyses of new cases as well as a fresh or an expanded examination of the most important topics in evidentiary law. *The Law of Evidence*, 7.e., promises to continue to be an influential and highly used resource and teaching aid.

resource and teaching aid.



Immigration Law, 2.e  
978-1-55221-392-6  
\$70.00

Canadian immigration and citizenship law has been subject to frequent and seemingly frenzied revision and reformulation by the government of the day. This book aims to provide a general overview of current immigration and citizenship law and to identify the dominant factors and resilient beliefs that have guided policy-making as it has evolved.

Coming soon!

but the same can't be said for maintaining a social media presence that continually engages the target audience. Contrary to what some people may believe, a lot of planning and effort is required to sustain a successful social media presence. In an earlier column, I summarized an article about the importance of a social media policy and this article, about implementing a social media strategy, is no less important. Written by the social media strategy coordinators at Boise State University's Albertsons Library, these two librarians explain the role of a social media strategy in the success of their library's social media networks.

No one can deny the importance of social media to libraries today. An active presence on social media positions libraries as responsive and collaborative players within their organizations and the wider community. However, the challenges of maintaining that presence are undeniable, too. In addition to the difficulties associated with measuring the outcomes of their social media efforts, the challenges for libraries include creating a consistent message that conveys their relevance and supports their mission. According to the authors of this article, this is where a social media strategy can help. In the case of the Albertsons Library, its mission is to actively engage in learning, teaching and research at the university. Its social media networks support that mission by engaging students, fostering student success, providing reliable and relevant information resources and services, and contributing to the development of an organization that's flexible and open to change. Although the development of a

social media strategy is a time-consuming and sometimes difficult task, the authors believe it's essential for continued, measurable success.

The Albertsons Library's foray into social media began in 2005 with a Twitter account and a library blog, but it's now expanded to include Facebook, YouTube, Instagram, and Pinterest. The library was one of the first on campus to experiment with social media and consequently had to develop its own guidelines and best practices. In fact, the University of Boise's Office of Communication and Marketing looked to the Albertsons Library when it came time to develop formal, campus-wide guidelines and best practices for social media. This type of *sharing and collaboration* has been, and continues to be, key to the success of the Albertsons Library's social media strategy.

The authors offer several examples of how they use sharing and collaboration to grow their social media networks. For one thing, the library's social media team meets regularly with other social media managers on campus as part of a university-wide marketing group. They're also part of a campus-wide email list used to distribute promotional information to share through social media channels where appropriate. This promotional information includes Financial Aid due dates, announcements from student government, and university-related events. The Office of Communication and Marketing also shares its calendar of on-campus events, which the team uses to coordinate its own social

media campaigns. The cross-pollination of tweets and posts among departments and offices strengthens the social media networks on campus and in the case of the Albertsons Library, has served to position it as a campus community information centre.

*Scheduling* is another key component of the Albertsons Library's social media strategy. All library staff have access to a shared Google Drive calendar that notes campus events, library-specific events, and local and national events and holidays. The social media team and all interested library staff meet quarterly to discuss which events and resources to promote through its social media networks and to solicit volunteers with a strong desire to contribute content. A lot of thought and discussion is devoted to what events will be of interest to students, which ones will spark their interaction online, and which library resources can be tied to those events. The calendar also notes which social media networks will be used for each promotion, as well as the staff members who will contribute the content. In addition to holidays and events, the calendar also notes the timely promotion of library services, workshops, and resources. The shared calendar is not only key to the planning and scheduling of the library's forthcoming social media campaigns, but also assists staff in their assessment of past efforts.

Another key component of the Albertsons Library's social media strategy is the *coordination of contributors*. Specific individuals have primary responsibility for the day-to-day maintenance of each platform, although these individuals are supported by other staff members who contribute posts and serve as backup in the absence of the key curator. Maintaining a roster of contributors builds support among library staff and helps to ensure the ongoing existence of the library's social media networks as staff come and go. The social media team at Albertsons Library also invites its student workers to contribute to its social media efforts, but they must review the library's guidelines and submit sample posts before becoming regular contributors. Student input has proven invaluable in engaging their peers, as evidenced by the 20 percent increase in "likes" to the library's Facebook account in their first year of involvement.

Another important part of the Albertsons Library's social media strategy is the *coordination of content*. A consistent message helps establish the library's brand and the distribution of that message across all communication platforms helps the library reach as many people as possible. The authors stress the importance, though, of tailoring the basic message for each platform's specific users. The target audience for Facebook, Twitter, Instagram, Pinterest, a website banner, a blog, a lobby slideshow, and a computer screen saver may be very different, so it's worth taking the time to customize the basic message for the specific audience.

*Assessment* is another important aspect of the Albertsons Library's social media strategy. Before introducing a new social media network, the authors recommend envisioning what success looks like for that network and then using that

measurement to set goals. For example, when the social media team launched an Instagram account, they decided to measure the success of their efforts by the number of followers and likes garnered within a particular time frame. More specifically, they decided the pilot would be a success if they achieved 60 followers and several likes per image within four months of the launch. Goals, however, don't have to be about the number of likes and followers. Libraries might want to set goals about the frequency of status updates or the use of business casual language in their messaging. And, just as it's important to set goals, it's equally important to review those goals on a regular basis and revise as required to ensure social media efforts are meeting the needs of the target audience.

There are some useful tools that social media teams can use in the assessment of their efforts. Klout (<https://klout.com/home>), SumAll (<https://sumall.com/>), and StatCounter (<http://statcounter.com/>) are three analytical tools that can assist libraries in evaluating their outreach. For example, the social media team at the Albertsons Library uses Klout to gauge the effectiveness of its Facebook, Twitter, and Instagram accounts. In addition to Klout, they also use the built-in analytical tools available for some platforms. Twitter, Facebook, Blogger, and YouTube all provide statistics and insights that assist the social media team in evaluating the response to and success of its tweets, status updates, posts, and videos. Where no native analytics are available – as is the case for Instagram and Pinterest – the social media team just watches the number of followers, likes, and shared posts to assess the outcome of its efforts.

Finally, *experimentation and exploration* with new social media networks is an important part of a successful social media strategy. At the time the authors published this article, the social media team was experimenting with SoundCloud as a way of featuring audio recordings from special collections. Not all of the team's explorations, however, have withstood the test of time. GooglePlus was eliminated when the social media team determined there wasn't enough student interest in the network and Flickr was abandoned when it became necessary to pay for an account.

Facebook, Twitter, and other social media networks are important communication tools for libraries both big and small, and whether you're a social media team of one or many, the authors offer some great advice for maintaining a successful online presence with the help of a social media strategy.



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

Edited by Sooin Kim

### Toronto Association of Law Libraries (TALL)

On January 22 in a boardroom at Davies, Phillips & Vineberg, TALL attendees got their minds off winter by turning their thoughts to warmer times as they gathered for “Summer is Coming,” a lunch and learn that featured a panel discussion and a lively and informative conversation on training programs for summer and articling students across firms and organizations in the private and public sectors. On March 19 members convened at the Toronto Lawyers Association Boardroom for “Content Aggregators 101” a session by Jennifer McNenly that gave attendees the goods on content aggregators, including tips for evaluating and comparing them. Attendees were also treated to a tour of the TLA library by Joan Rataic-Lang after the session. Like summer, the association’s Annual General Meeting and election are just around the corner.

