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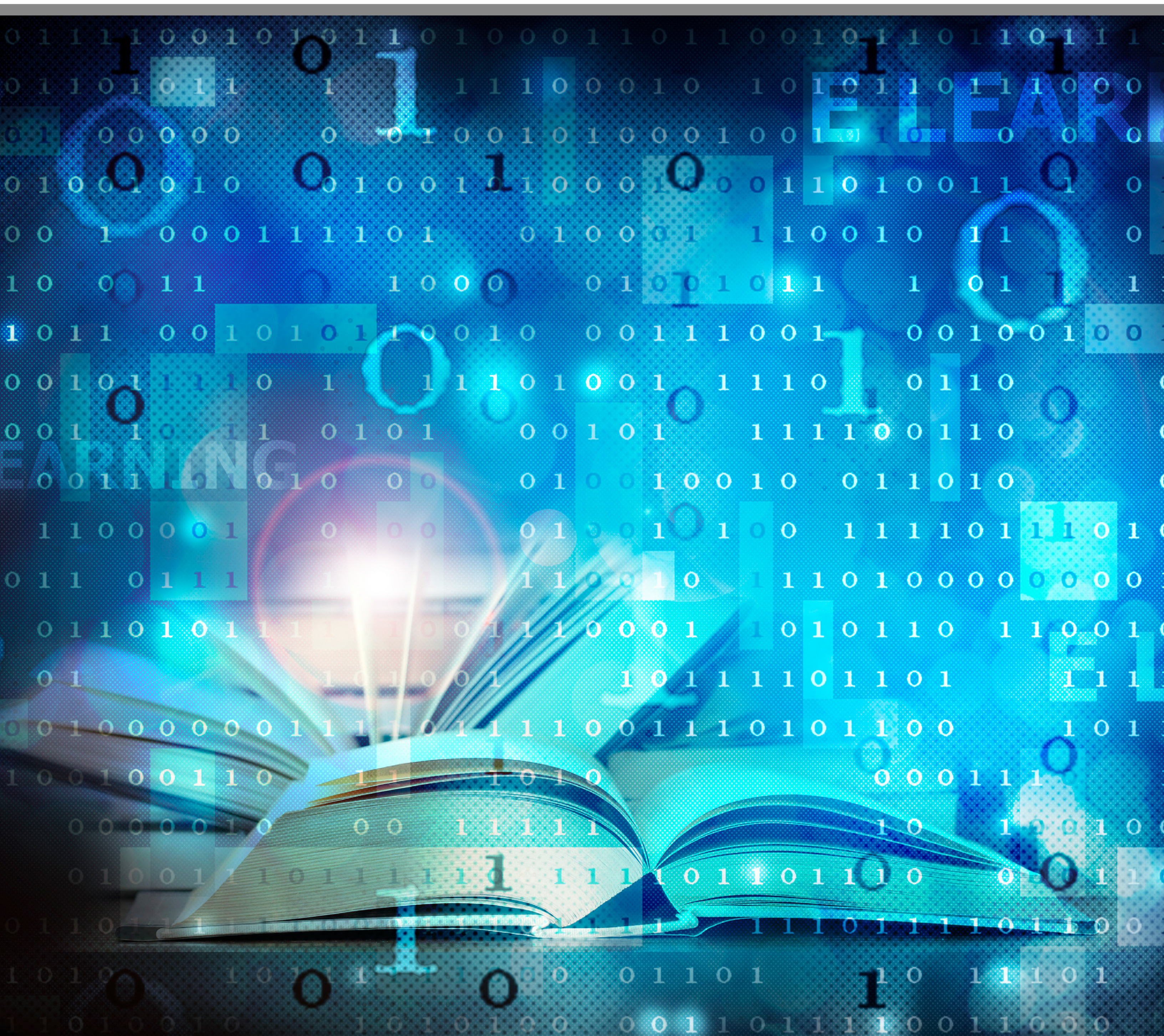

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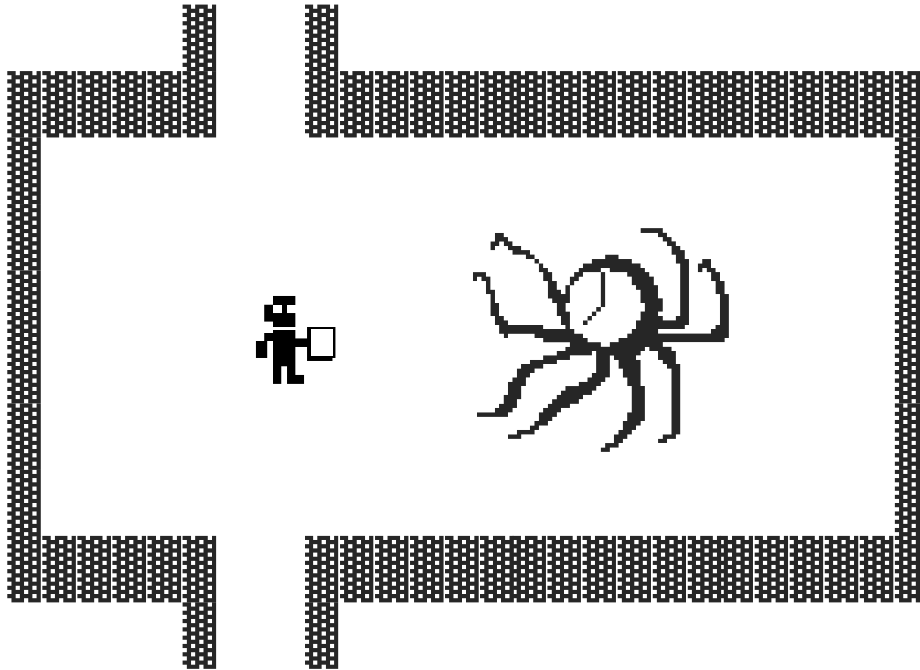
No. 4

You are on a quest to find the Perfect Sentencing Judgment.



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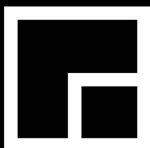

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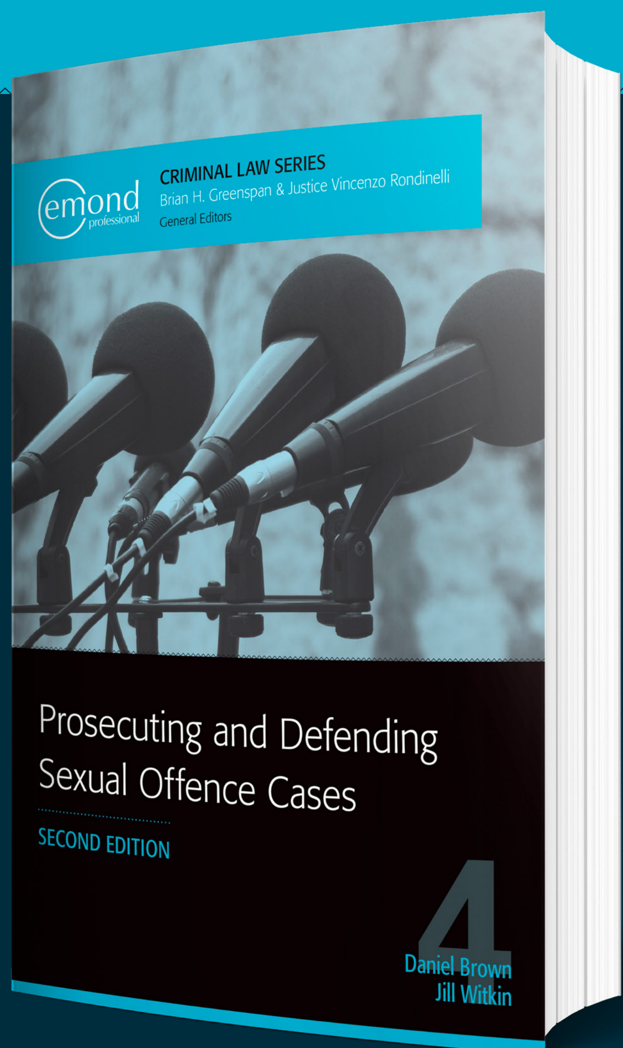

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IIII From the Editor / De la rédactrice

I hope you're all well and staying the course. For those of us in academia, fall term is in full swing. So far, New Brunswick is doing well and there hasn't been a major second-wave outbreak of COVID-19; however, the term is young, and I'm aware of how quickly that can change. Many parts of Canada are still suffering with the virus, and this issue's letters from our friends in the U.K., U.S., and Australia show that those countries are in the same boat. It is interesting to see how the different jurisdictions and their legislatures are handling the crisis. Reading those letters made me realize how lucky we in the Atlantic Bubble are. I'm crossing my fingers that everyone, everywhere, stays safe.

Like many of you, I've been frantically purchasing eBooks for our students, since many of them aren't returning to campus this year and will need to rely on electronic resources more than ever. It's a pricy undertaking—especially if your acquisitions budget has been slashed in the wake of the pandemic—but it's a necessary expense to ensure that our students get the information they need to succeed. I'm thankful to those publishers who managed to partner with an eBook platform in time for term. How has your library adjusted to this "new normal"? Send me an email and maybe we'll share your answers in the next issue.

Despite COVID, life still goes on. This issue features articles from the next generation of law librarians and looks to the future of law librarianship and the tools we use. Our first article is by recent iSchool graduate James Zhan. When he started library school, James didn't know law librarians existed, which I completely understand—I didn't know they existed until I applied for an internship at Dalhousie's Sir James Dunn Law Library because I needed a job. James wished he'd had an article that gave an overview of the profession when he was starting out, so he wrote one. His article presents a critical view of law librarianship in the 21st century. I hope it helps send more library school students our way in the future.

In our second feature, Leanne Soares, another recent iSchool grad, writes about the use of artificial intelligence in Canadian law libraries. As an academic law librarian, I haven't been exposed to AI in a legal research setting, beyond natural language searching, so I don't know which side of the AI debate I fall on. Leanne presents the positive and negative aspects of AI in law, and I'm interested to see how the use of it develops in the coming years.

I know it's become cliché to say this, but please remember to take care of yourselves. Don't spend all of your off-hours doom-scrolling through Twitter, Reddit, or online news sites. There's so much bad news in the world right now, and smoke from the American wildfires has even reached us here in the Maritimes. But take time to do something you love and put the phone down. I'm speaking to myself here as well. I'll try to take my own advice and watch more episodes of *Friends* and *The Last Drive-In* instead of reading the r/politics subreddit before bed.

Stay safe,

EDITOR
NIKKI TANNER

J'espère que vous vous portez bien et que vous maintenez le cap. Pour ceux et celles qui travaillent dans le milieu universitaire comme moi, le trimestre d'automne bat son plein. Jusqu'à présent, tout va bien au Nouveau-Brunswick et la province ne fait pas face à une seconde vague majeure de COVID-19. Cependant, le trimestre est jeune et je suis consciente que tout peut changer rapidement. De nombreuses régions du Canada sont encore touchées par le virus, et les lettres de nos amis du Royaume-Uni, des États-Unis et de l'Australie publiées dans ce numéro montrent que ces pays sont dans la même situation. Il est intéressant de voir comment les différents gouvernements et leur assemblée législative gèrent la crise. En lisant ces lettres, j'ai réalisé à quel point nous sommes chanceux dans notre bulle de l'Atlantique. Je croise les doigts pour que toutes les personnes dans le monde puissent rester en sécurité.

Comme beaucoup d'entre vous, j'achète à la folie des livres électroniques pour nos étudiants, car ils sont nombreux à ne pas mettre le pied sur le campus cette année et devront plus que jamais avoir recours aux ressources électroniques. Bien qu'il s'agisse d'un engagement coûteux, surtout si votre budget d'acquisition a subi d'énormes coupures en raison de la pandémie, c'est une dépense nécessaire pour s'assurer que nos étudiants obtiennent les informations dont ils ont besoin pour réussir. Je suis reconnaissante envers les éditeurs qui ont réussi à s'associer à une plateforme de livres électroniques à temps pour le trimestre. Comment votre bibliothèque s'est-elle adaptée à cette « nouvelle normalité »? Envoyez-moi un courriel et nous partagerons peut-être vos réponses dans le prochain numéro.

Malgré la COVID, la vie continue. Ce numéro présente des articles de la prochaine génération de bibliothécaires juridiques et se penche sur l'avenir de la bibliothéconomie juridique et des outils que nous utilisons. Notre premier article est celui de James Zhan, récemment diplômé de l'iSchool. Lorsqu'il a commencé ses études en bibliothéconomie, James ne savait pas que les bibliothécaires de droit existaient – ce que je comprends parfaitement – puisque je ne savais qu'elles existaient jusqu'à ce que je fasse une demande de stage à la bibliothèque de droit Sir James Dunn de Dalhousie, car j'avais besoin d'un emploi. James aurait aimé lire un article qui donnait un aperçu de la profession lorsqu'il a commencé ses études, alors il en a écrit un. Son article présente un point de vue critique sur la bibliothéconomie juridique au 21e siècle. J'espère qu'il aidera d'autres étudiants en bibliothéconomie à choisir notre voie dans les années à avenir.

Dans notre deuxième article, Leanne Soares, une autre récente diplômée de l'iSchool, a rédigé un texte sur l'utilisation de l'intelligence artificielle dans les bibliothèques de droit canadiennes. En tant que bibliothécaire juridique travaillant dans le milieu universitaire, je n'ai pas été exposée à l'intelligence artificielle dans un cadre de recherche juridique, au-delà de la recherche en langage simple, et je ne sais donc pas de quel côté du débat me ranger. Leanne présente les aspects positifs et négatifs de l'IA en droit, et j'ai hâte de voir comment l'utilisation de l'IA évoluera dans notre domaine.

Je sais que c'est devenu un cliché de dire cela, mais n'oubliez pas de prendre soin de vous. Ne passez pas tout votre temps libre à faire défiler des actualités tragiques sur Twitter, Reddit ou des sites d'information en ligne. Il y a tellement de mauvaises nouvelles en ce moment dans le monde, et la fumée dégagée par les incendies de forêt aux États-Unis a même atteint les Maritimes. Mais prenez le temps de faire quelque chose que vous aimez et posez votre téléphone. Sachez que je me parle à moi-même aussi. Je vais essayer de mettre en application mes propres conseils et de regarder d'autres épisodes de *Friends* et *The Last Drive-In* au lieu de lire le forum r/politics sur la plateforme Reddit avant de me coucher.

Soyez prudents!

RÉDACTRICE EN CHEF
NIKKI TANNER

IIII President's Message / Le mot de la présidente

Friends, I am writing this as the fall descends on the Prairies. September on the Prairies is harvest time. Crops are being combined, kitchen gardens are gifting their final bounty, perennials are being babied for their final showing of flowers, leaves are turning yellow, and some have dropped, so that a walk is slightly crunchy underfoot. September is a time of preparation for the next season's change, even as we enjoy the colours and crispness of the fall air.

Through the past seven months, our attentions have been diverted with COVID-19. Now that we are managing through this changed landscape, it is time to reset and move forward with the business of planning for an exciting and successful future for CALL/ACBD. A positive development of these anxious times is that we have capacity, capability, and commitment to gather and meet as a whole group. When you read this, CALL/ACBD will have just completed a Special Meeting of the Membership.

A Bylaw Adjustment

In other times, when CALL/ACBD bylaws were adjusted, it happened during an annual general meeting. This meant that the change to the bylaws that was voted on and adopted had effect from the time of that meeting and forward. The 2019–21 CALL/ACBD executive board called a Special Meeting of Members to be held in October 2020 because the change we proposed was specific to the term of office for leadership in the association. Holding this meeting prior to the nomination and election processes meant that members could provide their input on the change to the bylaw.

Elections for the next board will be held in February 2021. Ann Marie Melvie, in her role as chair of the Nominations Committee, is eager to propose a slate of candidates for our election.

At the time of writing this, I am hopeful that the change the executive board proposed will have passed the scrutiny of the membership.

For posterity, this is the resolution that we proposed:

> **SPECIAL RESOLUTION 2020/1**
> **– Leadership Term of Office**
>
> WHEREAS the CALL/ACBD Executive Board is concerned with creating opportunities for members to stand for election to leadership positions in the Association; and
>
> WHEREAS the total term of office for Vice President, President and Past President is 6 years, a length of service during which career and family can change significantly and concern for that length of service can be a barrier for a member standing for election; and
>
> WHEREAS the CALL/ACBD Executive Board values continuity of leadership and the ability to gain association experience with two years as Vice President and the promotion of Vice Presidents to the office of President; and
>
> WHEREAS these changes could be effected for the Associations Election in 2021; then:
>
> BE IT RESOLVED that the Association add a new elected office position of 2nd Vice President and rename the existing office of Vice President position to 1st Vice President.
>
> BE IT ALSO RESOLVED that the Association amend the bylaws to reflect a one-year term of office for each of the positions of 2nd Vice President, 1st Vice President, President and Past President.

A change to the makeup of the CALL/ACBD executive board is significant. If passed, it means that there will be an election every year in February for the position of 2nd vice president and every second year for that position, as well as secretary, treasurer, and two members at large. The board will expand by one seat. Members willing to stand for 2nd vice president will have two years on the board before assuming the role of president, which is not a change, though duties will necessarily be divided differently.

The legal landscape and the business of law is changing. Our association will always progress in response to the changes in legal. It is my hope that our association will change in anticipation of what we see coming as well.

In November 2019, the executive board had extensive discussions around future planning. We touched on many topics, including who and what we are as a group, and who and what we wish to be. One of the key elements of our conversations at the board level were plans to engage members in these conversations. Members and future members of CALL/ACBD will receive invitations for town halls to continue the conversations about how our association will proceed in the future. I hope you will join in.

PRESIDENT
SHAUNNA MIREAU

Bonjour! J'écris ce motalors que l'automne descend dansles Prairies. Le mois de septembre signifie la saison des récoltes dans notre coin de pays. La production est récoltée, les potagers offrent leur dernière richesse, les vivacessont dorlotées pour leur dernière floraison, les feuilles jaunissent et certaines sont tombées, ce qui procure un craquement sous les pieds en marchant. Le mois de septembre est le moment de se préparer au changement de saison, même si nous apprécions lescouleurs et l'air frais de l'automne.Au cours des sept derniers mois, notre attention a été détournée en raison dela COVID-19. Maintenant que nous réussissons à gérer ce nouveau contexte, il est temps de remanier nos stratégies et d'aller de l'avant dans la planification d'un avenir stimulant et fructueux pour l'ACBD/CALL. Un élément positif qui découlede cette période anxiogène est que nous avons lacapacité, le savoir-faire et l'engagement de nous mobiliser et de nous réunir en tant que groupe.

