ACALL ACBD

CANADIAN LAW LIBRARY REVIEW

REVUE CANADIENNE DES BIBLIOTHÈQUES DE DROIT

VOLUME/TOME 44 (2019)
No. 3

IIII CONTENTS / SOMMAIRE

4 **From the Editor**
De la rédactrice

6 **President's Message**
Le mot de la présidente

8 **Featured Articles**
Articles de fond

Building a Monument in the Mind: Comparing Early Modern and Contemporary Legal Reading through Sir John Dodderidge's The English Lawyer *and Glanville Williams's* Learning the Law 8
By Amy Kaufman

What's Race Got to Do with It? Law Librarians, Race, and the Reference Desk 16
By Lynie Awywen

24 **Reviews**
Recensions
Edited by Kim Clarke and Elizabeth Bruton

Administrative Law in Practice: Principles and Advocacy 24
Reviewed by Christine Watson

Canada's Chief Justice: Beverley McLachlin's Legacy of Law and Leadership 25
Reviewed by Katie Cuyler

The Challenge of Children's Rights for Canada 25
Reviewed by Jennifer Walker

The Fundamentals of Statutory Interpretation 26
Reviewed by Erica Anderson

Impaired Driving and Other Criminal Code Driving Offences: A Practitioner's Handbook 27
Reviewed by Lori O'Connor, LLB, MLIS

Non-Conventional Copyright: Do New and Atypical Works Deserve Protection? 28
Reviewed by Laura Lemmens, BA BEd MLIS

Quasi-constitutional Laws of Canada 28
Reviewed by Heather Wylie

Prosecuting and Defending Offences against Children: A Practitioner's Handbook 29
Reviewed by Jenny Thornhill, MSc, MLIS, MSL

Racial Profiling and Human Rights in Canada: The New Legal Landscape. 29
Reviewed by Paul F. McKenna

31 **Bibliographic Notes**
Chronique bibliographique
By Nancy Feeney

33 **Local and Regional Updates**
Mise à jour locale et régionale
By Jonathan Leroux

35 **News From Further Afield**
Nouvelles de l'étranger

Notes from the U.K.: London Calling 35
By Jackie Fishleigh

Letter from Australia 37
By Margaret Hutchison

The U.S. Legal Landscape: News From Across the Border 39
By Julienne E. Grant

CITED AS Can L Libr Rev

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

CITÉ Rev can bibl dr

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

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

IIII EDITORIAL BOARD / COMITÉ DE RÉDACTION

NIKKI TANNER
EDITOR
RÉDACTRICE EN CHEF
Reference / Instruction Librarian
Gerard V. La Forest Law Library
University of New Brunswick
E-mail: nikki.tanner@unb.ca

HANNAH STEEVES
FEATURES EDITOR
RÉDACTRICE DE CHRONIQUES
Instruction & Reference Librarian
Sir James Dunn Law Library
Dalhousie University
E-mail: hannah.steeves@dal.ca

STEF ALEXANDRU
FEATURES EDITOR
RÉDACTRICE DE CHRONIQUES
Librarian
Lawson Lundell LLP
E-mail: salexandru@lawsonlundell.com

NANCY FEENEY
COLUMN EDITOR
BIBLIOGRAPHIC NOTES
RESPONSABLE DE LA RUBRIQUE
CHRONIQUE BIBLIOGRAPHIQUE
Manager, Research Librarian
Borden Ladner Gervais LLP
E-mail: nfeeney@blg.com

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

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

JONATHAN LEROUX
COLUMN EDITOR
LOCAL AND REGIONAL UPDATES
RESPONSABLE DE RUBRIQUE MISE À JOUR LOCALE ET RÉGIONALE
Librarian, Lillian H. Smith branch
Toronto Public Libraries
E-mail: jonleroux00@gmail.com

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

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

ELIZABETH BRUTON
BOOK REVIEW EDITOR
RÉDACTRICE DE LA REVUE DE LIVRES
Associate Librarian
Western University
E-mail: ebruton@uwo.ca

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

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

JULIA BREWSTER
ADVERTISING MANAGER
DIRECTRICE DE LA PUBLICITÉ
Manager, User Experiences, Programs & Partnership
Alberta Law Libraries
E-mail: julia.brewster@just.gov.ab.ca

ZUOTIAN WANG
ADVERTISING MANAGER
DIRECTEUR DE LA PUBLICITÉ
User Services, Collections Technician
University of Toronto Scarborough Library
E-mail: zuotian.wang@utoronto.ca

Deadlines / Dates de tombée

Issue	Articles	Advertisement Reservation / Réservation de publicité	Publication Date / Date de publication
no. 1	December 15/15 décembre	December 15/15 décembre	February 1/1er février
no. 2	March 15/15 mars	February 15/15 février	May 1/1er mai
no. 3	June 15/15 juin	May 15/15 mai	August 1/1er août
no. 4	September 15/15 septembre	August 15/15 août	November 1/1er novembre

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

CALL National Office/Secrétariat ACBD
411 Richmond St. East, Toronto, ON, M5A 3S5
Telephone: (647) 346 – 8723
Fax/Télécopieur: (416) 929 – 5256
E-Mail: office@callacbd.ca

CALL ACBD
CANADIAN ASSOCIATION OF LAW LIBRARIES
ASSOCIATION CANADIENNE DES BIBLIOTHÈQUES DE DROIT
Developing and Supporting Legal Information Specialists
Perfectionnement et soutien des spécialistes de l'information juridique

IIII From the Editor / De la rédactrice

I hope everyone enjoyed the CALL/ACBD conference. I'm sorry I missed it! I'm especially sorry that I was unable to acknowledge Victoria Baranow as the recipient of this year's Feature Article Award for her article "Reflections in the Fishbowl: The Changing Role of Law Librarians in the Mix of an Evolving Legal Profession." Her article was published not only in *CLLR* 43:1 but also in the British and Irish Association of Law Libraries' journal *Legal Information Management* the following October. Congratulations, Victoria! And thanks to feature editor Stef Alexandru for representing *CLLR* at the awards luncheon.

I'd like to extend a special welcome to new CALL/ACBD president Shaunna Mireau. In her letter, Shaunna talks about some of the important things we do, including acting as intervenors in Supreme Court cases. She has plans for us to take over the world, which sounds good to me—the world could use more justice. Welcome, Shaunna!

I want to take a moment to give a shout out to our foreign correspondents: Jackie Fishleigh (U.K.), Margaret Hutchinson (Australia), and Julienne E. Grant (U.S.). Every issue, they update us on politics and case law from their respective countries and give us the inside scoop on the soap opera that is Brexit, Australia's rotating prime ministers, and what's new in Trump's America, among other topics. It's never a dull moment, for sure—although I look forward to dull moments in the future!

This issue's first feature article, "Building a Monument in the Mind: Comparing Early Modern and Contemporary Legal Reading through Sir John Dodderidge's *The English Lawyer* and Glanville Williams's *Learning the Law*," is by Amy Kaufman, head law librarian at Queen's. She compares two seminal legal research textbooks—one from 1631, the other from 2006—that teach law students how to "think like lawyers." It's interesting to see not only what has changed but also what has remained the same in the 375 years between the two publications. I hope you enjoy it.

Also featured in this issue is "What's Race Got to Do with It? Law Librarians, Race, and the Reference Desk," an important article from MI student Lynie Awywen. Originally written for the legal literature and librarianship course at the University of Toronto, the article points out how white our profession is and how we all need to do better when it comes to race and reference services. Lynie states that her interest in law librarianship stems from wanting to "serve all patrons, from marginalized communities and beyond," and I have a feeling many of us have a similar origin story. Her article is a must-read.

We're living in tumultuous and frightening times where some of the darkest parts of our history seem to be repeating themselves. I honestly never thought I'd see concentration camps exist in my lifetime, especially in North America, but here we are. However, I recognize that my privilege is showing and things have never been sunshine and roses for a large part of the population; like many, I'm just seeing behind the curtain now. Some of us work in buildings named after historical figures with ties to slavery and/or residential schools, or live in cities with monuments to men who tried to wipe out an entire group of people. When we lift that curtain and see how unequal our society actually is, we can't unsee it: instead, we have an obligation to change it. Articles like Lynie's, the authors she cites, and CALL/ACBD's Diversity, Inclusion and Decolonization Committee are good starting points, but they're definitely not the finish line.

Now more than ever, librarians are important figures, as we uphold the truth and fight against misinformation. Thankfully, as *law* librarians, we're extra equipped to help defend justice. But we need to do more to ensure that we're effectively serving all of our clients, regardless of race, sexual orientation, gender identity, or abilities. A good start is following Lynie's

advice in her article and also incorporating the Truth and Reconciliation Commission's recommendations into our lives, inside and outside of our work. In this day and age, there's no excuse—we need to get over our discomfort when it comes to talking about race; admit our shortcomings; be willing to learn, without requiring people of colour and other marginalized groups to explain everything to us; and *listen* when these groups tell us their lived experiences.

I often look at the younger generation, usually via my nieces who frequently stand up to bullies and racism in their school, and I think we're in good hands. What I had to have pointed out to me is already common knowledge to them, and they won't stand for it. In the years to come, I look forward to meeting the next generation of law librarians ready to take up the fight.

Until next time,

EDITOR
NIKKI TANNER

J'espère que tout le monde a apprécié la conférence de CALL/ACBD. Je suis désolée de l'avoir manquée ! Je suis particulièrement désolée de n'avoir pas été en mesure de reconnaître Victoria Baranow comme récipiendaire du « Prix du meilleur article de fond » de cette année pour son article intitulé « Reflections in the Fishbowl: The Changing Role of Law Librarians in the Mix of an Evolving Legal Profession » publié non seulement dans *CLLR* 43: 1, mais également dans la revue « Legal Information Management » de la « British & Irish Association of Law Libraries » en octobre dernier. Félicitations, Victoria ! Et un merci tout spécial au rédacteur en chef Stef Alexandru pour avoir représenté *CLLR/RCBD* au déjeuner de remise des prix.

J'aimerais souhaiter la bienvenue à la nouvelle présidente de CALL/ACBD, Shaunna Mireau. Dans sa lettre, Shaunna parle de certaines de nos tâches importantes, notamment celle d'agir en tant qu'intervenants dans des causes présentées devant la Cour suprême. Elle a prévu de conquérir le monde, ce qui me semble bien : le monde pourrait utiliser plus de justice. Bienvenue, Shaunna!

Je voudrais prendre un moment pour souligner la contribution de nos correspondants à l'étranger: Jackie Fishleigh (Royaume-Uni), Margaret Hutchinson (Australie) et Julienne E. Grant (États-Unis). À chaque numéro, ils nous informent sur la politique et la jurisprudence rendue dans leurs pays respectifs et nous donnent un aperçu du feuilleton qu'est le Brexit, de la rotation des premiers ministres australiens, et des nouveautés mises sur pied par Trump, entre autres sujets. Ce n'est jamais un moment d'ennui, même si j'attends avec impatience des jours d'ennui!

Le premier article de ce numéro, « Building a Monument in the Mind: Comparing Early Modern and Contemporary Legal Reading through Sir John Dodderidge's *The English Lawyer* and Glanville Williams's *Learning the Law* » a été écrit par Amy Kaufman, bibliothécaire responsable de la Bibliothèque de droit à Queen's. Elle compare deux manuels fondamentaux de recherche juridique, l'un de 1631 et l'autre de 2006, qui enseignent aux étudiants en droit comment « penser comme des avocats ». Il est intéressant de voir non seulement ce qui a changé, mais également ce qui est demeuré semblable pendant les 375 années qui séparent ces deux publications. J'espère que cela vous plaira.

Dans ce numéro, vous trouverez également «What's Race Got to Do with It? Law Librarians, Race, and the Reference Desk », un article important de Lynie Awywen, étudiante à la MI. Rédigé à l'origine pour le cours de littérature juridique et de bibliothéconomie de l'Université de Toronto, cet article souligne à quel point notre profession est blanche et qu'il nous faut tous faire mieux quand il s'agit de race et des services de référence. Lynie déclare que son intérêt pour la bibliothéconomie du droit découle de sa volonté de « servir tous les clients, des communautés marginalisées et au-delà », et j'ai le sentiment que beaucoup d'entre nous partagent cet intérêt. Son article est une lecture incontournable.

Nous vivons à une époque tumultueuse et effrayante où certaines des parties les plus sombres de notre histoire semblent se répéter. Honnêtement, je n'avais jamais pensé voir des camps de concentration exister de mon vivant, surtout en Amérique du Nord, mais nous y sommes. Cependant, je reconnais que mon privilège est visible et que les choses n'ont jamais été aussi radieuses et ensoleillées pour une grande partie de la population ; comme beaucoup, je vois maintenant derrière le rideau. Certains d'entre nous travaillent dans des bâtiments nommés d'après des personnalités historiques ayant des liens avec l'esclavage et/ou des pensionnats, ou vivent dans des villes où il y a des monuments dédiés à des hommes qui ont essayé d'éliminer tout un groupe de personnes. Lorsque nous levons ce rideau et constatons l'inégalité réelle de notre société, nous ne pouvons pas l'ignorer : nous avons plutôt l'obligation de la changer. Des articles comme celui de Lynie, les auteurs qui y sont cités, et le Comité de la diversité, de l'inclusion et de la décolonisation mis sur pied par CALL/ACBD sont de bons points de départ, mais ce n'est certainement pas la ligne d'arrivée.

Aujourd'hui plus que jamais, les bibliothécaires sont des personnalités importantes alors que nous défendons la vérité et luttons contre la désinformation. Heureusement, en tant que bibliothécaires de *droit*, nous sommes mieux équipés pour aider à défendre la justice. Mais nous devons faire plus pour nous assurer de servir efficacement tous nos clients, sans distinction de race, d'orientation sexuelle, d'identité de genre ou de capacités. Un bon départ est de suivre les conseils de Lynie mentionnés dans son article et d'incorporer les recommandations de la Commission de vérité et réconciliation dans nos vies, à l'intérieur et à l'extérieur de notre milieu de travail. De nos jours, il n'y a aucune excuse: nous devons surmonter notre inconfort quand il s'agit de parler de race; admettre nos lacunes; être disposé à apprendre, sans demander aux personnes de différentes races et aux autres groupes marginalisés de tout nous expliquer; et *écoutez* quand ces groupes nous racontent leurs expériences vécues.

Je regarde souvent la jeune génération, généralement par l'intermédiaire de mes nièces, qui lutte souvent contre l'intimidation et le racisme à l'école, et je pense que nous sommes entre de bonnes mains. Ce que j'ai dû apprendre est déjà quelque chose de connu pour eux, et ils ne le supporteront pas. Dans les années à venir, j'ai hâte de rencontrer la prochaine génération de bibliothécaires de droit prêts à se battre.

RÉDACTRICE EN CHEF
NIKKI TANNER

IIII President's Message / Le mot de la présidente

On May 29, 2019, I became the 27th president of CALL/ACBD. Our association is 58 years young, and we just wound up our 57th annual conference. We currently have 361 individual, retired, student, unwaged, and honorary members. Why am I focussing on numbers? Because each one of these numbers represents change. Every time someone joins the association, we have another conference, or we add volunteers to committees and groups, we make note of the date, and we acknowledge change.

Legal information specialists, and all of the other words we use to describe our profession, are accustomed to vast change. Some of us were working in law libraries when the internet first came along as a commercial entity with images and music. Many of us remember the early days of social media. A fair contingent of us were on Earth when a human first walked on the moon. Some of us have always had to show identification at the airport in addition to our flight tickets. Most of us carry a mobile device and some of us also carry a notebook and pen. *All* of us have coped with significant technology innovation in our work life.

In my first president's message, I want to acknowledge the speed of change that we cope with so well. I also want to acknowledge the flexibility that makes us capable of coping.

What is flexibility, really? Is it the ability to quickly shift position when that position becomes necessary? That is a very passive, reactive approach, and in my view doesn't quite fit. Is it the ability to shift ourselves into position so we can confront the upcoming change? A proactive action that enables us to adapt successfully to our environment?

I do not hesitate to state that every member of CALL/ACBD could come up with an example of how they proactively addressed a work challenge, and how they met their changing client needs, sometimes even before their clients knew they *had* changing needs.

The support I have received from my CALL/ACBD family over the years is incredible. From kind faces and voices at past conferences, to suggestions in emails, to inspiration from webinars and writings in *Canadian Law Library Review*. Without that support, a library technician from Edmonton would never have been brave enough to stand for election to this position!

This is the point where I tell you what is in store for the next two years.

My goal is for law librarians to take over the world.

Maybe not the whole world. Just the part that makes sense for us. When there is an intersection of anything with legal information, we should be there. Present, visible, vocal, and leading. There is really nothing novel about this. CALL/ACBD, through its membership and policy, was present, visible, vocal, and leading at the emergence of many legal information initiatives.

At our recent Edmonton conference, we heard how CALL/ACBD members influenced an effective and efficient *Canadian Abridgment*. We were also involved with Professor Hugh Lawford's CLIC law project (the precursor to Quicklaw) in the very beginning of electronic legal information resources. Our members were key in the creation and stable support of CanLII. We write, blog, vlog, podcast, and share. We intervene in cases before the Supreme Court of Canada. We have visibility at copyright bill press releases and are *recognized* in House of Commons Standing Committee Reports for our participation in legislative matters.

I guess I should correctly state my goal as aiming to see law librarians recognized for the contributions we make to the legal and legal information landscape in Canada. Our contributions prove our flexibility and our ability to react with speed to change.

It's a big goal, but I am willing to share this goal with all of you. Just like every other challenge we face, we can get it done. It will make for good change.

PRESIDENT
SHAUNNA MIREAU

Le 29 mai 2019, je suis devenue le 27e président de CALL/ACBD. Notre association a été mise sur pied il y a 58 ans et nous venons de clore notre 57e conférence annuelle. Nous avons actuellement 361 membres individuels, retraités, étudiants, membres non rémunérés et membres honoraires. Pourquoi je me concentre sur les chiffres ? Parce que chacun de ces chiffres représente un changement. Chaque fois que quelqu'un rejoint l'association, nous avons une autre conférence, ou certains se joignent aux différents comités et groupes, nous prenons note de la date et nous reconnaissons le changement.

Les spécialistes de l'information juridique, et tous les autres termes que nous utilisons pour décrire notre profession, sont habitués à de grands changements. Certains d'entre nous travaillaient dans des bibliothèques de droit quand l'Internet est devenu une entité commerciale avec des images et de la musique. Beaucoup d'entre nous se souviennent des débuts des médias sociaux. Nous étions nombreux sur Terre quand un humain a marché pour la première fois sur la lune. Certains d'entre nous ont toujours dû montrer une pièce d'identité à l'aéroport en plus de nos billets d'avion. La plupart d'entre nous avons un appareil mobile et certains d'entre nous ont aussi un carnet et un stylo. Nous avons tous fait face à une innovation technologique significative dans notre vie professionnelle.

Dans mon premier message en tant que présidente, je tiens à reconnaître la rapidité des changements auxquels nous faisons si bien face. Je tiens également à reconnaître la flexibilité qui nous rend capables de faire face.

Qu'est-ce que la flexibilité, vraiment? Est-ce la capacité de changer rapidement de position quand cette position devient nécessaire ? C'est une approche très passive et réactive qui, à mon avis, ne convient pas vraiment. Est-ce la capacité de nous positionner de manière à pouvoir faire face au changement à venir ? Une action proactive qui nous permet de nous adapter avec succès à notre environnement?

Je n'hésite pas à dire que tous les membres de CALL/ACBD pourraient donner un exemple de la manière dont ils ont abordé de manière proactive un défi professionnel et comment ils ont répondu aux besoins changeants de leurs clients, parfois même avant que leurs clients ne sachent qu'ils avaient des besoins changeants.

Le soutien que j'ai reçu de ma famille CALL/ACBD au fil des ans est incroyable. Des visages et des voix aimables présents lors de conférences précédentes aux suggestions contenues dans des courriels, en passant par l'inspiration provenant de l'écoute de webinaires et des textes publiés dans la *Revue canadienne des bibliothèques de droit*. Sans ce soutien, une technicienne de bibliothèque d'Edmonton n'aurait jamais été assez courageuse pour se présenter aux élections pour ce poste!

Maintenant, j'aimerais partager avec vous un objectif que je voudrais poursuivre lors des deux prochaines années.

Mon objectif est que les bibliothécaires de droit partent à la conquête du monde.

Peut-être pas le monde entier. Juste la partie qui a du sens pour nous. Quand il y a une intersection entre quelque chose et l'information juridique, nous devrions être là. Présents, visibles, vocaux et « être des meneurs ». Il n'y a vraiment rien de nouveau à ce sujet. CALL/ACBD, à travers ses membres et sa politique, était présente, visible, vocale et « menait » lors de l'émergence de nombreuses initiatives d'information juridique.