**SUBMITTED BY JOHN BOLAN**

Instructional and Reference Librarian  
Bora Laskin Law Library

### Edmonton Law Libraries Association (ELLA)

In May ELLA members heard from the dedicated and passionate Marsha Guthrie about an exciting initiative of the Alberta Legal Information Society (ALIS). ALIS is a non-profit organization founded in 2012 for the purpose of creating a website to connect Albertans to legal information.

LegalAve, a “first point of access” site has many innovative features including a dynamic guided pathway – a series of questions to point users efficiently in the right direction. This is an outstanding interface allowing simultaneous access to a plethora of relevant information without overwhelming the user; it features unique add-ons such as subject specific myths and an entire section for professionals who provide information services with a legal component to the public. The site is being developed with direct input of the front-line legal information providers across the province making it a true collaboration of experience and professionalism underpinned by a zealous commitment to helping all Albertans. We are all looking forward to the launch of this new service which is expected later this year.

**SUBMITTED BY JULIE OLSON,**

Edmonton Law Libraries Association Member-at-large

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### Ontario Courthouse Libraries Association (OCLA)

Among the members of the Ontario Courthouse Libraries Association who attended the 2015 CALL/ACBD Conference in Moncton, New Brunswick were five who benefitted from LibraryCo’s generous bursary program: Betty Dykstra (York Region Law Association), Michelle Gerrits (Lambton Law Association), Allison Killins (The Peterborough Law Association), Jennifer Robinson (Frontenac Law Association), and Laurie Stoddard (The County of Renfrew Law Association). At the Ontario Courthouse Libraries

Association business meeting in Moncton, New Brunswick, the members had a moment of silence in memory of Lisa Doracka (The Law Association of the District of Cochrane) who passed away on January 19, 2015.

Mary-Jo Mustoe (The Welland County Law Association) and Jackie Hassafras (Frontenac Law Association) have also been awarded LibraryCo bursaries for AALL (Philadelphia, PA) and SLA (Boston, MA).

We would like to congratulate Amanda Ward-Pereira (Algoma District Law Association) on the birth of her daughter, Evelyn Rose, on February 7<sup>th</sup>, 2015. Judy Giordano (Brant Law Association) and Wendy Hearder-Moan (County of Perth Law Association) have retired and we wish them well in this new chapter in their lives. I too have begun a new chapter in taking on the role of Librarian at the Brant Law Association.

**SUBMITTED BY CHRISTIANE WYSKIEL**  
Brant Law Association

cheque in the amount of \$936 towards her attendance at the CALL Conference in Moncton and Jennifer Muñoz Gonzalez of DLA Piper (formerly Davis LL) received \$564 to participate in the University of Toronto iSchool's course, Legal Research on the Web.

Our April event was a Brown Bag Discussion on the topic of hosting practicum students. Bronwyn Guiton started off the discussion by speaking about her article "Practical Approaches for Enhancing the Student Practicum in Law Libraries" which was featured in Volume 39 (3) Canadian Law Library Review. Participants shared their experiences and summarized best practices.

For more information about VALL, please visit our website.

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

### Vancouver Association of Law Libraries (VALL)

Our first seminar of the year took place on March 31st. It was a substantive law session on the topic of Aboriginal Law in Canada. Our guest speakers, Tina Dion and Rosalind Campbell, who are lawyers and members of aboriginal communities, gave us an overview of the historical foundation of Aboriginal title in Canada and discussed recent developments in this important and fast growing area of law. The seminar participants came away with a better understanding of the impact of recent court decisions on resource development projects.

Also at this seminar, the VALL Executive announced recipients of the Peter Bark Professional Development Bursary. Bronwyn Guiton of Lawson Lundell received a

### Winnipeg Law Library Group (WLLG)

In January 2015, Amanda Linden, library technician at Aikins Law in Winnipeg and MA student in the Archival Studies program at the University of Manitoba, began working for the Truth and Reconciliation Commission as a contract archivist. Her role is to ready the TRC's large archival collection for transfer to the newly established National Research Centre for Truth and Reconciliation. This involves processing the TRC material, media, and Bentwood Box collections, as well as artistic submissions, church records, and in-house records. This archive remains active until the TRC closing events in Ottawa, May 31-June 3.

**SUBMITTED BY KAREN SAWATZKY,**  
Tapper Cuddy 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

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## III News from Further Afield / Nouvelles de l'étranger

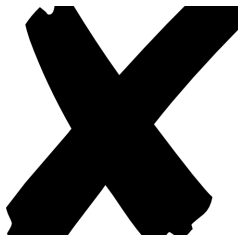
### Notes from the UK

#### London Calling!

By Jackie Fishleigh\*

#### Hi Folks!

#### UK Election



Well, the election campaign was about as dull as dishwater. It never really got interesting or even controversial, unless the way a politician eats a bacon sandwich is important to you. Some of them do it more elegantly than others!

Possibly campaign organisers were still haunted by the incident during the 2010 campaign when Labour PM Gordon Brown was interrogated by an elderly female member of the electorate (Gillian Duffy) during a walkabout. He had left his microphone on and afterwards was overheard to moan:

"That was a disaster – they should never have put me with that woman. Whose idea was that? Ridiculous."

Asked what she had said, he replied: "Everything, she was just a bigoted woman."

To make matters worse the bigot turned out to be a life-long Labour supporter who had previously described Brown as "nice." He decided to go back and apologise and ended up being filmed having tea with her in her front room. It was excruciating to watch. Meanwhile the gaff had been aired on every channel.

After that debacle, party leaders, especially the PM, seem terrified of meeting real voters and thrashing out key issues in public. Only one proper podium debate was held. This included the leaders of the Tories (Conservative), Labour, Liberal Democrat, UKIP, SNP and Plaid Cymru (Welsh National) parties. It was refreshing to see two women on the platform and the winner on the night was declared to be Nicola Sturgeon of the Scottish National Party.

The dust is slowly settling here after a dramatic election result last Friday (May 8<sup>th</sup>) and not really one anyone had predicted. The pre-election polls indicated neck and neck support for the two main parties in the UK i.e. the Conservative and Labour parties. The exit polling, however, was very accurate. This discrepancy is now itself a subject of investigation. Why the disconnect? Did some insiders know what the public were really thinking but keep it under wraps? How should polls be conducted and when? Should they be banned in the final week of an election campaign?

The Conservative party led by Prime Minister David "call me Dave" Cameron is to continue in office but as a majority government, rather than in coalition with the Liberal Democratic party. One of the reasons the campaign was so unexciting may have been that the 5 year coalition

was actually rather a success in the eyes of most people with Cameron proving himself to be presentable, a good communicator and not embarrassing. The same cannot be said of all world leaders.

There was no real thirst to kick out the incumbents as there were no significant crises, scandals or disastrous mess-ups with the economy.

Having the Conservatives back to govern alone may not sound particularly different but the results of the election were nevertheless game-changing in many ways.

## Scotland

Since the independence referendum last autumn, which culminated in a fairly comfortable “No” vote, the Scottish National Party (SNP) has gained legions of new members and has a popular and credible new leader in the form of former solicitor Nicola Sturgeon. She has taken over from Alex Salmond as First Minister of Scotland.

The SNP now holds 56 out of 59 seats in Scotland, whereas in 2010 it held just 6 seats. These new Scottish MPs will have a much louder voice at Westminster and will form a powerful block. David Cameron has offered to make Scotland the most autonomous region in the world but without it becoming a separate country. So maybe a bit like Quebec? Whether this will satisfy Nicola and her party remains to be seen. The SNP is also anti-austerity unlike Westminster. What anti-austerity means remains a mystery to me. Is it really any more than debt-dodging by another name?