Modification aux statuts

En d'autres temps, lorsque des modifications devaient être apportées aux statuts de l'ACBD/CALL, cela se faisait lors d'une assemblée générale annuelle. Cela signifiait que la proposition de modification qui était passée au vote et adoptée entrait en vigueur à partir de cette assemblée. Le conseil exécutif de l'ACBD/CALL 2019-2021 a convoqué une assemblée spéciale des membres en octobre 2020 puisque la modification proposée est spécifique au mandat de la direction de l'association. La tenue de cette assemblée avant les procédures de mise en nomination et d'élection aura permis aux membres de donner leur opinion sur la modification proposée aux statuts.

L'élection pour les postes à pourvoir au conseil d'administration aura lieu en février 2021. Ann Marie Melvie, la présidente du comité des nominations, a hâte de présenter la liste de candidates et candidats devant être proposés à l'élection.

Au moment où j'écris ces lignes, j'espère que la modification proposée par le conseil exécutif sera adoptée après un examen minutieux par les membres.

Pour assurer la postérité, voici la résolution que nous avons proposée :

> **RÉSOLUTION SPÉCIALE 2020/1 – Durée des mandats des dirigeants**
>
> ATTENDU QUE le conseil exécutif de l'ACBD/CALL se soucie que les membres aient la possibilité de présenter leur candidature aux postes de direction au sein de l'Association lors des élections;
>
> ATTENDU QUE la durée totale du mandat des fonctions de vice-président(e), de président(e) et de président(e) sortant(e) est de six ans – une durée de service au cours de laquelle d'importants changements sur le plan de la carrière et de la famille peuvent survenir – et que ce nombre d'années de service pose un obstacle aux membres qui aimeraient poser leur candidature;
>
> ATTENDU QUE le conseil exécutif de l'ACBD/CALL valorise une continuité du leadership et la possibilité d'acquérir une expérience au sein de l'Association en siégeant deux ans comme vice-président(e) avant d'être promu(e) au poste de président(e);
>
> ATTENDU QUE ces changements pourraient se réaliser pour l'élection de l'Association en 2021; par conséquent :
>
> IL EST RÉSOLU que l'Association ajoute un nouveau poste élu de 2e vice-président(e) et renomme le poste de vice-président(e) actuel comme 1er/re vice-président(e).

Un changement dans la composition du conseil exécutif de l'ACBD/ACBD est très important. Si la proposition est adoptée, cela signifie qu'il y aura une élection chaque année en février pour le poste de 2e vice-président(e) ainsi que tous les deux ans pour ce poste et les postes de secrétaire, de trésorier(ière) et de deux membres à titre personnel. Le conseil d'administration sera composé d'un siège de plus. Les membres qui sont prêts à se porter candidats

au poste de 2e vice-président(e) siégeront deux ans au conseil avant de prendre la présidence, ce qui ne constitue pas un changement, mais les fonctions seront partagées différemment.

Le paysage juridique et le domaine du droit sont en train de changer et notre association évoluera toujours en fonction de ces changements. J'espère que notre association saura aussi évoluer en prévision des changements que nous envisageons.

En novembre 2019, le conseil exécutif a eu de longues discussions sur la planification future. Nous avons abordé de nombreux sujets, notamment qui nous sommes et ce que nous faisons en tant que groupe, et qui nous voulons être et ce que nous voulons devenir. L'un des éléments clés de nos conversations au sein du conseil est que nous envisageons de faire participer les membres à ces conversations. Les membres et les futurs membres de l'ACBD/CALL seront invités à des discussions ouvertes afin de poursuivre les conversations sur la façon d'orienter les futures activités de l'association. J'espère que vous vous joindrez à nous.
vous vous joindrez à nous.

PRÉSIDENTE
SHAUNNA MIREAU

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IIII A Critical Look at Law Librarianship in the 21st Century

By James Zhan*

ABSTRACT

Information has become extremely easy to access and interact with thanks to digital technologies. Drawing on related literature, this paper presents a critical overview on law librarianship in the 21st century through discussions on various aspects, including history, influences of the digital age, importance of collaboration, and new challenges.

SOMMAIRE

Il est facile d'interagir avec l'information et elle est devenue extrêmement facile d'accès grâce aux technologies numériques. En s'appuyant sur la littérature connexe, cet article présente un aperçu critique de la bibliothéconomie juridique au 21e siècle à travers des discussions sur divers aspects, notamment l'histoire, les influences de l'ère numérique, l'importance de la collaboration et les nouveaux défis.

Introduction

Although public and academic libraries are familiar to most people, law libraries and law librarians are less so. As inconspicuous as law libraries may be, they are integral to the public and private institutions that work closely with legal information. In 2012, Jenna Hartel published an article that outlined the fundamentals of library and information science (LIS) for LIS students and provided an elaborate and critical overview of librarianship and the profession in the 21st century.[1] This paper aims to echo Hartel's article by providing substantial information on law librarianship in the 21st century and examining several aspects of the profession from a critical perspective.

Private Law Firms: Birthplace of the Law Librarian

It would be impossible to develop a thorough understanding of law librarianship without learning about how law librarianship as a profession emerged and why it exists. Because law libraries naturally form whenever there are legislative and legal materials, they predate the emergence of law librarians by centuries. In an opening letter for the *Canadian Law Library Review*, Susan Barker gives a brief overview of the earliest law libraries:

> Law libraries have a surprisingly long history. The ancient library at Alexandria apparently had a law collection. The Inns of Court in London have libraries that have been around for many more centuries than I ever imagined. Gray's Inn had a very small library (of only 6 books) as far back as 1488; Lincoln's Inn had a library as early as 1471; The Inner Temple library goes back to 1506, and the Middle Temple's existed sometime before 1540.[2]

---

* James Zhan holds a Master of Library and Information Studies from the University of Toronto. He has a Bachelor of Arts in English and Professional Writing from York University and is currently self-employed.

[1] Jenna Hartel, "Welcome to Library and Information Science", (2012) 53:3 J Educ for Libr & Info Sci 165.

[2] Susan Barker, "From the Editor" (2017) 42:1 Can L Libr Rev 5 at 5.

Initially, law libraries were the private collections of individual lawyers, and until the 19th century, those collections contained few books that actually related to law.[3] Instead, they consisted of books on "philosophy, ethics, history, politics, and the social sciences."[4] The first known law library in the United States was the Law Library Company of Philadelphia, which was formed in 1802. Around 1900, law libraries were still held in the collections of private individuals, and law school students were expected to use those private libraries, unless they were students of Harvard University, which established six law school libraries at the time. All these new law libraries were developed, maintained, and organized by the lawyers themselves, and when the collections and membership grew, the lawyers started to hire "caretakers" for the collections. These caretakers became the earliest law librarians, even though they were more file clerks than librarians. These file clerks were usually trained in law rather than LIS, not only because lawyers believed that only they could understand and organize legal materials, but also because the first library science school did not open until 1887. Law schools started hiring librarians in the 1920s, and henceforth more people with degrees in both LIS and law were hired by law school libraries and law firms as librarians.[5]

The Law Librarian Profession: Now

The old myth that a law degree is required for a librarian to work in a law library persists today. After talking to some fellow LIS students and full-time librarians, I discovered that, like me, many of them assumed that a law degree was required to become a law librarian. They never considered this career path because they did not have a law degree. However, this is no longer the case in modern law librarianship, for the most part.

According to the American Association of Law Libraries (AALL), "law librarians" are broadly defined as "legal information professionals."[6] The library settings in which law librarians work include law firms, law schools, courts, other government organizations, and the legal departments of businesses and associations.[7] Contrary to the old requirement that a law degree is mandatory for a law librarian, today only one-third of all law librarians in the United States have a law degree, and fewer than 20 per cent of law librarian positions require degrees in both law and LIS.[8] Similarly, in Canada, it is very common for law librarians to have a degree in LIS but not law.[9] Surveys of job postings also revealed that "a law degree alone will qualify you for few professional positions in any kind of law library."[10] Consequently, for most law librarian positions, an MLIS or equivalent library degree is the more crucial credential.[11] Such a change is likely because legal information has drastically increased both in terms of amount and complexity, thereby causing collections in law libraries to become significantly larger and more complicated as well. The advancement of digital technologies resulted in so much information creation that law libraries have to rely on information professionals who are trained specifically to work with information to help manage the library collections, conduct legal research, and provide other information services. Law librarianship in the 21st century is much more than just managing the library and its collections. Law librarians have evolved from "custodians of legal texts and cases" to "legal researchers, trainers and, most recently, knowledge experts."[12]

The Law Library in the Digital Age

As the natural habitat of law librarians, law libraries have gone through drastic changes in the digital age, which has changed the profession as well. Expectedly, law libraries are facing the same kind of questioning that public libraries are: "Why do we have law libraries anymore?"[13] Richard Danner, a law professor at Duke University School of Law, has responded to this question:

> Questioning the role of the library, particularly the role of the law library, might have been unthinkable fifteen or twenty years ago, when many of the people in the room were in law school. But it's now a common question, prompted by the tremendous challenges that law libraries and other libraries have faced as the information we collect and organize and make available has moved from largely print formats to largely digital formats.[14]

Danner's remark not only outlines the influence the digital age has had on law libraries, but also identifies a shift in the focus of the information medium in law from physical to digital. Furthermore, Blair Kauffman, law librarian emeritus at Yale Law School, says that the law library has become more than just a place to find legal information: it is also a social place that "speaks to individual study and research."[15]

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[3] Deborah S Panella, *Basics of Law Librarianship* (New York: Routledge, 1990).

[4] *Ibid* at 1.

[5] *Ibid*.

[6] "About the Profession" (last visited 4 April 2019), online: *American Association of Law Libraries* <www.aallnet.org/careers/about-the-profession> [AALL].

[7] *Ibid*.

[8] "Education" (last visited 4 April 2019), online: *American Association of Law Libraries* <www.aallnet.org/careers/about-the-profession/education/>.

[9] Kim Nayyer, "Law Librarianship: It's All About Legal Information" (1 June 2014), online: *The Canadian Bar Association* <www.cba.org/Publications-Resources/CBA-Practice-Link/Young-Lawyers/2014/Law-librarianship-It's-all-about-legal-information>.

[10] AALL, *supra* note 6 at "What If I Have a Law Degree but No Library Degree?"

[11] *Ibid*.

[12] Sue Lamond, "Innovating for Success – the Future of Law Librarianship" (2007) 7:3 Leg Info Mgmt 177 at 177.

[13] Richard A Danner, S Blair Kauffman & John G Palfrey, "The Twenty-First Century Law Library" (2009) 101:2 Law Lib J 143 at 143 [Danner et al].

[14] *Ibid*.

[15] *Ibid* at 145.

What is clear, however, is that the internet has to some extent diminished the law library as the de facto place for legal information. Research shows that people born after 1980 into an environment with access to digital technologies rely significantly less on physical collections; instead, the internet is always the first stop in their information-seeking process.[16] For law librarians, this means that their duties have extended beyond reference services and collection management. As an example, Harvard Law School professor John G. Palfrey believes that it is "a requirement that law librarians have a greater role in legal education."[17] One problem that law schools face is that many students who only know how to do research through Google and Wikipedia managed to get admitted to prestigious law schools.[18] These students only came to the law library to use it as a study hall, and fewer students seek research help from law librarians.[19] This is a phenomenon common not only in the United States, but also in Australia where "law librarians described the increased online access of digital information resources as making the law librarian and the library itself 'invisible' to the library user."[20] Therefore, part of a law librarian's role as a legal educator is to conduct "assertive reference," which Kauffman defines as intervening and teaching law students how to do proper legal research.[21] As law librarians, they "interact with young people at the beginnings of their careers and have the duty to support them to the best of [the law librarians'] abilities."[22]

Expanding on the case of law librarianship in law school libraries, recent literature in the field proves Palfrey's belief that law librarians need to have a greater role in legal education. According to Jennifer A. González, a legal information analyst at Law Library of Congress, not long after Palfrey made the comment above, a crisis arose among law schools that still persists today: "Lower student applications, law school budgets, U.S. News rankings, bar passage rates, dwindling legal career prospects, student debt, and practice-ready students"—these are all issues that law schools are facing "as the previous models of legal education fail to address [them]."[23] Because of this crisis, there is a growing responsibility for law librarians to "help reach every student in the law school, especially the struggling students."[24] The 21st century has seen more people with greater access to education than ever before. As a result, law schools' student demographics are becoming increasingly more diverse, as are the needs of law students. For example, law schools now have students who have no prior knowledge in law, students who have different learning styles, students who have disabilities, and students who come from different cultural backgrounds.[25] Many of these students struggle to become successful under the traditional model of legal education. Another reason there are more struggling law students now is that the decline in law school applications resulted in schools accepting less qualified applicants, the reasoning being that "accepting a few less-qualified students is easier than faculty or staff layoffs."[26] Consequently, law libraries, along with law schools, must now develop services and accommodations for a much larger portion of the student body than before.

Importance of Collaboration in Law Librarianship

González believes that an important way for law librarians to help those struggling law students is "to reach out to other departments to find the needs of the school and talk with students regularly to take the pulse of the changing student body."[27] This brings us to the next aspect of modern law librarianship I will discuss: collaboration. Kauffman notes that as the legal research landscape becomes more complex, the process of reference in law librarianship is changing.[28] As an example, Kauffman says that law librarians have been asked "more and more questions that require much more assistance than in the past."[29] This is still true almost ten years after Kauffman's observation. Victoria Elizabeth Baranow, a research librarian in a law firm, states that "[i]n examining library tasks, roles, and especially services, many of us are finding that more work has been piled on our plate but with fewer resources to manage the load."[30] Baranow believes that one of the key ways to find a balance within this imbalance is "the idea of collaboration,"[31] which resonates with Kauffman's belief as well. Kauffman notes that the

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[16] *Ibid.*

[17] *Ibid* at 146.

[18] *Ibid.*

[19] *Ibid.*

[20] Fiona Brown, "National Survey of Australian Law Libraries - Final Report" (2015) 23:2 Austl L Libr 71 at 88.

[21] Danner et al, *supra* note 13 at 146.

[22] Sarah Klein, "Ethics and Law Librarianship: Current Issues and Progressive Horizons" (2017) 42:3 Can L Libr Rev 9 at 12.

[23] Jennifer A González, "Stuck Behind the Curve: How the Academic Law Library Can Help Students Who Struggle in Law School" (2014) 33:3 Leg Ref Serv Q 239 at 239.

[24] *Ibid.*

[25] *Ibid* at 240.

[26] *Ibid* at 241.

[27] *Ibid* at 243.

[28] Danner et al, *supra* note 13 at 147.

[29] *Ibid.*

[30] Victoria Elizabeth Baranow, "Reflections in the Fishbowl: The Changing Role of Law Librarians in the Mix of an Evolving Legal Profession" (2018) 43:1 Can L Libr Rev 9 at 10 [Baranow].

[31] *Ibid.*

[32] Danner et al, *supra* note 13 at 148.

role of the law library in supporting scholarship and legal research is to collaborate with them.[32] To better support law library patrons, law librarians must stay informed on what their patrons are doing and what they need. As Kauffman puts it, "It's understanding the work [law practitioners are] doing and being in touch with it as much as possible in order to provide them with the kind of research services that they need to support that work."[33]

One possible barrier to providing effective services that cater to patrons' needs is the law librarians' own assumption regarding the patrons.[34] A common mistake that law librarians make is trying to "understand the interests, and thus the needs, of [the law library users] as if [they are] a monolithic entity."[35] In order to provide "highly valued customized services that truly align with actual needs," law librarians need to instead seek to understand the users' "individual circumstances and needs."[36] This is achieved through collaboration. The ALL-SIS Task Force on Library Marketing and Outreach elaborates further on the importance of collaborating with patrons and understanding their needs:

> Instead of making assumptions about what users need, librarians must engage in real conversations with users and collaborate with them to solve problems. By fully engaging in this process, librarians are more likely to get a better sense of the nuances of a user's situation and to identify gaps in users' knowledge.[37]

By talking to and collaborating with law library patrons, law librarians can become well enough informed that they are able to critically assess whether something is "needed, valuable, or effective."[38] Baranow also notes that collaborating with other departments is an important way for law librarians to show "higher-ups that you are on board with collaborating for a greater firm-wide win, rather than pure self-preservation and self-focus."[39] Through interdepartmental collaboration within a law firm, both the law librarians and the rest of the staff will be able to work more efficiently.[40] This will increase the overall value of law librarians to the firm.[41] Kauffman's talk, the ALL-SIS's article, and Baranow's paper—all published in the last ten years—indicate that the role of law librarianship has become necessarily and increasingly interdepartmental and collaborative. I believe this is part of the reason why a degree in LIS is more often a mandatory qualification than a degree in law for law librarians. While law graduates are trained to interpret the law and provide legal advice, LIS graduates are trained to provide library users with better access to information. In many ways, the 21st century law library has taken on more roles and responsibilities. In addition to the stewardship of legal information, law libraries are also a service provider, a social place, an information hub, and learning space for aspiring and current legal professionals.

Challenges in 21st Century Law Librarianship

In this section, I will outline and analyze some current challenges in law librarianship.

Barriers to Collaboration

Although many law librarians have advocated and believed in the importance of interdepartmental collaboration in law librarianship for several years, barriers still exist between legal information professionals and legal professionals. Librarians in law firms face the same question that academic law librarians do: "If everything is presumably so easy to find, why do [law practitioners] need [law librarians]?"[42] Indeed, with disruptive technologies like Google and artificial intelligence, information will only become more accessible and available. However, law librarians have only become busier and are "taking on more tasks and responsibilities [than] ever before."[43] Clearly, law librarians hold an integral role in law firms, but why has it been so difficult for interdepartmental collaboration to happen? Baranow believes it has to do with law firms' cultures.[44] Some law librarians indicate that their organization's culture is an obstacle when carrying out initiatives, determining the type of tasks the library services team would carry out for their lawyers, or deciding how the team might work with other departments.[45] For example, it can be difficult to "convince a social committee to host an event within the library space when they have traditionally taken place within a practice group's favourite meeting or case room."[46] Traditions in organizations are "paramount" and most people do not like change.[47]

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[33] *Ibid.*

[34] Baranow, *supra* note 30 at 11.

[35] Simon Canick, "Library Services for the Self-Interested Law School: Enhancing the Visibility of Faculty Scholarship" (2013) 105:2 Law Libr J 175 at 180.

[36] Baranow, *supra* note 30 at 11.

[37] "Marketing and Outreach in Law Libraries: A White Paper" (2013) 105:4 Law Libr J 525 at 528.

[38] Baranow, *supra* note 30.

[39] *Ibid.*

[40] *Ibid* at 13.