Lors de notre récente conférence à Edmonton, nous avons appris comment les membres de CALL/ACBD ont influencé un « Canadian Abridgment » efficace et rentable. Nous avons également participé au projet « CLIC » (le précurseur de Quicklaw) du professeur Hugh Lawford au tout début des ressources électroniques d'information juridique. Nos membres ont joué un rôle clé dans la création et le soutien stable à CanLII. Nous écrivons, nous produisons des blogues, des vlogs, et des balados et nous partageons. Nous intervenons dans des causes présentées devant la Cour suprême du Canada. Nous avons de la visibilité dans les communiqués de presse relatifs au projet de loi sur le droit d'auteur et nous sommes reconnus dans les rapports des comités permanents de la Chambre des communes pour notre participation aux questions législatives.

J'imagine que je devrais indiquer correctement mon objectif, qui est de voir les bibliothécaires de droit reconnus pour leurs contributions dans le monde juridique et celui de l'information juridique au Canada. Nos contributions prouvent notre flexibilité et notre capacité à réagir rapidement au changement.

C'est un objectif ambitieux, mais je suis disposée à partager cet objectif avec vous tous. Comme pour tous les autres défis auxquels nous sommes confrontés, nous pouvons y arriver. Cela fera de bons changements.

PRÉSIDENTE
SHAUNNA MIREAU

IIII Building a Monument in the Mind: Comparing Early Modern and Contemporary Legal Reading through Sir John Dodderidge's *The English Lawyer* and Glanville Williams's *Learning the Law*

By Amy Kaufman*

ABSTRACT

Law students have had to learn to "think like a lawyer" for centuries. This skill entails specific ways to read and remember case law. By examining how the authors of two books, The English Lawyer *(1631) and* Learning the Law *(2006), teach this legal skill, the author explores both what has changed and what has remained the same in this fundamental aspect of legal education.*

SOMMAIRE

Les étudiants en droit ont dû, pendant des siècles, apprendre à « penser comme un avocat ». Cette compétence implique l'utilisation de moyens spécifiques pour lire et se rappeler de la jurisprudence. En examinant comment les auteurs de deux livres, « The English Lawyer *» (1631) et «* Learning the Law *» (2006), enseignent cette compétence juridique, l'auteur explore à la fois ce qui a changé et ce qui est resté semblable quant à cet aspect fondamental de l'éducation juridique.*

One of the foundational skills every law student must learn is to "think like a lawyer." This requires learning a new way to approach problems: to identify the relevant facts and apply the law to them in order to decide on a course of action. To accomplish this, students must master a new way of reading that lets them navigate legal authorities—statutes and case law—quickly, efficiently, and accurately. There are many books written to assist law students in developing this competency. What today's law students might not imagine is how long books of this nature have been in existence.

During the sixteenth and seventeenth centuries, method books—effectively, "how to" books—were written to enable rapid mastery of a subject. Originally for noblemen, method books were later created for students studying particular disciplines. These books were intended to help students "accumulate knowledge for the purposes of practical application; to enable the scholar to turn … from *verba* to *res*, from the text to reality."[1] The Inns of Court, which trained barristers, lagged behind the English universities in embracing Humanistic "methodizing," so this development came later for law students.[2] Richard

* B.A., LL.B., M.I.St., Head Law Librarian, Queen's University. Thanks to Giles Mandelbrote, Dr. Cynthia Johnston, Daniel Boyer, Sivan Tumarkin, and Simon Baron for their helpful comments on earlier drafts of this paper. I am grateful to Renae Satterley, Librarian of the Middle Temple, for kindly granting me access to both of the library's copies of *The English Lawyer* on very short notice and for giving permission to use images of them in in this paper. Thanks also to Laurel Davis, Curator of Rare Books at the Daniel R. Coquiellette Rare Book Room, Boston College Law Library, for providing an image of *A Brief Method of the Law* that is also reproduced in this paper.

[1] Carme Font Paz & Joan Curbet, "The Renaissance" in Gabrielle Watling, ed, *Cultural History of Reading* (Westport, Conn: Greenwood Press, 2009) vol 1, 143 at 150.

[2] Richard J Terrill, "Humanism and Rhetoric in Legal Education: The Contribution of Sir John Dodderidge (1555–1628)" (1981) 2 J Leg Hist 30 at 31–33.

J. Terrill identifies the first printed English legal method book as Thomas Wilson's *The Arte of Rhetorique* (1553) and closes the period with the book that is the focus of this essay: *The English Lawyer* by Sir John Dodderidge, published in 1631.[3] The Inns of Court shut down during the English Civil War and did not resume a prominent role in educating lawyers until the 1800s, so method books would continue to be important sources of instruction to individual law students for years to come.[4]

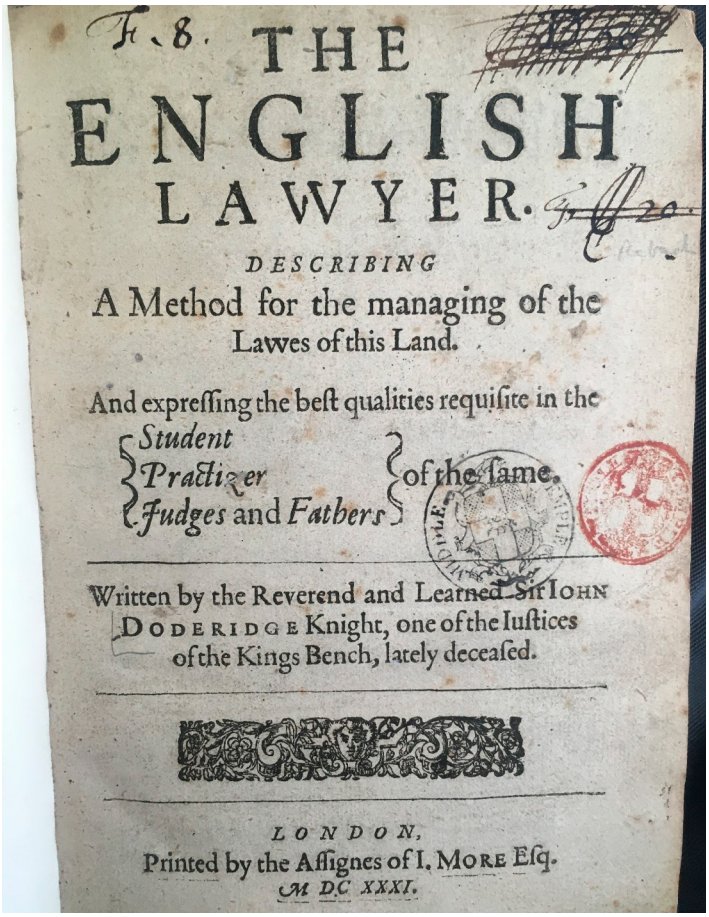
This essay will examine how Dodderidge guided Early Modern law students through reading the common law. It will then question whether there are still traces of this same method today by examining Glanville Williams's contemporary legal classic *Learning the Law*, a book written in the context of university-taught legal education. Almost four hundred years later, how closely do books that share the same purpose teach the same legal skill?

THE ENGLISH LAWYER

Sir John Dodderidge's *The English Lawyer* is a 271-page quarto, printed posthumously in 1631.[5] The third part of the *The English Lawyer*, "Methodus Studendi," had first appeared in 1629 in a pirated quarto entitled *The Lawyers Light*,[6] probably printed from a manuscript that was in general circulation at the time.[7] *The English Lawyer* of 1631 was a more complete and accurate version of Dodderidge's manuscript, produced from "the Authors owne Copie, written (for the most part) with his own hand,"[8] probably in the 1620s.[9]

Dodderidge was an appropriately authoritative figure to write a legal method book. Born in 1555, he had a Bachelor of Arts from Oxford's Exeter College and was a bencher of the Middle Temple.[10] Knighted in 1607, he was a well-respected judge of the King's Bench from 1612 until his death in 1628.[11] The Inns had begun formal learning exercises in the mid-fifteenth century, but by the 1550s, reading and private study were the primary means of learning the law, with aural instruction now supplementary. During Dodderidge's lifetime, the aural excercises became "more perfunctory" with attendance "no longer scrupulously enforced"; they would cease altogether by 1700.[12] The lack of formal direction in legal education meant that there was an important place for books like *The English Lawyer*.

At least 44 copies of this book still exist.[13] For this essay, the two copies at the Middle Temple Library and the digitized copy on Early English Books Online were consulted. Middle Temple's first copy is bound in leather with no other works or commentary included. The second copy is bound in parchment with other works by Dodderidge and some Star Chamber case reports. It carries the bookplate of "Richard Clark, Esq, Chamberlain of London." There is also a handwritten table of contents, dated 1761 with Clark's name.[14]


F. 8.

THE
ENGLISH
LAWYER.

DESCRIBING
A Method for the managing of the Lawes of this Land.

And expreſſing the beſt qualities requiſite in the
{Student / Practizer / Judges and Fathers} of the ſame.

Written by the Reverend and Learned Sir IOHN DODERIDGE Knight, one of the Iuſtices of the Kings Bench, lately deceaſed.

LONDON,
Printed by the Aſſignes of I. MORE Eſq.
M DC XXXI.

Figure 1. Title page of *The English Lawyer*. Courtesy of the Benchers of the Honourable Society of the Middle Temple.

[3] *Ibid* at 34.

[4] *Ibid* at 42.

[5] Sir John Dodderidge, *The English Lawyer* (London: Assignes of I More Esq, 1631); "The English Lavvyer", online: *English Short Title Catalogue* <estc.bl.uk/S109764>.

[6] *The Lawyers Light: Or, A Due Direction for the Study of the Law* (London: Benjamin Fisher, 1629); "The Lawyers Light", online: English Short Title Catalogue <estc.bl.uk/S109766>.

[7] Nancy L Matthews, *William Sheppard, Cromwell's Law Reformer* (Cambridge: Cambridge University Press, 1984) at 83–84.

[8] Dodderidge, *supra* note 5, "The Printers to the Reader."

[9] Terrill, *supra* note 2 at 39.

[10] *Ibid* at 36–39.

[11] David Ibbetson, "Dodderidge [Doddridge], Sir John," in Sir David Cannadine, ed, *Oxford Dictionary of National Biography* (Oxford University Press, 2005), online: <doi.org/10.1093/ref:odnb/7745>.

[12] Wilfrid R Prest, *The Inns of Court under Elizabeth I and the Early Stuarts*, 1590–1640 (Aylesbury: Longman, 1972) at 48, 124–26, 132, 140–41.

[13] "The English Lavvyer," *supra* note 5.

[14] *Ibid*.

Clark's ownership of the book 130 years after it was published and its subsequent placement in the Middle Temple Library suggests it had enduring value for generations of law students and lawyers.

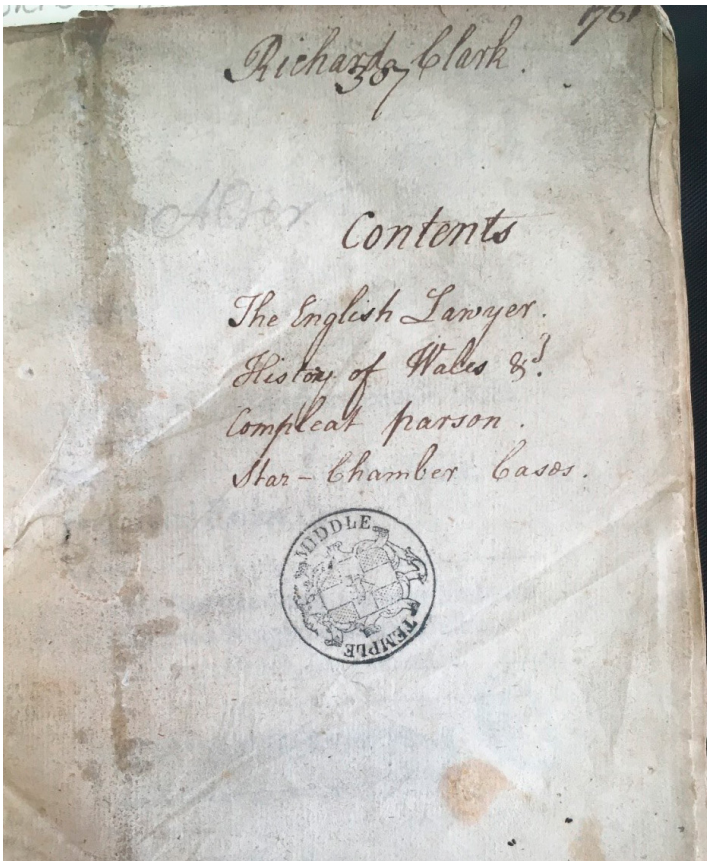


Figure 2. Table of contents with Richard Clark's name, dated 1761. Courtesy of the Benchers of the Honourable Society of the Middle Temple.

GIFTS OF THE MIND

Dodderidge begins by describing the qualities law students should possess, particularly "sharpenesse, and dexterity of wit" so they can readily understand clients' problems, apply the law, and anticipate counter-arguments.[15] He offers encouragement to students who do not already possess these "gifts of the minde": this book will provide guidance on how to develop these skills.[16]

Dodderidge advocates sustained time for reading in order to develop one's memory. Reading is difficult, he acknowledges, and time allows for reflection and guards against exhaustion:

> What booteth it to reade much, which is wearinesse to the flesh; to meditate often, which is a burthen to the minde; to learne daily with encrease of knowledge, when as the matter learned is to seeke, at that time especially when we have most need of the use thereof? *Memory* therefore is the Chest of an inestimable treasure given from God for the preservation of all kinde of knowledge.[17]

There are other elements of effective reading. For instance, the morning is best for reading to commit information to memory, but the time after dinner, "being silent and quiet" is better for memorizing speeches or sermons to give the next day.[18] However reading is done, Dodderidge returns to the need for quiet time afterward for meditation. Memory and the resources of the mind should not be cluttered; there is danger in overloading the brain with "sundry different and incohærent matters."[19] Any reading for pleasure should be rationed to "set times and hours, for recreation onely, and for the reviving of our understanding with variety."[20] This is reading not for reading's sake, but as a disciplined activity designed to achieve a clear purpose.

QUALITIES ACQUIRED BY INDUSTRY

Dodderidge lists legal skills that law students should attain "by industry."[21] Central among these is knowledge of Latin, as it is the language of many sources of English law, such as the Magna Carta.[22] Law French is also necessary[23]—and would be until 1650, when Parliament required law books to be printed solely in English.[24] Dodderidge assumes his readers already possess these language competencies: *The English Lawyer* includes untranslated excerpts of both Latin and Law French.

Dodderidge recommends foundational common law treatises originally written in Latin, including the twelfth-century text known as *Glanvill*, first printed about 1554;[25] Henry de Bracton's thirteenth-century treatise of the common laws, *De legibus et consuetudinibus Angliae*, first printed in 1569;[26] and *Fleta*, which was largely based on Bracton's treatise. *Fleta* was written around 1300, possibly by a judge confined in the Fleet prison.[27] Dodderidge read it in manuscript form and laments that few copies remain;[28] it would not be printed until 1647, years after Dodderidge's death.[29]

---

[15] Dodderidge, *supra* note 5 at 5.

[16] *Ibid* at 9.

[17] *Ibid* at 12–13.

[18] *Ibid* at 22.

[19] *Ibid* at 21.

[20] *Ibid.*

[21] *Ibid* at 27.

[22] *Ibid* at 40–41.

[23] *Ibid* at 244–45.

[24] JH Baker, *Manual of Law French* (Trowbridge: Avebury Publishing, 1979) at 13.

[25] "Tractus de legibus et consuetudinibus regni Anglie", online: *English Short Title Catalogue* <estc.bl.uk/S102455>.

[26] Paul Brand, "Bratton [Bracton], Henry of," in Sir David Cannadine, ed, *Oxford Dictionary of National Biography* (Oxford University Press, 2008), online: <doi.org/10.1093/ref:odnb/3163>.

[27] David J Seipp, "Fleta," in Sir David Cannadine, ed, *Oxford Dictionary of National Biography* (Oxford University Press, 2004), online: <doi.org/10.1093/ref:odnb/9716>.

[28] Dodderidge, *supra* note 5 at 42.

[29] Seipp, *supra* note 26.

LINKING, AS IF BY A CHAIN

Dodderidge praises these authors' clear exposition of the law. Indeed, he parallels their work ordering the common law with the divine order of the universe:

> GOD in his most excellent worke of the frame of transitorie things, though hee hath furnished the world with unspeakeable variety, thereby making manifest unto all humane creatures, to their great astonishment, his incomprehensible wisedom, his omnipotent power, and his insearchable providence, yet being the God of order, not of confusion, hath admitted no infinitenesse in nature (howsoever otherwise it seeme to our weak capacities) but hath continued the innumerable variety of particular things under certaine specialls; those specialls under generalls; and those generals againe under causes more generall, linking and conjoyning one thing to another, as if by a chaine, even untill wee ascend unto himselfe, the first, chiefe and principall cause of all good things.[30]

In contrast, the common law could appear chaotic. Unlike today, the teaching of law was not separated into different subjects, like torts and contracts. Instead, on first approach it might appear to be "a formless, confused jumble of undigested particulars, successfully resisting all efforts at simplification or systematic statement."[31] Works like *The English Lawyer* were meant to help students find their way through this amorphous body of knowledge by applying methods of formal logic.[32]

While English common law was often seen as a rough cousin to the more refined and academic civil law, Dodderidge praises a legal system without a written code. The law changes over time: better to have the law "not left in any other monument, than in the mind of man" so it can be applied anew to each new circumstance.[33] But such a system also requires lawyers to be ready with the principles of the law in their minds. The law may not be

> expressly published in words, but left neverthelesse implyed and included in the cases so decided, and therein doth as it were lye hidden; and yet neverthelesse to bee easily, with industry collected and inferred upon those Cases decided, and doth necessarily follow upon the resolution of the same, and being thence drawne, may aboundantly serve to infinite uses, in the determination of other doubts, which daily doe and may come in debate.[34]

Dodderidge recommends books to help lawyers distill principles from cases, such as Edmund Plowden's well-regarded law reports, first published in 1571, for which he had verified the accuracy of his own memory by consulting the judges and lawyers involved, a novel thing to do at the time.[35]

Dodderidge does not neglect the importance of oral advocacy in law. While concise written accounts of cases are helpful, so is attending court in order to observe legal argumentation.[36] Legal knowledge can come from many sources, oral and written; the key is becoming acquainted with them and then reflecting on them thoughtfully.

FINDING OUT THE VERY PRIMARY GROUND OF NATURAL REASON

Dodderidge gives step-by-step instructions for engaging with a case:

> First, after the case read, let us consider with our selves, & meditate in our minds, to what severall purposes the same case may bee applyed, and what matter, or severall matters the resolution of the Case can confirme. Which when wee have considered of, it shall be good for our memorie to commit them to writing … Upon mediation had of this case, what it will prove, these Propositions or Rules following may easily be collected … But if the Case so read doth consist of many points or severall questions sunderly debated, every of them may likewise bee sunderly and apart considered of, according to the manner before shewed.[37]

Echoing his description of the divine order of the universe, Dodderidge asserts that law students can go from "the particular case, to the Speciall Reason, from that to a more generall, untill we finde out the very primarie ground of naturall reason, from whence all the other are derived."[38] Dodderidge's approach draws from Classical sources as well as from the French logician Peter Ramus, whose method (Ramism) had spread to Oxford and Cambridge in the late sixteenth century. Ramism's subsequent popularity at the Inns of Court coincided with increasing numbers of law students, like Dodderidge, who had first attended university.[39] Ramists believed in making information more accessible, by both demystifying concepts and expanding audiences. As Richard J. Ross observes, "[l]awbooks touched by Ramism tended disproportionately to be written in English and to envision a broad audience of laymen as well as lawyers."[40]

---

[30] Dodderidge, *supra* note 5 at 236–37.

[31] Prest, *supra* note 12 at 142.

[32] *Ibid* at 145.

[33] Dodderidge, *supra* note 5 at 241.

[34] *Ibid* at 243–44.

[35] Christopher W Brooks, "Plowden, Edmund", in Sir David Cannadine, ed, *Oxford Dictionary of National Biography* (Oxford University Press, 2008), online: <doi.org/10.1093/ref:odnb/22389>; "Les commentaries, ou les reports de Edmunde Plowden", online: *English Short Title Catalogue* <estc.bl.uk/S115906>.

[36] Dodderidge, *supra* note 5 at 247.

[37] *Ibid* at 247–49.

[38] *Ibid* at 255.

[39] Richard J Ross, "The Commoning of the Common Law: The Renaissance Debate over Printing English Law, 1520–1640" (1998) 146 U Pa L Rev 323 at 346 [Ross, "Commoning"]; AWB Simpson, "The Rise and Fall of the Legal Treatise: Legal Principles and the Forms of Legal Literature" (1981) 48 U Chicago L Rev 632 at 649–50; Richard J Ross, "The Memorial Culture of Early Modern English Lawyers: Memory as Keyword, Shelter, and Identity, 1560–1640" (1998) 10 Yale JL & Human 229 at 287–95, 304 [Ross, "Memorial Culture"].

[40] Ross, "Commoning", *supra* note 38 at 347.