The Labour Party lost a huge number of seats in Scotland for a variety of reasons. Even the very safe seat of Gordon Brown, the former Labour Prime Minister, got washed away in the tide of SNP support. A majority of 23,000 votes disappeared overnight. Meanwhile a 20 year old SNP candidate, who until recently was still a student, unseated Douglas Alexander, a well-respected member of the Shadow Cabinet. This kind of sea-change in voting patterns is extremely rare in the UK with our first-past-the-post system.

## Labour Party in turmoil

The Labour Party which was in power in the UK between 1997 – 2010 is now in turmoil with leader Ed Miliband resigning immediately after the election. His crypto-communist leanings and perceived anti-business message did not reach out to the wider electorate. He had also beaten his own more popular brother, David, in the leadership contest, which was viewed by many as backstabbing. His demeanour was seen as odd and geeky; he stood next to a giant list of pledges that looked rather like a tombstone; he slipped over while walking off the platform after a TV appearance.

Red Ed, as he was known in some quarters, is now on holiday with his wife in the Spanish island of Ibiza, so there are compensations of losing!

## Tories win Majority for First Time in Nearly 20 years

David Cameron has now made amends for failing to get a majority in 2010. This will please his party, quite a number of whom will be keen to press ahead with two highly controversial and topical issues:

## Possible Withdrawal from the European Union

Now that the Liberal Democrats are off the scene, the Tories have a 2015 manifesto pledge to hold a referendum on the UK’s membership of the EU. The key question will be: when to hold it, earlier or later?, and as always with these things, the exact nature of the question posed may be important. It is apparently going to be a simple “in” or “out” question, but time will tell if that proves to be the case. Canadian Mark Carney, Governor of the Bank of England is pushing for an early vote to reduce uncertainty amongst the business community, since the rest of the EU is a vital trading partner for the UK.

UKIP (the United Kingdom Independence Party)’s main *raison d’être* is to fight to leave the EU. In the election the party polled 13% of the vote but has only one MP.

Reform of the EU at the very least seems quite likely and may find favour with other EU members who are sick of being pushed around by Brussels.

## Human Rights

The Tories have also pledged to scrap the human rights legislation which they feel has been misused.

On a personal level I am very much in favour of both our membership of the EU and also of the *Human Rights Act*. Legal gurus seem to think it will be difficult for us to back away from either. One of them went as far as to describe them as being like The Hotel California (in the Eagles song) i.e. you can check out (vote against them) as often as you like but you can never leave.

I’m hoping that that proves to be the case!

## Liberal Democrats down and out

The Liberal Democrats have gone from around 50 MPs in the house to a handful. Their core vote did not like them cosyng up to the Tories during the 5 year coalition. Leader, Nick Clegg who claimed they did it in the national interest, has now resigned.

The coming weeks, months and years look to be interesting and quite possibly hair-raising, given the ruling party’s small majority, as the parties lock horns over these important issues – hopefully in a more energised way than during the election campaign!

And now for something completely different...



## Notes from the Steel City

By Pete Smith\*\*

There is but one topic – the General Election! As you will have heard, the Conservatives gained a (slim) majority and so have formed an all Conservative cabinet – the first in eighteen years. Their coalition partners, the Liberal Democrats, suffered serious losses; Labour, whilst making a small gain in votes in England, lost out heavily to the Scottish National Party (SNP.)

In the aftermath, the vagaries of the first-past-the-post system have once again been a hot topic. This has made unlikely bedfellows of the Green Party and the United Kingdom Independence Party (UKIP.) Both have one MP, and both have pointed out that they gained a much greater proportion of the vote than this would seem to reflect. A simple proportional system, for example, would have given UKIP around 80 seats.

After the 2010 election the Liberal Democrats secured a referendum on an “Alternative Vote” system, a referendum which saw that idea rejected. It is unlikely to be revisited, at least for General Elections.

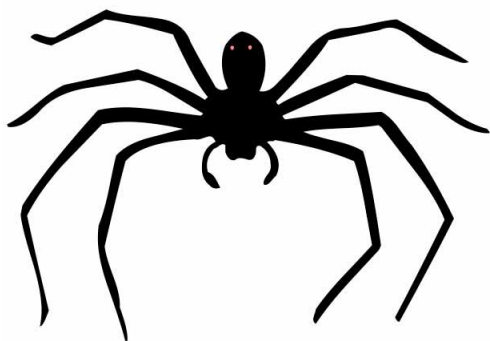
What might the new government mean for the law? In many ways, things will stay much the same. Legal aid is unlikely to be safe from further cuts, for example. But much depends on the new Secretary of State for Justice, Michael Gove.

As Education Secretary, Gove proved a combative and divisive figure, alienating teachers as he pushed ahead with plans for academies and free schools. As Chief Whip he was held responsible for what many felt was a poorly considered and badly handled attempt to unseat the Speaker.

But as David Allen Green pointed out, he has yet to do anything at Justice, and so it is best to wait and see how he handles this brief. There is a general feeling that he can do no worse than his predecessor Chris Grayling.

There *are* plans that can be, and already are being, critiqued. In previous columns we have covered the many issues some elements of the Conservative Party have with the *Human Rights Act 1998*. The party included in its manifesto a commitment to repealing the Act, and having gained a majority it has made this part of its first legislative program. It will not be easy, however. Several legal commentators have pointed out that the Act is embedded in the devolution settlements, and the Scottish Government has indicated that it is opposed to a repeal. It is also a key part of the Good Friday Agreement and so has implications for Ireland.

Alongside constitutional issues many within the Conservative Party are opposed to a repeal, having concerns about how this will be received in Europe and indeed the wider world. Mr Gove has been charged with managing the repeal and the creation of a British *Bill of Rights*, both tasks likely to prove more challenging – and potentially damaging – than



### The Black Spider Memos

This may sound like a detective/spy novel but in fact refers to 27 letters sent to ministers between 2004 and 2005. Written by Prince Charles, who apparently has scrawly handwriting like a spider, they contain his “most deeply held personal views”; he speaks out strongly in favour of his pet projects and wades in on controversial issues of the day. At his peak he bombarded ministers with 1,000 letters in a single year. In one of the more bizarre exchanges of correspondence he raised concerns about the fate of the Patagonian Toothfish and hoped it was high on the Environment minister’s list of priorities! As a member of London Zoo and with a surname like mine, I am pleased to see fish getting a look in! The government has spent £375,000 fighting a legal battle to keep the memos private.

The two key questions to be considered were whether Prince Charles should interfere in this manner, and whether or not the letters should be made public. The Supreme Court recently decided in favour of transparency after a Freedom of Information request by a Guardian newspaper journalist was finally granted.

### Droning On

Not this column I hope! The House of Lords has called for an EU-wide register of drone owners, or remotely piloted aircraft systems (which are part of the wider category of unmanned aerial systems/unmanned aerial vehicles (UAVs)).

As the idea of flying drones begins to take off (pause for laughter), now that professionals and hobbyists are involved (our tennis coach has one!), near misses at national airports and the inappropriate appearance of drones means restrictions are inevitable. “Drone law” will most likely take the form of regulation, criminal and public law and the enforcement of private law rights. After all, would you want a drone flying over your property? I suspect not.

With very best wishes for a great summer!

