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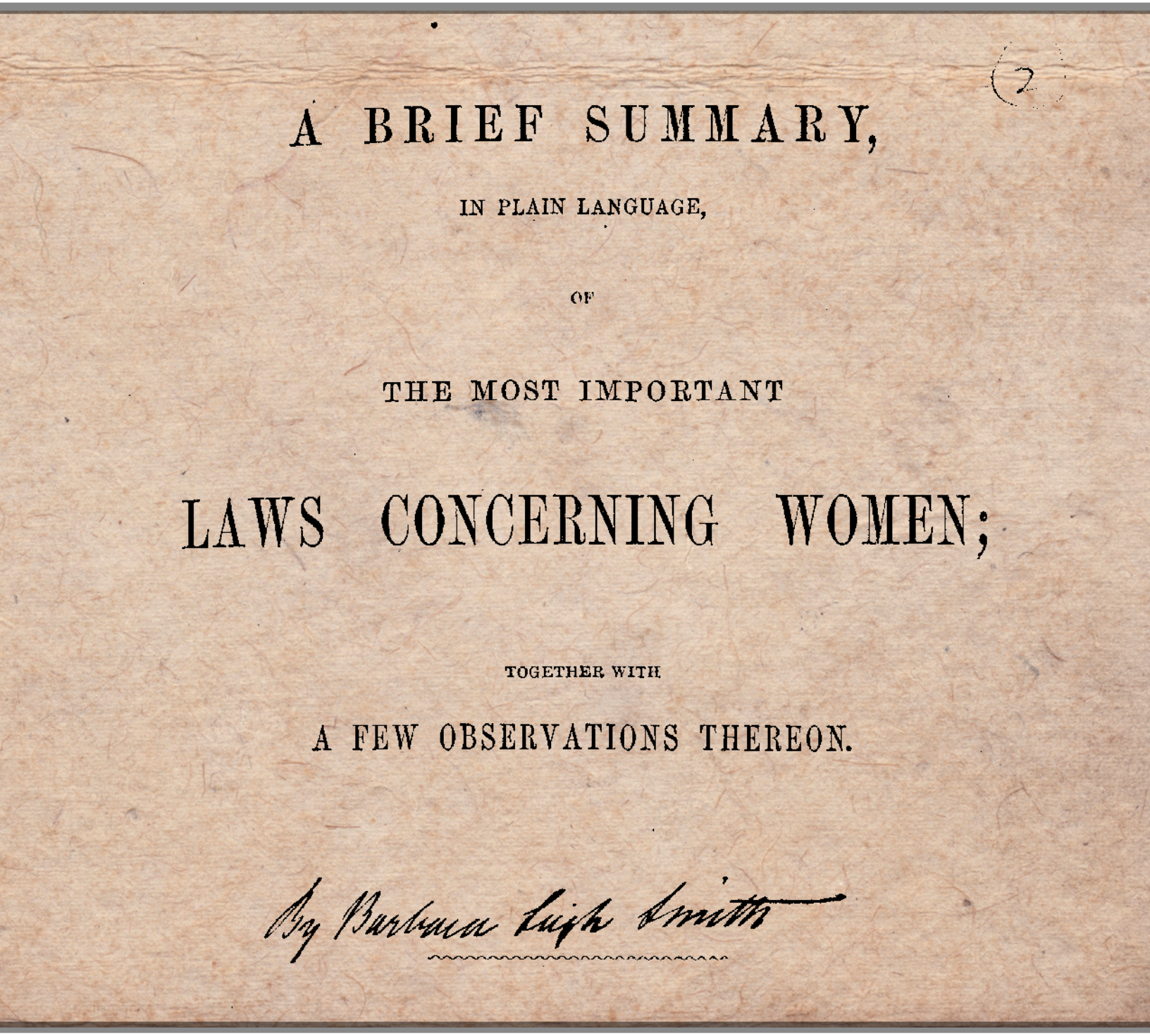

A BRIEF SUMMARY,

IN PLAIN LANGUAGE,

OF

THE MOST IMPORTANT

LAWS CONCERNING WOMEN;

TOGETHER WITH

A FEW OBSERVATIONS THEREON.