[41] *Ibid.*

[42] *Ibid.*

[43] Kailee Hilt, "What Does the Future Hold for the Law Librarian in the Advent of Artificial Intelligence?" (2017) 41:3 Can J Info & Libr Sci 211 at 215.

[44] Baranow, *supra* note 30 at 13.

[45] *Ibid.*

[46] *Ibid.*

[47] *Ibid.*

In addition to the barriers stemming from organizational cultures, other obstacles arise from professional cultures.[48] Lawyers feel that they belong to an “exclusive class” because in order to obtain such a status, they had to pass very rigorous obstacles, including the LSAT, application to law schools, barrister examination, etc.[49] Meanwhile, one can obtain an LIS degree in one or two years. As a result, “it can be very difficult to present oneself at a lawyer-only firm event or meeting and be seen as a professional colleague if you are without a JD.”[50] In practice group events, lawyers tend to form cliques that don't include librarians. Such a professional culture becomes “a barrier to true collaboration within a firm and for librarians to successfully talk shop at firm events in an effort to further both the library team and the firm’s goals.”[51]

Outsourcing of Library Services in Law Firms

As the current economic climate becomes more competitive and difficult, law firms are trying to find new ways to “streamline their operations and drive down costs.”[52] Outsourcing, a practice that has already become common for many large corporations, is one them. It has become another challenge that a growing number of law librarians, particularly those who work in private law firms, have had to face in recent years. Susan Alcock provides a brief description of the phenomenon:

> In the present difficult economic climate, law firms are forced to consider ways to save money. One of these is to choose to outsource all or some of the “back room” services, such as secretarial work, IT, Facilities Management, HR, Accounts, etc. In addition, the library and information services of several law firms have been contracted out to outsourcing firms.[53]

For law firms, this is an attractive option to “reduce their head counts and overheads and transfer benefits.”[54] While large academic and public libraries have been outsourcing selectively for years now, some law firms are outsourcing their “entire, established services,” leading to some law librarians losing their jobs.[55] As such, outsourcing is naturally a sensitive and controversial topic in the professional community.[56] Some librarians are pro-outsourcing because they believe that it is “the way forward and that there would be a great career structure in place,”[57] while others, especially those who have lost a job as a result of outsourcing, are against it.

The debate about outsourcing in law firms is a multifaceted one because in many cases it is the clients who are pushing for outsourcing—they have already adopted the practice and therefore expect law firms to do the same.[58] Clients are aware that certain services are less expensive via outsourcing, and evidently they do not want to pay more than they need to.[59] As profit-driven businesses, law firms are forced by competition to “focus on improving profits without raising prices,”[60] and outsourcing will certainly become more common as operating models become more streamlined.

All hope is not lost, however, because the library services some law firms outsource can most likely be done better by the firms’ own librarians—if they are given the opportunities.[61] The reason library services in some law firms are not efficient enough is that even though librarians want to make a difference, they find it hard to have their voices heard.[62] This further demonstrates the barriers law librarians are facing in law firms, as discussed by Baranow. If they want to keep their jobs, law librarians will need to overcome these barriers through interdepartmental collaboration and challenging the firm’s culture.

Diversity in Law Librarianship (or Lack Thereof)

As an historically “pink collar” profession, 81.7 per cent of librarians in the United States are female, and 85.8 per cent are white.[63] The past several decades have seen an increase in advocating for diversity; even so, growth in the number of law librarians who are not white and/or female has remained extremely slow. Such a lack of diversity in the profession can negatively affect not only the quality of library services but also a law firm’s reputation in the current political climate, where the equality of outcome is preferred

Continued on page 22

[48] *Ibid*.

[49] *Ibid*.

[50] *Ibid*.

[51] *Ibid*.

[52] Loyita Worley, “Outsourcing, Offshoring, Nearshoring, Onshoring – What’s Going On?” (2012) 12 Leg Info Mgmt 9 at 9 [Worley].

[53] Susan Alcock, “Law Libraries: SOS (Save Our Service)” (2012) 12 Leg Info Mgmt 24 at 24.

[54] *Ibid*.

[55] *Ibid* at 25.

[56] *Ibid* at 24.

[57] *Ibid* at 25.

[58] Worley, *supra* note 52.

[59] *Ibid*.

[60] *Ibid*.

[61] *Ibid* at 11.

[62] *Ibid*.

[63] “Librarians” (last visited 8 April 2019), online: *Data USA* <datausa.io/profile/soc/254021/#demographics>.

Artificial Intelligence in Canadian Law Libraries

By Leanne Soares*

ABSTRACT

This article explores the current use of artificial intelligence in the Canadian legal industry and its impact on legal information professionals. The article defines artificial intelligence, discusses its history within Canada and the United States, and narrows the discussion to artificial intelligence in both academic law libraries and law firm settings. The author proposes options for the future of artificial intelligence within Canadian law libraries and the impact it could have on law librarians.

SOMMAIRE

Cet article explore l'utilisation actuelle de l'intelligence artificielle dans l'industrie juridique canadienne et son impact sur les professionnels de l'information juridique. L'article définit l'intelligence artificielle, discute de son développement au Canada et aux États-Unis, et limite la discussion à l'intelligence artificielle dans les bibliothèques juridiques universitaires et les cabinets d'avocats. L'auteur propose des options pour l'avenir de l'intelligence artificielle dans les bibliothèques juridiques canadiennes et l'impact qu'elle pourrait avoir sur les bibliothécaires juridiques.

Introduction

A few years ago, the use of artificial intelligence (AI) by the legal industry was a distant thought. However, recent technological advancements have allowed companies like ROSS Intelligence, Blue J Legal, and Loom Analytics to bridge the gap between artificial intelligence and legal information. While the legal industry has received artificial intelligence positively, it is important to take a step back and evaluate the benefits and downsides of its use for legal information professionals who are uncertain of how their roles will change in this new environment. One concern is whether librarians will still be needed to mediate and navigate mass amounts of information. After defining artificial intelligence, this article will discuss its history within Canada and the United States, examine its use in law libraries in both academic and law firm settings, and propose options for the future of artificial intelligence within Canadian law libraries.

Defining AI

While artificial intelligence is a well-known term, there is no consensus on what exactly it is. In 1988, Lashbrooke stated that the problem with defining artificial intelligence is that there is not a singular definition of what it is.[1] Barr and Feigenbaum defined artificial intelligence as "the part of computer science concerned with designing intelligent computer systems, that is, systems that exhibit the characteristics we associate with intelligence in human behavior."[2] Similarly, in 2016, Talley stated that "a common image of artificial intelligence is a robot that thinks like a human and interacts seamlessly

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[1] EC Lashbrooke, Jr, "Legal Reasoning and Artificial Intelligence" (1988) 34:2 Loy L Rev 287 at 295.

[2] Avron Barr & Edward A Feigenbaum, eds, *The Handbook of Artificial Intelligence*, vol 1 (Stanford, Cal: HeurisTech Press, 1981) at 3.

with people, understanding their needs and learning from previous interactions."[3] Talley echoes Lashbrooke, stating that "[e]xperts in the field debate what exactly constitutes artificial intelligence. In fact, scholars have advanced at least eight definitions of the term 'artificial intelligence.'"[4] Further, *Merriam-Webster* defines artificial intelligence as "the capability of a machine to imitate intelligent human behavior."[5] Talley also points out that while some definitions of artificial intelligence focus on cognitive aspects, others focus more on behaviours.[6] From the definitions given, it is evident that artificial intelligence encompasses a wide range of perceptions of computer science innovation. These definitions do not, however, explain how artificial intelligence operates or the implications of implementing artificial intelligence in the workplace.

From these definitions, it is clear that there is not one form of artificial intelligence. For the purposes of this article, the discussion of artificial intelligence will focus on specific forms of technology in the legal industry that are already in place. These forms of artificial intelligence are natural language processing and machine learning.

Like artificial intelligence, there is also no consensus on the definition of natural language processing or machine learning. Thomson Reuters states natural language processing "is used to translate plain-English search terms into legal searches on research platforms."[7] Simply, natural language processing refers to technology that mimics human language, rather than forcing humans to use machine language, whereas machine learning is "a way to teach computers how to learn for themselves."[8] With machine learning,

> computers "learn" to perform some tasks and improve in the performance of the task over time through a training using "seed sets." Thus, machine learning enables computers to perform tasks for which they are not explicitly programmed by developing intelligence from data analysis.[9]

Both forms of artificial intelligence have been applied to legal research, and thus have implications on information professionals within the legal industry.

AI in Canada

Although artificial intelligence has recently made strides, automation of human intelligence has been around for a long time. At the end of World War II, researchers began to experiment with the idea of computers imitating human intelligence.[10] In Canada, artificial intelligence began to take root in the 1970s. In 1973, academic researchers from across Canada founded the Canadian Artificial Intelligence Association, and in the mid-1970s a group at the Université de Montréal developed the first fully automatic, high-quality translation system.[11] Since then, artificial intelligence research has gone through high and low periods, with two "artificial intelligence winters" occurring at times when research funding cuts were made.[12] However, in recent years, Canada has been at the forefront of artificial intelligence research, as universities have taken an interest in developing and advancing in the area.[13]

Canada has seen an increase in the development of artificial intelligence specifically created for the legal industry. One of the areas of legal practice that first adopted artificial intelligence was document review. In the past, document review involved a team of lawyers searching through many documents to find specific information.[14] Now, artificial intelligence is used to help lawyers review documents at a much faster pace by using a form of machine learning called "predictive coding" to search through documents for certain information.[15] Predictive coding "relies on analysis of a sample data set to make a determination or classification of a larger dataset."[16]

One example of this is a program called RelativityOne. The company behind the product, Relativity, calls its artificial intelligence process "Sample-Based Learning" and explains that

> the process takes a small group of manually coded documents and treats them as a representation of the entire document set. Based on the text in that group of documents, Sample-Based Learning categorizes all the documents in your workspace.[17]

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[3] Nancy B Talley, "Imagining the Use of Intelligent Agents and Artificial Intelligence in Academic Law Libraries" (2016) 108:3 Law Libr J 383 at 384 [Talley].

[4] *Ibid* at 386.

[5] *Merriam-Webster.com* sub verbo "artificial intelligence", online: <www.merriam-webster.com/dictionary/artificial%20intelligence>.

[6] Talley, *supra* note 3 at 386.

[7] "Demystifying Artificial Intelligence (AI)" (last visited 29 September 2020), online: *Thomson Reuters* <https://legal.thomsonreuters.com/en/insights/white-papers/demystifying-ai>.

[8] "A Visual Guide to AI" (last visited 29 September 2020), online: *Ross Intelligence* <www.rossintelligence.com/what-is-ai.html>.

[9] Christian Gideon, "What is Artificial Intelligence?" (8 January 2020), online: *Canadian eDiscovery Law Blog* <http://ediscoverylaw.ca/artificial-intelligence/what-is-artificial-intelligence/> [Gideon, "What is"].

[10] Luke Stark & Zenon W Pylyshyn, "Artificial Intelligence (AI) in Canada" (last modified 13 November 2018), online: *The Canadian Encyclopedia* <www.thecanadianencyclopedia.ca/en/article/artificial-intelligence>.

[11] *Ibid.*

[12] *Ibid.*

[13] *Ibid.*

[14] Daniel Fish, "The Lucrative Days of Document Review are Over" (7 March 2017), online: *Precedent Magazine* <lawandstyle.ca/law/cover-story-the-lucrative-days-of-document-review-are-over> [Fish].

[15] Christian Gideon, "Predictive Coding: Artificial Intelligence (AI) at Work in Litigation" (8 January 2020) online: *Canadian eDiscovery Law Blog* <www.ediscoverylaw.ca/predictive-coding-artificial-intelligence-ai-at-work-in-litigation/>.

[16] Gideon, "What is", *supra* note 9.

[17] "Sample-Based Learning" (last visited 29 September 2020), online: *Relativity* <help.relativity.com/10.2/Content/Relativity/Assisted_Review/Assisted_Review_Workflow.htm>.

Thus, with machine learning, the program can comb through and code the remainder of the documents at a faster pace than humans can. However, it is important to question whether the program is accurate. With this "Sample-Based Learning" model, there appears to be room for human error. The company website even states that "it's important for reviewers to be diligent when deciding which documents are good examples for machine learning."[18]

Another similar product is Kira, which also uses machine learning to uncover "relevant information from contracts and related documents."[19] In an article for *Precedent Magazine*, Fish explains that "if a lawyer shows [Kira] a large sample of a certain type of clause, it can go out and find more of them within a set of contracts."[20] Both products reinforce the need for human mediation between the information and the product and illustrate that artificial intelligence can be a useful tool for legal professionals without completely abrogating their expertise.

Artificial intelligence is also working its way into other areas of the legal industry, including legal research. Canadian company Blue J Legal has created tools to help lawyers see how courts might resolve challenging issues and to increase the efficiency of legal research. Blue J Legal's products, Blue J L&E, Blue J Tax, and Blue J HR, use machine learning "to predict how a court would rule in your specific scenario."[21] For the purposes of this article, Blue J L&E will be used as an example to discuss the significance of artificial intelligence and the impact it has already made in the legal industry in Canada.

Blue J L&E is a legal research tool that helps labour and employment lawyers get clarity on how the courts would resolve several challenging employment law issues.[22] Blue J L&E deals with legal issues between an employer and employee, such as how much notice an employer must provide when dismissing an employee, whether an employee is eligible for overtime pay, and determining whether someone is an employee or independent contractor.[23] The product takes the user through a series of questions that pertain to the facts of the situation to determine an answer to the scenario. Blue J L&E also provides a percentage as to how accurate the prediction is based on the information it has gathered. It is hard to say whether all aspects of the program complete the tasks advertised accurately enough that the results stand on their own so lawyers would not have to double check the work.

As Blue J L&E is a new, niche product, it is difficult to argue that it has made an impact on law libraries so far. Furthermore, the company seems to be marketing their programs directly to lawyers themselves, bypassing the librarians who would likely be assessing, purchasing, and acquiring their products. It appears these programs are likely to be used as tools for lawyers to make their tasks more efficient, rather than to replace lawyers altogether. Greenwood writes, "[Blue J L&E] is not designed to replace lawyers or counsel but to allow users to reduce their reliance on what always ends up being a very costly investment from both established companies as well as startups."[24] Thus, artificial intelligence like Blue J L&E can be seen as tools to help lawyers complete their work.

With the introduction of artificial intelligence tools used for research, librarians may take on a larger teaching role and complete less research themselves. As assisting with research is a large component of the job for many law librarians, there is the perception that these artificial intelligence programs will negate the need for law librarians altogether. As research becomes increasingly automated, it becomes easier to complete. Accordingly, someone with an expertise in conducting research becomes more dispensable.

Loom Analytics is another example of a company currently creating artificial intelligence products for legal research use in Canada. Court Analytics, a product created by Loom Analytics, carefully reads through case law, then classifies and encodes it. Court Analytics can then find all the decisions of a particular judge in seconds and can further narrow down by type of hearing and type of claim.[25] Again, Court Analytics is a new product that only covers Ontario, British Columbia, and Alberta.[26] Because of these limitations, it is difficult to quantify the impact it has had on law libraries thus far.

These examples demonstrate that artificial intelligence in the Canadian legal industry is developing rapidly, but it has not yet been studied in terms of its effects on law libraries. One way to propose options for the future of artificial intelligence in Canadian law libraries is to look to the United States as a case study.

AI in the United States

The United States is ahead of Canada in adopting artificial intelligence in the legal industry, specifically in legal research. As the United States has a much larger population than Canada, is generally more litigious, and typically awards higher damages, capital investment into artificial intelligence is understandably greater. Thus, its implementation and the technology itself is more advanced than in Canada. For example, the version of LexisNexis available in the United States has more features than the Canadian version. Further, LexisNexis added artificial intelligence to its legal research

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[18] "Sample-Based Learning Document Review" (last visited 29 September 2020), online: *Relativity* <help.relativity.com/9.5/Content/Relativity/Assisted_Review/Reviewing_Documents_for_RAR.htm>.

[19] "How Kira Works" (last visited 29 September 2020), online: *Kira Systems* <www.kirasystems.com/how-it-works>.

[20] Fish, *supra* note 14.

[21] "Blue J" (last visited 29 September 2020), online: *Blue J Legal* <www.bluejlegal.com>.

[22] "Blue J L&E" (last visited 29 September 2020), online: *Blue J Legal* <www.bluejlegal.com/blue-j-le>.

[23] *Ibid.*

[24] Max Greenwood, "Blue J Legal Combines Law and AI with Employment Foresight" (21 November 2017), online: *Techvibes* <www.techvibes.com/2017/11/21/blue-j-legal-combines-law-and-ai-with-employment-foresight>.

[25] *Ibid.*

[26] *Ibid.*

product, Lexis Advance, in the American version without introducing it into the Canadian version.[27] Gediman states that the new enhancement available in the United States, Legislative Outlook, "is an example of Lexis' incremental approach to adding the AI functionality to regular research without completely disrupting the user experience."[28] The company advertises that "Legislative Outlook is available for federal and state bills, helping users identify relevant legislation, understand political factors impacting movement, and anticipate upcoming hurdles."[29] Gediman explains that "the product analyzes pending legislation and provides users with a probability of the bill's passage, and it identifies political factors affecting the bill and likely upcoming hurdles the bill might meet before it passes."[30] This technological advancement has been added to the flagship Lexis Advance in the United States, whereas in Canada, similar products do not yet exist. Lexis Advance Quicklaw has incorporated artificial intelligence in the form of natural language searching but has not yet developed the product to the extent that the United States has.

Further, companies such as ROSS Intelligence have also created products that use artificial intelligence for legal research, which are again only available in the United States. The company's product, ROSS, uses both natural language processing and machine learning to support legal research. The company website explains that when you ask ROSS a question, it "analyzes the words using our own proprietary Natural Language Processing algorithms. The algorithms understand the time period and jurisdiction of interest and automatically apply filters to focus your query."[31] ROSS searches for passages within the case that are similar to the question asked, rather than the entire case itself, since the company aims to find answers to the question asked and "not just keywords within documents."[32] ROSS then uses artificial intelligence algorithms to rank the cases to identify which are the best ones to answer the question asked.[33] ROSS uses machine learning to calculate the likelihood that the case will answer the question.[34] The product scope is limited to case law from the United States Supreme Court, Circuit Courts of Appeals, District Courts, Bankruptcy Courts, and State Supreme and Appellate court levels, as well as many special federal speciality courts and a selection of administrative boards.[35] Taking into consideration the scope of the product, this type of artificial intelligence, which uses both natural language processing and machine learning, is highly advanced. This type of product would have an impact not only on lawyers conducting legal research, but also on information professionals in the legal industry.