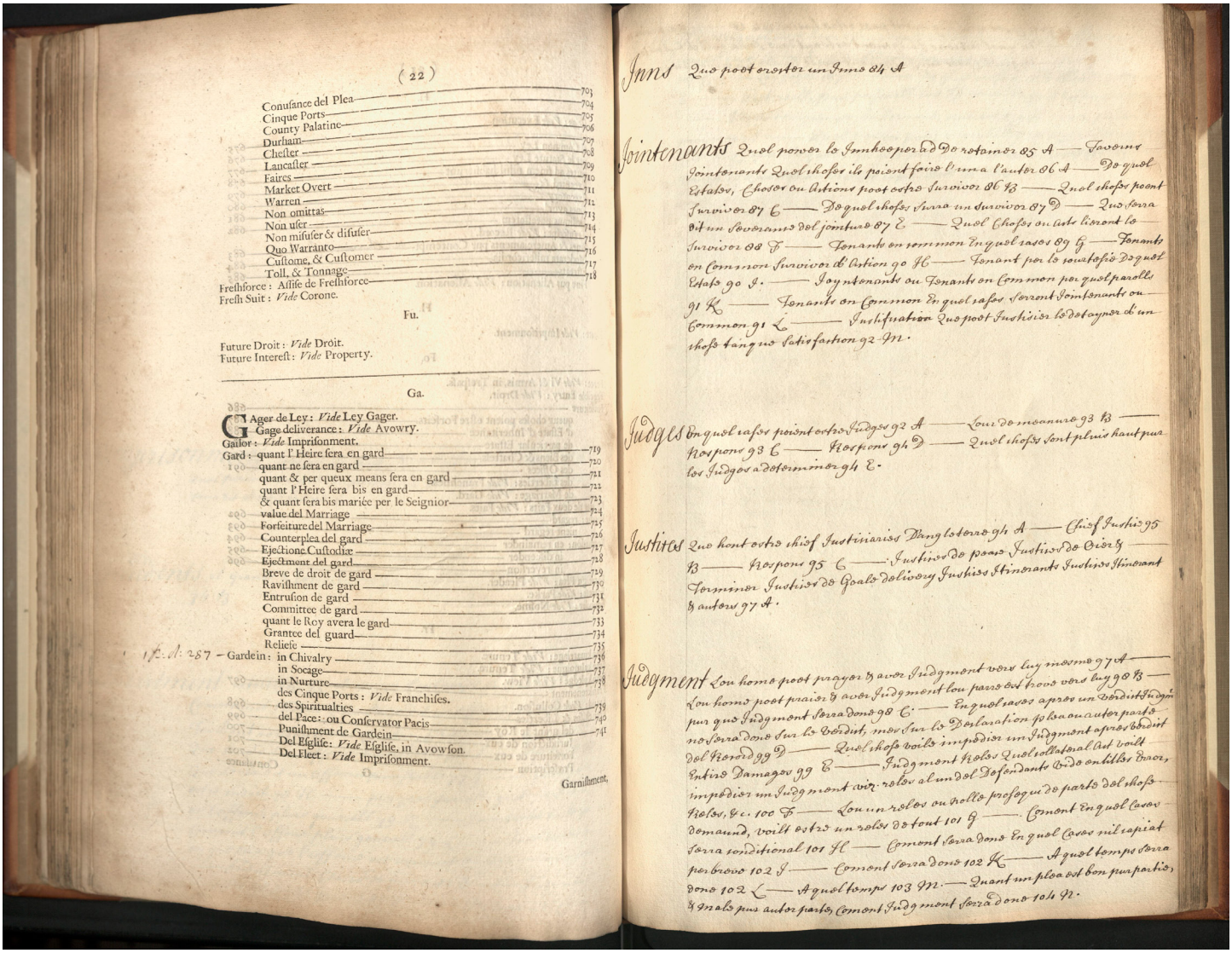


Figure 3. A page from a copy of Brewster's *A Brief Method of Law*. Courtesy of the Daniel R. Coquillette Rare Book Room, Boston College Law Library.

TO DELIGHT THE MIND

Writing down principles of the common law was the first step in creating what was known as a commonplace book, in which the passages would be organized by general and specific headings. Many Early Modern readers kept commonplace books to collect and make sense of what they read. As Robert Darnton, Carl H. Pforzheimer university professor and director of the University Library at Harvard,[41] explains,

> Whenever they came across a pithy passage, they copied it into a notebook under an appropriate heading, adding observations made in the course of daily life … Unlike modern readers, who follow the flow of a narrative from beginning to end, early modern Englishmen read in fits and starts and jumped from book to book. They broke texts into fragments and assembled them into new patterns by transcribing them in different sections of their notebooks. Then they reread the copies and rearranged the patterns while adding more excerpts.[42]

Dodderidge was simply guiding people who would already be familiar with commonplacing to apply the same process to their legal reading as well. The resulting legal commonplace books would serve their makers throughout their careers to help overcome the sheer volume of legal information.[43] So pervasive was legal commonplacing in the seventeenth century that in 1680 Samuel Brewster produced *A Brief Method of the Law: Being an Exact Alphabetical Disposition of All the Heads Necessary for a Perfect Commonplace*, which contained 50 pages of printed legal headings with which students could organize and bind their individual commonplace books.[44]

---

[41] "Robert Darnton" (last visited 25 June 2019), online: *Harvard University Department of Physics* <history.fas.harvard.edu/people/robert-darnton>.

[42] Robert Darnton, "Extraordinary Commonplaces" (21 December 2000), online: *New York Times Review of Books* <www.nybooks.com/articles/2000/12/21/extraordinary-commonplaces/>.

[43] See Terrill, *supra* note 2 at 41.

[44] Earl Havens, *Commonplace Books: A History of Manuscripts and Printed Books from Antiquity to the Twentieth Century* (New Haven, Conn: Beinecke Rare Book and Manuscript Library, 2001) at 38–39.

Organizing the law in this way would act as a corrective to the current state of English law reports, which Dodderidge saw as infested with "great Confusions, tedious and superfluous iterations, … manifold contrarieties."[45] Instead, lawyers needed to employ "Rules and Exceptions," for "out of Rules and Exceptions, a method is framed, by which meanes men may view a perfect plot of the coherence of things."[46]

The ultimate purpose of these careful directions in summarizing the law's principles was to "delight the minde" into remembering:

> Through their pithinesse, they may bee deemed incomparable treasures, yielding a great shew of wit, and wonderfully sharpening our understanding, of infinite use, in all humane affaires, containing much worth in few words, no burthen to memory, but once obtained, are ever retained.[47]

Dodderidge concludes with specific direction on creating the book that will satisfy this ideal:

> With the chosen and collected Propositions and principles in manner aforesaid, for our better use behooveth to be committed to writing; we may easily without great trouble, by disposing of them orderly, frame a Directory, in manner either of a methodicall Treatise, or of an Alphabeticall Table, fit and convenient both for the speedy finding of that we would seeke, and the ready having of that we can wish for, surpassing the benefit of any Abridgment heretofore extant.[48]

This legal commonplace book, he asserts, will be superior to anything published because it will be the result of students making individual sense of the common law.

LEARNING THE LAW

First published in 1945, Glanville Williams's *Learning the Law* will be published in its seventeenth edition in 2019 by Sweet & Maxwell. Williams's obituary described *Learning the Law* as "a little introductory book about law studies which was, and still remains, indispensable reading for any would-be law student."[49] Williams (1911–1997) had an illustrious career as a lawyer, reformer, and scholar. Like Dodderidge, he was a member of the Middle Temple.[50] Recent editions of *Learning the Law* still bear his name but are edited by lawyer and professor A.T.H. Smith, also a bencher of the Middle Temple.[51]

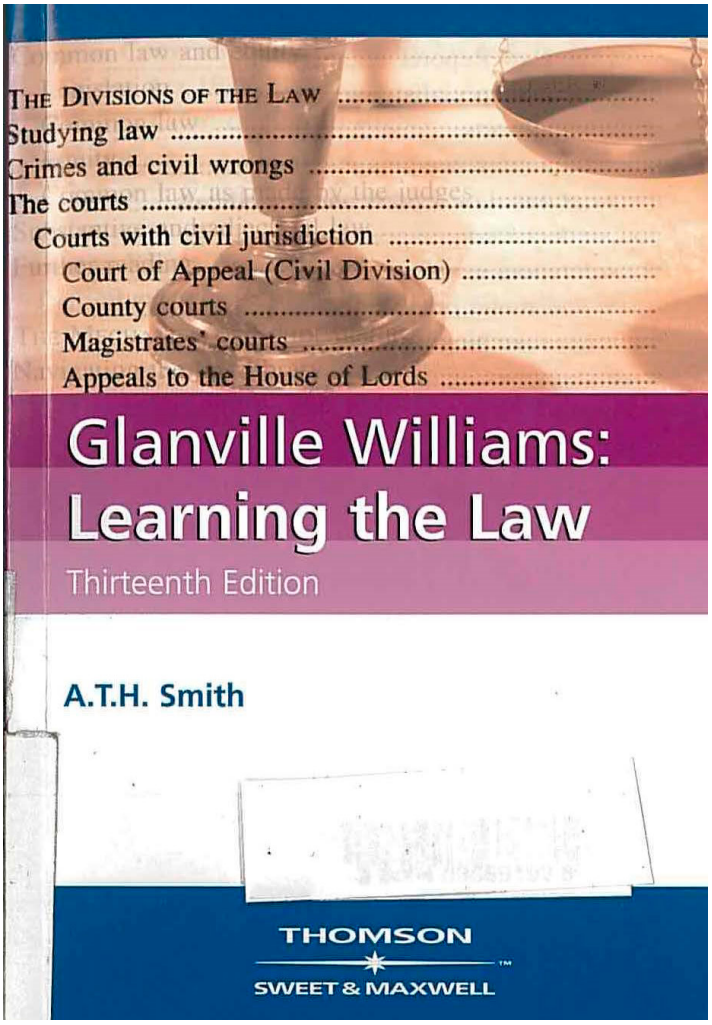


Figure 4. Cover of *Glanville Willams: Learning the Law*. Image taken by author from a copy held at Queen's University Library.

This essay examines the thirteenth edition of *Learning the Law*, published in 2006. It is a roughly octavo-sized paperback of 293 pages. There are copies in about 150 libraries across the common law world.[53]

Williams defines one of the main components of learning to think like a lawyer as being able to find the *ratio decidendi* of a case ("the rule of law upon which the decision is founded"[54]). Rather than a mechanical process, it is "an art gradually acquired through practice and study."[55] The Latin phrase is an example of the persistence of Latin in the law, though now, like Law French, it exists only in particular terms or maxims. Rather than suggesting a student should know

---

[45] Dodderidge, *supra* note 5 at 258.

[46] *Ibid.*

[47] *Ibid* at 259.

[48] *Ibid* at 269.

[49] JR Spencer, "Obituary: Professor Glanville Williams", *Independent* (17 April 1997), online: <www.independent.co.uk/news/people/obituary-professor-glanville-williams-1267628.html>.

[50] *Ibid.*

[51] "Tony Smith" (last visited 25 June 2019), online: *Victoria University of Wellington Faculty of Law* <www.victoria.ac.nz/law/about/staff/tony-smith>.

[52] ATH Smith, ed, *Glanville Williams: Learning the Law*, 13th ed (London: Sweet & Maxwell, 2006).

[53] "Glanville Williams: Learning the Law", online: *OCLC WorldCat* <www.worldcat.org/title/glanville-williams-learning-the-law/oclc/64554912&referer=brief_results>.

[54] Smith, *supra* note 51 at 92.

[55] *Ibid.*

either language, Williams directs students to dictionaries and guides on correct pronunciation.[56]

HOW IS MY TIME BETTER SPENT?

The chapter on "Methods of Study" presupposes that learning the law will be primarily through reading. The question is about what to read and how to ensure the most important information is committed to memory:

> How is my time better spent: sitting in the library reading cases in the reports, or stewing over a textbook or case book in my own room? This is a question often put by beginners, and it is a hard one to answer. One can, of course, answer it discreetly by saying—do both. But then the question is—in what proportion? What is the relative importance of the two modes of study?[57]

Williams agrees with Dodderidge that students must study cases in order to understand the law. However, today's law students have options beyond reading the case itself: they can read commercially published casebooks. Distant cousins to commonplace books, casebooks are created by respected legal scholars or lawyers who put together excerpts from leading or illustrative cases under headings and subheadings of law with some additional commentary.

Williams critiques the classic method of learning the law, espoused by a "dwindling" number of law teachers, that students should read cases in their entirety. Williams cites none other than Dodderidge to support his view that this is outdated advice. First, "legal literature was but a fraction of its present bulk"[58] in Dodderidge's time. Second, the present structure of legal learning is compressed into an "alarmingly short space"[59] with many hours needed for lectures, tutorials, and other activities, in addition to reading the law. When time is limited, casebooks have their advantages:

> First, the case book saves some of the trouble (beneficial, but time-consuming) of making one's own notebook of cases. Secondly, it does something to eliminate immaterial facts, thus helping in the search (again beneficial, but again time-consuming) for the facts that are legally material.[60]

Like Dodderidge, Williams still expects students to read cases. However, many of them can be read in abridged casebook versions, which may also feature introductions and follow-up questions to aid comprehension. Even so, Williams insists that students must read at least some cases in their full, original form.[61]

LEAVING RESIDUE IN THE MIND

Williams distinguishes law students' study needs from those of the practicing lawyers they will become. While practicing lawyers have little need "to carry much law in the mind," law students "must also be able to recite a considerable number of rules and authorities. From the examination point of view there is danger in discursive reading that is not accompanied by a considerable amount of learning by rote."[62] Despite the danger that memorization may dampen creative thinking, there is no substitute.

Students need to determine how much of a case to remember. Beyond recalling the *ratio decidendi*, how much more to commit to memory depends on the goal: is it for an exam or for practice? Williams aims much of his advice at writing excellent law exams at university, which were not part of the education of Early Modern law students. Like Dodderidge, Williams teaches specific mnemonic techniques, but they are situated within the current model of legal education:

> learning by heart is best performed in short periods distributed over as long a time as possible. … you can learn the same amount in less learning time by distributing your learning evenly over term and vacation than by crowding your learning into the term and leaving the vacations an academic blank.[63]

One technique Williams advocates is rereading: "The more often a book is read, the easier and quicker it is to read … and the more it repays the reading."[64] Even five readings would be useful, for each one would leave more "residue" in the mind.[65] Also like Dodderidge, Williams stresses the need to read in small parts in order to have time to assimilate new information into a coherent whole. Citing psychological studies, he advises that "learning is best done by reading a paragraph or page or similar convenient amount, and immediately reciting the gist of it,"[66] but he differs from Dodderidge on the next step. Dodderidge had advised meditating on the reading, but Williams finds it "better to recite aloud than to perform the recall in the head,"[67] drawing, perhaps unknowingly, on the medieval technique of murmuring: "mouthing the words subvocally as one turns the text over in one's mind."[68]

---

[56] *Ibid* at 85–88.

[57] *Ibid* at 70.

[58] *Ibid* at 73.

[59] *Ibid* at 74.

[60] *Ibid*.

[61] *Ibid* at 75.

[62] *Ibid* at 71.

[63] *Ibid* at 72.

[64] *Ibid*.

[65] *Ibid*.

[66] *Ibid* at 72–73.

[67] *Ibid* at 73.

[68] Mary Carruthers, *The Book of Memory: A Study of Memory in Medieval Culture*, 2nd ed (Cambridge: Cambridge University Press, 2008) at 205.

A MENTAL LIST OF THE BEST WORKS

A striking difference in Williams's book is the emphasis on memorizing where to look for answers to new legal problems:

> The experienced practitioner carries a mental list of the names of the best works on the subjects with which he or she usually deals, and the sooner the student gets to know some of them the better.[69]

The Early Modern lawyer was expected to have the case law itself at the ready; today's lawyer must be ready to know where to look for it. Everything about the law has expanded in the intervening centuries: the number of statutes and cases, but also the variety of textual aids such as textbooks, legal encyclopedias, periodicals, and databases. Reading and learning cases is still important, particularly to learn the skill of extracting the *ratio decidendi* and for law exams; however, once in practice, what should be front of mind are the most relevant secondary sources to help lawyers ascertain the current state of the law.

THE CONTINUED SURVIVAL OF EARLY MODERN READING AND COMMONPLACING

In an essay on commonplace books, Robert Darnton describes the Early Modern reader as one who read in fits and starts, broke up texts, and reassembled them to suit a purpose.[70] Reading for action "compelled its practitioners to read actively, to exercise critical judgment, and to impose their own pattern on their reading matter."[71] Darnton reviewed studies of particular authors' commonplace books. Interestingly, all but one (the twentieth-century Geoffery Madan) had been trained in the law: Thomas Jefferson, William Drake, and Gabriel Harvey. Darnton found that this type of reading was not completely extinct today, still surviving "in places."[72]

By comparing Dodderidge's seventeenth-century advice to Williams's advice on studying the common law today, it appears that the legal professional could be one of those "places." While Ross has tracked the gradual move away from legal method as a deeply philosophical endeavour in the Early Modern period to simply "a synonym for subdivision and lightly theorized 'good organization' by the nineteenth century,"[73] the essential skills continue to be transmitted. Making sense of the common law in any era has meant synthesizing great numbers of disjointed decisions. Reading must be done deliberately and economically. Case law has grown exponentially since Dodderidge's day, so law students are encouraged to read already-abridged versions of cases in casebooks, a sort of mass-market commonplace book.

The skill of extracting the legal principle from a case is still fundamental, and it can only be mastered through the repetition of reading case after case, identifying the relevant parts, and committing important legal principles to memory. When law students learn to brief cases and compile them into outlines for exams, they are hearing echoes of Dodderidge's advice to "frame a Directory, in manner either of a methodicall Treatise, or of an Alphabeticall Table, fit and convenient both for the speedy finding of that we would seeke, and the ready having of that we can wish for."[74] Rather than simply transcribing large chunks of text, law students must put together their learning in a way that makes sense to them individually and also makes sense of the common law as a whole, whether in Dodderidge's time or today. Is it any wonder, then, that successful lawyers continue to counsel similar reading methods?

---

[69] Smith, *supra* note 51 at 211.

[70] Darnton, *supra* note 42.

[71] *Ibid*.

[72] *Ibid*.

[73] Ross, "Memorial Culture," *supra* note 38 at 323.

[74] Dodderidge, *supra* note 5 at 269.

What's Race Got to Do with It? Law Librarians, Race, and the Reference Desk

By Lynie Awywen*

ABSTRACT

In order to integrate diversity by design in Canadian law libraries, legal librarians should consider adopting a reference service approach that includes an analysis on race when questions about relevant cases or legal research arise. U.S. law librarian Ronald Wheeler encourages librarians to keep up with legal developments on race and law in order to provide meaningful reference service to patrons. This paper builds on Wheeler's pioneering work from a Canadian perspective by discussing cases that would benefit from using a racialized lens during the reference process. Race is centered as the primary axis of analysis in the reimagining of legal reference services. Difficulties surrounding talking about race and suggestions for proactive ways to reconcile with these discomforts are explored.

SOMMAIRE

Afin d'intégrer la diversité dans les bibliothèques de droit canadiennes, les bibliothécaires spécialisés en droit devraient envisager d'adopter une approche de service de référence qui inclus une analyse de la race lorsque des questions sur des décisions pertinentes ou sur des recherches juridiques sont soulevées. Ronald Wheeler, bibliothécaire spécialisé en droit américain, encourage les bibliothécaires à se tenir au courant des développements juridiques en matière de race et de droit afin de fournir un service de référence utile aux clients. Ce document s'appuie sur les travaux pionniers de Wheeler avec un point de vue canadien en discutant des décisions pour lesquelles l'utilisation d'une optique raciale pendant le processus de référence serait bénéfique. La race est le principal axe d'analyse dans la réinvention des services de référence juridiques. Les difficultés entourant le fait de parler de race et les suggestions de moyens proactifs pour se réconcilier avec ces malaises sont explorées.

As a racialized immigrant woman with a disability, I live on the intersections of various social identities. I often think of the ways in which this social positioning could positively influence my career as an information professional. Particularly, my interest in legal librarianship is rooted in imagining diverse ways to serve all patrons, from marginalized communities and beyond. Diversity is a "trending" topic in librarianship, as the profession seeks to increase the presence of underrepresented groups in library and information science (LIS). The American Library Association (ALA) is the oldest and largest library association in the world and serves members internationally,[1] with a great influence on the direction of Canadian libraries. Diversity is a core value in

* Lynie Awywen is a master's candidate (MI) at the Faculty of Information at the University of Toronto. The purpose of this article is to contribute to diversity discussions in a way that is not traditionally explored when conversations about integrating diversity in the field arise in LIS. Normalizing responsible discussions of race/racialization in library spaces is integral in a diverse society.