By Barbara Leigh Smith

VOLUME/TOME 49 (2024)
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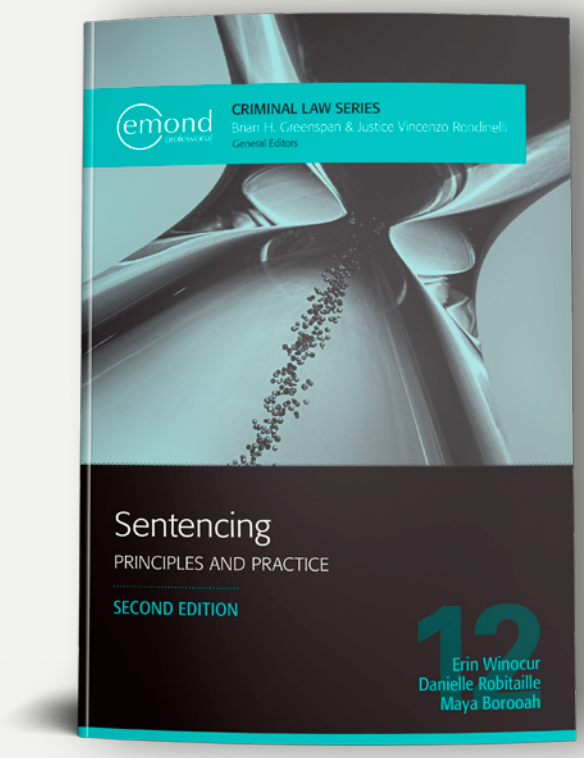

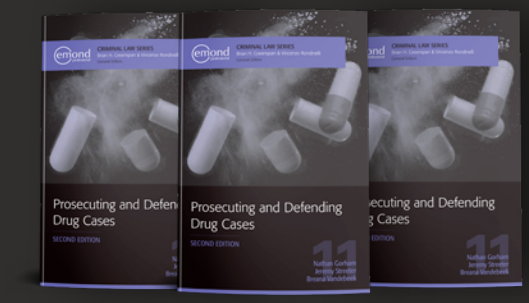

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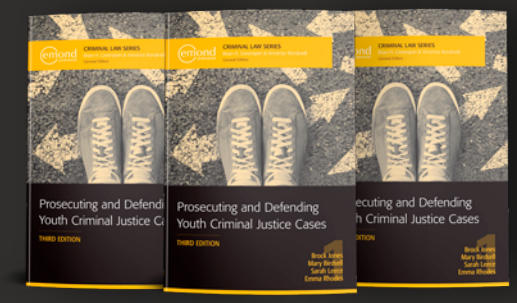