The American Association of Law Libraries published several predictions for how these advancements in artificial intelligence will impact librarians and their roles. They conclude that librarians will continue to be attitudinal and technological leaders, but they will increasingly play the role of management consultants.[36] While Canada still has a long way to go in terms of adopting this highly advanced form of artificial intelligence, it is interesting to see what information professionals currently dealing with artificial intelligence have to say. This provides valuable insights about the implications of artificial intelligence in law libraries for Canadian law librarians.

Limitations of AI in Law Libraries

Before considering the implications that artificial intelligence may have on law librarians, one must look at the limitations of the products and the problems that arise when incorporating artificial intelligence into the legal industry. Currently, these products are in the form of proprietary software. One problem stemming from adopting commercialized artificial intelligence programs is that they might create barriers to the law for those who cannot afford to pay a lawyer whose firm subscribes to them. Not all law firms or law libraries will be able to justify spending their budgets on such software, especially for niche products like Blue J L&E, which may or may not add value to the organization. As the goal of law librarians is to provide equal and open access to information, this type of product might exacerbate some of the problems concerning access to justice and information. On the other hand, firms may be able to charge less for their services because tasks will take less time to complete.

Another problem with these products is that they are human-made and built with the same biases and prejudices that are present within humans. The algorithms behind artificial intelligence are embedded with these biases. Thus, it is problematic to place complete confidence in artificial intelligence to make an unbiased decision. An example of this limitation exists in the United States, where approximately 2.63 per cent of Americans are subject to some form of correctional supervision.[37] Consequently, the United States' criminal justice system has started using computerized risk assessment tools to process defendants through the legal system efficiently.[38] These risk assessment tools use artificial intelligence to determine the likelihood of a defendant reoffending, which then becomes a factor in

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[27] Mark Gediman, "Artificial Intelligence: Not Just Sci-Fi Anymore" (2016) 21:1 AALL Spec 34 at 35 [Gediman].

[28] *Ibid.*

[29] "LexisNexis Debuts Legislative Outlook and Moves Extensive News Archive to Lexis Advance" (2 March 2016), online: *LexisNexis* <www.lexisnexis.com/en-us/about-us/media/press-release.page?id=14568432303096&y=2016>.

[30] Gediman, *supra* note 27 at 36.

[31] "What is AI?" (last visited 15 September 2020), online: *ROSS Intelligence* <www.rossintelligence.com/what-is-ai.html>.

[32] *Ibid.*

[33] *Ibid.*

[34] *Ibid.*

[35] "Features" (last visited 15 September 2020), online: *ROSS Intelligence* <www.rossintelligence.com/features.html>.

[36] "Up Front: Trending AI in Legal" (2017) 22:1 AALL Spec 9.

[37] Karen Hao, "AI is Sending People to Jail—and Getting It Wrong" (21 January 2019), online: *MIT Technology Review* <www.technologyreview.com/s/612775/algorithms-criminal-justice-ai/>.

[38] *Ibid.*

sentencing.[39] In theory, this system reduces judges' biases, but in practice this is not the case.[40] The issue surrounding this type of artificial intelligence tool stems from the fact that the algorithms are trained on past historical crime data, which would incorporate all aspects of bias found in previous judgments.[41] As such, these tools pick up on the historical patterns that already exist, which are correlations, and define these patterns as causation.[42] For example, low-income and minority defendants are likely scored with a higher chance of reoffending based on previous data.[43] Hao identifies these issues and writes,

> as a result, the algorithm could amplify and perpetuate embedded biases and generate even more bias-tainted data to feed a vicious cycle. Because most risk assessment algorithms are proprietary, it's also impossible to interrogate their decisions or hold them accountable.[44]

An additional limitation is the fact that, despite the company claims, the quality of research produced by artificial intelligence products may not meet a lawyer's expectations. The companies that create these products accentuate the groundbreaking capabilities of their software but do not address their limitations or the fact that the artificial intelligence may not be as successful as advertised. As Baker states,

> the strong [public relations] campaigns of the latest and greatest technologies may exaggerate how well the technology performs given current [natural language processing] capabilities. While we can expect that [public relations] folks will say certain things to sell a product, we cannot rely blindly on these claims or the products they describe.[45]

Baker calls for lawyers to understand what artificial intelligence is currently capable of to decide whether the product operates at the level that is advertised and produces quality material.[46] She states further that "[lawyers] must consider algorithmic transparency and the associated machine learning bias that may be embedded into the results."[47]

The scope of these concerns is not limited to lawyers. All the issues and limitations of artificial intelligence also impact the role of law librarians, as they must take the issues into consideration when implementing these products into their organization.

Implications of AI in Canadian Law Libraries

While Canadian law libraries are not on par with their American counterparts in terms of the adoption of artificial intelligence products, they are still coping with the changes that have already begun. As previously stated, artificial intelligence used for document review is becoming the go-to for law firms in Canada. A major concern is how artificial intelligence will affect not only lawyers at the firm but also the information professionals in the law library. One option is to simply argue that jobs available to lawyers will decrease over time, as artificial intelligence could replace several lawyers who carry out document review tasks. Alternatively, if the number of lawyers at the firm does not decrease, these lawyers would now have more time in their day to dedicate to other tasks, such as legal research. If this is the case, it is possible that there will no longer be a need for librarians in firm law libraries to aid in legal research, which means that their jobs could be at risk. When considering the implications that artificial intelligence may have on law libraries, it is important to take a holistic approach and look not only at the products available to law librarians but also to lawyers.

It is hard to discern what will come from new innovations, but looking at how artificial intelligence has affected the legal industry in other jurisdictions allows one to see scenarios where Canadian law libraries might be affected in the future. Artificial intelligence is another tool for librarians to keep in their resource pile to help speed up legal research, and innovation will only increase over time. One argument is that the use of artificial intelligence will not replace law librarians in Canada but will shape their role in various ways.

The implications might be two-fold. First, the active role of the law librarian may be extended to assessing and acquiring artificial intelligence products as they become more readily available. Second, law librarians themselves could adopt forms of artificial intelligence into the law libraries to improve their services.

Vetting, Acquiring, and Teaching AI Products

Librarians in law libraries already play a large role in determining to which databases and resources the organization subscribes. Thus, librarians currently act as liaisons between product vendors and library users. Potentially, artificial intelligence products will simply be another tool for librarians to assess and consider acquiring.

The role of law librarians as trainers could also increase. Librarians already fulfill a teaching role, but this role could be emphasized, as librarians would spend more time training lawyers and students on how to use new artificial intelligence products. Currently, law firm librarians provide training to articling and summer students, and in academic

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[39] *Ibid.*

[40] *Ibid.*

[41] *Ibid.*

[42] *Ibid.*

[43] *Ibid.*

[44] *Ibid.*

[45] Jamie J Baker, "2018: A Legal Research Odyssey: Artificial Intelligence as Disruptor" (2018) 110:1 Law Libr J 5 at para 85 [Baker].

[46] *Ibid* at para 86.

[47] *Ibid.*

settings they provide training for classes as well as on-demand research assistance. Librarianship has long been tied to a teaching role, so it is possible that incorporating artificial intelligence will increase this aspect of the job.

Gediman argues that librarians play a role with new technologies in terms of implementing the products.[48] He explains that a librarian's experience and expertise make them the central figure in this process.[49] This is demonstrated in ROSS Intelligence's marketing, as the company promotes the image of a library on their website.[50] Gediman states that

> librarians can create the processes and procedures to provide the current information needed to keep the application up-to-date and relevant. Librarians' knowledge of users' research habits, firm culture, and available resources can help tailor the application to a specific firm.[51]

In this situation, it can be argued the role of a law librarian is not diminished by artificial intelligence products; instead, the role must shift its focus to allow for an increase in efficiency.

Incorporating AI into Library Services

Furthermore, there is potential for law libraries to incorporate artificial intelligence into their services as well. Talley writes about the ways academic law libraries can incorporate artificial intelligence into answering reference questions.[52] Talley refers to a study from the University of Kentucky that found roughly "seventy percent of face-to-face reference interactions at the university's law library were location-based inquiries … approximately fifteen percent of the reference questions face-to-face of law librarians required their expertise."[53] Talley proposes that incorporating artificial technology into these law libraries by way of reference services could allow librarians to answer patrons' questions efficiently and effectively.[54] Talley goes on to say that in the future, these artificial intelligence reference services could also answer more sophisticated questions and be programmed in a way that if they could not answer a question, they could refer the user to the librarian.[55] This model could benefit academic law librarians, as they would have more time to work on reference questions that require their expertise. However, this model could quickly lead to reducing the number of law librarians in these libraries, or ultimately the elimination of reference librarians from them. If this were applied to law firm libraries, it is possible that the librarian's role would be eliminated altogether. This push toward artificial intelligence within the library could be a slippery slope leading to the decline of law librarians.

Artificial intelligence could help librarians carry out their roles more efficiently. Walters states that "at the simplest end of the spectrum, AI tools can help libraries draw important insights from in-house data."[56] He explains that

> law firms can use tools such as IBM's Watson Developer Cloud to convert documents from images to structured text, build chatbots that understand natural language to triage patron requests, or build search engines that run semantic searches over the firm's knowledge management system.[57]

Through this, libraries might not only be consumers of artificial intelligence products but also create them internally.[58] As Walters states,

> the most successful libraries of the next 10 years will be ones that embrace the new tools of the trade. They will understand the law at a deeper level, see trends in litigation before anything else, manage themselves more efficiently, give qualitative advice, and provide justice for more people at more competitive costs.[59]

While this is an optimistic take on the future of artificial intelligence in libraries, it is important to think about what Walters stands to gain from these statements. Walters is the CEO of Fastcase, an online legal research software company; thus, it makes sense that he is enthusiastic about the innovation of artificial intelligence. Regardless, Walters points to another potential expansion of the role of the law librarian in the wake of artificial intelligence.

Conclusion

In her conclusion, Talley states that "the uses for artificial intelligence will likely expand to include services that we have yet to imagine. Academic law librarians should embrace these ideas and champion agent technology and artificial intelligence for the entire law school community."[60] While Talley's statement that artificial intelligence will continue to develop in unpredictable ways is accurate, her complete

[48] Gediman, *supra* note 27 at 36.

[49] *Ibid*.

[50] *Ibid*.

[51] *Ibid* at 36–37.

[52] Talley, *supra* note 3 at 394.

[53] *Ibid*.

[54] *Ibid*.

[55] *Ibid*.

[56] Ed Walters, "Read/Write: Artificial Intelligence Libraries" (2017) 22:1 AALL Spec 21 at 22.

[57] *Ibid*.

[58] *Ibid* at 23.

[59] *Ibid*.

[60] Talley, *supra* note 3.

acceptance of artificial intelligence is less convincing. Law librarians must look at the implications of the artificial intelligence they opt to bring into their libraries and question whether it will truly benefit the library users, as it is likely to be costly to acquire. Resources that employ artificial intelligence must be properly vetted by library staff to determine if they are truly capable of completing tasks as advertised. Baker accurately concludes, "as we law librarians consider the fate of law libraries in the Information Age and beyond, it is imperative that we continue to assess and instruct on information quality."[61] The role of law librarians may shift from a more research-focussed role to a liaison role to serve their users effectively. The role may shift to incorporate more aspects of knowledge management; however, law librarians will remain important to their organizations because their expertise extends their research skills beyond the capabilities of artificial intelligence.

[61] Baker, *supra* note 45 at 30.

Continued from page 15

over equality of opportunity by many. Alyssa Thurston writes that "[d]iversity among law librarians … can improve citizens' ability to research and access the law—a value that is emphasized in the AALL Core Values."[64] As the liaisons between library users and legal information and services, law librarians are "fundamental to the process of accessing legal information," and minority patrons in particular may have better experiences if the librarian is from the same racial or ethnic background.[65] Furthermore, some argue that law librarians, as members of the legal community, have a professional responsibility to advocate for equity, especially "with the lack of relative educational and career opportunities allowing for increased minority participation in the profession."[66]

This is a tough battle in law librarianship. Despite working to recruit more diverse professionals, there has been very little success.[67] One of the major reasons is that there is a very small pool of qualified candidates to begin with. A master's degree in LIS is almost always required for a law librarian (or any librarian) position, but LIS programs also struggle with diversity issues.[68] To be eligible for graduate school in general, a bachelor's degree is required, and the majority of bachelor's degree holders are white.[69] Consequently, it seems that there is very little law libraries can do on their own to increase diversity of library staff. This is a problem that will have to be solved on a much more fundamental level.

Conclusion

Evolving from file clerks to legal information experts, law librarians are increasingly important in the legal community. However, because of technological advancements, societal changes, and economic changes, gaps in the relationship between legal professionals and legal *information* professionals are emerging. To maintain and innovate the values of library services in law libraries, law librarians will need to identify those gaps and devise and implement new strategies to refresh their library services to make them more relevant, efficient, effective, collaborative, and congruous with the rest of the organization.

[64] Alyssa Thurston, "Addressing the Emerging Majority: Racial and Ethnic Diversity in Law Librarianship in the Twenty-First Century" (2012) 104:3 Law Libr J 359 at 364.

[65] *Ibid.*

[66] *Ibid* at 365–66.

[67] *Ibid* at 368.

[68] *Ibid.*

[69] *Ibid.*

IIII Reviews / Recensions

Edited by Kim Clarke and Elizabeth Bruton

Aspiration and Reality in Legal Education. **By David Sandomierski. Toronto: University of Toronto Press, 2020. 408 p. Includes works cited and index. ISBN 9781487505943 (hardcover & eBook) $56.25.**

In *Aspiration and Reality in Legal Education*, David Sandomierski, assistant professor at Western Law, delivers a scholarly analysis on an issue familiar to participants in Canadian legal education: the supposed opposition between theory and practice in legal teaching. Sandomierski places this perennial topic of debate in legal education in the larger context of educational reform, asking whether Canadian law schools teaching in the common law tradition are operating at their fullest potential, in the sense of offering an intellectually transformative experience that exposes students to the widest range of visions for contributing to society through law.

Aspiration and Reality examines this issue through the lens of a single subject: first-year contract law. Sandomierski adopts an empirical and descriptive approach that analyzes words spoken or written by instructors, using a dataset that notably includes many of the core Canadian contract law textbooks as well as interviews with over sixty law school teachers. This research method, the author notes, does not include classroom observation or student interviews. The author acknowledges the limitations of this approach from the outset, but argues his methodology, nevertheless, allows insight into the subject matter.

After discussing and laying out the book's aim and methods, the author carefully and thoroughly analyzes the presence of the dominant schools of legal theory in Anglo-North American law schools within the contracts law canon. The book closely examines the extent to which the ideas from various legal theories are expressed in the contracts textbooks most often used in Canadian law schools. After a long and close examination of the data collected, Sandomierski finds a consistent and prevalent belief among instructors that legal theory is crucial to preparing students to become better lawyers. This finding would seem to contradict the prevalent anecdotal dichotomy of teachers who teach theory and those who prepare students for practice. However, he concludes that despite a widespread personal commitment to realist and critical legal theories, and despite the professed belief in the significance of theory to legal instruction, current instruction in contracts courses privileges a style of reasoning that is self-referential, closed, and rules- and precedent-based. There is, the author concludes, a dichotomy at play here, as expressed pointedly in the title of the work. The result, Sandomierski argues, is a set of pedagogical choices that marginalize matters of policy, context, and politics in legal analysis, privileging instead the internally closed system mentioned above. Sandomierski spends a significant amount of time in the final chapter asking why this is so, examining a wide range of factors including pedagogy, theory, the presence of institutional/structural forces and agency before discussing possibilities for transformation in legal education within Canada.

Aspiration and Reality in Legal Education is a significant scholarly work on an enduring debate in Canadian legal education that will be of immediate interest to any academic law library in Canada, as well as to libraries

supporting practitioners who teach law and are interested in developing or reflecting on their teaching practice.

REVIEWED BY
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***Bankruptcy Law Picture Book: A Brief Intro to the Law of Bankruptcy, in Pictures.* By Wela Quan. Toronto: Irwin Law, 2019. 178 p. Includes illustrations. ISBN 978-1-55221-519-7 (softcover) $30.00; ISBN 978-1-55221-520-3 (eBook) $30.00.**

Wela Quan's *Bankruptcy Law Picture Book* serves as an illustrated introduction to bankruptcy law in Canada. Part comic and part study guide, the book takes readers through the bankruptcy proceedings of Bob, the unlucky stick figure and debtor. As Bob alternatingly tries to evade his creditors and begrudgingly follows through on his legal obligations, he is joined by characters such as Crabby Carl (a creditor), Broke Billy (Bob's brother), and Able Annie the Administrator (a trustee), who help demonstrate concepts and procedures throughout the bankruptcy process.

Each page in Quan's book has both an explanatory text, which briefly describes a concept in bankruptcy law, and a cartoon demonstrating how this principle applies to Bob's proceeding. Organized similarly to Canadian bankruptcy law textbooks, concepts are broken down into 11 broad sections: insolvencies, bankruptcy proceedings, bankruptcy property, pre-bankruptcy transfers, contracts in bankruptcy, claims, priority creditors, how to get priority, receivership restructuring, and international insolvencies. Each chapter begins with a flow chart that serves both as a detailed table of contents for the chapter and a visual explanation of legal proceedings when applicable. These flow charts, as well as the timelines and numbered lists that are frequently used to delineate concepts or steps in the bankruptcy process, are a highlight, as they present ideas clearly and in a way that would help any student gain an overarching view of bankruptcy concepts.

Bankruptcy Law Picture Book markets itself as a "brief intro to the law of bankruptcy" and a "study guide," and it stays true to this description. Its 178 pages, partially filled with cartoons, offer an overview rather than a comprehensive study on Canadian bankruptcy law. The text also deals only with the current state of law and does not provide an historical development or critical analysis; thus, it does not replace the function of a comprehensive bankruptcy text for those studying the area. Instead, it reads as one might imagine an organized student's study notes would and is therefore a fitting companion text. However, while this visual guide is fun, its content is solidly rooted in law. The drawings add interest and whimsy, but the text does not sacrifice accurate legal terminology.

The book is noticeably devoid of any citations to external sources. While some applicable legislation is mentioned by name, these statutes are not fully cited, nor are there any mentions of cases or secondary sources. This lack of citations may make it difficult to verify the currency of content years down the line, and this brings the possibility that the text will go out of date relatively quickly; however, since the guide covers the topic in broad strokes, this probably wouldn't happen without a major overhaul of Canadian bankruptcy law.

In all, the book would be a unique addition to an academic law library collection as a study guide or brief introduction to bankruptcy law for those completely uninitiated or preparing for an exam. Quan brings lightness and humour to this area of law that I'm sure many students would welcome.