[1] "About ALA" (2019), online: *American Library Association* <www.ala.org/aboutala>.

librarianship.[2] Accordingly, the Canadian Association of Law Libraries / Association canadienne des bibliothèques de droit (CALL/ACBD) has recently formed the Diversity, Inclusion and Decolonization Committee. Their mandate includes fostering awareness on issues and events pertaining to diversity, inclusion, and decolonization in law librarianship, and increasing representation within the field and participation in CALL/ACBD.[3] Furthermore, a variety of work has been done on the importance of increasing racial diversity in law librarianship specifically.[4] Themes such as serving diverse populations, the changing demographic of North America, multicultural curricula, and library collections for diverse populations appear regularly in the professional literature.[5] However, not much literature is available for the integration of diverse practices in the daily activities of legal librarians, particularly in a Canadian context. This paper seeks to bridge that gap and builds on Ronald Wheeler's[6] pioneering work where he discusses the importance of including race in the reference question process.[7] Reference librarians help patrons locate specific titles, and identify and use appropriate legal sources in law libraries. In addition, they can often advise on appropriate research strategies.[8] I argue that current and prospective legal librarians have a social responsibility to integrate race into reference questions that require this type of analysis. Social responsibility is another one of ALA's eleven core values and encourages librarians to ameliorate or solve "the critical problems of society; support efforts to help inform and educate … people … on these problems and to encourage them to examine the many views on and the facts regarding each problem."[9] Through the use of various high-profile cases, I discuss the importance of understanding racism as a socio-legal issue, illustrating the need for race analyses in relevant reference questions. This inclusion will indeed "require extralegal research, statistical analysis, [and] social science inquiry."[10] Although the U.S. is briefly discussed, my analysis focusses on a Canadian perspective, with an emphasis on Black and Indigenous populations. Given my social proximity to these issues, I integrate my own lived experiences as a racialized upcoming informational professional throughout to engage meaningfully with the concepts.

EXPLORING THE INTERSECTIONS OF RACIALIZATION AND THE REFERENCE DESK

Although there has been much controversy surrounding the necessity of the reference desk over the years,[11] it remains an important place for "meaningful exchanges, nuanced dialogue, and substantive" discussions.[12] Adler, Beilin, and Tewell state that reference service "is possibly the most humane thing that we do in the library … potentially the most powerful."[13] In the North American context, however, the reference exchange is bound up with the history of whiteness.[14] Accordingly, "[t]he issue of race has been evaded in the field of Library and Information Studies (LIS) … through an unquestioned system of white normativity and liberal multicultural discourse."[15] Schlesselman-Tarango calls upon the archetype of Lady Bountiful[16] to think about the way in which librarianship is situated in and perpetuates white supremacy.[17] As Honma states, "Despite a long legacy of race-based scholarship in many fields … as well as the ever-diversifying user populations … [LIS] has failed to keep up with the on-going discussions and debates about race, and instead functions in a race-blind vacuum while failing to recognize the disfiguring implications such blindness embodies."[18] Integrating the concept of race into the reference process will assist with day-to-day unlearning of discursive formations that have normalized whiteness. This paper seeks to centre race as the primary axis of analysis in the reimagining of legal reference services.

---

[2] On "diversity," ALA states: "we value our nation's diversity and strive to reflect that diversity by providing a full spectrum of resources and services to the communities we serve." *See* "Core Values of Librarianship" (2019), online: *American Library Association* <www.ala.org/advocacy/intfreedom/corevalues>.

[3] "Diversity, Inclusion and Decolonization Committee (DIDC)", online: *Canadian Association of Law Libraries / Association canadienne des bibliothèques de droit* <www.callacbd.ca/resources/Documents/DIDC%202019.pdf>.

[4] *See* 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 and Yvonne J Chandler, "Why Is Diversity Important for Law Librarianship?" (1998) 90:4 Law Libr J 359.

[5] *Ibid*.

[6] Director of Fineman & Pappas Law Libraries and associate professor of law and legal research at the Boston University School of Law. Wheeler pens *Diversity Dialogues*, a regular feature in *Law Library Journal* that aims to engage scholarly conversation on issues of diversity and inclusion in librarianship and the legal profession.

[7] Ronald Wheeler, "Michael Brown, Eric Garner, and Law Librarianship" (2015) 107:3 Law Libr J 467 [Wheeler].

[8] Susan Barker & John Bolan, *Lecture notes*: Introduction/Week 1 (Faculty of Information, University of Toronto, 2019).

[9] ALA, *supra* note 2.

[10] Wheeler, *supra* note 7 at 472.

[11] Kate Adler, Ian Beilin & Eamon Tewell, *Reference Librarianship & Justice: History, Practice & Praxis* (Sacramento: Library Juice Press, 2018) at 10 [Adler et al].

[12] *Ibid* at 11.

[13] *Ibid*.

[14] *Ibid* at 12–13.

[15] Todd Honma, "Trippin' Over the Color Line: The Invisibility of Race in Library and Information Studies" (2005) 1:2 UCLA J Education & Information Studies 1 at "Abstract" [Honma].

[16] Schlesselman-Tarango, a white academic reference and instruction librarian, states that this is the archetype of a traditional benevolent librarian who is white, female, cisgender, heterosexual, able-bodied, and white middle-class; Gina Schlesselman-Tarango, "The Legacy of Lady Bountiful: White Women in the Library" (2016) 64:4 Libr Trends 667 at 668.

[17] Adler et al, *supra* note 11 at 12.

[18] Honma, *supra* note 15 at 1.

Most legal information professionals are tasked with being aware of legal, business, and sociopolitical current events.[19] Wheeler states, "that work informs our work with patrons attempting to solve legal problems, students learning to solve legal problems, patrons analyzing the law, or those applying the law to contemporary legal issues."[20] Accordingly, Wheeler discusses the tragic deaths of Eric Garner and Michael Brown and the immense ways they impacted both his personal and professional lives. The socio-political climate surrounding race in the U.S. has been heightened over the past few years, as police brutality and racial profiling has come under scrutiny by racialized populations, particularly African Americans. Young Black males are "at a far greater risk of being shot dead by police than their white counterparts—21 times greater, according to a ProPublica analysis of federally collected data on fatal police shootings."[21] The Black Lives Matter movement is a direct response to Trayvon Martin's[22] death and has been active in similar cases thereafter,[23] provoking extensive media attention and discussion. Unable to uncouple his professional work from his embodied response to the socio-political climate around him, Wheeler calls on reference librarians to discuss race when discussing relevant cases and issues.[24] Responding to Wheeler's call for legal librarians of all backgrounds to discuss race in their reference work, Mary Whisner[25] encourages white librarians to proactively engage with this framework. In the next section, I explore the ways in which law librarians can effectively provide reference services while considering the epistemological importance of racialization.

LAW LIBRARIANS AND RACE: FUTURE DIRECTIONS FOR REFERENCE SERVICES

Whisner encourages others to go beyond the traditional discussions on diversity and states: "I'd like to think about how race arises in our day-to-day work as law librarians, … includ[ing] those of us who are white."[26] Critically, she asks, "What is our role in fostering cultural competence? Can we help create a welcoming environment in our diverse institutions?"[27] Accordingly, race and racial issues permeate almost every aspect of the law, both criminal and civil.[28] Whisner states:

> Race looms large in criminal law and criminal procedure, from investigation through prosecution and trial to sentencing. Consider racial profiling, police brutality, cross-racial identification, sentences for drug offenses, the school-to-prison pipeline, jury selection, the overrepresentation of African Americans and Hispanics in prison. There are also racial issues in most (perhaps all) areas of civil law, including immigration, employment discrimination, property, torts, education, tax, voting, family law, civil procedure, health law, bankruptcy, and even intellectual property.[29]

As specialists and cognitive authorities in legal information, there is a responsibility to be aware of these issues and the ways in which they impact racialized populations.[30] Whisner adds, "those of us in academia should also have some sense of the discussions in law reviews and books. We should have heard of 'critical race theory,' 'implicit bias,' 'white privilege,' " and be familiar with "the notion that race is socially constructed, not an immutable biological category."[31] However, racial issues are not always readily apparent. Appellate decisions reviewing criminal convictions, for example, might never mention the races of the defendant or the victim.[32] Yet, race could have been a crucial factor. Elaborating on this, Whisner states,

> in *McClesky v. State*, the Georgia Supreme Court did not mention race, and yet the issue during later habeas corpus review was profoundly racial: was McCleskey's death sentence suspect because, statistically, black men (like him) convicted of killing whites (like his victim) in Georgia were much more likely to be sentenced to death than defendants in cases with any other racial combination of perpetrator and victim? To raise that issue, McCleskey's attorneys went outside strictly legal research, bringing in a statistical analysis by social scientists … Like an appellate case that doesn't mention the race of the parties, the Anti-Drug Abuse Act of 1986 says nothing about punishing blacks more heavily than whites, but that's what was accomplished by the huge differential between sentences for "cocaine base" (crack cocaine) and cocaine because of the racial identities of the predominate users of each

---

[19] Wheeler, *supra* note 7 at 475.

[20] *Ibid.*

[21] *Ibid.*

[22] The 2012 death of Trayvon Martin sparked protests and ignited national debates about racial profiling and self-defence laws when George Zimmerman, who fatally shot the unarmed teenager, was acquitted of all charges.

[23] *See* Walter Scott, Freddie Gray, Sam Dubose, Philando Castile, Terence Crutcher, Jamar Clark, Jeremy McDole, Tamir Rice, Akai Gurley, Sandra Bland, Charlene Lyles, Shuri Ali, Aiyana Stanley-Jones, Mya Hall, and Miriam Carey.

[24] Ronald Wheeler, "Let's Talk About Race" (2014) 106: 2 Law Libr J 267.

[25] Research services librarian at Gallagher Law Library (University of Washington School of Law).

[26] Mary Whisner, "Race and the Reference Librarian" (2014) 106:4 Law Libr J 625 [Whisner].

[27] *Ibid.*

[28] *Ibid.*

[29] *Ibid* at 626.

[30] *Ibid.*

[31] *Ibid* at 627.

[32] *Ibid.*

> type of cocaine. The rulings about discovery in lead paint litigation cases would not be seen as race related unless you knew that the children at the greatest risk for elevated levels of lead are children of color.[33]

Evidently, uncovering race in many legal contexts calls for creative research.[34] Starting with secondary sources will greatly assist with this venture to draw meaningful connections between race and law.[35] Naturally, there are differing responses from law librarians. Meris James[36] states:

> in an academic setting, it's far beyond my role to suggest that students take any particular tack on a paper. Deciding what to include is part of their learning process. Therefore, suggesting that they expand their research into any particular area is either going to lead them down paths that are inappropriate to what the assignment requires (shareholder remedies, commercial leasing, contract law etc. are difficult to interpret through any kind of racial lens), or essentially offer them unauthorized outside assistance, as it's in some ways "doing their work for them." In a practitioners' library, it is not my place to suggest legal strategy.[37]

James adds, "[I]f my patron asks a question that they frame in terms of anything race-related, of course we explore that avenue. Generally speaking, if there is a worthwhile racialized perspective to examine the issue through, [patrons] are the first to suggest it, and at that point, I do feel free to make suggestions."[38] James's response illustrates some of the nuanced challenges with integrating this approach. However, I believe that a successful transition is possible and that this paper serves as a way to start this important conversation. Fittingly, Wheeler, quoting Whisner, states, " '[N]ot all of our work is simply reacting to someone else's questions, and we can incorporate race ourselves.' When we know that race impacts a particular patron's query, we can suggest they investigate the racial issues."[39] Both Wheeler and Whisner encourage legal librarians to keep up with legal developments (and related questions) on race and law in order to provide meaningful reference service to patrons.[40] Moreover, they suggest including racial issues in examples used in legal research classes, research guides, blog posts, and library displays. Using these examples communicates that the library is a safe place where people can learn and encourages more patrons to ask related questions. Reference librarians at "institutions with [diversity] courses, research centers, or journals will … get more questions about race and the law."[41] Accordingly, searching "racial" or "race" on both the Osgoode Hall Law School[42] and the University of Toronto Faculty of Law[43] webpages retrieves a vast number of results that discuss race-based issues, events, journals, courses, articles, committees, etc. The results are more extensive when "diversity" is searched, which is often (but not limited to) a keyword used to discuss race. Evidently, it would be useful for legal librarians to discuss issues of race during reference services, given the related material with which law students engage. The subsequent sections explore the importance of integrating race in Canadian law libraries during reference services as it relates to Indigenous and Black Canadian socio-legal experiences.

LEGACY OF COLONIALISM AND SETTLER VIOLENCE IN CANADA

Justice has proven to be illusive to Indigenous peoples in Canada—even the Supreme Court of Canada has called this issue a "crisis."[44] As Roach states, "over the past forty years, dozens of official reports have confirmed this fact."[45] Specifically, the relationship with the legal system and Indigenous peoples continues to be a site of overrepresentation and injustice in all areas of the law. It is characterized by over-incarceration, discriminatory bail, trial, and sentencing outcome.[46] I will discuss two cases where analyzing Indigeneity is integral for meaningfully understanding and getting a fair representation of the cases discussed.

The Gerald Stanley and Colten Boushie Case

On August 9, 2016, white farmer Gerald Stanley fatally shot Colten Boushie, a 22 year-old Cree man from Red Pheasant First Nation. On February 9, 2018, an all-white jury in a court presided over by a white judge found Stanley not guilty of "the intentional murder and negligent manslaughter of Colten Boushie."[47] The Saskatchewan prosecution decided not to appeal the acquittal. Roach states that the trial bitterly divided Canadians.[48] Accordingly, a poll found that 30 per cent of the respondents believed that the verdict was "good

---

[33] *Ibid.*

[34] *Ibid.*

[35] *Ibid.*

[36] Reference librarian at Paul Martin Law Library (University of Windsor).

[37] Email from Meris James to Lynie Awywen (1 April 2019).

[38] *Ibid.*

[39] Wheeler, *supra* note 7 at 472.

[40] *Ibid.*

[41] *Ibid.*

[42] "Search Results for Racial" (27 March 2019), online: *Osgoode Hall Law School* <www.osgoode.yorku.ca/?s=racial+>.

[43] "Search Results for Race" (27 March 2019), online: *University of Toronto Faculty of Law* <www.law.utoronto.ca/search/node/race>.

[44] Kent Roach, *Canadian Justice, Indigenous Injustice: The Gerald Stanley and Colten Boushie Case* (Montreal: McGill-Queen's University Press, 2019) at vii [Roach].

[45] *Ibid.*

[46] *Ibid.*

[47] *Ibid.*

[48] *Ibid* at 5.

and fair" while the "remaining 38 per cent were unsure. The picture was substantially different in Saskatchewan, where 63 per cent of respondents thought the verdict was 'good and fair,' but only 17 per cent … concluded that it was 'flawed and wrong.' "[49] Indigenous people make up about 17 per cent of the population of Saskatchewan, the highest proportion of any province. Accordingly, "these results affirm the need to be particularly attentive to local context, history and polarization when examining the case."[50] Roach states that the case should not go away for various important reasons. For one, it has "resulted in proposed legislation to abolish the peremptory challenges that allowed Stanley's lawyers to keep five visibly Indigenous people off the jury. This reform will only partially address concerns that the Canadian justice system too often results in injustice to Indigenous people, whether they are crime victims or the accused."[51] There are also other divisive Saskatchewan cases[52] that can only be viewed accurately through a lens of Indigeneity.

Neil Stonechild and Starlight Tours

"Starlight tour" is the term used to describe the police practice of dropping off Aboriginal men in an isolated area outside the city.[53] First Nations leaders said they received over 250 phone calls reporting similar stories across Saskatchewan.[54] Seventeen-year-old Neil Stonechild's body was found in a field in Saskatoon on November 29, 1990. There were many suspicious elements in Stonechild's death, but it was not until 2000 that his death was investigated. The Royal Canadian Mounted Police, "investigating the deaths of two Aboriginal men found in similar circumstances, Rodney Naistus and Lawrence Wegner, and a third man, Darryl Night, who survived after being dropped off by police in the same area of Saskatoon, added Stonechild to their list of suspicious deaths."[55] The province of Saskatchewan established a judicial inquiry into Stonechild's death, and the Commission began its hearing in September 2003.[56] The inquiry concluded that historic cultural misunderstanding between the police and Aboriginal peoples exists.[57] The Aboriginal Justice Implementation Commission states there is a "mistrust of the police" and "a documented over-policing … as well as under-policing (failure to provide services when needed)."[58] According to Razack, several research reports confirm that police view Aboriginal people as "alcoholics, drug users, gang members, prostitutes, and criminals."[59] If a reference question surrounded the legal inquiry into this case and its related inquests, it would be impossible not to discuss Indigeneity and the complex colonial history of settler violence. Razack argues that

> [a]n observer at the Stonechild inquiry would have had to engage in mental gymnastics … to avoid the issue of race and colonialism as white witness after white witness … denied wrongdoing [and] insisted that they could not remember ... Police officers … simply could not fathom what could have been wrong with a drop off in sub-zero temperatures on the edge of town.[60]

Razack goes on to say that "[w]here there might have been shame, grief, or outrage, there was coldness … and indifference on the part of many white officers."[61]

Both Roach and Razack reference primary sources and integrate race-based analyses, making their respective works useful to patrons seeking information on these cases. A law librarian should be prepared with such texts, even if the patron did not ask for specific resources that discuss race. Accordingly, Wheeler states, "[w]e can be ready with sources or we can suggest examples. We can choose not to ignore what we know to be part of our social reality. We can demonstrate through our professional interactions with patrons what legal scholars have proven to be true, that racial issues are interesting and important."[62]

ONGOING TENSIONS BETWEEN BLACK CANADIANS AND THE LEGAL SYSTEM

Similar to Indigenous peoples, Black Canadians have a unique socio-legal position in Canada. Accordingly, Black Canadians are more likely to be injured or killed by Toronto Police officers than white Canadians, according to a report by the Ontario Human Rights Commission that provides a race-based breakdown of use of force by officers.[63] While "black people made up only 8.8 per cent of Toronto's population in 2016, the report found they were involved in seven out of 10 cases of fatal shootings by police during the latter period."[64]

---

[49] *Ibid*.

[50] *Ibid*.

[51] *Ibid* at 3.

[52] *See* Allan Thomas, Leo Lachance, Pamela George, William Kakakaway, William Dove John Sorgenson, and Gordon Tetarenko.

[53] Sherene Razack, "It Happened More than Once: Freezing Deaths in Saskatchewan" (2014) 26:1 Can J Women & L 51 [Razack].

[54] Paul LAH Chartrand, "Aboriginal People & the Criminal Justice System in Saskatchewan: What Next" (2005) 68 Sask L Rev 253 [Chartrand].

[55] Razack, *supra* note 53 at 41.

[56] *Ibid* at 61.

[57] Chartrand, *supra* note 54 at 255.

[58] Razack, *supra* note 53 at 56.

[59] *Ibid*.

[60] *Ibid* at 62.

[61] *Ibid*.

[62] Wheeler, *supra* note 7 at 475.

[63] Molly Hayes, "Black People More Likely to Be Injured or Killed by Toronto Police Officers, Report Finds" (10 December 2018), online: *The Globe and Mail* <www.theglobeandmail.com/canada/toronto/article-report-reveals-racial-disparities-in-toronto-polices-use-of-force>.

[64] *Ibid*.

In addition, Black people, specifically Black men, are overrepresented in all aspects of the legal system.[65] There has also been specific discrimination against Black patrons by law librarians, resulting in a racial discrimination ruling.[66] In response to this widespread systemic racism, the *Anti-Racism Act* (*ARA*)[67] came into force on June 1, 2017. Under the *ARA*, the Ontario government is required to maintain an anti-racism strategy that includes initiatives to eliminate systemic racism. Racialized groups that are most adversely impacted by systemic racism, including Indigenous and Black communities, are highlighted. Specifically, initiatives that address anti-Black and anti-Indigenous racism are required to advance racial equity.[68]

Police Shooting of Pierre Coriolan

On June 27, 2017, police were called to the Montreal apartment of 58-year-old Black man Pierre Coriolan. Along with facing eviction, Coriolan was experiencing an on-going mental-health crisis. Upon arrival, the police shot him with a Taser, rubber bullets, and then fatally with live bullets.[69] He was pronounced dead in hospital later that day. The Independent Investigations Bureau (Quebec's police watchdog) investigated, and in March 2019, major news outlets reported that Montreal police would not be facing any charges in the fatal shooting.[70] The African Canadian Legal Clinic has long called for systemic inquiry by the Office of the Independent Police Review Director to gauge whether there has been adequate disciplinary action taken against officers who use force against Black people living with mental health issues.[71] In Toronto, Black Lives Matter Toronto (BLMTO) has headlined major news outlets for various reasons over the past few years. On the BLMTO website, there is a list of legal demands for cases that the group has worked toward and successfully achieved.[72] Other Canadian cases that would require a racial analysis during the reference process include Andrew Loku, Sumaya Dalmar, Mark Ekamba, and Jermaine Carby.[73] The next section explores important considerations that need to be understood prior to engaging with discussions on race.