Until next time!  
JACKIE

at first thought. There are complex constitutional and political issues to be worked through. For a good overview of these see the following:

<<http://www.theguardian.com/commentisfree/2015/may/11/human-rights-reform-michael-gove-justice-secretary>>  
<<http://www.independent.co.uk/news/uk/politics/david-cameron-faces-tory-backbench-rebellion-over-plans-to-scrap-the-human-rights-act-10248313.html>>

And for an interesting take on the appointment of Dominic Raab to the Ministry of Justice, and what an anti-*Human Rights Act* pro-civil liberties approach might mean, see <<http://blogs.ft.com/david-allen-green/2015/05/13/tories-and-civil-liberties-the-fascinating-appointment-of-dominic-raab>>(requires registration.)

Alongside the repeal proposals, the government will seek to re-introduce the comprehensive surveillance proposals it did not get through in the previous Parliament. Without Liberal Democrat opposition from within the Cabinet, this is more likely to succeed, although as with human rights, it will not necessarily be easy.

Whilst repeal of the *HRA* and the introduction of wider surveillance powers are controversial, the Prime Minister's speech on counter-extremism has generated the most comment. In his address, David Cameron said:

“For too long, we have been a passively tolerant society, saying to our citizens 'as long as you obey the law, we will leave you alone.' It's often meant we have stood neutral between different values. And that's helped foster a narrative of extremism and grievance.”

What, people have asked, can this mean? Does it betoken a more interventionist state, one which seeks to somehow punish particular views? The powers which such an approach seems to call for can be worryingly broad and vague. In discussing the proposals in a radio interview, Home Secretary Theresa May did not offer a detailed set of the 'British values' that would underpin this policy. This has led some to be concerned that said values will be more narrowly political than based on a genuine national debate and consensus.

Such concerns are part of wider worries that the government's anti-extremism policies will be so widely based as to open the possibility of their being used to make any form of dissent difficult. For an outline of the proposals see <<http://www.theguardian.com/uk-news/2015/may/13/counter-terrorism-bill-extremism-disruption-orders-david-cameron>>; note that again this was an area where the Liberal Democrats exerted influence, from some perspectives for the better.

All of this said, and there is the issue of changes to strike laws to consider too – there *are* those within the Conservative Party who are likely to oppose too drastic changes to civil liberties laws, if only for fear of over-reaching and losing the support of those who historically might not have voted Conservative.

There have of course been other stories. Of particular pertinence in light of the proposals for human rights reform, Adam Wagner and colleagues have launched the *Rights Info* site- <<http://www.rightsinfo.org>>. The site features information about human rights law and case studies of the impact of human rights, as well as dealing with a number of human rights law myths.

The ongoing scandal of child abuse by the powerful has reached Parliament, with the case against Lord Janner being dropped on grounds of his poor mental health. This has caused anger as Lord Janner continued to serve in the House of Lords during the time the prosecution was being worked on; if he were competent to do that, it is argued, he is competent to stand trial. The wider investigation into historic child sex abuse is being overseen by a New Zealand judge, Justice Lowell Goddard, and one aspect of its work will be to look into the issues around Lord Janner; see <<https://childsexualabuseinquiry.independent.gov.uk>> for more details.

Letters that Prince Charles sent to government ministers must be released following a 10 year Freedom of Information battle. The so called “black spider” letters will show just what sort of influence Prince Charles sought, and perhaps still seeks, to exert. In a possibly unrelated move, the new government has announced that it will change freedom of information rules, the effect of such changes being to make it harder to obtain information.

Moving towards *greater* openness, a 'catch up' service for recordings of UK Supreme Court hearings has been launched – see <<http://ukscblog.com/catch-up-on-court-action-supreme-court-launches-video-on-demand-service>>. Whilst of general interest, for education purposes this is of particular value to those working on advocacy.

On a personal note, my LLM thesis, on legal education, has been accepted and so when the formalities are complete I will hold a Master of Laws by Research degree. I will be putting the thesis onto our repository, and will share the link in the next column. Until then, I trust Spring finds you and finds you well!

Cheers,  
PETE

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## Letter from Australia

By Margaret Hutchison\*\*\*

It's now May and winter is approaching, after a rather non-existent summer.

The continuing saga of the retention of metadata by telecommunications companies rolls on. The government's controversial [Telecommunications \(Interception and Access\) Amendment \(Data Retention\) Act 2015](#) passed the Senate in late March with bipartisan support from the Liberal and

Labor parties, however the Greens and several cross-bench senators voted against the bill, considering it an invasion of privacy.

The act obliges telecommunications companies to retain two years of metadata at their expense (which will be passed on to users through their internet and phone charges). The metadata required to be retained is the identity of a subscriber and the source, destination, date, time, duration and type of communication. It excludes the content of a message, phone call or email and web-browsing history.

After much protest from the media, an amendment was included to protect journalists' sources. The original bill would have given law enforcement and intelligence agencies a broad discretion to access journalists' metadata including information as to with whom the journalist had been communicating. The revised bill contained provisions that entail that law enforcement agencies aside from ASIO (Australian Security Intelligence Organisation) wanting to access journalists' data to discover their sources would first have to seek a warrant issued by a judicial officer or legal member of the Administrative Appeals Tribunal who may grant the warrant after considering the arguments of the agency and any submissions by a public interest advocate who will be appointed to argue against access to journalists' data, while a judge will decide on whether the disclosure of the data is in the public interest. The media are still unhappy about these changes and feel they are not sufficient to protect their sources. Also journalists have openly written how to get around the metadata laws, suggesting the use of an overseas-based email service, such as Gmail, as Australian law won't apply, or using Skype instead of a phone, or a VPN or being old-fashioned and sending a letter through Australia Post. The list of agencies that can access this data covers police forces, both federal and state, the various federal and state crime and corruption commissions, corporate regulatory commissions, customs and border protection and finally any authority or body declared by the Minister for Communications to be a criminal law-enforcement agency. The total is at least 19 agencies listed in the act.

Late in the debate, the legal profession realised that the retention of metadata could impinge on the ethical and professional obligations of client confidentiality. Lawyer-client legal privilege is founded on the longstanding legal principle that effective advice between lawyers and clients can be maintained only if there is open unfettered communication between the lawyer and the client. The privilege has shielded communications between lawyers and their clients from being subpoenaed or consequently used as evidence against the client in related proceedings.

What the data retained by the Bill could do, depending on how broadly the definition was read, is disclose information exchanged by email or telephone between the lawyer and associates of the client, experts or other relevant parties about potential witnesses. A defence case, a litigation strategy or a case theory could be identified based on witnesses or experts contacted by the lawyer. The bill raised

the issue of how lawyers will be able to protect their clients' privileged information when the metadata created by the lawyer and the client may be systematically collected and accessed by law enforcement.

The legal profession is still grappling with the implications of this and I found at least one workshop for lawyers on how to get around this legislation when communicating with clients. I think the ripples will continue to widen about this piece of legislation.

On the 25th April, Australia and New Zealand commemorated Anzac Day, the centenary of the first major military action fought by Australian and New Zealand forces during the First World War. In 1915 Australian and New Zealand soldiers formed part of the expedition that set out to capture the Gallipoli peninsula in order to open the Dardanelles to the allied navies. The ultimate objective was to capture Constantinople (now Istanbul), the capital of the Ottoman Empire, and an ally of Germany.