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CITED AS Can L Libr Rev

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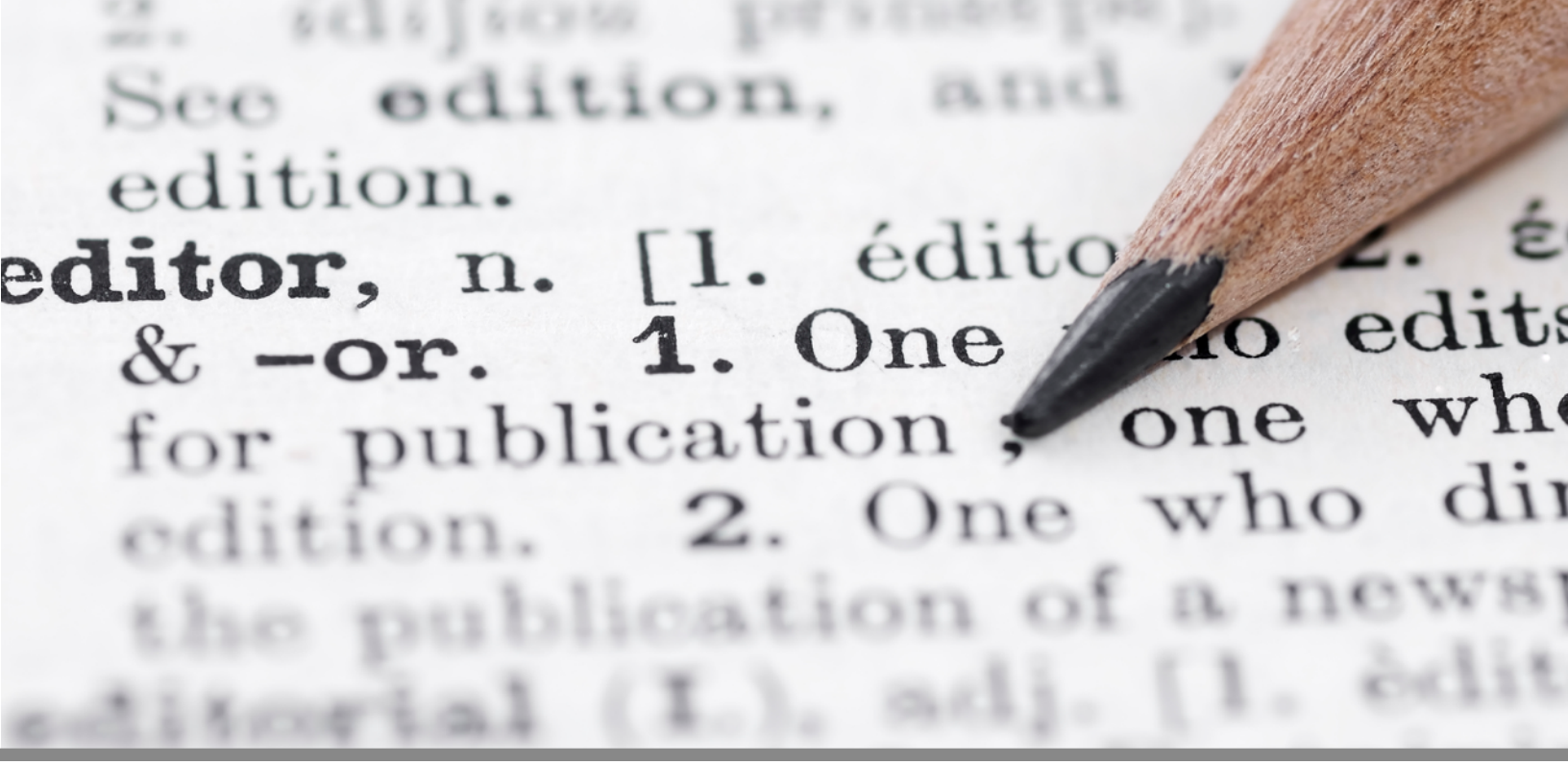

IIII From the Editor / De la rédactrice

Happy 2024! The year has already started off on a positive note, as the 2023 Clawbie Awards named *CLLR* in the Best Newsletter category, along with The Authentic Lawyer and the Sunday Night Administrative Review. Thanks to the Canadian Law Blog Awards for the recognition! And special thanks to everyone who has served on the *CLLR* editorial board: your expertise and dedication made this happen. It's an honour to be recognized by the legal information community.

Speaking of the editorial board, this issue marks Sara Klein's first as feature article co-editor. She brings a lot of editing experience with her, and we're happy to have her aboard. Sara has replaced Andrea Black, who stepped down from the role after the last issue. Thanks for all your hard work over the years, Andrea!

This issue has two feature articles, one celebrating a milestone in women's legal history and another taking a pragmatic look at modern-day library management. Amy Kaufman's "The First Law Book for Women: Barbara Leigh Smith Bodichon and *A Brief Summary, In Plain Language, of the Most Important Laws Concerning Women*" discusses the history and development of an important compilation of English laws affecting women. While it wasn't the first of its kind, this 1854 text is unique in that it was the first written by a woman. Kaufman shines a light on this important work and examines its historical context, the public's response to its publication, and its role in the women's movement.

In "Law Students as Reference Assistants in an Academic Law Library," authors Ana Rogers-Butterworth and Sonia Smith discuss the benefits of hiring law students, rather than library school students, as reference assistants at academic law libraries. I can attest to it being a successful undertaking, as we hire law students at the UNB Law Library—although, since we don't have a library school at UNB, it's our only option! Luckily it works well for us, for many of the reasons outlined in the article. Whether your library currently employs law students or is considering it, you'll find value in this article. And maybe, like me, you'll be inspired to create an online training module for them to complete before their first shift—my summer will be busy!