CONSIDERATIONS WHEN DISCUSSING RACE IN LAW LIBRARIES

Often, when discussing race, a binary is created between "white" and "black," which leads to the problematic consequence of homogenizing racialized peoples. Discussions of race and racialized people need to be responsible, and that includes learning racialized identities in a socially responsible way. It is important to keep in mind the varied experiences of people *within* racialized groups. A caution against generalizations is imperative.[74] Additionally, colourism that impacts various racialized communities refers to a practice of discrimination by which those with lighter skin are treated more favourably than those with darker skin.[75] Therefore, it is important to be mindful that people with closer proximity to darker skin often experience racism and microaggression in very specific ways, even from members of their own communities. Furthermore, Whisner highlights the importance of differences within groups. She states:

> The term "Asian Americans" encompasses people whose ancestry is Chinese, Japanese, Korean, Thai, Vietnamese, and so on—plus South Asians, from the diverse communities within India, Pakistan, and Sri Lanka. Asia is big continent with many cultures … A Native American might have grown up in a big city or a sparsely populated reservation … Individuals' racial identities may be complex, involving connections with more than one racial or ethnic group. Moreover, racial identities interact with gender, class, sexuality, religion, and class.[76]

Because the term "racialized people" refers to a wide range of people, this distinction was provided so that we do not essentialize racialized groups. For the purpose of this paper, only two groups are discussed; however, this call for a race-based framework to be integrated into the reference process applies to all racialized communities. Albeit in varied ways, their socio-legal positioning, which often leads to disparities in legal treatment and responses, is often quite distinctive from white Canadians.

Another important consideration is the intimidation that usually occurs for racialized people when discussing race with white people. Often, we are accused of using the mythical "race card." The few legal librarians of colour in Canada may feel discouraged because of this accusation. This is why it is important for white legal librarians to consider adopting this framework, so that it is not the responsibility of just a few racialized people. Normalizing and destigmatizing this practice is important to alleviate concerns and will assist white librarians with fears surrounding "coming off racist." Encouragingly, Wheeler's experience with integrating this method has been favourable and suggests the possibility

---

[65] *Ibid*.

[66] Yamri Taddese, "Appeal Court Upholds Racial Discrimination Ruling against Peel Law Librarian" (14 June 2013), online: *Canadian Lawyer* <www.canadianlawyermag.com/legalfeeds/author/yamri-taddese/appeal-court-upholds-racial-discrimination-ruling-against-peel-law-librarian-5189>.

[67] *Anti-Racism Act*, SO 2017, c 15.

[68] *Ibid*, s 2.

[69] Steve Rukavina, "Family of Montreal Man Fatally Shot by Police Sues over Brutal Intervention" (7 February 2018), online: *Canadian Broadcasting Corporation* <www.cbc.ca/news/canada/montreal/montreal-video-police-shooting-rcmp-coriolan-1.4523348>.

[70] *Ibid*.

[71] "Demands" (last visited 25 March 2019), online: *Black Lives Matter – Toronto* <blacklivesmatter.ca/demands>.

[72] *Ibid*.

[73] *Ibid*.

[74] Whisner, *supra* note 26 at 627.

[75] Lori L Tharps, "The Difference between Racism and Colorism" (6 October 2016), online: *Time* <time.com/4512430/colorism-in-america>.

[76] Whisner, *supra* note 26 at 628.

of a positive outcome, despite the anxieties that come with talking about race.[77] Sharing his personal experience with this process, Wheeler states, "[i]t signaled to students my willingness to go the extra mile, to struggle along with them to make sense of difficult and emotional issues. It exposed … my humanity, my vulnerability, and my empathy. It made us all closer and more engaged with one another, even when we disagree."[78]

MOVING BEYOND FEAR AND DISCOMFITURE: NAVIGATING EFFECTIVE RACE-BASED DIALOGUE

Race is not an easy topic to discuss. It is full of various nuances and assumptions, and often professionals feel more comfortable with avoiding the topic altogether. In Canada, the notion of "colour blindness" is expressed through various discourses. Canada positions itself as a country that encourages multiculturalism, one with a concomitant respect for diversity.[79] However, the "emerging challenge of education for diversity requires leaving the confines of the gated community mentality of education—thinking that difficult issues facing education should be hidden from view."[80] Colour blindness positions itself as a lens for treating everyone fairly: that no one is privileged and/or neglected due to this omission of colour.[81] This framework is usually adopted because it seems equitable. Accordingly, John Bolan[82] and Susan Barker[83] state that they have used this traditional model in reference services. Optimistically, however, they are both interested in learning new ways to integrate race responsibly in reference services.[84] Colour blindness is problematic because it is often "pursued to deny one's racial privilege or the attempt to assert one's dominance … [racial categories] organize our society [and since] race is a fundamental principle of social organization and identity formation in society, it cannot be dismissed."[85] When others state that they do not see colour, my response is always "that means you don't see me." Erasing my racial identity does not make me feel empowered and, in fact, does the opposite. Although I can understand the meaning of this well-intentioned notion, Dei states, "[i]n fact, it is an insult to human intelligence to enthuse that 'we should not see color.' "[86]

Shamika Dalton[87] asks, "How can we incorporate sensitive diversity issues [like race] into our legal research course?"[88] Honma similarly asks, "Why is it that scholars and students do not talk openly and honestly about issues of race and LIS? Why does the field have a tendency to tiptoe around discussing race and racism, and instead limit the discourse by using words such as 'multiculturalism' and 'diversity'?"[89] Dalton states that a discussion on race is critical for law librarians because over the years, the role of a law librarian has evolved into teaching roles, and therefore they "have an unique opportunity and obligation to help train students to become culturally competent legal researchers by incorporating research assignments that address injustices" through a racialized lens.[90] She further states that "race is the most emotionally charged and polarizing diversity topic" and is the topic that educators "are most hesitant to discuss in the classroom."[91] I can attest to this statement through my time at the Faculty of Information at the University of Toronto thus far. Critically assessing issues does not seem to be too difficult when speaking about the limitations of sexism, heteronormativity, or ableism. However, when topics surrounding race come up (and they rarely do), there is often more of a reluctance to discuss. Furthermore, the literature selected for my courses rarely discuss race or are contributions from racialized authors. Schlesselman-Tarango states, "Due to its limited engagement with whiteness, LIS diversity literature also has rendered it implacable and without meaning, contributing to the silence that normalizes and reinforces and maintains it."[92] The history of racism in North America is both "intensively intellectual and an extremely emotional issue triggering deep feelings about identity and self-worth."[93] White Americans may experience guilt about racism, and, even when they acknowledge white privilege, they do not know how to rectify it.[94] Meanwhile, "people of colour face subtle or obvious racial projections daily and have to deal with how other cultural groups 'question their worth' " (i.e., accusations of using the "race card").[95] These challenges clearly illustrate why people generally avoid conversations about race. Albeit hesitantly, I am

[77] Wheeler, *supra* note 7 at 475.

[78] *Ibid*.

[79] Chartrand, *supra* note 54 at 264.

[80] George J Sefa Dei, "We Cannot be Color-Blind: Race, Antiracism, and the Subversion of Dominant Thinking", in E Wayne Ross, ed, *Race, Ethnicity, and Education: Racism and Antiracism in Education*, vol 4 (Westport: Praeger, 2006) 25 [Dei].

[81] *Ibid* at 27.

[82] John Bolan is head of instructional services at Bora Laskin Law Library. Bolan co-teaches a course in legal literature with Susan Barker at the University of Toronto.

[83] Susan Barker is the digital services and reference librarian at the Bora Laskin Law Library. Barker co-teaches a course in legal literature with John Bolan at the University of Toronto.

[84] Email from Susan Barker & John Bolan to Lynie Awywen (27 March 2019).

[85] Dei, *supra* note 80 at 25.

[86] *Ibid* at 26.

[87] Head of reference and instructional services at the University of Florida Levin College of Law. In her work, Dalton provides useable material that integrates race-based legal analysis for legal research instructors to use.

[88] Shamika Dalton, "Incorporating Race into Your Legal Research Class" (2017) 109:4 Law Libr J 703 at 703 [Dalton].

[89] Honma, *supra* note 15 at 1.

[90] Dalton, *supra* note 88 at 704.

[91] *Ibid*.

[92] Schlesselman-Tarango, *supra* note 15 at 669.

[93] Dalton, *supra* note 88 at 704.

[94] *Ibid*.

[95] *Ibid* at 705.

often the student to contest the erasure of people of colour in discussions of social progress (i.e., the racist historical legacy of white feminism or that the high representation of women in LIS represents white women solely). Although at times my white professors have been embarrassed to perpetuate this erasure of racialized people, it has led them to reflect on the topic in a more socially responsible way. Guilt and embarrassment pales in comparison with the erasure of racialized groups. Teaching is not just about imparting knowledge—it requires a preparedness to unlearn.

It is important to explore the reasons that white librarians and professors avoid these conversations, however. These feelings are legitimate, and effective discussions on race require both sides to feel comfortable. Common fears expressed for being hesitant about discussing race is being politically correct, "fear of being judged and deemed prejudiced, fear a student may say something offensive, fear the only minority student in the class would feel compelled to defend his or her race, fear students would feel guilt or anger, or fear students would withdraw."[96] However, Dalton states, we are "underestimating the willingness that students have to learn about race and how our legal system impacts the lives of people of colour. More importantly, students recognize when professors ignore the 'elephant in the room' "—discussions on race.[97]

Whisner states that showing an interest in issues of racial justice could help law students of colour feel more welcome in a law school "where most of the students, most of the faculty, and all the portraits on the walls are white."[98] When librarians become instructors, there is a responsibility to train students "to be 'conversant with and understand the nuanced ways' racial issues affect what they do as lawyers."[99] Dalton goes on to stress that to ensure students "gain intellectual depth and breadth of the law, they need to explore how the application of diversity issues limits legal doctrines, and how legal doctrines undermine the purpose of the law."[100]

INTEGRAL DIVERSITY IN LAW LIBRARIES: CONCLUDING THOUGHTS

The intersectionality of identity implies that there are various factors—including race, ethnicity, gender, class, sexual orientation, physical ability, religion, etc.—that work concurrently to shape one's reality.[101] Throughout this paper, I offer preliminary direction for law librarians to begin scratching the surface on how to engage meaningfully with racialization as a lens for analysis. In order for law libraries to promote diversity in socially responsible ways, alternative reference processes that create and nurture supportive environments for patrons and staff are needed. Dei states, "usually what is missing in progressive antiracist work is institutional support."[102] Therefore, I encourage current and future law librarians to include this antiracist practice in their reference work when required.[103] We must always be searching for new ways to offer services that embrace diversity concerns, including consideration on how to integrate this framework in daily tasks. Wheeler pertinently states, "it helps people of color feel more understood, and it unmasks the truth that even those of us who are white can have a common understanding of how race impacts us all daily. It may even help to erode the fear that lies beneath our racialized reality."[104] Accordingly, "[s]howing an interest in racial justice and issues of race helps to break down barriers, expose false perceived misunderstandings, and shed light on commonly held perceptions of a race-infused reality … We may not all agree on causes or solutions, but it is the willingness to struggle as a profession and as a society that ensures our collective humanity."[105]

Inevitably, there will be challenges to work through when adopting this approach, but living in a diverse society means that we must contend with racism in nuanced ways. Most importantly, this revised reference process incorporates diversity by integral design.[106] This is imperative for any real advancement in diversity literature and initiatives in legal librarianship. Integration of diversity applications and ideas need to be seamlessly built into work environments, decision-making, professional choices, and curriculum. They should be foundational, not a mere add-on or to simply fulfill a tick-box approach.[107]

---

[96] *Ibid*.

[97] *Ibid*.

[98] Whisner, *supra* note 26 at 631.

[99] Dalton, *supra* note 88 at 706.

[100] *Ibid*.

[101] Honma, *supra* note 15.

[102] Dei, *supra* note 80 at 39.

[103] Wheeler, supra note 7 at 472.

[104] *Ibid* at 473.

[105] *Ibid* at 472, 475.

[106] Nadia Caidi & Keren Dali, "Diversity by Design" (2017) 87:2 Libr Q 88.

[107] The tick-box approach refers to meeting specific, measurable goals and treating diversity as a problem to be solved through reaching performance indicators. Once A, B, and C are checked off, diversity is achieved, and we are free to go about our business as usual with a clear and collective conscience.

IIII Reviews / Recensions

Edited by Kim Clarke and Elizabeth Bruton

Administrative Law in Practice: Principles and Advocacy. **By Lorne Sossin & Emily Lawrence. Toronto: Emond Montgomery Publications, 2018. xxiii, 305 p. Includes table of cases, glossary, and index. ISBN 978-1-77255-141-9 (softcover) $132.00; ISBN 978-1-77255-143-3 (digital) $112.00.**

Author Lorne Sossin is a judge of the Superior Court of Justice of Ontario, a former dean of Osgoode Hall Law School, and a scholar and expert in administrative law. Along with Colleen Flood, he edited A*dministrative Law in Context*, now in its third edition. The second author, Emily Lawrence, a partner at Paliare Roland Rosenberg Rothstein LLP in Toronto, has authored several papers on procedural fairness and administrative law principles.

The purpose of this new title is "to convey the key principles and practices of administrative law in a way that will be clear and useful for both those in the field and those coming to it for the first time" (p xix). I infer that its intended audience includes both lawyers and other professionals working in administrative justice settings. Given the sheer number of government agencies, boards, commissions, and tribunals in Canada, this title is likely to be useful to more readers than one might think.

The scope of the title is administrative law in Canada. When provincial legislation is mentioned, the focus is mostly on Ontario and British Columbia, but that is not unusual for Canadian textbooks. This title is part of the Emond Professional Series, which provides "clear, concise guidance in the practical and procedural aspects of law" (back cover). Indeed, it is quite practical, while still giving sufficient attention to the historical background and the underlying principles and foundations of administrative law.

This title contributes to the body of administrative law literature by providing a hybrid scholarly text and practical handbook. The content is similar to *Administrative Law: Principles and Advocacy* by John Swaigen (3rd ed.), also published by Emond, which was the "departure point" for this title (p xxi). However, it is different in some important ways. The earlier title was a textbook for non-law school students, and therefore contained some very basic content (such as a chapter entitled "Introduction to the Legal System") along with a significant number of pedagogical features. This type of content is not included in the somewhat shorter Sossin and Lawrence text.

The book comprises two equal-length parts. Part I, *Foundations of Canadian Administrative Law*, discusses the key principles of administrative law and its place in the Canadian legal system. Individual chapters cover agencies, boards and commissions, procedural fairness, Constitutional rights in administrative law, and judicial review.

Part II, *Advocacy and Practice*, covers general administrative law advocacy, including how to tailor submissions, how to obtain government information through formal and informal access routes, and tips for an effective advocacy strategy. There are individual chapters devoted to tribunal practice before and during hearings, presenting evidence, administrative agency, tribunal decision-making, remedies and enforcement, and appeal and judicial review. Although there isn't a chapter devoted specifically to ethics, "Ethical Advocacy" textboxes are placed throughout.

The book is well organized with an appealing design and layout. The use of coloured headings and contrasting textboxes break the text into manageable sections for reading. There are numerous figures and tables, such as the tables in Chapter 3 highlighting the substantive and style differences between tribunals and courts. Each chapter concludes with a *Further Reading* section, recommending supplemental articles, books, and chapters.

Administrative Law in Practice: Principles and Advocacy is suitable for new lawyers and lawyers new to administrative law, while also doing an excellent job of explaining legal principles and foundations to the non-lawyer in the audience. Even if you already have several administrative law texts in your collection, you may want to add this thorough yet practical title.

REVIEWED BY
CHRISTINE WATSON
Law Librarian,
Alberta Law Libraries

***Canada's Chief Justice: Beverley McLachlin's Legacy of Law and Leadership.* By Marcus Moore & Daniel Jutras. Toronto: LexisNexis, 2018. 743 p. Includes photographs and bibliographic references. ISBN 978-0-433-49911-4 (softcover) $140.00.**

Canada's Chief Justice: Beverley McLachlin's Legacy of Law and Leadership is a tribute to Beverley McLachlin's tenure on the Supreme Court of Canada, from 1989–2018. This text consists of a collection of works authored by those who worked closely with Chief Justice McLachlin and takes a scholarly look at the impact and legacy of her career.

The book contains forwards from Chief Justice Richard Wagner, former prime minister Brian Mulroney, and former governor general Adrienne Clarkson. These thoughtful introductions to Beverley McLachlin and her career set the tone for the exploration of such a prominent and long-standing career.

This collection goes beyond an analysis of Chief Justice McLachlin's decisions by also discussing the impact of her career on the legal profession. This book tackles McLachlin's career thematically, an approach that the editors note is necessary when the influence of the subject's leadership goes so far beyond authored decisions. The collected works are arranged under four central themes: *Living Leadership*, *The Canadian Idea*, *Harmony*, and *Judicial Virtues*. While the collected works are divided into these four sections, the same themes are also threaded throughout the entire volume, providing a cohesive harmony to the work.

The chapters in *Living Leadership* explore McLachlin's leadership in Canadian law through her jurisprudence as chief justice of the Supreme Court of Canada, as well as how she exercised the administrative and professional responsibilities of this position. These writings also include discussion of the representative leadership model that Chief Justice McLachlin established.

The *Canadian Idea* section details the impact her judgments—and judgments not directly credited to her but written under her leadership—had on the governance of Canada. These decisions are discussed particularly in terms of their implications on constitutional law and federalism.

The chapters in the *Harmony* section highlight specific examples of Chief Justice McLachlin's ability to build consensus and cooperation in her jurisprudence.

Lastly, the *Judicial Virtues* chapters discuss the aspirational judicial model she demonstrated. The authors laud McLachlin for the professionalism she brought to her work with transparent analysis, clear writing, and collegiality, and for displaying a respect for the important role of the judiciary in Canadian governance.

This book contains a table of decisions, a bibliography of speeches, and an analysis of all the decisions publicly attributed to McLachlin. The latter analysis is entitled "Beverley McLachlin by the Numbers" and details the legal topics covered in each decision and the decision type. This analysis, adding evidence to the discussion in the *Harmony* chapters, shows an impressive proportion of unanimous (32 per cent) or majority approved (27 per cent) judgments, while also detailing the diversity of areas of law her decisions have influenced.

Overall, this tribute volume takes a scholarly look at the impressive legal and professional career of Chief Justice McLachlin. The collected works clearly detail the ripple effect that the Supreme Court of Canada has on society and life in Canada and the important role Chief Justice McLachlin's leadership played during her tenure at the Court.

REVIEWED BY
KATIE CUYLER
Public Services & Government Information Librarian,
University of Alberta Libraries

***The Challenge of Children's Rights for Canada.* By Katherine Covell, R. Brian Howe & J.C. Blockhuis. 2nd ed. Waterloo, ON: Wilfrid Laurier University Press, 2018. x, 246 p. Includes index and bibliography. ISBN 978-1-7712-355-6 (softcover) $44.99.**

When Canada ratified the United Nations *Convention on the Rights of the Child* in 1991, the promise of robust and effective rights for children seemed to be on the horizon. In the almost 30 years since ratification, this promise has not been fulfilled. In *The Challenge of Children's Rights for Canada*, authors Covell, Howe, and Blockhuis use the upcoming anniversary of Canada's ratification of the convention as an opportunity to reflect on where Canada was in 1991, what has changed, and what needs to be done to ensure that the provision, protection, and participation rights of every child are guaranteed.

The book follows a logical path, providing insight for anyone researching the topic for the first time. Chapter 1 provides an overview of the issue of children's rights and the inherent

dangers of social toxins on the life and development of children, and it lays out two critical points that the authors return to repeatedly in the book. The first and possibly most important point is that for Canada to move forward with comprehensive human rights for children, a shift in attitudes is necessary. Children need to be understood as worthy of rights entirely on their own, not as property and not as people who will one day become adults. Canadians also need to embrace the idea that it takes a village to support children and families. Following that, the authors' second point is that Canada needs to conduct a shift in the laws, policies, and practices created to guarantee these human rights.

With this in mind, the book first moves through some of the sociological background necessary for understanding the topic. Chapter 2 reviews notions of childhood and children's rights throughout recent history and how, because the convention is not automatically legally binding here in Canada, achieving the convention's goals must be worked into our consciousness and legal system through time. The following chapter discusses more thoroughly the development of the convention and the sociological concepts that went into its design.

In Chapter 4, the authors review matters that have come before Canadian courts (the Supreme Court of Canada, for the most part), where the convention has been mentioned or considered. As there are few judicial decisions that have referenced the convention, the authors are able to provide a quick analysis of almost all of the cases and show how it figured into the judges' reasons.

The most substantial part of the book is in chapters 5 through 7. Each chapter covers a specific concept along with an analysis of Canada's successes and failures in establishing provision (i.e. sharing and distribution of assets), protection, and participation rights for Canadian children. The final chapter, "Meeting the Challenge," provides a recap of how Canada, in many ways, has failed to live up to the articles of the convention. The authors also include suggestions as to how to steer Canada on course.

The authors of this book do not shy away from offering both critiques and recommendations. They express a definite viewpoint on the necessity of rights for children and back up their work with references to a significant number of studies, reports, articles, and other supporting documents. An extensive footnote section is included for each chapter, as well as a lengthy selected bibliography that includes citations to the cases discussed in the book, as well as a list of online resources. A thorough index concludes the text.

From the outset, the authors acknowledge that this text does not delve deeply enough into certain aspects of childhood in Canada. As an example, the authors cover Indigenous childhood, but only briefly as it pertains to specific situations. Despite these lapses, the book provides an important overview of the rights of Canadian children that is easy to read, well researched, and persuasively argued. *The Challenge of Children's Rights for Canada* would be a suitable addition to libraries supporting research on this topic, or as a concise starting point for anyone interested in the effort for children's rights in Canada.