REVIEWED BY
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***Crossing Law's Border: Canada's Refugee Resettlement Program*. By Shauna Labman. Vancouver: UBC Press, 2019. xiii, 250 p. Includes bibliographic references and index. ISBN 978-0-7748-6217-2 (hardcover) $89.95.**

When examining refugee law, most academic legal books deal with whether refugees should be admitted or the conditions and tribulations that refugees face when they come to Canada. Refugee resettlement, however, is a topic that is has not been well addressed in Canadian academic circles. In her new book, Professor Labman aims to redress this imbalance. However, rather than discussing the merits of the refugee resettlement, she focusses on how the law plays into the resettlement program and the impact of resettlement on asylum programs.

There are eight chapters in this book. In Chapter 1, Labman provides the reader with a discussion of how the *UN Convention on the Status of Refugees* defines what a refugee is. How this definition fits into law is the broad set up for the next chapter. Chapter 2 looks at resettlement in a global context as a durable solution to the refugee issue and addresses resettlement to asylum protection and border control. The third chapter examines Canada's immigration history, from its beginning as an ad-hoc program to today's regime that is legalized via the *Immigration and Refugee Protection Act*.

Chapters 4–7 deal with the multiple avenues of immigration resettlement that Canada now has, from government-sponsored to privately sponsored refugees, or a blending of the two. Labman deals with each of these avenues separately, explaining how they were set up, how they were supposed to run, and what their status is today.

In the final chapter, Labman describes the Syrian resettlement: the initial excitement that Canadians felt, and the threat to its sustainability, through the increasing reliance on private sponsorship. At the end of the chapter, she makes recommendations that, if followed, would restructure the resettlement program to rebalance resettlement and asylum.

The timeline in *Crossing Law's Border* encompasses the

period from the arrival of the Indochinese boat people in the 1970s to the Syrian arrivals in 2016. Labman describes how, in legal terms, Canada went from reviewing each specific case to introducing the much more legalized form documented in the *Immigration and Refugee Protection Act*. She describes how global events have had an impact on government, private sponsorship programs (and a blending of the two), and how the legal system (both the courts and legislation) have reacted to these events.

One thing I would criticize is how the book is structured. I have no difficulty with how Labman describes the different resettlement programs separately in different chapters. This is important, as one needs to get an in-depth feel as to how these programs came about and have changed. However, I would have preferred the book to follow a chronological timeline, where one can view how resettlement has changed over the years. She does this in each chapter to a degree, but I would have preferred if the book had started from the earliest beginnings of resettlement and ended with the latest. This is not a criticism of Labman's overall argument that resettlement can either complement or complicate the in-country asylum claims at a time when fear of outsiders is causing countries to close their borders to asylum seekers. It is only a criticism of the book's structure.

Despite this, the book is incredibly well researched, citing numerous cases and legislation. Because of the uniqueness of its subject matter on immigration resettlement, it is a must-have for any academic law library.

REVIEWED BY
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Equal Justice: Fair Legal Systems in an Unfair World. **By Frederick Wilmot-Smith. Cambridge, Mass.: Harvard University Press, 2019. 256 p. Includes extensive endnotes and index. ISBN 9780674237568 (hardcover) $54.23.**

In this legal-philosophical work, the author presents his proposal for a fair legal system. While the author acknowledges that a legal system cannot eliminate "all forms of domination in society" (p. 2), a serious consideration of how the legal system distributes justice is overdue. He notes most of the contemporary conversations about justice centre around the fairness of substantive law.

To situate his proposal in context, Wilmot-Smith thoughtfully outlines some of the theoretical foundations of a legal system's role in providing justice. He argues that justice, both its burdens and benefits, is scarce and should be rationed. He provides an overview of the "benefits of legality." Welfare benefits, for instance, provide citizens with instruction about the best courses of collective action, such as the rules of the road. Moreover, the law also provides determinacy in institutions. Importantly, "legal systems aim to ensure that individuals have a zone of liberty into which no one can encroach" (p. 19).

At the same time, there are many burdens associated with adhering to a legal system. These include absolute injustices (e.g., wrongful convictions), comparative injustices (e.g., differential treatment in the courts), and the loss of liberty to redress injustices as an individual. Since vigilante approaches are no longer available, ultimately, we must outsource justice to the courts, even when the courts and laws may be unfair. If the courts are central to being the main vehicle for justice, then access is of paramount importance

Wilmot-Smith's proposal in *Equal Justice* centres on his belief that a just justice system must distribute the benefits and burdens of a legal system equally according to our democratic ideals. He argues for the equal distribution of lawyer representation, regardless of one's wealth, and against the open market system for legal representation. Put simply, access to lawyers and legal institutions is restricted by costs, with the best legal representation available to those able to pay the most. Equal access to lawyers is needed to ensure access to justice. Wilmot-Smith aims to provide a provocative argument for a socialized justice system akin to socialized medicine: one where injustices can only arise from within fair procedure and not from any arbitrary characteristics such as antecedent wealth.

The author, who is a fellow of All Souls College, University of Oxford, engages in an academic discourse for an advanced readership well versed in the subject area. Legal and philosophical scholars, who are a part of this conversation, are readily referenced, along with classic philosophical works. Although the text is quite dense and academic, especially for the non-specialist, the author's ample dose of anecdotes and hypothetical situations throughout adds levity.

For example, Wilmot-Smith creates one scenario in which the reader is stranded on a desert island with another survivor. As both grow their crops, issues inevitably arise, such as the rightful ownership of scattered, wind-blown crops and the impact of unequal harvests on trade agreements, etc. These examples, sprinkled throughout, help illustrate complex ideas.

This book is recommended for all academic libraries. It may be of particular interest to those exploring equity and justice issues in a legal context.

REVIEWED BY
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Feminist Judgments in International Law. **Edited by Loveday Hodson & Troy Lavers. Oxford, UK: Hart Publishing, 2019. xix, 511 p. Includes bibliographical references and index. ISBN 978-1-50991-445-6 (hardcover) £90.00; ISBN 978-1-50991-443-2 (eBook) £64.80.**

In *Feminist Judgments in International Law*, the editors apply a feminist perspective to the jurisprudence of international law courts, legal norms, and legal principles. Though this may raise questions in those unfamiliar with alternative

judgment writing as a form of legal and social protest, the text's contribution to legal scholarship is found in its commendable job of introducing readers to seminal rulings and decisions from international courts and tribunals and in critically evaluating international law principles through the lenses of feminist perspectives and substantive equality.

Fifteen cases, each featured in its own chapter, represent notable international law cases from the past century adjudicated in superseded or existing law courts and tribunals. The book's contributing authors serve as jurists in each of the feminist chambers tasked with rewriting the judgments. Their overarching intention is to discuss and present alternative possibilities to structural inequalities found in international law.

The selection of the cases themselves reveals an exploration of the universal applicability of feminist legal reasoning and analysis by examining topics such as reproductive rights, arranged marriages, gender identity, and domestic and sexual violence. Alongside these are fundamental principles of international law, such as the division of public and private law, state responsibility and immunities, international law treaties, state sovereignty, human rights, and international criminal law.

An immediate and noteworthy characteristic of the text is the attention each contributing author gives to the international court or tribunal rendering the decision, in particular the application of the court's own procedural rules, litigation practices, and judicial history. The text effectually balances historical convention and legal critique while creatively applying feminist thinking to principles such as state autonomy, the binding nature of treaties in international law, and the acknowledgment of individuals in international courts.

Adding context and insight to each judgment are each author's notes and reflections. The notes cover the historical and contextual underpinnings of original judgments, along with the author's understanding of what would have been available to a feminist tribunal at the time of the judgment, had one existed. These notes may resonate with readers and legal history enthusiasts by setting the geographic, social, and political stage, as well as identifying, based on evidence, challenges that would have been faced by point-in-time feminist thinkers.

The metacognitive reflections following each judgment are a highlight that allows readers a more personable and sympathetic view of the conflicts faced by each alternative judgment author. Of particular value and pragmatism are those reflections coming to terms with the open-endedness of the social and moral implications afforded by each decision, such as the ones found in the early *Bozkurt* (1995) and *Lockerbie* (1988) cases.

A notable achievement of the text is how judgments and reflections endeavour to present alternative legal histories without a reliance on the clarity and judgment associated with hindsight. The absence of precedence on historical, point-in-time works highlighting women's perspectives led many chambers members to examine the objective purpose and procedural underpinnings of courts and tribunals that may have permitted accommodations of underrepresented views. Examples may be found in the advisory opinion on the *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, which vigilantly deviates from the norm of state-centricity in international treaty law, and in the judgments related to human rights and international criminal law violations, such as the *Lubanga* (2014) and *Karadžić* (2016) cases, which emphasize both humanist and survivor-centred approaches in their rulings.

Procedurally minded readers are likely to appreciate the application of feminist principles in the overarching methodological framework of the project. The introspective, academic, and collaborative nature of the writing is superior, with most judgments being acknowledged as communal intellectual works reflecting the ideas and perceptions growing from, yet not being attributed to, each feminist chambers panel member. The journey of the work, from its beginnings as the Feminist International Judgments Project, encompassing the work of legal scholars with common interests, to the current published collection, is admirable. Supplementing the contribution that it makes to feminist legal theory, the work is readily seen as a passion project aimed at illustrating how feminist approaches may encourage departures from historical, and possibly archaic, legal perspectives.

This book is recommended for the collections of academic and judicial libraries and the personal collections of judges, lawyers, students, and legal scholars interested in activism, judicial interpretation, and the pursuit of gender and substantive equality in both national and international courts. Readers will likely benefit from familiarity with the work of the Women's Court of Canada and other feminist judgment initiatives from around the world and their examinations of the willingness of courts to consider substantive equality in promoting social justice. This book will also be of interest to those seeking a better understanding of how evolving social theories such as relationality, intersectionality, and gender identity inject new and mindful perspectives into the application of the law.

REVIEWED BY
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Indigenous Water Rights in Law and Regulation: Lessons from Comparative Experience. **By Elizabeth Jane Macpherson. Cambridge: Cambridge University Press, 2019. xi, 291 p. Includes bibliographic references, index, and glossary. ISBN 978-1-108-47306-4 (hardcover) $126.95; ISBN 978-1-108-61109-1 (eBook via Cambridge Core) US$140.00.**

This book details the exclusion of Indigenous peoples from water law frameworks due to competition between agriculture, industry, and urbanization and traditional cultural rights. This research is funded in part by the New Zealand Law Foundation and is part of the Cambridge Studies in Law and Society Series. It includes a detailed table of contents, handy glossary of non-English terms, and an extensive 43-

page bibliography.

A comparative analysis explores contemporary legislative and regulatory water regimes as case studies in Australia, Chile, Colombia, and Aotearoa/New Zealand (Aotearoa is the Māori name). Countries were chosen to contrast and compare Indigenous rights from a contemporary and historical perspective: two common law and two civil law countries, and drought versus water quality issues.

Each chapter starts with a detailed description of Indigenous rights and legal right to water with relevant legislation and case law, the allocation and future of water rights for significant water bodies/rivers, and future expectations. Predictions for legislation and stakeholders are noted as a new mechanism for water use rights for Indigenous groups. Common themes and issues are identified, including histories from British and Spanish colonies; justification for Indigenous land and resource rights to title, including dispossession; tensions between fair share and reparative/distributive justice, legal entitlements, and ongoing exclusions regarding water rights, jurisdiction, and ownership; water management as part of the distribution of water as a commodity, constitutional rights, and biocultural rights; recognition and distribution of ancestral rights; and compensation versus recognition.

Key points from the national case studies:

- Australia is known for their lack of Treaty or settlement agreements. This leaves Indigenous peoples "locked out" of water law frameworks, limiting their rights to those based on native title, traditional laws and customs, and group rights. The National Water Initiative, a 2004 intergovernmental water reform agreement to which Indigenous peoples were not a signatory, provides for Indigenous representation in water planning wherever possible, but Macpherson argues this initiative continues to tie the water right of Indigenous peoples to their tradition and cultural purposes through native title.

- New Zealand's relationship with Indigenous peoples concentrates on the Māori claim as guardians and proprietors of land seeking recognition of distinct water jurisdiction over resources. Most discussion specifically relates to the 2017 Treaty of Waitangi describing the Whanganui River as "indivisible and living whole" and the Te Awa Tupua model as the equivalent to a constitution with the Māori people.

- Colombia, with Afro-descendant communities (descendants of original slaves) and five different hydrographic areas, is considered the pioneer of earth jurisprudence. Colombia's 1991 constitution is known as the "Ecological Constitution," which protects water quality. In separate decisions, Colombian courts have declared the Amazon Rainforest and the Atrato River as legal subjects. The Tierra Digna case was a watershed moment, requiring governments to work with Indigenous groups to create a decontamination plan for the Atrato River.

- Historically, Chile had no legally recognized Indigenous right to use water. The end of the Pinochet dictatorship in 1990 saw Indigenous peoples begin asserting their rights, largely in conflicts with corporations regarding mining over-extraction. These actions led to the 1993 enactment of the *Indigenous Law*, which recognizes Indigenous ancestral rights. More recently, the Supreme Court characterized water rights for the Aimara and Atacemeña communities as "ancestral" in nature pursuant to the *Indigenous Law*, and recognized rivers as legal persons.

This book describes a model to manage entitlements on water through describing public and private tools for regulation, treaties, and UN Resolutions alongside Indigenous issues relating to the environment, resources, and eco-centric movements. Macpherson illustratively proposes the need for Indigenous peoples to own and manage jurisdiction and distribution of water resources for cultural and commercial use through legal mechanisms to protect cultural access and recognize water ownership.

Macpherson's country analysis argues that it is imperative for governments to address historical water injustice, makes a hermeneutic distinction between recognition and allocation models, analyzes the current limited legal lens, and outlines necessary decisions for a distributive response for future certainty. The book concludes that Indigenous peoples are guardians and must lead discussions with autonomy to unbundle water from land title, redistribute water allocation rights, and create market mechanisms for water regulation.

Legal researchers with interest in the areas of water, Indigenous, constitutional, or human rights law, and libraries with area studies collections for Latin America and Australasia, may be interested in this book.

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Intimate Lies and the Law. **By Jill Elaine Hasday. New York, NY: Oxford University Press, 2019. 294 p. Includes endnotes and index. ISBN 978-0-19-090594-1 (hardcover) $34.95.**

Intimate Lies and the Law is an in-depth review of deceptions in intimate (defined as sexual, marital, or familial) relationships, the law that governs these deceptions in the United States, and recommendations for next steps. This book was a delightful combination of well-researched and well-written academic prose, interspersed with illustrative examples of intimate deceptions cited from case law or media reports. The chapters on the current state of the law include endnotes and references to legislation and cases.

Hasday is clear from the introduction that she believes the law regarding deception by intimates is unduly restrictive, especially when compared to the law governing deception by non-intimates. She defines deception as "intentional acts or omissions—including statements, deeds and silence—designed to make another person believe something that

the deceiver himself does not believe to be true" (p. 2).

In Part I of the book, Hasday describes and defines different kinds of intimate deceptions. *Linchpin* deceptions are central to the relationship; but for this deception, the relationship would not progress. *Gateway* deceptions are those that have additional benefits to the deceivers. *Con artistry* can include gateway deceptions, but it is differentiated by the deceiver gaining a benefit, usually financial, from the deceived person herself. *Deception for mastery and control* includes people who lie for thrills, economic gain, sex, and for control of the actions of their partners. *Deception from subordination* can include deceiving a spouse who secrets away money to control the finances, or children lying to their parents about friends, drugs, alcohol, or sex. *Deception to maintain a pre-existing façade* describes people who lie about employment or educational achievements.

In her analysis of why intimate deceptions work, Hasday reviews existing privacy protections and social pressures that discourage people from performing background and credit checks through even cursory online searches. Legal restrictions on surveillance can prevent the audio or videorecording of a spouse suspected of cheating. The injuries caused by intimate deceivers can include financial losses, bodily injury, legal risks, lost time and opportunities, and emotional and psychological harms. Deceptions can also lead to harming other parties due to a lack of a relationship with a biological child or parent.

Part II reviews the law of intimate deception. It begins with "heart balm" suits of the late 19th and early 20th centuries, which allowed women to sue men for seduction and breach of promise to marry. In the 1930s, legislatures began outlawing these suits, largely on the basis that no modest woman would bring such an action. Since that time, courts have relied on this legislation to dismiss actions for fraud, misrepresentation, and similar actions on the basis that they are heart balm suits in disguise, and Hasday includes examples from as recently as 2004. In her analysis, Hasday places the legal developments within a social and historical context, using it to illustrate how changes in the law reflect or rebut changes in society. The shift from fault-based to no fault divorce is an example of this.

Hasday outlines the modern distinction between deception both within and outside of an intimate relationship, reviewing cases and other examples, including non-marital sexual relationships, financial deceit in marriage, and annulment. She points out that intimate deception can be a defense even when the parties don't know each other well, citing an example of an entirely fictional online relationship. She discusses the current state of the law, which largely provides no protection or redress for victims of intimate deceivers except in extraordinary circumstances. The courts and legislatures have consistently confirmed that some intimate deceptions should be protected. The last substantive section discusses how courts have responded to intimate deception in non-marital or romantic relationships.

Finally, Hasday concludes with work yet to be done. Ultimately, her thesis is that courts should not blame intimates for being deceived where they would not put the same onus on non-intimates or use public policy concerns to deny protections. She proposes improvements including legislative reform, public education, and better access to public records.

Intimate Lies and the Law clearly demonstrates how the treatment of intimate deceptions in the courts and legislatures has resulted in more punitive losses to the victims, compared to victims of non-intimate deceptions. While this book focusses entirely on the concept of intimate deception within the U.S. legal context, without reference to other countries' legislation or courts, I recommend it for large academic libraries, as well as family, criminal, and civil litigation practitioners, who have likely run into situations such as the ones described.

REVIEWED BY
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Letter to a One L Friend: A Little Guide to Seeing the Big Picture and Succeeding in Law School. **By Isaac Mamaysky. Durham, NC.: Carolina Academic Press, 2019. xvi, 122 p. Includes appendices. ISBN 978-1-5310-1103-1 (softcover) $22.00.**

This handbook seeks to provide strategies for first-year law students to effectively study and learn to see the bigger picture in the law. The author explicitly states that the goal of the book is to teach the reader how to earn high grades in law school. His stated principle is that learning the right process and strategy in approaching their work will be more important to the student than hard work and intelligence. This method is presented throughout the book with clear, explicit instructions and advice.

Letter to a One L Friend is designed to be an easy, instructive read that can be referred to as needed. It is a quick read containing clear and direct strategies in short chapters that cover the following topics: how to read casebooks, how to take effective notes in class, how to approach exams, class selection in upper years, the importance of taking care of your mental and physical health, and how to think about and approach employment after law school. Each chapter ends with a summary of the strategies presented in bullet points.