EDITOR
NIKKI TANNER

Bonne année 2024! L'année a déjà commencé sur une note positive puisque les Clawbies 2023 ont nommé la *RCBD* dans la catégorie des meilleures infolettres, aux côtés de The Authentic Lawyer et de Sunday Night Administrative Review. Merci aux Prix des blogues juridiques canadiens pour cette reconnaissance! Et un merci particulier à toutes les personnes qui ont siégé au comité de rédaction de la *RCBD*. Votre expertise et votre dévouement ont permis d'obtenir ce prix. C'est un honneur d'être reconnu par la communauté de l'information juridique.

À propos du comité de rédaction, ce numéro marque la première participation de Sara Klein à titre de corédactrice des articles de fond. Elle possède une grande expérience de la rédaction et nous nous réjouissons de son arrivée. Sara remplace Andrea Black, qui a quitté ses fonctions après le dernier numéro. Merci, Andrea, pour l'excellent travail que tu as effectué au fil des années!

Le présent numéro présente deux articles de fond, l'un

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IIII President's Message / Le mot de la présidente

Happy New Year!

This will be my last message, as I am wrapping up my term as president of our prestigious association this year. It has been a wonderful and rewarding experience, with the latest being the Clawbies' recognition of the *Canadian Law Library Review* as one of the best newsletters in the Canadian legal infosphere on December 31, 2023. This comes as no surprise considering all the hard work that goes into the production and the many "invaluable contributions" that have been published over the years! It is worthy to note how *CLLR* has evolved over the years, including making it open access and available on CanLII. Congratulations to Nikki Tanner and members of the editorial board, past and present, on this recognition!

As I mentioned in my January *In Session* message, the Clawbies gave credit to all the professional attributes of legal information professionals, tasks that we do but distinguish us from others. The articles in this issue reflect some of that work: one focuses on sharing institutional practices, while the other traces the history of the first publication on laws regarding women written specifically *for* women. These are examples of the exceptional work we do to inform and educate.

This is a very good note to begin the new year. And before you know it, conference season will be here. This is one of the outlier years when our annual conference will take place in June instead of May (although in the early days of the association, the conference was held in June/July). Start gearing up for Montreal! I am looking forward to seeing as many of you who can make it.

This will be Year 1 of the implementation of CALL/ACBD's five-year strategic plan. Members of the executive board look forward to working toward achieving these goals.

I wish everyone a fulfilling year ahead.

PRESIDENT
YEMISI DINA

Bonne et heureuse année!

Étant donné que je termine cette année mon mandat à titre de présidente de notre prestigieuse association, voici mon dernier message. Ce fut une expérience merveilleuse et enrichissante, dont la plus récente remonte au 31 décembre 2023 lorsque la *Revue canadienne des bibliothèques de droit* a été reconnue comme l'une des meilleures infolettres de l'infosphère juridique au Canada dans le cadre des Clawbies. Cela ne nous étonne pas quand on connaît tous les efforts déployés pour la production et les nombreuses « contributions inestimables » qui ont été publiées au fil des ans! Il est intéressant de noter comment la *RCBD* a évolué au fil du temps, notamment en offrant la publication sur CanLII. Félicitations à Nikki Tanner et aux membres passés et présents du comité de rédaction pour cette reconnaissance!

Comme je l'ai mentionné dans l'infolettre *In Session* de janvier, les Clawbies ont mis en valeur les caractéristiques professionnelles des spécialistes de l'information juridique, à savoir des tâches que nous accomplissons, mais qui nous distinguent des autres. Les articles de ce numéro reflètent une partie de ce travail : l'un est axé sur le partage des

pratiques institutionnelles, tandis que l'autre retrace l'histoire de la première publication sur les lois touchant les femmes et écrite spécialement *pour* les femmes. Ce sont là des exemples du travail exceptionnel que nous accomplissons pour informer et éduquer.

C'est une très bonne nouvelle pour commencer l'année. Et avant que vous ne vous en rendiez compte, ce sera déjà la saison du congrès. C'est l'une des années atypiques où notre congrès annuel aura lieu en juin plutôt qu'en mai (même si dans les premières années de l'association, le congrès se tenait en juin ou juillet). Commencez à vous préparer pour Montréal! Je suis impatiente de voir le plus grand nombre de membres possible.