REVIEWED BY
JENNIFER WALKER
Head Librarian,
County of Carleton Law Association

The Fundamentals of Statutory Interpretation. **By Cameron Hutchison (with Contributors Eric M. Adams & Matthew Lewans). Toronto: LexisNexis Canada, 2018. xxii, 152 p. Includes index. ISBN 978-0-433-49492-8 (softcover) $95.00.**

Law librarians are experts at statutory interpretation research, researching legislative intent and compiling a legislative history in particular. They find the needle in the haystack, the one legal resource needed from countless possible resources surrounding a statutory provision. *The Fundamentals of Statutory Interpretation* by Cameron Hutchison is a welcome addition to the literature on statutory interpretation because it helps lawyers and researchers make sense of a uniquely Canadian approach to this area of law.

Hutchison takes a comprehensive, plain-language look at Canadian statutory interpretation in general and specifically at the modern principle of statutory interpretation ("modern principle"), which is the Supreme Court of Canada's (SCC) preferred approach to statutory interpretation. Driedger's modern principle[1] is often referred to as it was stated in *Re Rizzo & Rizzo Shoes Ltd*, [1998] 1 SCR 27 at para 21: "Today there is only one principle or approach, namely, the words of the Act are to be read in their entire context, and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament."

In the first foundational chapter, Hutchison explores what statutory interpretation is by defining terms and giving background on how and why statutes are interpreted in the first place. He then builds on the work of Driedger and Ruth Sullivan[2] by delving into the different aspects of the modern principle, first by breaking it down and examining it. Chapters 3 through 7 explore it from different perspectives, specifically textual meaning, contextual meaning, legislative history and intent, purpose, and temporal application. This examination will enrich an expert or academic understanding of statutory interpretation and the modern principle, and it will help a student grasp how Canadian courts use statutory interpretation today. There are ample references to case law and to legal literature for further understanding and authority. What makes this book stand out from the rest is a refreshingly accessible writing style with clear headings.

Further to the examination of these principles of statutory interpretation, Hutchison questions aspects of the modern principle and suggests refinement for courts, lawyers, and legal researchers to consider when applying it. Hutchison

[1] Elmer A Driedger, *The Construction of Statutes*, 2nd ed (Toronto: Butterworths, 1983) at 87.
[2] Ruth Sullivan, *Sullivan on the Construction of Statutes*, 6th ed (LexisNexis, 2014).

explains that each approach aims to uncover legislative intent, but that when two approaches appear at odds, another stream of inquiry must be employed to resolve the ambiguity. In particular, the external context and pragmatic implications of interpretation should be examined to help resolve this ambiguity (p 35).

The last two chapters examine statutory interpretation in administrative decision-making, judicial review, and constitutional interpretation. It may be helpful in subsequent editions of this book to see a table of cases and the application of statutory interpretation principles to Indigenous law. In future editions it also would be interesting to learn how the author's suggested refinements to the modern principle are applied in cases.

Recently, I had the opportunity to attend an SCC hearing (*R v Rafilovich* on January 25, 2019) and was amazed to hear the judges and lawyers separately mention or quote the modern principle of statutory interpretation in their arguments, questions, and comments. In particular, an SCC judge commented that they had looked at the second reading of Hansard and committee debates for indication of legislative intent. No doubt a librarian helped in this research, and no doubt all involved will benefit from Hutchison's approach to the topic in this new book. *The Fundamentals of Statutory Interpretation* will assist practicing litigators, academics, and students with questions of statutory interpretation, and it will be an important addition to academic, courthouse, government, and private law firm libraries.

REVIEWED BY
ERICA ANDERSON
Manager, Digital and Web Content,
Legislative Assembly of Ontario

***Impaired Driving and Other Criminal Code Driving Offences: A Practitioner's Handbook.* By Karen Jokinen & Peter Keen. Toronto: Emond, 2019. xxv, 467 p. Includes table of cases and index. ISBN 978-1-77255-292-8 (softcover) $115.00.**

On December 18, 2018, revamped Federal legislation governing impaired driving came into effect. *Impaired Driving and Other Criminal Code Driving Offences: A Practitioner's Handbook*, released simultaneously, is a clear, practical approach to the new legislation.

The authors are two practicing lawyers, one a defense lawyer and the other a Crown attorney. Their experience and background help to make this a readable, practical text that is useful for experienced counsel and new lawyers alike. Designed as a briefcase book, each section stands independently from the others.

The entire book encompasses the range of processes, from initial police involvement through to the conclusion of the court process. Additional interpretive content (footnotes, as an example) allow readers to access the case citations referred to in the body of the text. Where appropriate, there are tables setting out the changes to the driving legislation for quick reference. These tables include, but are not limited to, summaries of language changes, elements of the offence(s), and statutory preconditions that must be met for police to make demands for samples of bodily substances. Also included are both brief and comprehensive tables of contents, a detailed index (including entries by province), and a table of cases. The book also includes the transitional provisions for cases that were pending in December 2018.

The book opens with an overview of criminal driving legislation. Included is a helpful fact pattern that sets out the basics of what counsel should look for when assessing a driving file, from initial contact with police through to trial, including the language or terminology one should expect. Also useful is an actual checklist for counsel to consider from the outset when looking at a driving file.

Each chapter opens with the text of the new legislation and the old legislation, with a discussion of their differences or similarities, and an examination of the practical effect of these details for both the prosecution and the defense. Incorporating the text of new legislation is particularly helpful for 2019 readers since the amendments are not yet included in the print editions of the 2019 annotated *Criminal Code*s.

The cited cases and provincial legislation cover each jurisdiction in Canada. Where there is disagreement between cases or differences in legislation, the authors explore each approach to interpretation that the courts have taken. Where there is not yet a binding higher court decision to refer to, they explain the state of the law as it currently stands in each jurisdiction.

The authors have flagged challenges facing both defense and Crown counsel that arise with changes to legislation and suggest approaches to deal with the impact of these changes. Where amendments are significant, they provide point form practice tips; for example, when referring to potential *Charter* issues, they remain focussed and avoid getting bogged down.

Where the authors have identified a gap in the legislative language, they review parliamentary intent, provide a legislative history, and offer a viable conclusion. For instance, where the cited legislation does not specify if the term "vessel" includes non-motorized boats, the authors conclude that the intent of the legislation is to address the danger of drinking and canoeing and that the definition likely does include non-motorized boats. This analysis will be helpful for Crown counsel determining the appropriate charge and the likelihood of conviction. It also suggests the basis for an argument if a vessel in question can be simply referred to as a "conveyance" as contemplated by the legislation.

Because the book was released simultaneously with the new legislation coming into force, the cases cited were decided under the old legislation. The influence of the legislation on the courts, therefore, remains unknown at the time of publication. While the authors' conclusions and recommendations make sense and are well founded in the law and their approach to the application of the new legislation, judicial decisions will be the binding authority as the new legislation works its way through the courts.

I highly recommend this book for criminal law firm libraries, law society libraries, prosecutions offices, and law school libraries, particularly those that have clinical law programs.

REVIEWED BY
LORI O'CONNOR, LLB, MLIS
Senior Crown Prosecutor,
Public Prosecutions, Regina, Saskatchewan

***Non-Conventional Copyright: Do New and Atypical Works Deserve Protection?* Edited by Enrico Bonadio & Nicola Lucchi. Cheltenham, UK: Edgar Elgar, 2018. xiii, 500 p. Includes bibliographic references and index. ISBN 978-1-78643-406-7 (hardcover) $200.00 plus eBook.**

Non-Conventional Copyright: Do New and Atypical Works Deserve Protection? is a thoughtful and evocative discussion of what defines a work, who holds the right to the intellectual property of a work, and what legislation could or should enforce copyright permission for non-conventional works. Creators, litigators, and philosophers will expand their knowledge related to copyright protection based on the engaging analysis of the editors and 20 additional contributors.

Bonadio is a senior lecturer in intellectual property law at the University of London, and Lucchi is an associate law professor at Jönköping International Business School, Sweden. In addition to individually contributing chapters and co-authoring the introduction to the book, the authors have compiled a collection of exciting chapters on non-conventional copyright. The other 20 authors come from far and wide, including the U.K., Sweden, Canada, United States, Germany, India, Israel, Italy, Australia, Ireland, and Hungary. The group provides a fresh and inventive look at the reasoning for copyright based on the last three centuries to the most current works being created.

Each of the 22 chapters include an introduction, a logical outlay of the concepts, and practice tips with analysis and a conclusion. The book focusses on United States, E.U., and U.K. law, with references to other common law jurisdictions. The editors start the analysis by setting the scene for non-conventional copyright and then move through groupings of media with related discussions. The first part, *Art*, includes chapters on land art, conceptual art, bio art, street art and graffiti, tattoos, and culinary presentations. Part 2 covers music and culture, including traditional music, music improvisation, DJ sets, modern comedic material, magic productions, and copyright of sport moves. The third part is *Industry and Science* and includes chapters on typeface copyright, online news, copyright and fragrances, copyright of CAD files and 3D printed works, engineered DNA sequences, and AI or computer generated works. Part 4 examines illegal works, copyright of pornography, and copyright of Nazi leaders' works. The concluding chapters analyze the economic perspective of non-conventional copyright. The editors do not address Indigenous rights related to traditional music or knowledge.

This text is one of the few titles examining copyright for works in media, non-stagnant fixations, and data works created by ever-changing art, ideas, and technology. A somewhat similar title published in 2016, *Global Governance of Intellectual Property in the 21st Century*,[3] may provide limited analysis of copyright for non-conventional works, though the emphasis of that work is governance.

Non-Conventional Copyright: Do New and Atypical Works Deserve Protection? includes a table of contents, list of figures, list of contributors, foreword, and a limited index, with footnotes and references throughout. A table of cases, table of rules, and bibliography would have been welcome additions. This creative and philosophical text is full of examples of works that could, or should, fall within a more flexible interpretation of copyrighted works. It is an engaging read and provides plain-language analyses of new media, protection of new works, and what works should be protected. Librarians, novice lawyers, and even experienced lawyers will appreciate this text, and it is a must-have for any creator or an academic or intellectual property practice collection.

REVIEWED BY
LAURA LEMMENS, BA BEd MLIS
Information Literacy Librarian, Library and Open Information,
Alberta Government Library – Capital Boulevard,
Edmonton, Alberta

***Quasi-constitutional Laws of Canada.* By John Helis. Toronto: Irwin Law, 2018. 305 p. ISBN 978-1-55221-494-7 (softcover) $75.00; ISBN 978-155221-495-4 (eBook) $75.00.**

The term "quasi-constitutional" was first used by Laskin SCJ in his dissent in *R v Hogan*, [1975] 2 SCR 574 at 597, when he stated "[t]he *Canadian Bill of Rights* is a half-way house between a purely common law regime and a constitutional one; it may aptly be described as a quasi-constitutional instrument." In the four decades since that case, this term has expanded in Canadian law to encompass a broad range of rights-related legislation, as well as some common law rights. Quasi-constitutional laws are of lesser force than the constitutional documents but of greater force than ordinary legislation. Ordinary legislation must meet the burden of not conflicting with established quasi-constitutional rights.

This book is the first to discuss the development of quasi-constitutional law in Canada comprehensively, and the way these laws have been given primacy above ordinary legislation. Helis covers six broad categories of law classified as quasi-constitutional by Canadian courts: human rights, access to information, privacy rights, language rights, civil liberties, and the protection of reputation.

Helis begins by thoroughly reviewing how the courts have applied the principles of statutory interpretation to these areas of law. He describes the broad and purposive interpretation given to these laws and illustrates this application with a range of case law. He shows how the primacy of these laws

[3] Mark Perry, ed, *Global Governance of Intellectual Property in the 21st Century: Reflecting Policy through Change* (Cham, Switz: Springer International, 2016).

has affected each area of law and provides examples of how this relates to remedies such as declarations of invalidity and inoperability and other means of resolving conflicts in this area of law. Finally, he includes substantive chapters on the theory and development of quasi-constitutional law.

This title is not part of Irwin's *Fundamentals of Canadian Law* series; however, it retains many of the characteristics that make those titles so accessible. Helis explains the law clearly, in plain language and thoroughly canvasses case law to support each of the chapters. Each chapter ends with a comprehensive list of further reading.

Helis effectively argues that the body of quasi-constitutional law in Canada creates a framework for protecting critical personal rights separate from the *Charter* framework. He notes that the Supreme Court of Canada has explicitly stated that "quasi-constitutional laws, 'save the Constitution … are more important than all others' " (*ICBC v Heerspink*, [1982] 2 SCR 145 at 158, cited in Helis, p 1). This alone is enough to justify a place for this book in almost any law collection. Certainly, it should be required in academic law libraries and possibly be added to the reading list for any public law course. Helis's detailed discussion of how the subject matter of this area of law often falls within the authority of human rights and other tribunals also suggests that this book would fit into the collections of administrative law practitioners or those whose practice requires an understanding of how administrative decision makers interpret these laws and apply the associated remedies.

REVIEWED BY
HEATHER WYLIE
Instructor,
Southern Alberta Institute of Technology

***Prosecuting and Defending Offences against Children: A Practitioner's Handbook.* By Lisa Joyal et al. Toronto: Emond, 2019. 573 p. ISBN 978-1-77255-263-8 (softcover) $129.00; ISBN 978-1-77255-264-5 (eBook) $115.00.**

Prosecuting and Defending Offences against Children: A Practitioner's Handbook is the tenth volume in the Emond *Criminal Law Series*. Its focus is on *Criminal Code* matters where a child is the victim. Intended for both Crown and defence attorneys, the book is broken down into chapters dealing with a particular theme.

The opening chapters cover the process of working with children, from the initial interview through to testifying in court. The next section covers specific issues of working with children in court. Six chapters then outline the existing *Criminal Code* offences against children and the requirements of both prosecution and defence lawyers in relation to these offences. Later chapters outline the key aspects of the actual trial and sentencing processes.

Each chapter is organized in a similar manner. The authors explore a general topic first, followed by specific concepts, and ending with a summary of the topic. For example, the chapters dealing with offences begin with an outline of the relevant section of the *Criminal Code*, followed by an exploration into what constitutes the *actus reus* and *mens rea* of the offence, and finish by addressing the relevant procedures required to bring the matter to court.

The authors are experienced Crown and defence attorneys and share real-world examples from their own practice throughout the book (although they refer to all children with a pseudonym). For example, one story relates the experience of a team of prosecutors who believed they had properly prepared the interview room for a seven-year-old complainant. They quickly realized their mistake when the child paid more attention to the joys of a spinning chair than their questions. Lesson learned! In this example, the prosecutors learned how critical it is to view the room through the eyes of a child rather than as an adult. For their next attempt, they interviewed the child in a room furnished with a sofa rather than anything resembling a plaything.

The text is accessible, logically organized, and written in plain and easy-to-comprehend language. The authors cover both the commonly known forms of child offences as well as the new and rapidly growing social media related offences, such as cyberbullying, child luring through the internet, and revenge porn. Given the rapid development of these difficult and delicate legal issues and the limited amount of published legal content on sexual offences and child offences, this publication is an excellent addition to the available published materials.

The real-life focus and the comprehensive breakdown of each offense make this book fit into any law library. It is a valuable tool for law students and practitioners either new to criminal law or for those who are experienced but still learning this constantly changing area.

REVIEWED BY
JENNY THORNHILL, MSC, MLIS, MSL
Law Librarian,
Law Society of Newfoundland & Labrador Law Library

***Racial Profiling and Human Rights in Canada: The New Legal Landscape.* Edited by Lorne Foster et al. Toronto: Irwin Law, 2018. vii, 404 p. Includes table of cases and index. ISBN 978-1-55221-482-4 (paperback) $70.00.**

Racial profiling has become an important issue within the public policy arena over the last several years, nowhere more significant than in the realm of policing and public safety. This collection of essays seeks to address a number of facets of this topic, particularly from the perspective of human rights and the legal remedies available to secure those rights.

The book comprises three parts: *Deconstructing Racial Profiling*, *Forms and Sector Analysis*, and *Preventing and Responding to Racial Profiling*. As one might expect, the authors emphasize police encounters that appear to demonstrate elements of racial profiling, as police officers have the capacity for use of force, up to and including lethal force, in their interactions with members of the public. It is also valuable, however, that they have broadened the scope of their inquiries to include shopkeepers, educators, service providers, and others who may engage in treatment of individuals that exhibit some form of racial profiling.

The "Editors' Introduction" presented some difficulties for this reviewer. In setting the context for racial profiling within the arena of public discourse, the editors state that people being profiled find that they "do not have the same rights and freedoms as other people" (p 1). This is an inaccurate statement. In Canada, which is guided by several layers of constitutional protections, including the *Charter*, *everyone* has the same rights and freedoms. Where gaps may (and do) occur is when governments and other organizations fail to respect or support those rights and freedoms.

The first essay sets out to define the term "racial profiling." This is a worthwhile goal, and the author puts a number of different perspectives on the key elements before the reader that constitute racial profiling. However, the effort to define the term precisely becomes an endless quest, as circumstances alter cases (as we know), and it appears that the unique circumstances of several instances of racial profiling have driven and differentiated definitions. Often it is more productive, and more consistent with such a dynamic topic, to settle upon a suitable conceptual framework rather than a hard-and-fast definition. Table 1.1 (p 43) offers just such a valuable framework whereby seven components of racial profiling are established: social domains, grounds, activities, rationales, triggers, psychological focus, and adverse impacts. These components, taken together, could be quite valuable for those examining the legal elements of this concept.

David Tanovich offers an interesting perspective on certain landmark racial profiling cases and articulates the significance of the correspondence test that was established by *R v Brown* (2003), 173 CCC (3d) 23 (ONCA). Here, the Court noted that social science research supported the notion that racial profiling occurs in Canadian policing. Accordingly, when the evidence illustrates that a situation "corresponds" to the phenomenon we know as racial profiling, a finding of this nature may be supported. Tanovich proceeds to enumerate some of the key cases where racial profiling has been argued. This contribution is thorough and useful.

It is quite surprising that, in a collection prepared by individuals who have made the issue of racial profiling a cornerstone of their academic or practitioner efforts, the compelling case of the Kingston Police is not provided more of a showcase. In 2003, the Kingston chief of police, in response to some disturbing precipitating events that saw (very) young black youths subjected to high-risk takedowns by patrol officers, voluntarily undertook a yearlong study of all contacts between uniformed officers and members of the public. Scot Wortley, one of the authors in this collection, completed the study and, while it did not "prove" racial profiling, it showed that a disproportionate number of young, black males were being stopped. However, what is more interesting than the survey's finding was the total lack of interest in, and active opposition to, this initiative within the Canadian police community. In his essay, Wortley addresses concerns around "carding" and street checks, again without invoking the important work he completed on behalf of the Kingston Police.

Other contributions in the collection consider the significant number of black women subjected to differential and discriminatory practices by the police. The most egregious, in my view, was the case of Stacy Bonds, who suffered appalling treatment at the hands of the Ottawa Police Service. Another author turns our attention to racial profiling in the retail environment and offers some examples of this practice. In an effort to move toward the prevention and appropriate response to racial profiling, there are essays encouraging the responsible use of data collection, greater efforts at genuine community engagement, and meaningful organizational change in specific agencies. Bobby Siu includes a clear model for bias-free policing based upon four "pillars" as a framework: strategic leadership, research, human resources, and stakeholder engagement.

Unfortunately, this text suffers from a bit of "too many cooks spoiling the broth." Throughout there are infelicities of spelling, style, and sense that detract from valuable portions of the contents. One glaring example occurs in the Appendix, which deals with the study of race data and traffic stops in Ottawa between 2013 and 2015. There is a reference to the "Ontario Police Service Board" when clearly they are speaking about the Ottawa Police Services Board. Since three of the editors were the authors of this particular report, we might expect a bit more diligence in the editorial realm.

Overall, this publication says some important and timely things about racial profiling in Canada. We know that profiling per se had relatively innocuous beginnings in the realm of the actuarial sciences. Bernard Harcourt, in his book *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age*, suggests that profiling began as an application of statistical methods to assist sociologists with making predictions about the use of parole. Such actuarial methods have come to dominate a great deal of what is done in the criminal justice system on the strength of our belief in scientific (or mathematical) method. Clearly, racial profiling, when it allows—if not causes—palpable damage to any identifiable group in society, is unacceptable. When insupportable police practices, such as carding and street checks, undermine the already tenuous trust and confidence the public have in our police, it is certainly time for truly transformative change.

While weakly edited and plagued with far too much repetition across its 13 chapters, *Racial Profiling and Human Rights in Canada: The New Legal Landscape* does offer the reader a solid basis for understanding the interrelated concerns in operation within Canadian society. It further provides some insight into the range of cases that have sought to grapple with those concerns, as well as some guideposts for ending the practice of racial profiling in our communities.

REVIEWED BY
PAUL F. MCKENNA

IIII Bibliographic Notes / Chronique bibliographique

By Nancy Feeney

Tonja Jacobi & Matthew Sag, *Taking Laughter Seriously at the Supreme Court* (9 March 2019), online: SSRN <ssrn.com/abstract=3345077>.