The Australian and New Zealand forces landed on Gallipoli on 25 April 1915, meeting fierce resistance from the Ottoman Turkish defenders. What had been planned as a bold stroke to knock Turkey out of the war quickly became a stalemate, and the campaign dragged on for eight months. At the end of 1915 the allied forces were evacuated from the peninsula, with both sides having suffered heavy casualties and endured great hardships. More than 8,000 Australian soldiers had been killed. The Gallipoli campaign had a profound impact on Australians at home, and 25 April soon became the day on which Australians remembered the sacrifice of those who died in the war. Anzac Day is the more important day for Australians and New Zealanders compared to Remembrance Day, 11 November. An [article](#) by Ben Wellings, from Monash University, offers 3 reasons why. One is that Anzac Day has nation-building appeal, in that it was the first major action by Australians and New Zealanders in war, after Australia's Federation in 1901. Another reason is that Remembrance Day occurs in November which is spring in the southern hemisphere. Spring traditionally marks rebirth and growth, whereas Anzac Day, in late April is associated with the autumn and coming of winter with its cold weather and grey skies. And last but not least, Anzac Day is a public holiday and Australians love a public holiday.

I was fascinated to learn that Canadians were involved in the landing at Gallipoli. Australians and New Zealanders think of Gallipoli as "our show," with little mention of the many more British and other troops from the Empire who also fought there. 1076 troops of the Royal Newfoundland Regiment landed in Gallipoli in September 1915, and soon learnt trench warfare techniques from the ANZAC and British troops who had been there for several months. 30 died of wounds and 10 of disease and are buried on Hill 10 in the Lancashire Landing cemetery.

The 800<sup>th</sup> anniversary of the Magna Carta has not gone unnoticed in Australia. Parliament House has a copy of the [1297 version](#) on display and as part of the Enlighten



Festival in March, both “new” Parliament House and Old Parliament House, now known as the Museum of Australian Democracy, had light shows commemorating the Magna Carta anniversary.

The High Court hosted an exhibition celebrating the 800<sup>th</sup> anniversary of the Magna Carta. There was a replica of the Magna Carta, written on vellum by a calligrapher and banners explaining the important legacies of the Magna Carta, with King John looking like something evil from a comic book. Also included in the exhibition is a “Be at the signing of Magna Carta.” I was roped in with the associates of one of our Justices for the photo, one very much getting into the mood of being King John.

Until next time,  
MARGARET

## Developments in U.S. Law Libraries

By Anne L. Abramson\*\*\*\*

Dear Readers:

This column may be a “swan song” of sorts. As much as I hate to say good bye, I am embarking on a new phase in my life, one that means I will be slowing down and paying attention to family and other personal matters, which have been on the back burner for many years now. Hopefully, I will not feel as “time starved” as I have in the past.

### A. Teaching & Ten Dollar Tea

I hope to continue to work as a law librarian on a part-time basis, which means no more projects with deadlines that require me to work late hours and weekends. That may include teaching. My husband is convinced that if I agree to teach, that means I will be full-time again. He may be right. I have this tendency to make what I call my “Ten Dollar Tea.” I use only the very best ingredients, including filtered water, fresh lemon juice, maple syrup (my sweetener of choice) and my favorite mint or orange pekoe tea. Everyone loves my tea (and my home made salad dressing too for that matter) but I could never sell it and make a profit as the cost would be beyond what most are willing to pay for a cup of tea, even a very good one. Thus, as with many of my business ideas, they tend not to be viable. ☺

Similarly, my teaching style is very hands on and, therefore, time intensive. This is true whether I am teaching an entire course or team teaching an Advanced Legal Research (ALR) course with my colleagues, as we did this past spring semester. For my portion of the course (Legislative History and Foreign, Comparative and International Law (FCIL) research), I put a great amount of time and effort into creating and grading short research questions. These questions are designed to expose students to certain resources and also to teach and assess the students’ research skills. Typically, a

short assignment consists of five questions, worth 20 points each. A complete answer includes two parts: the answer itself (sometimes a short summary in the students' own words and correct citation) and the student's research path.

The research path is essential for many reasons. First, it constitutes proof that the students did their own work to get to the answer as opposed to just copying it from a classmate. Second, if a student was unable to find the answer, the instructor can hopefully follow that student's path to see where he/she ran into problems. The downside, however, is that I must actually try to replicate each student's research path. Invariably, they take a different path than I might have taken, but if they find the answer and prove how they did it, I will give them credit for it. As all librarians know, there is no one "right" research path (but there are many sub-optimal ones).

Sometimes, depending on the source (i.e. treaties), I insist on Bluebook proper citations and grade the quality of the students' answers accordingly. Other times, when I ask the students to paraphrase, I cannot help but correct their writing too. I don't especially like to grade students on their writing (which is one reason I don't ask them to submit longer assignments like path finders) but I am keenly aware that they need to work on their writing skills and that the three foundational lawyering skills, writing, research and analysis, are all intricately related. With certain assignments like legislative history, it is unavoidable.

After the students submit their assignments, I go through the grueling grading process. Despite creating rubrics, I find that this process usually takes about a half hour per question. Don't forget that I have to follow each student's research path, no matter how convoluted. Plus, I give each student individualized feedback in addition to their numeric score. With five questions and say, 15 students, you do the math.

I give individual feedback partly because I got no feedback when I went to law school. I also hope, of course, that this feedback is helpful to the students. I've learned, however, that most of my colleagues do not give feedback on an individualized basis. My colleague, Victor, prints out the papers, gives numeric scores only and posts general comments to the class website. Posting general feedback only is one ingenious time-saving strategy. However, providing individual feedback is not as time consuming at it may look initially. Using "track changes" in Word, one can insert identical comments relatively easily.

The hard part for me is scoring. I often find myself agonizing over a point here or a point there in a constant effort to be fair and consistent. Even with the use of rubrics, this problem persists. These grading challenges are much like those described by Robert Linz in his excellent article, *Research Analysis and Planning: the Undervalued Skill in Legal Research Instruction*, 34 *Legal Reference Serv. Q.* 60 (2015). This article is part of my reading list below. I referred to it frequently in my presentation at the Global Legal Skills (GLS) Conference, also further described below.

Sometimes, just the right article comes around at just the right time. The universe provides...

I continue to ask myself, how can I teach legal research in a time efficient way? Since time is money (didn't Einstein prove it? :-)), the question could also be worded more expansively: how do we teach research in an economically viable way? Given the current cost-cutting environment prevalent in most U.S. law schools and the emphasis on graduates being "practice ready," is skills training sustainable?

## **B. FCIL Librarians at the Global Legal Skills Conference 2015**

These questions were the topic of my talk at the recent GLS Conference (May 19-22, 2015) hosted by The John Marshall Law School and Northwestern University School of Law. I was fortunate to be part of a "powerhouse panel" of FCIL Librarians, including Julienne E. Grant (Reference Librarian, Foreign & International Research Specialist, Loyola University Chicago School of Law, Chicago, Illinois), Tove Klovning (Lecturer in Law, Foreign, Comparative, and International Law Librarian, Washington University School of Law, St. Louis, Missouri), Lyonette Louis-Jacques (Foreign and International Law Librarian, Lecturer in Law, University of Chicago Law School, Chicago, Illinois) and Jean M. Wenger (Head of Public Services, Cook County Law Library, Chicago, Illinois).