Notably, many of the strategies presented include instructions and templates; for example, instructions for creating reading, class, and exam notes include details on page length and discerning what should be noted and what should not. Clear processes are identified for adapting reading and class notes into exam notes. Templates are included for writing case briefs with notes on content and format, as well as three appendices of practice briefings. For readers who appreciate explicit instructions, these would be helpful.

The strategies presented in this book are designed to help law students understand and succeed in case law-based courses. Although these strategies would not be applicable to all courses and experiences that law students will have at school, the information provided is certainly enough to be

instructive in developing foundational skills to make this a recommended read for those entering law school.

This book is written for an American audience, so some details will not be relevant to Canadian law students. Despite this, most of the book is still applicable and contains strategies that can benefit all law students.

This book might also be of interest to law librarians, but for different reasons. Law librarians often focus on helping students find legal information, and not on how to read and understand that information; thus, this book provides an opportunity for librarians to gain insight into the students' experience once they access legal information. Students also visit librarians when they are facing a whole host of problems with their studies, beyond traditional reference questions, and this book provides simple, quick advice for many of the issues law students face in handling class assignments and exams.

Overall, this book is a straightforward guide designed to help first-year law students learn what to expect and how to work with largely unfamiliar information, theory, and analysis. This is done with short, clear, and explicit instructions that many will find easy to execute. While *Letter to a One L Friend* largely deals with case law and traditionally formatted American law school classes, there is enough insight and advice to make this brief read worthwhile for incoming law students and librarians working in law schools.

REVIEWED BY
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***Modernising Legal Education.* Edited by Catrina Denvir. Cambridge: Cambridge University Press, 2020. xviii, 261 p. Includes table of contents, foreword, afterword, and author biographies. ISBN 978-1-108-47575-4 (hardback) $126.95.**

In *Modernising Legal Education*, Catrina Denvir brings together an impressive list of 20 experts from higher education, private practice, and the legal tech industry to reflect on the ways in which legal education can and should be adapted in order to produce graduates who are ready to practice law in a market defined by continuous change. This is not a text that simply adds to the critique of current law school curricula or that dwells on the age-old debate between the role of law schools as vocational or academic programs. Rather, the collection asks authors to consider the skills they believe are required of the modern lawyer and to share examples of ways in which law faculties can develop and harness those skills through innovation in the classroom and in the curriculum at large.

The collection is divided into 13 chapters, as well as a foreword, introduction, and afterword. While there are clear themes that appear across the board in the first 12 chapters—the need to develop soft skills in law school, to have at least an awareness of the business of law, to increase experiential opportunities, to improve literacy related to technology—each part also brings important and unique contributions to the text. The range of curriculum initiatives already undertaken is impressive and ranges from the expected and increasingly mandated experiential courses and clinical legal education, to applications of the trend of gamification in higher education through roleplay and virtual reality, to significant integration of technology through design thinking and data analytics. The variety of opinions, perspectives, and ideas not only reflects the diversity of modern legal practice, but also hints at the challenges law faculties face when conducting reviews and renewals of their curricula. For its part, the last chapter looks at two ways in which to regulate legal education, in particular to ensure technological competence: first at the vocational training stage (Scotland's model), and second through a qualifying examination, which effectively places the onus on law faculties to adapt their curricula to market demands (England and Wales's model).

The text aims to reflect on skillsets and suggests curriculum changes on a global level, and at several points, chapters refer to legal education or reform in jurisdictions across the world. That being said, the vast majority of the authors come from Australia (7), the United Kingdom (9), and the United States (3), while the last author, Paul Maharg, currently works in Canada (Osgoode). Canadians reading this book should be aware of the significant deregulation of the legal profession that has occurred in some of these jurisdictions as compared to Canada. This understandably creates an urgency in these jurisdictions to ensure law schools remain relevant and competitive. While some forms of deregulation—including the elimination of a law degree as a requirement to access the legal profession—might not seem to be an imminent threat in Canada, it prepares us for what might come should law schools fail to adapt appropriately. Additionally, it suggests the decreased international value of our own common law degrees.

As Denvir notes in her own chapter, "Sealing the Gap," law schools claim that a law degree "provides solid preparation for a career in a range of different fields," yet the degree remains "epistemologically narrow" (p. 87). As globalization and technology change the way many professions, including law, are practiced, law faculties and legal regulators need to adapt. Offering important critiques of the status quo, a variety of perspectives on the skills required of a modern lawyer, and a slew of innovative curriculum ideas, *Modernising Legal Education* is a welcome addition to the scholarship on legal education. This book is an absolute must-read for law faculty, law librarians, or even practitioners with a particular interest in legal technology, experiential learning, or legal education broadly. It is also essential reading for law career development officers, upon whose shoulders some of the soft skills training will inevitably fall, and, of course, for legal education regulators. This title belongs in all academic law libraries and on the bookshelves of every dean of law and legal education regulators everywhere.

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Nahum Gelber Law Library
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***Privacy in Peril:* Hunter v Southam *and the Drift from Reasonable Search Protections.* By Richard Jochelson & David Ireland. Vancouver: UBC Press, 2019. vii, 235 p. Includes bibliographic references, index of cases, and index. ISBN 9780774862578 (hardcover) $75.00; ISBN 9780774862585 (softcover) $27.95; ISBN 9780774862608 (ePub) $27.95; ISBN 9780774862592 (PDF) $27.95.**

Privacy in Peril is the second book in UBC Press's Landmark Cases in Canadian Law series. The authors, Richard Jochelson and David Ireland, teach Criminal Law and Evidence at the University of Manitoba's Faculty of Law.

As the title suggests, *Privacy in Peril* examines the erosion of the reasonable expectation of privacy under section 8 of the *Charter*, the purpose of which "requires a means of preventing unjustified searches before they happen, not simply of determining, after the fact, whether they ought to have occurred in the first place" (*Hunter v Southam*, [1984] 2 SCR 145 at 160).

In particular, the authors use the 1984 Supreme Court of Canada landmark search and seizure decision *Hunter v Southam* as the starting point in researching the erosion of the section 8 "reasonable and probable grounds" test. The main part of the text is a survey of subsequent case law employing the *Hunter* standard.

Jochelson and many others have previously written about problems associated with diluting the *Hunter* standard.[1] However, this is the first monograph to extensively address the subject, providing valuable context regarding the *Hunter* decision itself. The text addresses many key section 8 cases related to the *Hunter* framework and covers such subjects as customs searches, strip searches, thermal imaging, sniffer dogs, garbage searches, and employee computer searches.

For instance, in *R v Mann*, 2004 SCC 52, the Supreme Court found that the police were entitled to detain the accused for investigative purposes and to conduct a pat-down search to ensure the officers' safety. Although the majority opinion was that there is no general power of detention for investigative purposes, detention of an individual was seen as reasonably necessary when there are reasonable grounds to suspect that the individual is connected to a particular crime.

More recently, in *R v Saeed*, 2016 SCC 24, the Supreme Court found that the accused's section 8 *Charter* rights were not breached when his penis was swabbed by police, who were seeking DNA evidence in connection with a sexual assault investigation. According to *Saeed*, the police may take a penile swab incident to arrest if they have reasonable grounds to believe that the search will reveal and preserve evidence of the offence for which the accused was arrested and the swabbing procedure is conducted in a reasonable manner.

The substantive text itself is only approximately 150 pages, and the rest of the book is dedicated to appendices, illustrations, a topical index, and an extensive bibliography. The text is reasonably priced in a variety of different formats, including ePub and PDF.

While this text obviously does not replace a more generic volume like Fontana and Keeshan's *The Law of Search and Seizure in Canada* or Hutchison's *Search and Seizure Law in Canada*, it provides a thoughtful, critical counterpoint to those more practical texts. Academic and judicial libraries as well as prosecution departments and criminal law firms will find it to be a useful addition to their collections.

REVIEWED BY
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***Researching Legislative Intent: A Practical Guide.* By Susan Barker & Erica Anderson. Toronto: Irwin Law, 2019. xxi, 284p. Includes bibliographical references and index. ISBN 978-1-55221-513-5 (softcover) $60.00; ISBN 978-1-55221-514-2 (PDF) $60.00.**

As a Canadian legal information professional who teaches a course called "Fun with Legislation" to articling students every year, I'm delighted that Susan Barker and Erica Anderson have written a book on researching legislative intent!

This is the first time we've seen a comprehensive resource that takes researchers through the sometimes-difficult task of researching both federal and provincial legislation. It is written by legal information professionals *for* legal information professionals, lawyers, and anyone who finds themselves researching federal and provincial legislation in Canada.

The book begins with a history of legislative intent and statutory interpretation and provides a thorough explanation of the reasons why researching legislative intent has become so important in Canada. Included are definitions of terms that the reader will encounter throughout the book, as well as a clear explanation of Driedger's modern principle of statutory interpretation. The authors then move into a discussion of how a bill moves through the legislative process. The federal and provincial processes are dealt with simultaneously. This could have been slightly cumbersome, but the authors meld the two processes together very well.

What follows is a discussion of intrinsic aids to statutory interpretation (preambles, titles, etc.) and extrinsic aids to statutory interpretation (legislative debates, committees, other sources). The section on committees includes an important list of print and online sources for committee materials. The section on other sources includes finding tools for government policy papers, sessional papers, commissions of inquiry, law reform commission reports, and more.

Chapters on how to trace the evolution and the history of a statute use concrete examples that will be helpful to the researcher. And they don't just give easy examples. They use examples that have twists and turns, so that the researcher understands that these twists and turns can be expected

[1] See, as one representative example, Jonathan Shapiro, "Confusion and Dangers in Lowering the *Hunter* Standards" (2008) 55 CR 396.

from time to time, even though researching legislative intent is typically a little more straightforward.

The chapter on the interpretation of treaties with Indigenous Peoples provides much needed information on this important aspect of legislation. The authors then discuss statutory instruments, royal prerogative, and delegated legislation, followed by a step-by-step guide to tracing the evolution and history of a regulation.

The book has three appendices: "Definitions of Regulations" as they exist in federal and provincial legislation, a list of and contact information for "Federal, Provincial and Territorial Parliamentary Libraries and Archives in Canada," and a handy outline of the "Process of a Bill."

It is easy to see why this publication was shortlisted for CALL/ACBD's prestigious 2020 Hugh Lawford Award for Excellence in Legal Publishing. It is easy to read and doesn't get caught up in technicalities. The detailed table of contents, the handy checklists found throughout the book, the glossary, and the index are all very well put together. The authors refer to numerous helpful resources and tell you where to find them. The footnotes throughout lead to other excellent materials.

I found the book very interesting and I read it from cover to cover. However, a thorough read isn't necessary. The researcher can delve into to the chapter needed in the moment and find the information they require for the task at hand. For example, if the researcher is interested in learning about legislative debates, a brief history is provided in Chapter 4. A more thorough discussion of the history is outlined in Chapter 1.

As the authors note in the introduction, researchers are often left wondering if they've properly completed the task of researching legislative intent. This practical guide gives researchers the tools to answer that question and know that they've completed the process properly.

This reasonably priced publication will be a valuable addition to any law library. And I highly recommend it to law professors who teach Legal Research and Writing courses and suggest they recommend it to their students.

REVIEWED BY
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Scholars of Tort Law. **Edited by James Goudkamp & Donal Nolan. Oxford: Hart, 2019. xviii, 401 p. Includes bibliographic references and index. ISBN 978-1-50991-057-1 (hardcover) $115.00.**

Scholars of Tort Law is the first in a series of edited volumes concentrating on private law scholars, providing an in-depth overview, in this case, of the development of the common law of tort. Its focus is on past scholars who have notably contributed to academic writing as legal theory on the topic.

The editors worked with 13 contributors to identify these academics and have classified them as "pioneers" (Cooley, Holes, and Pollock), "consolidators" (Salmond, Bohlen, Winfield, Prosser, and Fleming), and "iconoclasts" (Green, James, Weir, and Atiyah). Not included are Bracton and Blackstone because the editors wanted to limit their coverage to relatively modern writers after tort law was recognized as a distinct legal category.

The editors also recognize other surveys of tort law scholarship published within individual common law jurisdictions. In Canada, for example, they note R.B. Brown and Cecil A. Wright's "Foundations of Canadian Tort Law Scholarship" (2001) 64 Sask L Rev 169. American scholarship on the development of negligence law is discussed, as is a richness of Commonwealth law in English authors' approaches to tort law.

The editors trace the development of tort law in the last 150 years from an emphasis on criminal law and defendants to an examination of the rights and obligations of claimants. In recent years, the law has begun to look at deterrence-based theories based on economic analysis.

They note the importance of understanding the forms of publications that were produced by these scholars. For example, the classic treatise was seen to develop over time into the well-known casebooks for law schools, American Restatements, and journal articles.

Finally, they pay attention to the individual styles of prose, or voice, of each of these scholars. Sir Frederick Pollock was able to capture the significance of the golden rule of a foundational case. Sir John Salmond's approach included the ability to precisely offer a test for law of vicarious liability, and John G. Fleming wrote of Prosser's "felicity of style and humour" (p. 39).

The entry on Patrick Atiyah is particularly useful insofar as it covers his contributions to "vicarious liability," accident compensation, and personal injury. The editors have dedicated this volume to the memory of Atiyah, who died in 2018.

This is an important and solid collection of essays, especially for students, practitioners, and judges.

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Bibliographic Notes / Chronique bibliographique

By Nancy Feeney

"COVID-19 Legal Scholarship: Bibliography of Worldwide COVID-19 Legal Literature" (last updated 11 September 2020), online: *Melbourne Law School* <law.unimelb.edu.au/centres/hlen/covid-19/scholarship>.

COVID-19 Legal Scholarship is a bibliography, compiled by the University of Melbourne Law School Academic Research Service, featuring English-language legal literature from around the world.

The webpage, which contains citations only, is updated regularly. Links are provided for articles and other resources that are available on open-access databases. A downloadable, annotated PDF version of the bibliography is updated every two to three weeks. The content is arranged alphabetically by broad legal subject, and the PDF version contains detailed abstracts, notes, and commentary. Entries are compiled from journal article databases, including EBSCO's Index to Legal Periodicals, INFORMIT's AGIS, Westlaw U.K. Journals, WestlawNext Canada journals, Westlaw World journals, law articles on the Oxford University Press free COVID-19 Resources, HeinOnline, Sabinet (South African journals), SSRN, and Google Scholar.

The bibliography is divided into three parts. Part A, which is categorized into general and specific legal topics, includes monographs and other literature. Part B includes statements, guidelines, and other publications of selected international, regional, and domestic organizations with dedicated COVID-19 legal publications pages. Part C features selected blogs, websites, and journals (including special issues) that feature COVID-19 legal literature.

The creators at Melbourne Law School's Academic Research Service encourage using and sharing the bibliography; additionally, in the interest of promoting crowdsourcing, they welcome suggestions and additions to this project.

Jean O'Grady, "12 Tips for Building Your Digital Law Library in the Age of COVID-19" (3 August 2020), online: *Above the Law* <abovethelaw.com/2020/08/12-tips-for-building-your-digital-law-library-in-the-age-of-covid-19>.

Over the course of the past 20 years, digital resources and electronic technologies have gradually been accepted and adopted by the legal profession; however, the reality is that many law firm libraries have been maintaining duplicative digital and print collections. Jean O'Grady, Senior Director of Research & Knowledge at DLA Piper and author of the *Dewey B Strategic* blog, suggests that the practice of duplication is the result of librarians trying to support "the last of the 'baby boomer partners' and the 'born digital' generation of lawyers." She believes that this practice should change and posits that COVID-19 has presented legal professionals with strong evidence of the importance of completing (or starting) a digital library transition plan. As firms plan their post-pandemic reopenings, the protocols required to maintain shared physical library materials safely may not be worth the effort. O'Grady identifies twelve "building blocks" to put in place to support the fully digital transition:

1. **Strategic information professionals** with the ability to both assess products and lawyer workflows and reimagine the ways to unify and authenticate resources in a digital environment;

2. **Finding tools** with enterprise searching capabilities that link users directly to resources;
3. **Practice specific portals** organized in efficient, user-friendly ways;
4. **Leveraging flat fee contracts** to create custom user interfaces and other tools to create efficiencies;
5. **eBooks** to capitalize on the wide availability of titles in this format, which are updated with more frequency than print editions;
6. **Mobile apps** offered by major legal publishers, which deliver content to handheld devices;
7. **Licensing** of content is crucial to protect firms from copyright violations;
8. **Electronic newsletters and custom alerts** to keep lawyers/practice groups current;
9. **Academic and bar library memberships** to augment access to resources;
10. **Training** on electronic resources, offered regularly, is crucial;
11. **Continuous resource assessment ROI** as digital products evolve and technological advancements occur; utilizing resources management products that track usage of electronic resources is also useful for conducting cost/benefit analyses;
12. **Password management systems** create efficiencies for users and library staff when IP authentication access to online resources is not available or practical.

The full extent of the changes to law libraries imposed by the COVID pandemic have yet to be determined; nevertheless, the time is ripe for change. Library professionals would be wise to take advantage of the situation and position themselves and their departments in ways that demonstrate their essential value to the firm.

"Is There an Easy Way to Expand Screen Space in Your Home Office?" (7 July 2020), online (blog): *PinHawk Law Technology Digest* <lawtech.pinhawk.com/whatif_article/is-there-an-easy-way-to-expand-screen-space-in-your-home-office.html>.

The first offering in a new column produced by PinHawk Law Technology in collaboration with the consultants from Kraft Kennedy, a legal technology consulting firm, recommends the purchase of a wireless display adapter that allows the incorporation of a television screen into a home office setup. By employing such an adapter, the user can deliver their laptop display to the TV, thereby increasing screen space, with a minimal outlay of cash.

Mihir Patkar, "5 Search Engines to Find More Than What Google Shows" (11 August 2020), online: *Make Use Of* <makeuseof.com/tag/search-engines-find-more-than-google-shows>.

Think web searching begins and ends with Google? Think again! Technology writer Mihir Patkar shares five alternative search engines that show you what Google won't.

Command E, a downloadable app for Windows and macOS, searches for files stored on local drives and cloud accounts. Currently, the app connects to accounts on Google Suite, Dropbox, Evernote, and several other popular online productivity suites. Registration is required on Command E's website to enable automatic download.

Million Short is a search engine that allows users to remove the top one million sites from the search set, thereby presenting more eclectic results. The original aim of the founder, Sanjay Arora, was to balance the playing field for sites that may be new, suffer from poor search engine optimization, or operate a small marketing budget. The search engine offers additional filtering options, like date and location. Additionally, ecommerce and live chat sites can be excluded from or exclusively included in searches. Million Short is a unique concept providing an interesting way to locate distinctive search results, which might prove useful when researching or attempting to boost your knowledge of trivia.