The staid nature of proceedings before the United States Supreme Court form an integral part of its historical mystique. Solemnity, seriousness, and respect are de rigueur for the participants and spectators. It is newsworthy when a notoriously taciturn justice breaks his silence. Similarly, seemingly jocund, comical exchanges between counsel and justices are also noteworthy. Recently, Jay Wexler and Ryan Malphurs independently reviewed incidents of laughter during Supreme Court arguments. Wexler, who admitted that his was a lighthearted, unempirical inquiry, sought to identify the "funniest" justices. Malphurs's research delved into the function of laughter during arguments, and he concluded that humour was used to create a more egalitarian environment for communication by reducing barriers between the justices and the lawyers appearing before them.

In contrast to these two studies, Tanja Jacobi of Northwestern Pritzker School of Law and Matthew Sag of Loyola University of Chicago Law School conducted an empirical investigation into the nature of laughter at the Supreme Court with the aim of identifying trends and predictive indicators. Rejecting Malphurs's conclusions, Jacobi and Sag believe that courtroom humour is actually a tool of advocacy and that the justices wield this tool to demonstrate their power and status.

Jacobi and Sag created a database of every Supreme Court oral argument transcript, covering 63 years—from 1955 to 2017—and nearly 7,000 cases, and identified every episode of laughter. They documented over 9,000 instances of laughter, with more than 6,000 justice-triggered episodes and over 3,000 attributable to an advocate. Both Wexler and Malphurs only examined one year's worth of arguments for each of their studies. By broadening the scope of data, Jacobi and Sag were able to identify trends over time. Their analysis was more sophisticated; rather than simply counting the instances of laughter, they looked at the context of the laughter to identify how the advocate was performing (well or badly) at the time of the incident. They also were able to identify how the justices used humour, whether it was part of a justice's strategy to strengthen their position or some other behavioural pattern discerned through studying the arguments made. The authors supplemented their data with information like advocacy experience, judicial ideology, case outcomes, votes made in cases, and the political and legal salience of the cases.

Jacobi and Sag detail the issues surrounding their reliance on laughter notations in oral argument transcripts. Since the laughter that makes it into the transcripts more often is the reaction of the courtroom gallery, rather than that of the justices or lawyers, there can be issues with proper attribution. By the time the disruption in the courtroom reaches a level for the court reporter to note it, another person may have already begun speaking. Consequently, the laughter appearing within the first transcribed words of a speaker could be attributed to the previous speaker. Recognizing that this procedure was not failsafe, and that attribution could be both over- and under-inclusive, the authors are confident that it was an appropriate general rule.

Building on their own prior research into the intensification of judicial advocacy, Jacobi and Sag articulate a number of hypotheses. The authors expected to see an increase in episodes of laughter in the modern era, as the Court

became more performative. They theorized that this change may have occurred either as a result of the confirmation to the Court of Justice Antonin Scalia, notorious for his barbed wit, or as a consequence of broader political polarization in the United States. They also hypothesized that justices use jokes and jibes strategically, rather than randomly, and speculated that justices often direct their laughter toward advocates that they eventually rule against.

Jacobi and Sag tested their hypotheses by conducting multivariate regression and structural break analyses on the data they collected and evaluated. In addition to their expository analyses, they converted their conclusions into graphical depictions that provide accessible visual depictions for statistically challenged readers.

The data that they collected supported the premise that there was a significant increase in laughter episodes in the modern era of the Supreme Court. While there was an increase after Scalia became a justice, there was a more significant increase in the mid-1990s. They attribute this pattern to a broader institutional change reflecting the environment of more strident political polarization.

In testing their theory that laughter is a tool of advocacy, Jacobi and Sag found that significantly more laughter occurs in "salient cases" (those appearing on the front page of the *New York Times* and/or in the *Congressional Quarterly*). Going further, Jacobi and Sag found that justices use humour to the advantage of counsel whose arguments they support and to the disadvantage of advocates whose arguments they oppose. This leads to their conclusion that courtroom humour is an indicator of how a particular justice will ultimately rule in a case, and, thus, laughter can have predictive qualities.

Jacobi and Sag also found that the distribution of laughter at the Court is not random, as justices consistently direct their jokes at, and at the expense of, advocates they do not support. Moreover, the data support the conclusion that the advocate subjected to the justices' jokes was more likely to be the one disfavoured by the Court overall in the ultimate decision. Finally, the data show that justices are substantially more likely to make laugh-inducing comments when a novice Supreme Court advocate is speaking, and less likely to do so when a more experienced advocate is before the justices. A "novice" is defined here as someone arguing their first case before the Court. Jacobi and Sag also found that judicial humour disproportionately targets novice advocates with unsuccessful arguments. From this, they conclude that laughter at the Court has a mean-spirited edge.

The extensive research and detailed analysis of the data by Jacobi and Sag upend long-held beliefs that humour and laughter during oral arguments before the Supreme Court were an equalizing force, encouraging communication between the justices and advocates. Supreme Court justices use humour as a tool of rhetoric and advocacy, as well as an expression of power and dominance. Furthermore, dismissing humour as lighthearted and innocuous fails to recognize its potential as a powerful predictive tool.

Robert J Ambrogi, *LawNext* (2018–present), online (podcast): <lawnext.libsyn.com>.

LawNext is a weekly podcast hosted by Robert J. Ambrogi, former editor-in-chief of the *National Law Journal*, that features interviews with innovators and entrepreneurs in the legal industry. In the initial episode, Ambrogi interviews Nicole Bradick, founder and chief executive officer at Theory and Principle, a legal technology product design and development firm. Her company works with global law firms, foundations, legal aid organizations, and legal technology companies to design and build web and mobile apps related to law and justice. In her conversation with Ambrogi, Bradick expounded on her belief that there is an over-reliance on technology in the justice space. Such focus and reliance tend to prevent effective consideration of the need for and methods of encouraging and affecting systemic change. She defines technology designed without specifically addressing user needs as "bad technology." Interestingly, Bradick cites PACER as an example of bad technology because its user interface is poorly designed, making it complicated to use.

In episode 24, Ambrogi speaks to Itai Gurari, founder of Judicata, a legal research company. A lawyer and computer scientist, Gurari developed Tracelaw, an early, short-lived case law search engine intended to be an alternative to Westlaw and Quicklaw; he also worked at Google Scholar. His current project, Judicata, is a powerful legal research tool that claims to deliver precise, contextual, and comprehensive results, while providing deep analysis and artificial intelligence capabilities. Peter Thiel, co-founder of PayPal, was an early investor. At the moment, Judicata is only California-based, and thus has limited applicability. Nevertheless, Gurari's experience allows him to opine on the current landscape of legal research tools. He believes that innovative change in legal research will percolate up from smaller firms out of necessity. Large firms have the resources to hire more people to conduct research; in contrast, smaller firms will be early adopters of technologies like artificial intelligence in an effort to be economical and efficient.

A recent episode featuring Tom Bruce, the co-founder of Cornell University's Legal Information Institute (LII), was a wide-ranging discussion of the history of disruption in the legal research space. Founded in 1992, LII was the first non-commercial legal site on the internet, and its mission was to making legal information available without cost. LII was able to break the commercial publishers' intellectual monopoly on legal information, which was revolutionary at the time. LII inspired the development of a global network of legal information institutes, all devoted to providing free access to the law online, and it continues strong today, with readership last year of 32 million individuals in over 200 countries and territories.

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

By Jonathan Leroux

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

EDMONTON LAW LIBRARIES ASSOCIATION (ELLA)

In March, we were fortunate to be joined by Caroline Gosling, a board member of the Alberta Restorative Justice Association, who provided us with an introduction to Restorative Justice.

ELLA went on a field trip in May to the Provincial Archives of Alberta. Michael Gourlie highlighted which court and legal records are held in the archives and how they make their way there. A tour of the facility followed.

On June 14, ELLA and the University of Alberta J.A. Weir Law Library presented the 18th Annual HeadStart Program, a legal research workshop for law and library students and new graduates entering the legal workplace.

You can find more information on our blog at edmontonlawlibraries.ca/category/blog.

SUBMITTED BY
SUSAN FRAME
Member-at-large, ELLA

MANITOBA

There have been changes at the Manitoba Law Library. Allyssa McFadyen has moved to the west coast and Adam Klassen Bartel has replaced her. Adam is a recent graduate of the LIT program at Red River College and is new to law libraries. Watch for his name on the New Professionals SIG and please welcome him.

SUBMITTED BY
KAREN SAWATZKY
Manitoba Law Society

MONTRÉAL ASSOCIATION OF LAW LIBRARIES (MALL) / ASSOCIATION DES BIBLIOTHÈQUES DE DROIT DE MONTRÉAL (ABDM)

Lors de l'Assemblée générale du 7 juin 2019, des changements sont survenus dans la composition du Comité exécutif. Le poste de vice-présidente est maintenant assumé par Esther Bélanger (Fasken), le poste de secrétaire par Audrey-Anne Guay (Stikeman Elliott) et celui de la trésorière par Nathalie Bélanger (Université de Montréal). Ruth Veilleux (Blakes) occupe désormais le poste de présidente et Josée Viel celui de présidente sortante (Stikeman Elliott). La programmation partielle 2019–2020 a été présentée aux membres lors de cette assemblée.

At our general meeting on June 7, 2019, we made changes to our executive committee: Esther Bélanger (Fasken) is vice president, Audrey-Anne Guay (Stikeman Elliott) is secretary, Nathalie Bélanger (University of Montreal) is treasurer, Ruth Veilleux (Blakes) is president, and Josée Viel (Stikeman Elliott) is past president. The 2019–2020 partial programming was presented to members at this meeting.

SUBMITTED BY
JOSÉE VIEL
MALL President / Présidente de l'ABDM

VANCOUVER ASSOCIATION OF LAW LIBRARIES (VALL)

In April, the Vancouver Association of Law Libraries put on a very well attended and lively session called "Articling Student Orientation Tips and Tricks," in which many of the attendees shared tips on keeping students engaged. This was followed by a talk by Stephanie Hewson of West Coast Environmental Law in June. Many thanks to LexisNexis for sponsoring our June talk.

Every year, VALL awards the Peter Bark Bursary to one or more recipients. The bursary commemorates Peter Bark, a member of CALL/ACBD and a founding member of VALL. This year's recipients were Beth Galbraith of Clark Wilson and Jen Brubacher of DLA Piper.

SUBMITTED BY
SUSANNAH TREDWELL
President, Vancouver Association of Law Libraries
2018/2019

IIII News from Further Afield / Nouvelles de l'étranger

Notes from the U.K.: London Calling

By Jackie Fishleigh*

Hi folks!

Loads going on here, so I will crack on…

Extinction Rebellion

Extinction Rebellion (XR), a previously unknown environmental activist group that formed last October, suddenly brought chaos to London for 11 days in April, causing disruption to commuters and motorists alike. XR occupied four prominent sites in central London: Oxford Circus, Marble Arch, Waterloo Bridge, and the area around Parliament Square.

A pink boat named after Berta Caceres (a Honduran environmental and Indigenous rights activist assassinated in her home by armed intruders, after years of threats against her life) painted with the slogan "Tell the Truth" was placed in Oxford Circus for five days starting Monday 15th April.

Meanwhile, my good friend Hilary, who works as a knowledge manager at Shell, was unable to go to her office for a few days after a protester glued themself to the front of the building and others sat on its roof.

Waterloo Bridge was renamed Waterloo Garden Bridge and turned into a funky, tree-lined space, complete with its own skate park, bandstand, wellness tent, market kitchen, and information point. Possibly with a librarian at the helm, but I doubt it! Although protesters were almost entirely peaceful and polite, they were eventually moved on by an exasperated police force. Some were arrested.

Matthew Taylor and Damien Gayle of *The Guardian* summed it up as follows: "[O]rganisers say they hope the campaign of 'respectful disruption' will change the debate around climate breakdown and signal to those in power that the present course of action will lead to disaster."

Climate Emergency Declared by U.K. Government

Not long after, on 1st May, the U.K. government declared a "climate emergency"; i.e., Parliament's recognition that we are in the grip of a climate and ecological emergency, and more specifically marked its acceptance of its Climate Change Committee's recommendation of (an ambitious to some) net zero emissions target by 2050.

Plan B, another environmental group, which recently failed in its legal action to prevent increased air travel, wrote to the government to urge a review of the expansion of Heathrow the in light of these fundamental changes of circumstance. Only 10 days later, a senior civil servant at the Department of Transport replied to Plan B, informing them that government might now review its expansion plans. What a difference a pink boat can make!

Green Light at the European Elections

In the election that "nobody actually wants," according to Theresa May, it was hard to tell how our two new political parties, Change UK and the Brexit Party, would poll. As it turned out, Change UK failed to make an impact and, at the time of writing, six out of 11 of their MPs have now left the party.

Meanwhile, the Brexit Party, launched by Nigel Farage, is without a manifesto but hell-bent on bludgeoning through the

"will of the people." Three Commons votes on the PM's deal and even Parliament-controlled indicative votes had woefully failed to find any consensus on the way forward. The Brexit Party aims to enforce democracy and accelerate our delayed departure from the E.U. It immediately found an audience and managed to galvanise huge support in just six weeks.

The Remain-supporting Greens and Lib Dems considerably increased their share of the vote, while the main parties—i.e. the Conservatives and Labour—were deserted by a large chunk of the electorate. The Greens doubled their number of U.K. MEPs from three to seven by adding Brussels representatives for the first time in the Eastern, North West, West Midlands, and Humber regions.

Basically, those who normally support the traditional parties voted Brexit if they wished to leave the E.U., or for Lib Dems, Greens, or possibly Change UK if they were Remainers. Personally, I voted Green in the E.U. elections, as I have on several occasions in the past. Tackling environment issues on an E.U.-wide basis makes sense to me.

Local Election Wipe Out for the Tories

Earlier in May, there were equally poor results for beleaguered lame duck "leader" Theresa May.

There was, however, good news for my cousin, Bridget Fishleigh, who was elected as an independent councillor in Brighton. Her local paper, *The Argus*, reported her victory in becoming only the second independent elected in 25 years, as follows on 24th May:

> Topping the poll was a complete surprise for Councillor Fishleigh who was a leading fundraiser for the Saltdean Lido.[1]
>
> She said: "It was fantastic because it proved that if you engage with people and offer them a genuine alternative they will make the effort to vote and support you."

Go Bridget!

Long-range Planning for Protecting the Coastline

The House of Lords has just produced a report on Coastal Britain, highlighting the need for more funding for resorts in decline. Meanwhile in some seaside towns, such as Great Yarmouth, wind farms are becoming prominent industries.

Our Environment Agency has issued a consultation document on the Draft National Flooding and Coastal Erosion Risk Management Strategy for England. This examines what can be done in next 10–30 years to create a nation resilient to flooding and coastal change up to the year 2100.

Wow, 2100, indeed—by then, Brexit will be very much in the dim and distant past.

Bye, Bye, Theresa… Hello, Boris?

Theresa May has finally been forced to set out a timetable for departure, meaning in practice that she steps down as party leader on Friday 7th June and as PM on 22nd July, by which time the current leadership contest should have been decided.

You may be aware of the current trend of throwing milkshake at politicians. After the disastrous election results, cartoonist Matt depicted a despairing manager at Tory HQ pouring a milkshake over himself!

Since I was last in touch, I have been reading Boris Johnson's book *The Churchill Factor*, which is very illuminating and well written in my view. Boris is by far the grassroots Conservative members' favourite choice for leader. He could well be our next PM in the near future! Churchill became leader against all odds. Could Boris be the right big-hitting leader for these turbulent times?

Trump in Town

POTUS was over here on the South Coast for the D-Day 75th anniversary commemoration/celebrations. The visit started badly. Our London mayor, Sadiq Khan, called him a fascist, causing President Trump to describe Khan—who refused to attend the State Banquet—as a "stone cold loser" via Twitter.

Fortunately, the Queen has managed to rise above all the mudslinging, and it appears she has ensured that all aspects of the visit have impressed the First Couple. She takes a great interest in the arrangements, especially what food and drink are served. A recent documentary revealed that she insists on personally checking the setting of the royal table for guests! What a remarkable woman she is, still doing so much for us all, even in her ninth decade.

The Dark and Terrible Past That Still Haunts Europe

I have also been perusing the multi-award-winning *East West Street* by human rights lawyer Philippe Sands. Subtitled *On the Origins of "Genocide" and "Crimes against Humanity"*, it traces the lives of Rafael Lemkin and Hersch Lauterpacht, lawyers who brought these concepts into the Nuremberg trial and international law. They both had connections with the town of Lviv, formerly Lemberg, together with the author's grandfather. Author John le Carré has described the book as "[a] monumental achievement … a profoundly personal account of the origins of crimes against humanity and genocide, told with love, anger and precision."

It is not easy to read at times. Lviv is currently in Ukraine but has previously been part of Austria, Poland, Russia, and Nazi Germany. Its violent history has left scars across generations.

Veterans Back Second Referendum

According to *The Independent* on 6th June, more than 120 military veterans have signed a letter warning that Brexit is a threat to peace and friendship in Europe: "The 122 veterans, whose service spans the period from the Second World War to modern-day conflicts in Iraq and Afghanistan, said that the

[1] An art deco swimming pool that had fallen into disrepair but has since been re-opened.

peace which has prevailed in Europe since 1945 'should not be taken for granted.' "

The letter came as D-Day veteran Eric Chardin, who was 19 when he took part in the 1944 landings, said that the prospect of Brexit worried him:

> I can't help feeling that it would be an awful shame if what we've gone to so much trouble to do, to collect the European big nations together, to break it all up now would be a crying shame," said Mr Chardin, 94, from Cambridge, in a BBC interview at the 75th anniversary commemorations in Portsmouth.
>
> Issuing a call for a Final Say referendum on Brexit, the signatories to the letter—published in *The Independent*—said that the EU should take credit for helping keep the peace in Europe.
>
> And they challenged the invocation of wartime patriotism by the Leave camp, pointing out that it was Sir Winston Churchill who called for the creation of a "European family" to prevent another descent into bloodshed.
>
> Churchill's words helped inspire the creation of the Common Market, which evolved into the European Union with "one main purpose—to create lasting peace by entwining our economies and societies together on a continent once ravaged by war," they said.
>
> "Nato does not keep the peace in Europe—it keeps peace for Europe. It is the EU that keeps peace in Europe, because when you trade, you do not fight.
>
> "As former members of the armed forces and veterans of more recent conflicts, we have served alongside soldiers from other European nations, supporting each other while under fire or facing danger.
>
> "We have learnt that war stinks, that peace is the natural goal for civilisation, and that Europeans are our brothers in arms.
>
> "But that peace and friendship is now threatened by Brexit. Peace in Europe is not something that should be taken for granted.
>
> "We should be proud to lead in Europe, proud that our friends respect us and can rely on us. That's why we, as former members of the armed forces, all support a People's Vote on Brexit."
>
> Signatories include veterans of the Royal Navy, RAF and Army, including Brigadier Stephen Goodall, who saw action in Burma during WW2, as well as the co-founders of Veterans for Europe Stuart Thomson, Duncan Hodgkins and Steve Gavin.
>
> Gulf War RAF veteran Corporal Thomson, from Worcestershire, said: "On D-Day, 75 ago, our brave forbears went over the Channel to help our friends who had been under oppression for almost five years.
>
> "We went there to help the French, Belgians, Dutch, Norwegians, Danes, and even Germans who were oppressed by the Nazis. Thirteen nations, including British, Irish, French and Dutch, also Belgians, Poles and Czechs—from all branches of the services—were part of that liberation coalition.
>
> "As Europeans, we were stronger together then and should be stronger together now."
>
> He added: "What has happened since 2016 is very disturbing, and it's clear that the military aspects of Brexit weren't thought about properly.
>
> "Politicians trying to force us out of the EU without going back to the people are cowards, not leaders. They have no mandate and no right to behave this way. Those of us who fought for democracy are demanding a democratic People's Vote to hold them to account."

These views are very much the same as my elderly mother's, who was a young girl during the war, sharing her parents' house with evacuees in Newbury, Berkshire.

With very best wishes, until next time,

Jackie

Letter from Australia

By Margaret Hutchison**

Election Results

Well, we survived the election in May 2019. As you may remember, it was rather a shock result. According to all the polls, the opposition Australian Labor Party was going to win by either a landslide or a few seats, but *no one* predicted the actual result. However, the incumbent Liberal/National party coalition was returned, and now everyone is trying to work out how the polls were so wrong.

The government has 77 seats when it needed 76 to govern. The Labor Party has 68 seats while the Greens retained their one seat and there were five independents. There were swings to the Greens from the Labor Party and a concerted campaign against former PM Tony Abbott saw him swept from his seat to be replaced with an independent campaigning on climate change. Climate change appeared to be an underlying issue throughout the campaign, though, as with most results in this election, it split along the lines of city voters being concerned about the environment and the regions looking at new mines for job creation.

There is a new open cut coal mine being developed in Queensland, and the opposition to this caused the ALP to lose votes. Prior to the federal election, there had been state elections in New South Wales and Victoria where there were major swings against the Liberal and National parties, no matter if they were in government or not.

There's been talk about the elector's distrust of the major parties but the independents didn't increase their representation; in fact, the independent who won the seat of Wentworth last year in a by-election lost to the Liberal Party candidate from the by-election standing again. That by-election result was a protest vote against the ousting of the former prime minster by his colleagues in reaction to the polls.