We, law librarians, gave two back-to-back panels. The first was a Research panel entitled "The Foreign, Comparative & International Law Research (FCIL) Toolbox." I bowed out of the Research panel as I had to prepare an additional presentation for the preconference Scholarship Forum workshop on Tuesday, May 19. The workshop covered "Research and Citation Secrets for International Scholars" as well as "Getting Published: Submitting Your Work for Publication." Fortunately, I had the assistance of a wonderful colleague just across the river, Clare Gaynor Willis, Reference Librarian at IIT Chicago-Kent. Clare has an "unabashed love for citation." Who knew the Bluebook could be so much fun?! Raizel Leibler is our own "in house" expert on submitting scholarship for publication in U.S. law reviews. She was the ideal person to show our audience of non-U.S. legal scholars tools like the Washington & Lee website and ExpressO.

After the preconference workshop and the first Research panel, however, I did participate in the second Teaching panel entitled "Teaching Legal Research to Global Law Students: perspectives and reflections from FCIL librarians." My specific presentation related to "Assessing an FCIL Assignment in an ALR Course." As described earlier, I attempted to address some of the questions relating to sustainability of legal research skills training and my own particular tendency to create "Ten Dollar Tea". Grading (scoring) is the trouble spot for me due to questions like the ones raised by Robert Linz below.

"Is the student with the well-developed keyword list a better researcher than the student with a more poorly developed

list but better resource strategy? Should the student with the weakly analyzed problem and vague resource strategy but well-written and researched memo grade better than the student who did a thorough job planning and researching the problem but a poorer job analyzing and conveying the results? Should the student who created the amazingly detailed research log but who failed to note if they validated any of their authority be graded lower than the student who did capture validation data but neglected to list all resources consulted and findings from those resources?" Robert M. Linz, *Research Analysis and Planning: the Undervalued Skill in Legal Research Instruction*, 34 *Legal Reference Serv. Q.* 60, 85-6 (2015).

Like Victor, Tove Klovning, a new friend and colleague at Washington University School of Law in St. Louis, MO, recommended giving general feedback in order to save time grading and also to avoid intimidating the students with too many comments on their papers. I will definitely try this technique in the future, although I am still not sure how to address these troubling questions of fairness and consistency.

Even more encouraging, however, is the use of oral presentations to assess research skills. In addition to the short answer assignments, we asked the students to work in groups of three on a specific research topic (i.e. wrongful conviction, forming a corporation in Illinois). During the last two weeks of class, each student taught us and the rest of the class how to do research on his/her assigned topic. The use of oral presentations took much of the burden off us instructors and subtly encouraged students to assess themselves and each other.

The latest FCIL SIS Newsletter features an article by Lyo about the FCIL Librarian panels at the GLS Conference. My presentation and those of my colleagues will be made available via the links in the newsletter article and at the FCIL SIS website. See Lyonette Louis-Jacques, *FCIL Librarians Rock the Global Legal Skills Conference*, 28 *FCIL Newsletter* 7 (May 2015) <<http://www.aallnet.org/sections/fcil/newsletters/vol29/may2015.pdf>>

### C. The Google Question

One of the audience members raised her hand during my presentation: "Why don't you just teach them Google?" I had only a minute or two to answer off the top of my head, but upon further reflection, here is my full reply (in case you ever get a similar question.☺).

First, the students will use Google anyway, but they will probably not be exposed to many of the subscription and free resources that I show to them in class. Also, I find that using the "right tool for the job," that is, research with one of my selected databases, is generally more effective and efficient than simply googling. In addition, these selected databases provide some measure of quality control. Just as journalists check facts, publishers and libraries vet

information by editing and selecting. Thus, the results of research in a selected database may be more trustworthy, reliable and higher quality than those from an unrestricted Google search.

Later, I made an analogy to researching medical information on the internet. When would we rely on "Dr. Google" and when would we consult with a trained physician? I also showed a slide in which a student relied on Google but came up with an incomplete answer due to faulty analysis. I neglected to add that one of my colleagues does, in fact, teach the intelligent use of Google during another session of our ALR class. Sigh.

I just hope that the audience did not think I was dismissing the question. After all, the Google question is indeed THE question that we, librarians, must constantly confront these days in order to justify our existence. Of course, we use Google, but if I had to sum up the difference between a librarian's approach and that of a novice researcher, I would say that it all comes down to one thing: analysis, analysis, analysis.

Analytical skill is what distinguishes the legal expert from the layperson surfing the internet. And as Robert Linz points out in his article, it is this "undervalued skill" which is so critical to effective research. As a result of evaluating the students' work this past semester, I learned that analysis is where we need to focus more of our efforts in future iterations of our ALR class.

Robert Linz asks "[i]s research analysis and planning a critical skill in a 'Google world'?" (Id at 86.) Judging from the student work I saw in our ARL course, both written short answer assignments and oral presentations, my answer is a resounding "Yes!" In fact, I see the need now more than ever before.

### D. Other GLS Programs: Mindfulness & Information Overload

In between the pre-Conference workshop and the librarian panels, I had the opportunity to attend some excellent programs like the following:

Katerina Lewinbuk of South Texas College of Law gave a presentation entitled "Mindfulness/Attention Training: A New Global Legal Skill?" As a regular yoga practitioner, this program was right up my alley. Prof. Lewinbuk cited to studies and explained how mindfulness training can help our students increase focus without distraction, empathize with clients and colleagues, listen, engage in creative problem-solving and deal with conflict. Hopefully, students can use these techniques as part of developing a "sustainable law practice", one which aligns their professional lives with their personal values. I am glad to know that many schools already incorporate mindfulness techniques into their curriculums and only wish that ours was one of them. I am continuing to push for a dedicated meditation/yoga space at John Marshall despite all obstacles.

I also attended a presentation by Ellie Margolis of Temple University James E. Beasley School of Law entitled "Information Overload: Preparing Students to be Practice-Ready in a Global Setting." Prof. Margolis used images to great effect, including that of a paper spewing computer monitor to illustrate information overload. As she explained, the issue today is not finding information. It is managing and evaluating the information. She recommends letting the students use resources of their own choosing i.e. Westlaw, Lexis, Google and then asking them to evaluate those resources using the following six questions: Is it law? If it's law, is it my law? If it's my law, is it useful law? If it's not law, or not my law, is it useful in some other way? Is it credible? Is it permanent? Students thereby discover for themselves the usefulness of specific resources and search techniques. After this thought provoking program, I added articles by Prof. Margolis to my reading list.

Prof. Margolis' approach is similar to Tove's analogy of learning to ride a bike. Let the students fall. The lessons they learn through trial and error will enable them to become competent bike riders or legal researchers in the end. Tove recommends teaching the students "enough" to satisfy ABA Model Rules of Professional Conduct, specifically, Rule 1.1 on Competence. Look for an article by Tove in the future. Thus concludes my third and latest experience at the Global Legal Skills Conference. Our very own Prof. Mark Wojcik is the indomitable and inimitable spirit behind GLS. He has brought together legal writing instructors and now law librarians from all over the world to discuss best practices for teaching the critical legal skills that our students need to be successful lawyers. We, law librarians, are a bit late to the table at this and similar faculty conferences. I am thankful that we are being included at long last.

## E. Law Library Literature

Please compare and contrast the 2004 article by Scott Stolley and the 2014 article by Profs. Margolis and Murray, both of whom also presented at this GLS Conference as noted above. Are Stolley's arguments as valid today as in 2004? What would he make of Prof. Margolis information literacy approach? How would any of us or Prof. Margolis approach the questions that Stolley asked his associate to research?