Hopely is a search engine "with a passion for good causes"—half of the advertising revenue generated by the site is donated to charity. Currently, Hopely is working with Bread for the World, Doctors without Borders, and World Wide Fund for Nature (aka: the World Wildlife Fund, as it is still called in Canada). Before running a search, the user has the option of choosing which organization to support. Selecting all three is also an option.

Sourceful is a search engine that permits users to find high-quality content that has been produced using online collaboration suites by searching public Google Docs, Sheets, and Slides. The documents are crowdsourced and added to the platform along with a description and a selection of tags. Users can search by a keyword or tag.

2Lingual allows internet searches to be run in two languages simultaneously. Currently, 37 languages are supported. Powered by Google, results appear in two side-by-side panes. Ideally, fluency in both languages maximizes the utility of the tool.

"The Measure of Things," online (search engine): *Bluebulb Projects* <bluebulbprojects.com/MeasureOfThings/default.php>.

Speaking of search engines, The Measure of Things is a fun tool that puts into perspective various physical quantities in terms of familiar items. Find out what your height or weight is in terms of a wide range of items. The tool lets you take a measurement, like 84 kilograms, and discover how those quantities compare to other objects, like the weight of an elephant. Use it to help you craft a metaphor emphasizing a written measurement—compare something to the size of a whale, the height of the Empire State Building, or the speed of a bullet train. The Measure of Things provides equivalent measures for several types of quantities, including height, weight, length, area, volume, speed, and time.

The Every Lawyer (2018–), online (podcast): *The Canadian Bar Association* <www.cba.org/Publications-Resources/Podcasts>.

This podcast, presented by the Canadian Bar Association, is available on a multitude of platforms, including Apple Podcasts, Stitcher, and Spotify. The podcast launched in 2018 and now releases episodes weekly. It offers expert and wellness advice, practice tips, and information on legal trends and other current topics. The CBA website organizes the episodes into categories that include "Young Lawyers/Law Students," "Small & Solo Law Firms," and "Conversations with the President."

In the wake of the recent Black Lives Matter protests around the world, prompted most recently by the murder of George Floyd in Minneapolis, Minnesota, The Every Lawyer focussed a number of episodes on the issues of race, racism, and injustice.

In the July 8, 2020, episode, entitled "After the Pandemic: Covid-19 and Racial Justice," host Yves Faguy speaks with Joshua Sealy-Harrington, a lawyer whose practice centres on sexual, gender, and racial minorities. They talk about the intersection of COVID-19, the current global racial protests, and the challenges presented when attempting to make the justice system fairer for racialized groups. Because modest reforms historically have been ineffective, Sealy-Harrington calls for an extensive, fundamental reorganization of the system:

> I think with respect to all of these systems that are really ineffective at doing what they're meant to be doing, we need to fundamentally rethink these things and they need to redesign them for the masses as opposed to the elite.

Arleen Huggins, partner and head of the Employment Law group at Koskie Minsky in Toronto, discusses systemic racism in the Canadian legal profession in the August 13, 2020, episode "Let's Talk Systemic Racism." Speaking with host Marlisse Silver-Sweeney, Huggins shares her own experiences as the first Black lawyer, and first (and only) Black partner, in her firm. She shares that even after 30 years of practice, she is still mistaken for a court clerk when she attends court: "[The courtroom] is an area where lawyers are, that's where we are. That's our place. Yet it's not my place, apparently. And I'm seen as not belonging in this place." Huggins stresses the importance of developing and nurturing mentorship opportunities within the profession for racialized lawyers. Additionally, she states it was crucial to educate individuals who have not experienced racism, marginalization, or oppression to give them the context within which to have a meaningful discussion about anti-Black racism.

These podcast episodes are thought-provoking and important, especially given the events of this past summer in Canada and the U.S. We all must examine more closely and acknowledge explicitly the existence of systemic racism and injustice in society, and our profession, and commit to working toward change.

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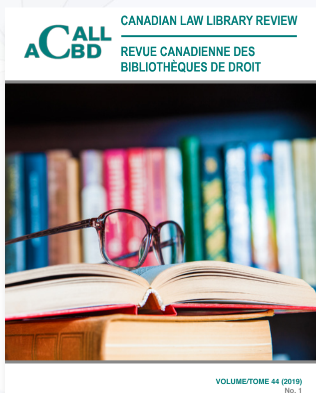

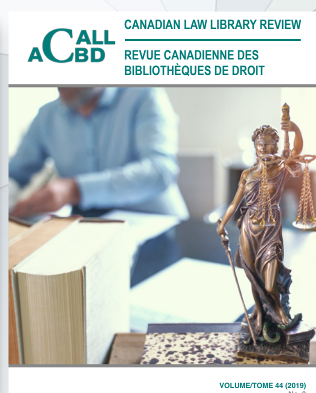

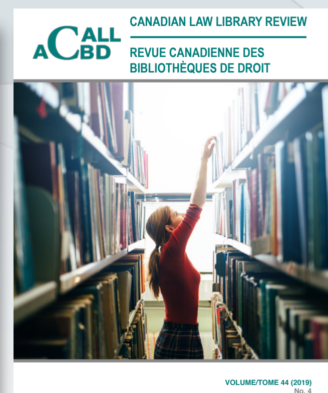

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IIII Local and Regional Updates / Mise à jour locale et régionale

By Josée Viel

Here is a quick look at what has been happening in the law library community across the country.

Note: due to COVID-19, there are very few updates to report in this issue. Stay safe!

Law Society of Newfoundland & Labrador Law Library

Like most Canadian law libraries, the Newfoundland and Labrador law libraries found themselves challenged to continue to provide library services during the mandated shutdown. The Department of Justice Law Library and the Legislative Assembly Library both shut down and went to virtual services. The Law Society of Newfoundland and Labrador Law Library (LSNL) wasn't in a position to provide remote access to our resources due to licensing; however, as the LSNL serves members all across Newfoundland and Labrador, we already offered contactless loans, a scanning service, and database/journal searching—we simply expanded these services and made our loans on circulating items 30 days. Also, we allowed members to exceed the number of permitted renewals in recognition of the fact that many members couldn't access their offices as a result of the lockdown. This was well received by members, and we had many research and reference questions during this time. The three libraries have always shared resources and assisted each other, but it was even more critical during this time.

At the end of August, the Department of Justice Law Library offered appointment-only visits with contactless pickup and returns, while everything else remained virtual as much as possible; however, they have since fully reopened. As of September 14, the Legislative Assembly Library has moved to an appointment-only access system with contactless pickup of loans. Finally, starting September 21, the LSNL will offer a 30-minute appointment system for a maximum of two members per appointment block. We will continue to offer our remote access services as well. Stay tuned!

SUBMITTED BY
JENNY THORNHILL
Law Librarian
Law Society of Newfoundland & Labrador Law Library

National Capital Association of Law Librarians

The 2018–20 term was busy for NCALL, with a robust and informative programming schedule, including talks on:

- The National Inquiry into Missing and Murdered Indigenous Women and Girls
- The drafting of Private Members' Bills
- The role of law societies in regulating freedom of expression

- Librarians who have pursued advanced studies in law
- Evidence in Action Report: an analysis of information gathering and use by Canadian parliamentarians
- Dealing with difficult client situations

We are also pleased to share that we launched our new website: ncall.ca!

Last March, like many others, NCALL member organizations were asked to work from home in the light of the COVID-19 pandemic. NCALL was a critical forum for connecting with our colleagues during this period of transition. We hosted two round-table discussions last spring via Zoom, where members shared how their libraries were adjusting services and operations due to COVID-19.

This was also an election year for NCALL. At our AGM on June 17, 2020, Hilary Lynd was elected president and Krisandra Ivings was elected treasurer for the 2020–22 term. The position of secretary remains vacant, although we have received an expression of interest, and a vote will be held at our September meeting. We welcome additional expressions of interest to ncall.ottawagatineau@gmail.com.

Also at our AGM, NCALL members voted to move our meetings online using Zoom for 2020–21. While we will miss meeting in person, this provides an opportunity to extend the invitation to legal information professionals at a distance. If you would like to receive notices of upcoming meetings, we welcome you to register for our mailing list. We hope to see you at an NCALL meeting, soon!

SUBMITTED BY
HILARY LYND
President, 2020–22
National Capital Association of Law Librarians

CALL/ACBD Research Grant

The CALL/ACBD Research Grant was established in 1996 to provide members with financial assistance to carry out research in areas of interest to members and to the association. The Committee to Promote Research manages the grant process, receiving and evaluating applications and making recommendations to the Executive Board for award of the Research Grant.

Previous applicants who were not awarded funding are welcome to reapply.

Please contact

Elizabeth Bruton
Co-Chair, CALL/ACBD Committee to Promote Research
Email: ebruton@uwo.ca

Michelle LaPorte,
Co-Chair, CALL/ACBD Committee to Promote Research
Email: mlaporte@lerners.ca

For more information.

CALL ACBD
CANADIAN ASSOCIATION OF LAW LIBRARIES
ASSOCIATION CANADIENNE DES BIBLIOTHÈQUES DE DROIT

IIII News from Further Afield / Nouvelles de l'étranger

Notes from the U.K.: London Calling

By Jackie Fishleigh*

Hi folks!

Coronavirus: "The Hammer and the Dance"

Back in March, Tomas Pueyo, a relatively unknown Spanish and French writer, engineer, and businessman, published a series of articles on COVID-19. His first piece, entitled "Coronavirus: Why You Must Act Now," was read over 40 million times on the online publishing platform Medium in the first month. It looked at the exponential growth of the outbreak of the virus worldwide.

His second viral article, "The Hammer and the Dance," advocated a method of tackling coronavirus, first with a "hammer"—i.e., aggressive measures for weeks, aka: lockdown—giving healthcare systems the time to ramp up and scientists time to research "the hell out of this thing," and for the world's testing capability to get up to speed.

Afterwards would come the "dance," which represents the months-long period between the hammer and a vaccine. During this period, Pueyo says the measures won't be the same harsh ones. While some regions will see outbreaks again, others won't for long periods of time. Depending on how cases evolve, tightening up of social distancing measures may be necessary, or we may be able to release them. These represent a dance of measures between getting our lives back on track and spreading the disease; i.e., Freedom, the Economy, and Society v. Health.

Pueyo's articles have been described as white papers on the COVID-19 pandemic. Perhaps a case of cometh the hour, cometh the man.

I'm not sure that Boris Johnson has read Pueyo's theories…

We locked down late compared to our neighbours in Europe, and there has been widespread criticism of our government's increasingly confused messaging, which has resulted from what most see as excessive flip-flopping between lockdown and opening up.

I returned to the office in early August and found the trains pretty quiet. Masks are compulsory on public transport. I am beginning to get used to wearing one. They are also compulsory in shops.

The Rule of Six has just been announced, which limits the number of people who can gather socially to just six, and with the police now enforcing it. The figure is down from 30, although I personally had no idea that I could meet up with so many others. I am playing things very safe with COVID.

There is a new ultra-simple public health mantra: *Hands. Face. Space.*

Evidence from the level of recent infections indicated young people were not following the guidelines. There have also been a number of local lockdowns. Bolton in the north of England is currently a hot spot for infection, along with Birmingham, the U.K.'s second largest city.

Testing, which we were told by Boris in early summer would be "world beating," has not lived up this boast and has been patchy—some people have been unable to get tested unless they drive hundreds of miles.

Although I am no longer as afraid as I was in March of actually catching the virus, I feel that in some ways things have got

worse in terms of there being no end in sight; i.e., a vaccine. I am currently dividing my working time between going into our office in Central London and working from home here near Epsom in Surrey. That feels odd, but I will have to get used to it as the "new normal."

Exam Grades Fiasco

While education is obviously highly important, it doesn't often dominate our lives in the way it did this summer. The BBC's special correspondent, Branwen Jeffreys, was on our screens daily as the furore built up steam.

Given that GCSE and A-level exam sittings for 16 and 18 year olds were abruptly cancelled due to COVID, fairly measuring school students' levels of attainment was never going to be straightforward. A controversial algorithm was used, rather than teacher assessments. This resulted in nearly 40 per cent of A-level marks being downgraded in England, with private schools faring noticeable better than state comprehensives. One pupil, 18-year-old Holly Barber from Bradford, was downgraded from AAA to BCE.

After an outcry from pupils, parents, and schools, beleaguered Education Secretary Gavin Williamson performed a U-turn, and teacher estimates were used rather than the algorithm. This was announced on 18th August. Rather than resign, Williamson quickly shifted the blame onto Ofqual (Office of Qualifications and Examinations Regulation), which regulates qualifications, examinations, and assessments in England. A week later, Ofqual's chief regulator, Sally Collier, resigned.

Brexit: Finally Back on the Agenda

It took a global pandemic to wipe out Brexit from practically everyone's minds for a whole six months, but eventually it had to resurface, and in the past week or so it has emerged like a whale breaching out of the ocean!

Some things don't change, and a spokesman for Sinn Fein, a major political party in Northern Ireland, was on TV recently saying that the nation still wished to remain in the E.U.! In London, where 60 per cent voted to stay, the vast majority now reluctantly accept the decision and are braced for whatever this historic fork in the road brings. Maybe being outside the E.U. during the pandemic and its aftermath might have some advantages.

The PM is currently urging MPs to back a plan to override the *Brexit Withdrawal Agreement*. This proposed breach of the international treaty that established the terms for U.K. withdrawal from the E.U. was openly admitted to in the Commons by Northern Ireland secretary Brandon Lewis on 8th September, who described the breach as being very limited.

Senior lawyers have been queuing up to express their disapproval. The head of the U.K. government legal department resigned over the issue last week. Even Brexiteer former Attorney General Geoffrey Cox said that the government had crossed an important boundary. Meanwhile, the current Attorney-General, Suella Braverman, who is an unabashed cheerleader for Brexit, was described by Nick Cohen harshly in a *Guardian* opinion piece on the 12th September as Boris's "useful idiot."

Justice Secretary Robert Buckland has said he would resign if the law was "broken in a way I find unacceptable."

Former Prime Ministers Theresa May, David Cameron, Gordon Brown, Tony Blair, and John Major have all criticised the potential breach. This is noteworthy, partly because it is generally the case that former PMs keep out of current politics, but mainly because they come from both the Conservative and Labour parties.

I was just watching a lengthy item on BBC Breakfast that explored the issue in some detail. Constitutional law with your cornflakes!

Sir Bob Neill, Chair of the Justice Select Committee, explained that the 2nd reading and vote on the controversial bill will be held tonight (14 September). Meanwhile, Sir Desmond Swayne, a Tory MP in the New Forest, said that the idea of this being a breach of international law was nonsense. He said it was just a protection that was already in the *Withdrawal Act* and that would only be used if the behaviour of the E.U. proved to be unacceptable at a later stage.

I am attending a Lexis webinar on Brexit later this month, which should get me up to speed on the impact on legislation and how things are progressing towards our exit from the E.U. at the end of this year! *Yes, we really are leaving!*

Helen's Law

A new criminal law is moving closer to the statute book. It will deny killers parole if they will not reveal the location of their victims, so that their loved ones can give them a proper burial.

Twenty-two-year-old Helen McCourt was murdered on her way home from work in 1988. Her killer, Ian Simms, was released from prison in February. He has refused to say where he buried her, despite pleas from her mother, Marie McCourt, who has spent £40,000 on legal fees to fight the battle to make former pub landlord Simms tell her where her daughter's body is before he can be released.

Mrs McCourt, who campaigned for the new law, said, "To take a life is bad enough, but to then hide the body and refuse to disclose where it can be found is an act of pure evil." She started her petition and lobbying of the Ministry of Justice (MOJ) at the same time as a similar initiative in Australia, where five out of six states now have a "no body, no parole" law.

Environment: Still the Elephant in the Room

While most of the world has been distracted by COVID-19, nonagenarian Sir David Attenborough has produced a new documentary, which premiered on TV last night! *Extinction: The Facts* looks at how man's interaction with nature has driven this extinction.

We are told that it has been known for over 25 years that exploitation of the environment would lead to a pandemic. This occurs because the destruction of the larger species facilitates the uncontrolled growth in numbers of smaller bodied animals

that live densely and spread disease (e.g., rats and bats). This is in turn passed onto humans through excessive and undesirable contact (e.g., illegal animal trading).

Apparently, five new diseases emerge each year, and there is likely to be a pandemic each decade, which will have a terrible impact on the economy.

We need to change the way we run our economies, the documentary tells us. Having wasted the past 25 years, the threats we face are very serious. Will we finally change our course? We need to change the damage we do from producing and consuming. We need to make a profit, yet still conserve nature. We need to think more about consumption and demand that food is produced sustainably. We need to educate children about how nature works. The planet is an integral part of our existence. Our generation must act. We must not walk this tragic road of extinction.

On a positive note, a mountain gorilla called Poppy, who Sir David memorably met years ago in Rwanda when the gorilla population numbers were as low as 250, led a long life and is survived by a daughter and a granddaughter! In the local area, no more land has been converted to agriculture, there are many locals employed as custodians, and the population has recovered to over 1,000 mountain gorillas! Tourists contribute to keeping these beautiful creatures safe and flourishing within the supportive local community.

Until next time, stay safe!

Jackie

Letter from Australia

By Margaret Hutchison**

Dear all,

Well, it's spring here, and it's all still the same.

COVID-19: Second Wave

Melbourne, the capital of Victoria, went back into hard lockdown (Stage 4) in early August, while the rest of the state is in Stage 3 lockdown due to a second wave. This means Melburnians have not only reductions of staff numbers at businesses and an 8:00 p.m.–5:00 a.m. curfew, but people can only leave their home for one hour of exercise or food shopping and are required to remain within five kilometres from their home, with some exceptions such as going for medical treatment. The wearing of masks is compulsory, and most shops, except supermarkets, pet shops, and food and liquor stores, are closed, though restaurants and cafés are open for takeaway and delivery between 5:00 a.m. and 8:00 p.m.

The government tried to lock down specific suburbs and large government housing towers, but there were too many cases with unexplained sources. Most of the cases have been linked, through genomics, back to seven returned travellers who were quarantined in three different rooms at two hotels with the virus being passed on to the wider community by the hired security guards and hotel employees. The first case has been found of a link between hotel quarantine and cases at aged care homes through a security guard who shared a house with an aged care worker. More than 550 elderly Victorians have died in the past nine weeks after contracting the virus in an aged care home, which has caused extreme anguish. The whole establishment and management of the hotel quarantine system for returning travellers is the subject of a Board of Inquiry headed by a retired coroner. Evidence so far appears to have been quite a lot of "did not, did so" for various matters, such as the offer of defence personnel to guard the hotel floors, rather than hired security guards and complete confusion as to who was in charge of what.