The Murdoch press was very much against the Labor Party, which was obvious when you looked at the same story or event covered in the major newspapers. The now former ALP leader polled badly, as people seemed to distrust him. He wasn't helped by announcing the removal of the ability to claim cash refunds for excess dividend imputation credits from self-managed superannuation funds, which would only affect a very small number of people. Needless to say, the fine detail was completely lost in a frenzy of attacks on taxing pensioners.

The major issue, which has confused all the parties and media, is: why were the polls so wrong? One suggestion is that Australians, like most of the world, have changed their communication methods. Previously there would be an operator ringing people's landlines and asking those people questions in a conversation. Now it is robo-calls (press 1 for yes, 2 for no, etc.). Moreover, not many people have a landline, and they don't answer when they don't recognise a number on their mobile. I know that in the days leading up to the federal and New South Wales elections (though we're a separate territory, we're surrounded by New South Wales), I received a lot of strange numbers ringing on my home landline during the day and now it's gone down to none.

The new government has been sworn in, the Labor Party has a new leader and are back in opposition again, Parliament hasn't been sworn in yet, and the writs for the election aren't due until 28 June. After that, the High Court might have some Court of Disputed Returns matters to hear, but what I'd really like to know is: do any of the many Liberal/National party cabinet ministers who retired at the election (with the media saying they were getting out before being pushed) regret their choice?

Update on Victoria: Cardinal Pell Appeal

Now to Victoria, for the latest updates from my last letter.

To recap: Cardinal George Pell was retried and convicted of sexually abusing two choirboys in 1996 and 1997, as the original trial in April resulted in a hung jury. A blanket suppression order (publication ban) has in place since April 2018 when the first trial was held.

The Victorian Court of Appeal has had a two-day hearing of the appeal of Cardinal George Pell against his conviction for sexually abusing two choirboys when he was archbishop of Melbourne in the 1990s. The Court of Appeal permitted livestreaming of the appeal, though with one camera facing the appeal judges only.

There are three reasons cited as grounds for an appeal by Pell's legal team. Firstly, they claim Judge Kidd should have allowed the defence to play a 19-minute video, which they said would show the position of people in the cathedral at the time of the offences. The prosecution protested that the jury might view the video as an accurate reconstruction. Another ground says there was a "fundamental irregularity" because Pell was not arraigned—in other words, asked if he pleaded guilty or not guilty—directly in front of the chosen jury. The other, arguably most serious ground is that the jury reached an unreasonable verdict.

The judges have reserved their decision with no date announced yet for the decision to be handed down. If either of the first two grounds are accepted, a retrial could be ordered, but if the unreasonable verdict is accepted, then Cardinal Pell's conviction will be overturned, and he will go free. Either way, it's expected that the matter will end up in the High Court.

The multiple contempt of court orders issued by the Victorian Office of Public Prosecutions against more than 30 journalists and media organisations are still in process through the court system with the next directions hearing date set for 26 June.

When the jury delivered its verdict, it was reported on international news websites, where the court had no jurisdiction. But a number of local agencies were accused of flouting the suppression order by running stories about the verdict—without naming Cardinal Pell.

The Herald Sun's front page read:

> CENSORED
>
> The world is reading a very important story that is relevant to Victorians. The Herald Sun is prevented from publishing details of this significant news.
>
> But trust us, it's a story you deserve to read.

The Age newspaper reported that "a very high-profile figure was convicted on Tuesday of a serious crime, but we are unable to report their identity due to a suppression order."

This matter will bubble away for some time, I am sure.

Update on Victoria: Lawyer X Royal Commission

The Victorian Royal Commission into the Management of Police Informants has been given an extra seven months to deliver its final report, along with $20.5 million in additional funding, after Commissioner Margaret McMurdo said meeting the original deadline would be impossible. The original deadline was an interim report in July 2019 and a final report on all other aspects by December 2019.

The commission, ordered by Victorian Premier Daniel Andrews, is examining the number of cases that might have been affected by the conduct of Nicola Gobbo, a criminal defence barrister who represented some of Melbourne's most notorious underworld figures while also acting as a police informant.

Finding any information as to the progress of the royal commission is very difficult—even the royal commissioner is having problems. According to a 21 May article in *The Australian*, Commissioner McMurdo is quoted as saying,

> Historical suppression and non-publication orders and constant public interest immunity claims sometimes make my task in moving this Commission forward in public akin to a boxer in a fighting match with one hand tied behind his back and the other bruised and bleeding.

It seems Victoria Police are very reluctant to provide any information to anybody about their actions during the gangland wars, which is also causing great grief in the media organisations trying to cover the commission hearings.

Freedom of the Press?

This letter seems to have an underlying theme of freedom of the press.

Earlier in June, Australian Federal Police raided the home of a News Corp journalist in what the media company has called a "dangerous act of intimidation" after she reported on a top secret government proposal to give Australia's cyber spies unprecedented powers.

Australian Federal Police (AFP) officers presented Annika Smethurst, the national political editor of News Corp's Sunday tabloids, with a search warrant on 4 June. The warrant granted officers authority to access her home, computer, and mobile phone. The actions are in connection to a story published in April 2018 that revealed internal government discussions about introducing new powers for electronic intelligence agency the Australian Signals Directorate.

Naturally, the Murdoch-owned News Corporation is outraged about this. Then the next day, the AFP raided the Sydney offices of the Australian Broadcasting Corporation using a search warrant with sweeping powers to access and seize notes, emails, footage, drafts, documents, and other items related to the "Afghan Files" investigation into alleged Australian war crimes in Afghanistan. The "Afghan Files" investigation relied on documents marked AUSTEO—Australian Eyes Only—many of which detailed "at least 10 incidents between 2009–2013 in which special forces troops shot dead insurgents, but also unarmed men and children."

The story was published in July 2017. The ABC raid took place a week after a former Australian military lawyer was committed to stand trial in the ACT Supreme Court charged over the leaking of documents now known as the "Afghan Files" to the ABC.

The raids and their timing brought international condemnation from media organisations around the world and calls for greater protection for the media and greater parliamentary scrutiny of the national security laws within Australia. We shall see how this continues.

Now I'm off to go into hiding and wait for spring.

Until next time,

Margaret

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

By Julienne E. Grant***

The Mueller Report on Russian interference in the 2016 U.S. presidential election probably grabbed most of the U.S. headlines this spring. The two-volume, nearly 450-page report was released to Attorney General William Barr on March 22, 2019, and a redacted version was made publicly available on April 18. The unwieldy document is still a hot topic, and the U.S. House Judiciary Committee has begun a series of hearings, digging into whether President Trump tried to obstruct the special counsel's investigation. For Americans who can't get enough, there is a podcast available of the report, and Robert Mueller merchandise, including mugs and jewelry, are available for purchase (I kid you not).

In other POTUS news, POTUS and FLOTUS travelled to London in early June for an official state visit to the United Kingdom. Media coverage of the event was heavy on both sides of the pond, although FLOTUS's fashion choices may have garnered more attention than anything else. For his part, POTUS couldn't stop tweeting, and the Brits were apparently bewildered and bemused when POTUS tweeted about his meeting with the "Prince of Whales."

Back at home, Alabama and several other states made headlines by passing stricter abortion laws, or "early abortion bans," while New York, Vermont, and Illinois expanded abortion rights. Illinois also legalized recreational marijuana (beginning on January 1, 2020), thus becoming the eleventh state to do so.

For a roundup of other law- and library-related news from south of the Canadian border, read on. There is plenty of interest, ranging from a SCOTUS (not to be confused with POTUS and FLOTUS) update to a short list of noteworthy new books under "Legal Miscellany."

Libraries (Law and Otherwise)

The Library of Congress (LoC) plans an ambitious $60 million overhaul of its flagship Thomas Jefferson Building in downtown Washington, D.C. According to an article on the Roll Call website, the proposed changes aim to enhance the visitor experience and will include a large oculus. In other LoC news, Jane Sánchez was named Deputy Librarian for Library Collections and Services. She will concurrently serve as Law Librarian of Congress.

Meanwhile, in Chicago, a federal district court judge tossed out a lawsuit brought by Protect Our Parks that aimed to stop construction of the proposed Obama Presidential Center in historic Jackson Park. Protect Our Parks has vowed to appeal the decision to the Seventh Circuit.

AALL

AALL, in partnership with Bloomberg, is sponsoring an Innovation Bootcamp on April 25 and 26 in Chicago. The two-day conference will teach attendees how to put ideas into action and will feature an array of speakers and panelists. This year's annual meeting will be held July 13–16 in Washington, D.C., with the theme "Capitalizing on Our

Strengths." A preconference event on July 12, AALL Day on the Hill, will highlight advocacy leadership training.

In April, the executive board proposed several revisions to AALL's bylaws. The membership will vote on these amendments from July 29 through August 29. In other news, AALL President Femi Cadmus (Duke) released a statement on behalf of AALL pertaining to President Trump's controversial March 21 executive order addressing free speech on U.S. college campuses. She also testified before the U.S. House Appropriations Subcommittee on the Legislative Branch on April 2 regarding funding for the GPO and LoC.

AALL's Nominating Committee has presented a slate of candidates for the October 2019 executive board election. A "Meet the Candidates" session will take place at the July annual meeting in D.C. Finalists in AALL's 2019 Innovation Tournament will also participate in the AALL conference. Georgetown Law will offer a two-day Executive Leadership Institute following AALL's annual meeting.

Law Schools

A joint LSAT prep project involving Khan Academy and the Law School Admissions Council (LSAC) has been highly successful. The LSAT prep platform is free, and, according to LSAC, some 40,000 students are using it each month.

The ABA has compiled and released statistics pertaining to recent bar passage rates for individual U.S. law schools. According to the aggregate data, 74.82 percent of 2018 law school grads passed the test on their first try. The same report indicated that about 88 percent of 2016 law school graduates who sat for a bar exam during the first two years after graduation passed. In California, however, the State Bar there announced that more than two-thirds of bar takers in February 2019 failed the exam. Already in effect is a new ABA standard (316) that requires ABA-accredited schools to demonstrate that at least 75 percent of their graduates passed the bar within two years of receiving their diplomas.

The ABA announced on June 10 that it was revoking its accreditation of the Thomas Jefferson School of Law in San Diego. The ABA had placed the institution on probation in November 2017. The school, however, will remain accredited pending an appeal. Meanwhile, seven former students of the now defunct Charlotte School of Law have filed suit in an Illinois state court seeking tuition reimbursements. In more positive news, the *ABA Journal* reported that a Texas teen was accepted at nine law schools. The sixteen-year-old will enroll at Southern Methodist's Dedman School of Law. And, if students get stressed at the Texas Tech School of Law, there is now a wellness room where they can rejuvenate.

U.S. News & World Report has announced that it is considering adding a new "scholarly impact" ranking for law schools. The list will take into account the number of faculty articles published and how often the articles are cited. *U.S. News* is collaborating with William S. Hein & Co. on this project.

Law Firms

In May, *Law360* published its annual list of the 400 largest U.S. firms. At the top of the list was Kirkland with 2,116 attorneys in the U.S., followed by Latham with 1,788.[1] A day later, *Law360* listed the firms that lost the most attorneys through attrition in 2018. At the top of the list was LeClairRyan, which had an 18.2 percent drop.[2] At Dentons, Mary G. Wilson has been named the firm's first female U.S. managing partner. Jones Day has been hit with a $200 million gender discrimination lawsuit. Meanwhile, the "Varsity Blues" defendants are hiring high-powered firms, including Skadden and Covington.[3] The scandalous case involved bribes and test cheating to facilitate the college admissions of children of the rich and famous.

Not all of the best legal jobs are found in firms, according to an article in the April 2019 issue of the *ABA Journal*. There is reportedly a growing demand for freelance attorneys via such outfits as UpCounsel, which offers vetted freelance lawyers to law firms, businesses, and individuals.

Trump Judicial Nominees: White Males Lead the Pack

With the help of the Republican majority in the U.S. Senate, over one hundred Trump judicial nominees are now seated on the federal bench. *Law360* reporter Jimmy Hoover is tracking the Trump judicial picks as they make their way through the confirmation process.[4] According to him, these nominees now comprise 63 district court judges, 37 appellate court judges, and two SCOTUS justices. Among the group, 88 percent are white and 76 percent are male. At the district court level, 66 percent of the new judges are white males, and, in the appellate courts, 67 percent of the Trump judges are white males. Both SCOTUS Trump nominees are white males (Gorsuch and Kavanaugh).

SCOTUS

SCOTUS is about to end its 2018–2019 term, and several high-profile case opinions have yet to be released. The decision on whether a citizenship question can be included on the 2020 U.S. Census (*Dept of Commerce v New York*) is still outstanding as of this writing. The ACLU has actually just asked SCOTUS not to rule on the case now, pending a remand to a lower federal court to examine newly surfaced evidence. Also still outstanding is *Carpenter v Murphy*, a capital murder case out of Oklahoma questioning whether the crime occurred on an Indian reservation for purposes of jurisdictional determination. Also still pending is *Iancu v Brunetti* (argued on April 15), which asks whether a clothing line called "FUCT" can be trademarked. SCOTUS apparently tried to dance around the f-word during oral arguments.

Kisor v Wilkie is another interesting case still without a decision. There, the Justices addressed the continued validity of the Auer deference doctrine (stemming from the Chevron deference doctrine), which directs judges to defer to an administrative agency's interpretation of its own rules,

[1] Amanda James, "Law360 Reveals 400 Largest US Firms", *Law360* (12 May 2019).
[2] Sam Reisman, "The Firms that Lost the Most Attorneys in 2018", *Law360* (13 May 2019).
[3] Chris Villani, "Skadden, Covington Added to 'Varsity Blues' Defense Team", *Law360* (25 March 2019).
[4] Jimmy Hoover, "Law360's Guide to Trump's Judicial Picks", *Law360* (21 March 2019) (last updated 12 June 2019).

unless it is clearly erroneous. Oral arguments on March 27 were entertaining to say the least. Justice Stephen Breyer quipped, for example: "I want to parody it, but, I mean, this sounds like the greatest judicial power grab since Marbury versus Madison, which I would say was correctly decided."

News flash! Gasp… Justice Clarence Thomas, known for his lack of participation in oral arguments, broke a three-year period of silence on March 20 during arguments in *Flowers v Mississippi*, a case alleging prosecutorial bias in jury selection. A decision for that case is also still pending.

In *Jam v International Finance Corp* (decided February 27, 2019), the Court held that international organizations are not always immune from lawsuits in U.S. courts. SCOTUS did not rule on the merits of the case but rather allowed the case to go forward in a lower federal court. Commenting on the opinion in *ASIL Insights*, Nancy Perkins and Sally Pei warned that international organizations "now face substantially increased exposure to litigation and potential liability with few parameters indicating the limits of their exposure." Released on May 13, 2019, was the decision in *Franchise Tax Board v Hyatt*, where the Court held 5–4 that private parties cannot sue states in the courts of another state. This decision overruled the long-standing precedent of *Nevada v Hall* (1979), much to the chagrin of Justice Breyer, who wrote a scathing dissent, joined by Justices Ginsburg, Sotomayor, and Kagan.

Justice Brett Kavanaugh has ended his first term with SCOTUS after his controversial and explosive nomination hearings last fall. In April, the *ABA Journal* reported that Kavanaugh and Chief Justice John Roberts perhaps had a "budding bromance," having voted together 95 percent of the time. Roberts himself has commented that Kavanaugh is "a very hard worker."[5] Perhaps surprisingly, Kavanaugh and Justice Neil Gorsuch, another Trump nominee, have been at odds in a number of cases. Kavanaugh will be teaching in England this summer for George Mason University's Antonin Scalia Law School. A group of students, known as Mason for Survivors, protested the appointment.

On the Dockets: [Don't] Let Them Eat Cake, etc.

The town of Hillsborough, California, has sued the resident owner of a so-called "Flintstone House" who placed large dinosaur sculptures on her lawn. The homeowner has countersued. Meanwhile, In North Carolina, the New Hanover County District Attorney dropped charges against a man who abandoned a pet fish when he was evicted from his apartment, explaining that fish aren't protected under the state's animal cruelty law.

On a more serious note, in New York, a former general counsel for EXL Service Holdings has sued the company for gender discrimination, relating an incident when she was asked to serve cake to male employees. In Boston, Harvard is being sued for allegedly profiting from using photos of slaves a Harvard professor commissioned in the nineteenth century. In a well-publicized case hinging on whether Roundup Weed & Grass Killer is a carcinogen, a jury awarded $2 billion to a couple who claimed that the product caused their cancers.

In April, the Trump administration announced that it would activate Title III of the *Helms-Burton Act*, which allows U.S. citizens to sue for losses that stem from the 1959 Cuban Revolution. Carnival Cruises has already been hit with a lawsuit by a Cuban-American family that claims to have once owned various Cuban docks.

In the Sixth Circuit, the court held that a Michigan police department's practice of chalking tires violated parkers' Fourth Amendment right to be free of unreasonable searches. The Florida Supreme Court ruled last November that a judge's Facebook friendship with an attorney is not a legally sufficient basis to disqualify the judge from that attorney's case.

Legal Miscellany: Legal Blonde Lager and a Constitutional Soliloquy

The *ABA Journal*'s May issue featured an article on the Legal Draft Beer Company, a microbrewery in Arlington, Texas, started by a lawyer and his neighbor in 2015. The company uses a legal theme for its business, including for beer names—Legal Blonde Lager, Chief Justice Stout, Hung Jury Hefeweizen, Smash & Grab IPA, etc.

What the Constitution Means to Me is a new play that examines the scope of the U.S. Constitution. Written and performed by Heidi Schreck, the play won the New York Drama Critics 2019 Best American Play award. Apparently, many U.S. citizens could use a ticket to a performance since the results of a recent ABA Survey of Civic Literacy indicate that most Americans don't know much about their own government and its functions.

New books: Joan Biskupic's *The Chief* (Basic Books) is a look at SCOTUS Chief Justice John Roberts's life and career. In *Tough Cases* (The New Press), judges tell the stories behind their most difficult decisions. Former SCOTUS Justice John Paul Stevens has released an autobiography, *The Making of a Justice* (Little, Brown).

Conclusion

That wraps it up for another quarter. Enjoy the summer—I plan to. If any readers would like to comment on any of the above, or make suggestions for additional content, please feel free to contact me at jgrant6@luc.edu.

Julienne E. Grant

[5] Jimmy Hoover, "Chief Justice on Newest Colleague: 'A Very Hard Worker' ", *Law360* (20 May 2019).

** Jackie Fishleigh, Library and Information Manager, Payne Hicks Beach.*
***Margaret Hutchison, Manager of Technical Services and Collection Development at the High Court of Australia .*
****Julienne Grant, Reference Librarian/Foreign & International Research Specialist at the Law Library, Loyola University Chicago School of Law.*
Please note that any and all opinions are those of the authors and do not reflect those of their employers or any professional body with which they are associated.

Call for Submissions

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

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

The Association is unable to make any payment for contributions. The Canadian Association of Law Libraries does not assume any responsibility for the statements advanced by the contributors to, *and* the advertisers in, the Association's publications. Editorial views do not necessarily represent the official position of the Association.

Canadian Law Library Review/Revue canadienne des 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.

CALL/ACBD Research Grant

Perhaps it is time to start thinking about your next research project. The deadline for the 2019 research grant will be March 15, 2019 and the grant will be awarded in May.

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

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

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

Please contact

Susan Barker,
Co-Chair, CALL/ACBD Committee to Promote Research
Email: susan.barker@utoronto.ca

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

For more information.
http://www.callacbd.ca/Resources/Documents/Awards/Research%20Grant1.pdf

CANADIAN ASSOCIATION OF LAW LIBRARIES
ASSOCIATION CANADIENNE DES BIBLIOTHÈQUES DE DROIT

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

Permissions beyond the scope of this license may be available at http://www.callacbd.ca/contact.

Canadian Law Library Review is published by:

Revue canadienne des bibliothèques de droit est publiée par:

CANADIAN ASSOCIATION OF LAW LIBRARIES
ASSOCIATION CANADIENNE DES BIBLIOTHÈQUES DE DROIT

HOT OFF THE PRESS

The latest publications in Emond's **Criminal Law Series**

PROSECUTING AND DEFENDING YOUTH CRIMINAL JUSTICE CASES, 2ND EDITION
Brock Jones, Emma Rhodes & Mary Birdsell

JUST PUBLISHED

EMOND.CA/PDYCJC2

PROSECUTING AND DEFENDING DRUG CASES: A PRACTITIONER'S HANDBOOK
Nathan Gorham, Jeremy Streeter & Breana Vandebeek

JUST PUBLISHED

EMOND.CA/PDDC

IMPAIRED DRIVING AND OTHER CRIMINAL CODE OFFENCES: A PRACTITIONER'S HANDBOOK
Karen Jokinen & Peter Keen

NEW REVIEW AVAILABLE

EMOND.CA/IDDO

Winner of the Hugh Lawford Award for Excellence in Legal Publishing

emond PUBLISHING SINCE 1978

Emond Publishing
600-1 Eglinton Ave E, Toronto ON
p. 1-888-837-0815 f. 416-975-3924
e. orders@emond.ca w. emond.ca