**Cassie Dubay, *Specialized Legal Research Courses: the Next Generation of Advanced Legal Research*, 33 Legal Ref. Services Q. 203 (2014).**

These courses are arising in response to the demand for more practical legal skills training. The author analyzes survey results for ALR and SLR course offerings.

**Julian Aiken & Fred Shapiro, *The Yale Library, on Demand: a Holistic Approach*, 33 Legal Ref. Services Q. 226 (2014).**

The authors describe the initiation of the Library's new scan on demand, delivery on demand and collect on demand

service. The service arose as a way to remove barriers to and encourage access of the library's valuable print collection. An example of such a print title is *Democracy and Distrust: a Theory of Judicial Review* by John Hart Ely. The authors observe that this work is the most frequently cited monograph in recent history, but it is not available online. Student comments indicate that this program has been extraordinarily well received. One even calls delivery on demand, the "lap of luxury." Most of these new services take place in the Library's ILL Department, which already has many of the same forms and procedures in place. Other libraries may wish to consider such a program as we look for ways to make our services more visible and valuable to our patrons.

**Beau Steenken, *Outcomes in the Balance: the Crisis in Legal Education as a Catalyst for Change*, 19(6) AALL Spectrum 10 (April, 2015).**

The author notes the causes of the crisis as heavy student debt due to the escalating cost of legal education, oversupply of graduates relative to the number of higher paying legal jobs and the failure of law schools to produce practice-ready graduates. He goes on to discuss "outcome based education" (OBE) as set forth by the American Bar Association in its revised Standard 302. Under the revised standard, law schools must not only provide skills training but they must demonstrate that the students are actually learning those skills. This system now links education with assessment. He examines how law libraries might benefit from the new emphasis on OBE. This may be the time, for example, when a librarian who teaches a research course can ask for more class time. In addition, the course itself benefits from outcome based assessment methods. The author includes a grading rubric for a student's research plan and describes how he adopted the same methods as the legal writing instructors.

**Robert M. Linz, *Research Analysis and Planning: the Undervalued Skill in Legal Research Instruction*, 34 Legal Reference Serv. Q. 60 (2015).**

The questions the author poses resonate with me, especially the ones about fairness in grading. Also, the sample research plan and log in the appendix to the article are extremely helpful. Is research planning really necessary in the "age of Google"? The author asks this and other critical questions in his article, which I discuss extensively in this column.

**Scott P. Stolley, *Shortcomings of Technology: the Corruption of Legal Research, For the Defense* (2004).**

This 2004 article begins with a quote from Thomas Jefferson: "A lawyer without books would be like a workman without tools." The author observes that "our computer-educated law graduates generally lack basic research skills. In their computer dependence, many of them are curiously unable to find law that I know is in the books. They have been seduced into a computer mindset, without learning either basic legal research skills or the limitations of computerized

legal research". The author goes on to describe the two ways lawyers approach brief writing: research mode and intuitive mode. Research mode entails researching the law first and then writing the brief. Many experienced litigators, however, use the intuitive mode. They know certain legal propositions to be true and just need a case or two in support of those propositions. As a former associate, I can attest to this second approach. I recall the occasional research request, "find me a case that says" (i.e. a cause of action can be assigned). Overly computer dependent researchers frequently struggle with the latter type of request. Why? Per Stolley, lawyers use concepts and analogies to make arguments. The computer does not know a concept or analogy from a megabyte!

**Ellie Margolis and Kristen Murray, *Teaching Research Using an Information Literacy Paradigm, 22 Perspectives (2014).***

After the presentation by Prof. Margolis at GLS, I looked up many of the articles she has authored, including this one, which echoes many of the themes in her talk. Her approach challenges my own long held practices and those of other law librarians who teach the students how to use specific resources. The proponents of this new approach argue that since the technology and databases will change, information literacy skills will help the students more in the long run. Is my tool box approach outmoded? Since it is quite exhausting to create my Ten Dollar Tea, perhaps I can incorporate this kind of approach in my class. I still wonder, however, about grading and how we assess this approach. One student may take a circuitous route and spend hours coming up with an answer, whereas another does the research in half the time, because he/she knows exactly which resource to use. Do we grade the inefficient and efficient researcher the same? The questions that Robert Linz poses are still gnawing at me.

**Toree Randall, *Meet Me in the Cloud: a Legal Research Strategy that Transcends Media, 19 Legal Writing 127 (2014).***

My colleague Victor sent me this article. Like Prof. Margolis, author Toree Randall advocates a new approach to teaching legal research which she calls "cloud research." Harking back to Marjorie Rombauer's *Legal Problem Solving*, she recommends the following four part process: preliminary analysis; check for codified law; check for binding precedent and check for persuasive precedent. This process focuses less on linear information gathering and more on categorizing and analyzing legal information, which researchers pull from the cloud and put into four "buckets." Per Randall, the students need more exposure to fundamental legal concepts, rather than platforms and mechanics. This cloud model requires them to fill these conceptual buckets early in the process. Appendix A contains an illustration of the "Plog," a combination research plan and log, which incorporates the categories (buckets) of the cloud research approach. When it comes to legal research, the author observes "a compass is more helpful than a list of turn-by-turn directions." They might use slightly different language, but all the authors

(Linz, Stolley, Margolis and now Randall) seem to agree. Context and analysis are key.

**Bryan A. Garner, *Stop: Before You Hit 'Send'...*, ABA Journal 24 (Sept. 2014).**

Bryan Garner is probably the most well-known legal "wordsmith" in the U.S. He writes a regular column in the ABA Journal. In this particular column, he provides useful examples of poor, average, good and great legal writing and gives tips for drafting even a quick email. I sent this article to one of our legal writing instructors, as these short samples are quite helpful for teaching purposes.

**Genevieve Blake Tung, *Academic Law Libraries and the Crisis in Legal Education, 105 Law Libr. J. 275 (2013).***

Unfortunately, it seems that every other article on legal education these days has the word "crisis" in the title. The author presents the arguments of so-called legal education reformers, many of whom incorrectly assume that digital information is less expensive than print and dismiss the value of the law library. She goes on to analyze law school curricular reforms and their potential impact on the library. Such reforms could include adding practitioner faculty, instituting solo practitioner incubators and diversifying law school models (i.e. two v. three years). In any case, the article recommends that librarians "play a visible and integral part in the reform process." If not, we will be "marginalized or ignored by those who do not understand our role or our potential." What we have to offer must correspond to "what the moment calls for – potentially a new paradigm in legal education." We must make our "stakeholders aware of what they have to lose by cutting libraries and librarians out of the picture."

Unfortunately, many law libraries are already experiencing these cuts, despite our best attempts to raise our profiles. Negative consequences include subscription cancellations, staffing shortages and actual layoffs. Publishers and librarians alike are feeling the pinch.

## F. Learning to be a Gentle Teacher

Lately, I have been struggling to resume my yoga practice after undergoing major surgery last November. It has been at times frustrating and chaotic but also joyful and serene. My teacher, who I adore, has influenced my experience. I was not able to go back to yoga class for many weeks. When I did go back at long last, I felt she was ignoring me. When she offered a comment, I felt she was criticizing me.

The criticism particularly stung. I know she is trying to help (at least I hope she is!). Maybe this is her idea of "tough love." In any case, her approach is driving me out of her class and to other yoga studios and teachers. That may not be the result that she wants, but because I am experiencing her teaching in a negative way, that is how I am reacting.