The closed borders between the various Australian states and territories and resultant inter-state sniping has been rocking the Federation somewhat. Queensland closed its borders with New South Wales on 8 August and, in the latest public spat, refused to let a Canberra resident out of hotel quarantine to attend her father's funeral. That caused a major media storm and prime ministerial phone calls, to no avail.

Virtual Court

The High Court justices, who are Melbourne-based, can be seen during sittings wearing masks. The High Court is hearing matters virtually, with a great deal of stress for our IT section and Registry. It's the legal version of Zoom backgrounds; the walls of the rooms where counsel are appearing are interesting. I'm becoming familiar with the set of *All England Law Reports* behind Bret Walker SC, a leading barrister from New South Wales. Other barristers have had their juniors and instructing solicitors squashed at one table (no social distancing there), and there's been a very large modern interpretation of a mediaeval painting on a wall, but no children or pets interrupting. The Federal Court had been using virtual hearings for some time, so it switched quite easily.

The Federal Parliament has gone "remote" for its most recent sitting. Victorian MPs and Senators who attended Parliament in person had to quarantine in Canberra for two weeks before, and all Queensland politicians will have to quarantine for two weeks after the sitting. Those members who are not attending can participate in debates via a secure connection from their electorate offices. However, they cannot vote on bills or in divisions, their presence is not counted in a quorum, and it is rare for them even to manage to unmute their microphones to deliver an interjection.

They are, however, covered by parliamentary privilege, granting them an ultimate form of freedom of speech, safe from threat of legal action for libel. It is an extension of the rights afforded to parliamentary committees that have been conducted by telephone and videoconferencing since the 1990s.

Election Time, Sans Sausages

It's worth noting that Queensland and Western Australia both have state elections in October. So expect border closure relaxations to come after those elections. It's also election time in the ACT, and the corflutes (polyethylene election signs) have sprung up like weeds along the major roads. At least one advantage to the visual pollution will be that people

will realise there is an election and that they must vote. The ACT Electoral Commission is encouraging people to vote early with many more pre-polling places with longer hours than in other years.

However, there are no democracy sausages this year at the ACT elections. The ACT Electoral Commissioner has strongly discouraged sausage sizzles for fundraising anywhere near the territory's 82 voting locations, and the ACT Education Directorate has told school parents and citizens groups they should not hold fundraisers near voting sites in the territory's schools based on the strong advice of the ACT chief health officer.

Bushfires: Royal Commission Report & Barber's Funds

To change topic from COVID-19, the Royal Commission into the summer's bushfires published its interim observations in late August. The final report is due on 28 October, just in time for the next fire season, though bushfires have already occurred in northern New South Wales. There were no recommendations in the interim report, though it highlighted the need for more research into hazard reduction burns while warning of the increased risk of more frequent and intense natural disasters over coming decades. It also raised the prospect of using the national cabinet to manage future natural disasters, as well as the establishment of a national disaster agency that could coordinate any response, recovery, and resilience building. The Commission also called for the immediate rollout of a new national emergency warning system, which has been in development for six years, after the Royal Commission heard evidence that terms like "watch and act" had been confusing to those in the line of fire.

A Private Member's bill, entitled *Rural Fires Amendment (NSW RFS and Brigades Donations Fund) Bill 2020*, was introduced into the New South Wales Legislative Council in early June to override the conditions of the NSW Rural Fire Service and Brigades Donations Fund and allow the money to be donated more widely. This is in response to the issue of the vast amount of money raised worldwide by Celeste Barber being retained by the NSW Rural Fire Service. It was referred to the NSW Parliament Legislation Review Committee in June and was referred back to the Parliament and restored to the Upper House Notice Paper in early August. Whether it will go any further is unknown—the NSW Legislative Council is not exactly active.

Clive Palmer vs. the High Court

To come full circle, Australia's version of Donald Trump, mining magnate Clive Palmer, is gearing up for several High Court cases. The first, to be heard in November, is a challenge to a specific act (the *Mineralogy Act*) passed in two days by the Western Australian Parliament to try to stop Palmer from collecting about $30 billion in damages from the state. The WA Premier Mark McGowan argues such a hefty bill risks bankrupting WA. While the so-called *Mineralogy Act* passed state parliament in just two days, it is far from straightforward.

This dispute dates back to 2012 and concerns an iron ore project in the Pilbara. Palmer has argued that his development proposals for the Balmoral South iron ore project were unlawfully refused by the previous state government, under former premier Colin Barnett, and he is reportedly seeking about $30 billion in damages.

In mid-August, the state government passed the *Mineralogy Act* to terminate the damages claims against it. Before this, Palmer and his companies, including Mineralogy, had been pursuing these claims through arbitration, a dispute resolution process that happens outside the courts. This arbitration was about whether the WA government properly dealt with proposals Palmer's companies made under a 2002 agreement.

The *Mineralogy Act* seeks to terminate the arbitration for the reported $30 billion claims. It also invalidates existing arbitral awards, which are decisions determining parties' rights and liabilities.

In the other matter, earlier this year, Clive Palmer was denied a travel exemption on 22 May after Western Australia closed its borders to non-exempt travellers on 5 April. Palmer then filed a challenge to the constitutional validity of the WA Chief Medical Officer's Directions in the High Court, arguing that the Directions contravene section 92 of the Australian Constitution. Section 92 says trade and commerce among the states and the movement of people across state borders shall be "absolutely free." While this section appears straightforward, interpretation of the phrase "absolutely free" has caused the greatest amount of constitutional stoushes in the High Court.

Palmer's challenge in the High Court to the validity of the Directions will depend chiefly upon an argument that the decision to close the WA border is not reasonably necessary in the WA government's response to COVID-19. However, the High Court has previously recognised that laws that are reasonably necessary to achieve another legitimate end, such as protecting public health, may impede the movement of people or goods across state borders. Most Australians will be familiar with having to dispose of fruit at state borders to stop the spread of fruit flies.

To start with, this matter was remitted to the Federal Court for determination of the facts. The Federal Court found that the state's border restrictions have been effective in reducing the probability of COVID-19 being imported into Western Australia from interstate and other methods, such as replacing border restrictions with mandatory hotel quarantining, were not practical because Western Australia could not safely manage such numbers in hotel quarantine. Other public hygiene measures, such as mandatory face masks and testing, would be less effective than border restrictions in preventing COVID-19 from being imported into Western Australia.

When the High Court considers the constitutional issue, it will take broader matters, such as economic factors, into consideration in the application of section 92. Another wild card factor is that the factual situation keeps changing. By the time the High Court hears this case, probably early next

year, the situation is likely to have changed again. There are two judges retiring soon, one in December 2020 and the other in March 2021, and for a major constitutional matter such as this, it's best to have all seven judges sitting. That is, if it goes ahead at all, which is quite possible if the borders open again.

Spring has Sprung

So until next time, here is a spring photo from earlier years. This garden is not open this year (guess why), and the annual Floriade Festival has spread into little beds throughout Canberra rather than one big display.

Margaret

The U.S. Legal Landscape: News from Across the Border

By Sarah Reis***

Hello! I am excited to serve as your new U.S. correspondent and take over this column from Julienne Grant, who has set the bar high during her five-year tenure. I am the Foreign & International Law Librarian at Northwestern Pritzker School of Law, which is located in downtown Chicago. I plan to continue Julienne's great work of providing you with updates about U.S. law libraries as well as recent developments in law schools, law firms, courts, and other law-related miscellany from the United States.

I am writing this letter at the start of a new academic year that has been unlike any other. My law school—like most across the country—is primarily offering remote classes during the fall semester. I will continue to work mostly from home this semester, too. I am grateful that my library and university are prioritizing safety and health of students, staff, and faculty, but it's sad not to be able to meet the new law students in person. Although universities across the country had hoped to resume in-person instruction during the fall semester, it became clear over the summer that the United States does not have sufficient testing available nor a strong enough federal response to keep the number of COVID cases under control to make this possible.

But we have hope that things can improve in this country soon. By the time this issue is published, we will be a few days away from the U.S. presidential election. Perhaps when you read this letter, the election results are already known. The 2020 election is probably the most important election in many Americans' lifetimes. Not only are we deciding who will continue to lead our country's federal response to the COVID-19 crisis, but the balance of the Supreme Court is at stake, too. Some justices will likely need to retire and be replaced with new appointments at some point in the next four years. Our democracy is on the line, and the outcome of this election will affect the rest of the world.

Bar Exam & Diploma Privilege

The bar exam is offered two times a year (once in February and once in July) in most jurisdictions. But this year, many states needed to postpone their July 2020 bar exams due to the ongoing pandemic. The National Conference of Bar Examiners compiled an exam status table for the July 2020 bar exam in each jurisdiction. States differed in their responses: some held the exam in July, some moved to an online format, some postponed the exam, some granted petitions or requests for emergency diploma privilege, and others expanded or adopted a supervised or provisional practice rule. States that offered a diploma privilege option (as of September 1) included Louisiana, Oregon, Utah, and Washington.

Due to various alternative testing dates offered in several jurisdictions, 5,678 examinees in 23 jurisdictions sat for the Multistate Bar Examination in July 2020, which is significantly fewer than the number of examinees who sat for the MBE in July 2019 (45,334 examinees in 54 jurisdictions), according to data released by the NCBE.

Law Schools

Most law schools announced that they would be offering classes in remote or hybrid formats during the fall semester because of our country's failure to contain COVID-19. For the top 3 law schools, Harvard Law School announced in early June that the fall semester would be online, Yale Law School began the fall semester in late August with a hybrid model, and Stanford Law School developed a hybrid model for the 2020 autumn quarter.

Some universities attempted to open campuses back up to all students for in-person learning but were forced to quickly shift to remote learning (at least for undergraduates) as COVID-19 cases rose on campuses at alarming rates in August. The University of North Carolina at Chapel Hill was one of the first large universities that had to quickly reverse plans for in-person learning.

At the ABA annual meeting, the American Bar Association's House of Delegates approved revisions to the ABA Standards and Rules of Procedure for Approval of Law Schools, authorizing the Council to give law schools the flexibility to respond to extraordinary circumstances such as the COVID-19 pandemic by providing temporary relief from a rule or the requirements of a standard if necessary.

In a short-sighted effort to force universities to reopen for in-person learning for the 2020/21 academic year, U.S. Immigration and Customs Enforcement (ICE) announced new guidance on July 6 that would require international students to take some in-person classes in order for them to remain in the United States. In response, many universities and states filed lawsuits to block this new rule from taking effect. The policy would have put international students at risk of being deported if universities were forced to shift to remote learning during the semester. As a result of these lawsuits, ICE rescinded the July 6 guidance and indicated that the Student and Exchange Visitor Program (SEVP) guidance issued in March 2020 would continue during the fall term.

ALA & AALL

Both ALA and AALL had to cancel their in-person annual meetings this summer, which were scheduled to take place in Chicago and New Orleans, respectively. Both conferences were replaced with virtual formats. ALA announced that its Midwinter Meeting, scheduled for January 2021, will be held virtually.

Law Firms & Legal Profession

Many law firms shortened, cancelled, or switched their summer associate programs to a virtual format. Meanwhile, lawyers and staff are continuing to experience salary cuts, furloughs, and layoffs at law firms and other legal employers, but some law firms have announced salary cut reversals and performance bonuses.

On-campus Interviews (OCI) season, which usually occurs in August, has been postponed to December 2020 or early 2021 at most law schools. For example, OCI at Harvard Law School is now scheduled to take place remotely in January 2021. Many law schools adopted a pass/fail grading policy for the spring 2020 semester due to the abrupt shift to remote learning, so the fall semester gives employers the opportunity to see another semester's worth of grades for students.

SCOTUS

The U.S. Supreme Court finished issuing opinions for October Term 2019 in July. Typically, the Supreme Court finishes handing down decisions by late June and is in recess starting in late June or early July, but the closure of the court building this spring postponed oral arguments for several cases until May.

In July, the Supreme Court issued opinions for Trump's two tax return cases. The Supreme Court split on these cases. In *Trump v Vance*, the Supreme Court rejected Trump's claim that he is immune from state criminal subpoenas and upheld the authority of New York state prosecutors to access Trump's tax returns and financial records. In *Trump v Mazars USA, LLP*, the Supreme Court held that the lower courts did not sufficiently consider separation-of-powers concerns implicated by congressional subpoenas, so the matter was sent back to lower courts. The effect of these two rulings is that Trump can continue to run out the clock, which makes it extremely unlikely that the public will get to see his tax returns before Election Day.

October Term 2020 begins on October 5, the first Monday in October. Oral arguments for *California v Texas*, 19-840, which addresses the validity of provisions in the *Affordable Care Act* (Obamacare), including protections for people with pre-existing conditions, are scheduled for the week after the election.

Court Cases Affecting Libraries & the Legal Profession

PACER, maintained by the Administrative Office of the U.S. Courts, provides electronic public access to federal court records. The U.S. Court of Appeals for the Federal Circuit ruled in *National Veterans Legal Services Program v United States* that the federal judiciary can only use PACER fees for expenses incurred in providing public access to federal electronic docketing information, not for courtroom technology and unrelated expenditures.

The Internet Archive, an American non-profit organization well known for its Wayback Machine, launched the National Emergency Library on March 24, 2020, and closed it on June 17, 2020. The National Emergency Library provided temporary access to scanned books to support emergency remote teaching, scholarship, and research activities during the time when most universities, libraries, and schools were closed due to COVID-19. However, because many of the books in the collection are still protected by U.S. copyright law, a group of publishers, including Hachette, HarperCollins, Wiley, and Penguin Random House, filed a complaint in the U.S. District Court for the Southern District of New York against the Internet Archive, demanding injunctions and damages. The Internet Archive filed its answer and affirmative defenses to the complaint in late July to defend the Controlled Digital Lending program, arguing that access to library books via Controlled Digital Lending is at stake in the lawsuit.

Court Cases Affecting Libraries & the Legal Profession

The 2020 U.S. presidential election is scheduled for November 3, 2020. COVID-19 makes voting in person a risk to health and safety, so an unprecedented high volume of ballots is expected to be cast by mail. States vary in their early voting laws, and several states have implemented temporary changes for absentee and mail voting policies applicable only for the 2020 Election.

The Democratic National Convention was held in a virtual format in August. Former Vice President Joe Biden accepted the Democratic nomination. Biden has selected Senator Kamala Harris as his running mate, who is the first Black woman and South Asian woman on a major party's

presidential ticket. The Republican National Convention was held in a hybrid format in August. Trump formally became the Republican presidential nominee and Pence accepted the Republican VP nomination.

In letters sent to 46 states and the District of Columbia, the United States Postal Service (USPS) warned that it may not be able to meet mail-in ballot deadlines and could not guarantee mail-in ballots would be counted. Louis DeJoy, who was appointed by the Governors of the Postal Service (all of whom were filled by Trump), took over as Postmaster General of the United States in June 2020. DeJoy implemented numerous operational changes, including removing mail-sorting machines, changing delivery policies, and making significant cuts to overtime, which has caused significant disruption to our postal service. The House Oversight Committee issued a subpoena to DeJoy to testify about the widespread delays in mail and potential delays for election mail, and he testified at a hearing on August 24.

Election Day, which occurs on the Tuesday following the first Monday in November, is not a national holiday in the United States, which has historically resulted in low voter turnout. This year, many states are facing a massive shortage of poll workers to staff in-person voting sites due to COVID-19. Some corporations have announced that they will pay their employees who serve as poll workers to help fill the shortage.

Miscellaneous News

The 21st edition of *The Bluebook: A Uniform System of Citation* was released in late July. One of the major changes is that Table 2 (Foreign Jurisdictions) no longer appears in the print version, but is now available online for free and will be updated on an ongoing basis.

In a historic protest for racial justice, many professional athletes in the NBA, WNBA, MLS, MLB, and other sports leagues went on strike and refused to play games on August 26 following the shooting of Jacob Blake, a Black man, by a white police officer in Kenosha, Wisconsin. As part of an agreement to resume playoffs, the NBA and its players agreed to convert NBA arenas and facilities as polling places in the upcoming general election.

The federal government failed to change or extend the supplemental unemployment benefits created under the *CARES Act* that was passed and signed into law on March 27. Consequently, the additional $600/week in federal unemployment benefits that helped support individuals unemployed because of COVID-19 lockdowns expired at the end of July.

The effects of climate change are also becoming increasingly apparent during hurricane and wildfire season. Devastating wildfires have ravaged much of the west coast, which has resulted in several deaths, millions of burned acres of land, heavy smoke, poor air quality, and apocalyptic orange and red skies throughout California, Oregon, and Washington. Meanwhile, hurricanes and tropical storms from the Atlantic pose dangerous threats to those who live in various parts of the eastern and southern United States. Trump has repeatedly denied the reality of climate change, but California Governor Gavin Newsom told Trump, “Climate change is real” when they met during a wildfire briefing in September.

I hope to have some happier news to report in my next column as 2020 winds down. Until next time!

Sarah

* *Jackie Fishleigh, Library and Information Manager, Payne Hicks Beach.*
** *Margaret Hutchison, Manager of Technical Services and Collection Development at the High Court of Australia .*
*** *Sarah Reis, Foreign & International Law Librarian, Pritzker Legal Research Center, Northwestern Pritzker School of Law, Chicago, IL*

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 bibliotheques de droit is indexed in the Index to Canadian Legal Literature, Index to Canadian Legal Periodical Literature, Legal Information and Management Index, Index to Canadian Periodical Literature, and Library and Information Science Abstracts.

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

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

L'Association ne peut rémunérer les auteurs et auteures pour leurs contributions. L'Association canadienne des bibliothèques de droit n'assume aucune responsabilité pour les opinions exprimées par les collaborateurs et collaboratrices ou par les annonceurs dans les publications qui émanent de l'Association. Les opinions éditoriales ne reflètent pas nécessairement la position officielle de l'Association.

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

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Les articles sont indexés selon la langue d'origine. Les vedettes matières sont tirées du *Library of Congress Subject Headings*. Les mentions « voir aussi » sont établies entre les vedettes françaises et anglaises si l'article a été publié dans les deux langues et les mentions « voir » sont établies, le cas échéant, entre une vedette française et une vedette anglaise ou vice versa. Les titres des articles et des rubriques sont en caractères gras, les titres des livres et autres publications sont en *italique*. Les recensions sont indexées selon le nom du lecteur critique , ainsi que selon le nom de l'auteur et le titre de l'ouvrage sous la rubrique **Reviews/Recensions**.

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Please contact

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