Yoga and law practice could not be more different. There is no competition in yoga and there aren't any real goals either. We try our best, but remain unattached from the results. I understand that nurses use a similar technique to cope with the stresses of their profession. See Resilient Nurses, <<http://www.humanmedia.org/nurses/>>. The world of law practice, by contrast, is hyper-competitive. Our students must develop research, analysis and writing skills that will enable them to perform at a high professional level. If they do not, they will not be able to make a living in law practice or may even commit malpractice.

Yet, as I conclude my most recent teaching experience, I am now reflecting on my own teaching style. Maybe my yoga teacher's methods irritate me because I, too, am a "type A" personality. I, too, am self-critical and, therefore, critical of others. Am I too critical of the students? I definitely give them a lot of feedback on their assignments. Do they experience this feedback in a negative way? How can I give constructive criticism that encourages them?

I highly recommend the documentary film, Buck, which depicts the life of "horse whisperer" Buck Brannaman. In one of the scenes, one of Buck's admiring students comments on the fine line between correction and encouragement and correction and discouragement when training horses. There is a similar "fine line" with humans. Some of us are quite sensitive to criticism. See Buck's website <<http://www.brannaman.com/>>.

Teachers today are in a bind. Students are now consumers. We do not wish to displease them. Law schools want to attract and keep students. They cannot operate without the tuition income that the students bring. We all feel the pressure to take the easy way and give the students As or Bs and a diploma. Yet, we cannot just pass our students because we want them to like us. We must insure that they are "practice ready" from "day one." How do we deliver on that promise?

As I look back on my own legal education, I cannot fault a law school for not guaranteeing a job at the end of the path. However, I can fault it for not teaching me the skills that I need as a lawyer. I recall all too well my first assignment as a new associate many years ago. I was asked to draft a contract for the sale of railroad equipment to China. I had taken a contracts class in law school, of course, but knew nothing about actually drafting a contract. My experience was typical of the legal education provided at one of the "15 top ten law schools in the US."©. Thankfully, law schools, even the highly ranked ones, are now finally teaching skills like drafting. I am proud to say that John Marshall has had such a class for years.

I discussed the challenges of teaching with Tove on the first evening of the GLS Conference. She has since become my newest mentor. She described giving general feedback to all her students and meeting one on one with those who were having difficulty. At the conclusion of her GLS presentation, she showed the audience part of the "Law

School Musical" YouTube video <<https://www.youtube.com/watch?v=XdFa1SDGIM0>>.

I recall similar cartoons about the misery of law school in my alma mater's student paper, which was appropriately entitled "Hoops." Unfortunately, some things have not changed. Maybe students will never truly enjoy the law school experience. As one student expressed to my mentor, Betty Karweick many years ago, "there is learning and then there are grades." I hope that by constantly striving for that delicate balance of instruction and encouragement, I can improve the learning experience at least a little.

## G. Help for the Desk Jockey: Ergonomic Assessment

As we endeavor to help the students, we must also help ourselves. I joke that in an academic environment, many of us view our physical bodies as merely the means to carry around our heads! Law librarians are no exception. We are the ultimate "desk jockeys." Over time, our bodies begin to reflect what we do professionally.

One of the "upsides" of injury or surgery is the education that we obtain about ourselves, if we wish. Through physical therapy, I have discovered a whole array of muscles in my upper back that I never knew I had before. By strengthening these muscles, I've been improving my posture and my mood.

A specially trained PT actually came to my office to assess my workspace. Unfortunately, my Ikea hacked solution wasn't enough. Fortunately, there are options that can work for those of us whose office environments and/or budgets will not accommodate an electric stand desk.

Even as I step back from the profession, it is still my desire to help those like me both in librarianship and beyond who are chained to their desks for several hours, days and years.

## H. Sustainable Careers

I am convinced that techniques like yoga and meditation can reduce the information overload and stress of the typical law school environment.

Yet, even without such techniques, my 83 (almost 84!) year old father manages the pressures of daily law practice remarkably well. After over 50 years as an attorney, he now enjoys being the "guru" at his firm. It is fascinating just to observe him work. He does only one task at time, a radical departure from our inveterate multi-tasking. When he reviews a document, he reads it in print at his desk, not over a computer monitor. He seems to have a laser beam like concentration. When he has a question, he uses the phone to speak with the other attorney or drops by the attorney's office rather than sending an email. He jokes that when he walks by everyone's office these days, they have their backs to the door as they are all glued to their computers. Despite the stress of this demanding profession, he is always calm. I don't know if such a serene temperament is "natural" or a

habit he has developed over time. I take inspiration from his example and use meditation techniques to help turn off my overactive mind and come back to the present moment.

As I embark on the next phase of my career, I hope to contribute in new and different ways. I leave this column in the best possible hands. Julie Grant of Loyola University Chicago School of Law will be taking my place as your U.S. correspondent. Perhaps in a year's time, I can make a guest (or ghost) appearance and share what life is like for a part-time U.S. law librarian. Thank you for allowing me to share my professional diary these past six years. It has been a privilege and a pleasure.

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\* 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 .

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*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.*

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## 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 In Memoriam / En mémoire

It is with profound sadness that I write to let you know that Joanne Lecky, our friend and colleague, passed away on Thursday, July 2nd, following a year-long battle with cancer. Joanne was a wonderful person, a highly skilled librarian and a loyal friend.

Joanne began her library career at ICBC, before moving to the law firm world. Her first legal library position was at Bull Housser Tupper as a Reference Librarian for 4 ½ years, followed by the position of Manager of Library & Information Services at Singleton Urquhart. In 2008, she moved to McCarthy Tétrault, first as the Director, Library Systems & Training and then as the Director, e-Library Technology. In these roles, she honed her legal and business reference skills and enhanced her project management and leadership abilities.

During her time at McCarthy's, Joanne progressed from managing a small, regional library to directing a cross-functional, integrated national team, streamlining and centralizing Library training, technology, and technical services to develop new workflow processes. Through her leadership, the firm was provided with highly functional, vital library services. Joanne was never one for the status quo; she was always looking for new and better ways to provide services, training, and information resources. Her passion and drive to innovate, her leadership skills, and her "get it done" attitude made her a dynamic and fun person to work with.

Change and forward movement were a certainty when Joanne was involved in a project. She had high expectations – of herself and others – and working with her taught you to embrace change, be bolder, and to continually learn and grow.

In addition to Library Services, Joanne took on leadership roles within the Vancouver management team and always looked for inspiring and creative opportunities to unite support services with firm strategy. She was active on McCarthy Tétrault's social committee and also spearheaded the Vancouver management team's efforts to beautify the head office grounds of Big Sisters of BC.

As well as being a CALL member for many years, Joanne was a member of the Vancouver Association of Law Libraries, serving as the Program Coordinator in 2002-2003, followed by the positions of President and Past-President. She was a sessional lecturer at UBC for several years, teaching the Advanced Legal Research course in the Faculty of Law.

Jo's vibrant personality, her fun-loving nature and her energy were always apparent and brought her many good friends. She kept very busy outside of work, enjoying cooking, travelling, running and keeping fit. Jo was an avid gardener and this love of plants and flowers led her to become a Master Gardener.

Joanne was devoted to her husband and partner Adam, and to their dog Ollie. Fearless and determined, Jo brought joy and energy to everything she did. She was articulate, bright and funny, and was so passionate about her work, her play, her friends. She touched many lives and will be deeply missed.

SUSY CAIRD



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