Il s'agira de la première année de la mise en œuvre du plan stratégique quinquennal de la CALL/ACBD. Les membres du Conseil exécutif se réjouissent à l'idée de travailler à l'atteinte de ces objectifs.

Je tiens à vous souhaiter une année enrichissante.

LA PRÉSIDENTE
YEMISI DINA

Continued from page 5

célébrant une étape importante de l'histoire juridique des droits des femmes et l'autre jetant un regard pragmatique sur la gestion moderne d'une bibliothèque. L'article d'Amy Kaufman — « The First Law Book for Women: Barbara Leigh Smith Bodichon and *A Brief Summary, In Plain Language, of the Most Important Laws Concerning Women* » — évoque l'histoire et l'évolution d'une importante compilation de lois anglaises touchant les femmes. Bien qu'il ne soit pas le premier du genre, ce livre de 1854 était exceptionnel, car il était le premier à avoir été écrit par une femme. Kaufman met en lumière cet ouvrage important et examine son contexte historique, la réaction du public suivant sa publication et son rôle dans le mouvement des femmes.

Dans l'article intitulé « Law Students as Reference Assistants in an Academic Law Library », les auteures Ana Rogers-Butterworth et Sonia Smith examinent les avantages liés à l'embauche d'étudiant.e.s en droit, plutôt que d'étudiant.e.s en bibliothéconomie, comme assistant.e.s au service de référence dans les bibliothèques de droit universitaires. Je peux confirmer que cette démarche a des résultats positifs puisque nous embauchons des étudiant.e.s en droit à la bibliothèque de droit de l'UNB, bien que ce soit notre seule option puisque l'université n'a pas d'école de bibliothéconomie! Heureusement, cela fonctionne bien pour nous, et ce pour de nombreuses raisons exposées dans l'article. Que votre bibliothèque emploie actuellement des étudiant.e.s en droit ou qu'elle envisage de le faire, cet article vous sera utile. Vous aurez peut-être envie, comme moi, de créer un module de formation en ligne que les étudiant.e.s devront suivre avant leur premier jour de travail. Mon été sera bien rempli!

RÉDACTRICE
NIKKI TANNER

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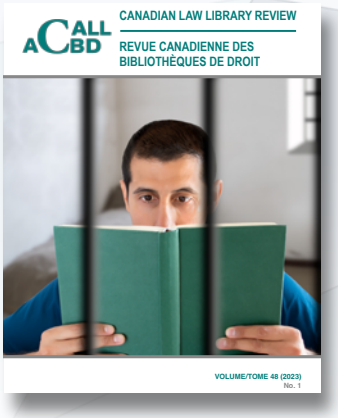

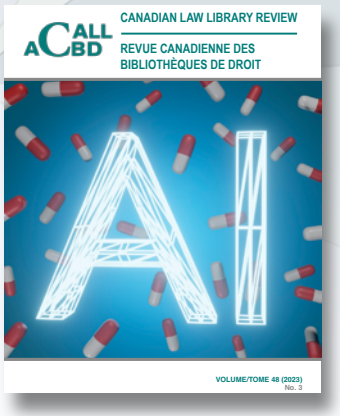

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IIII Perspectives

Introducing CLLR's New Column: "Perspectives"

The *Canadian Law Library Review* is accepting article proposals for a new column, "Perspectives." We are looking for short articles on any topic of potential interest to *CLLR* readers, such as legal research, the role of librarians and library staff, management and leadership, technology, the use of social media, collection development, customer service, and knowledge management. Articles should be between 1000–2500 words in length and can take a variety of forms, including:

- practical or experiential papers describing a process or project, including best practices and/or lessons learned;
- comments/editorial opinion pieces on timely and significant topics;
- descriptions of a research methodology or technique;
- a case comment or analysis of a new statute or amendment;
- interviews with leading individuals and innovators in fields affecting legal information professionals; or
- short, research-based content.

If you have an idea for the column, please contact cllr.perspectives@callacbd.ca (before writing) to discuss the format and topic of your proposed article. Anyone is welcome to submit, regardless of CALL/ACBD membership status.

We look forward to hearing your ideas!

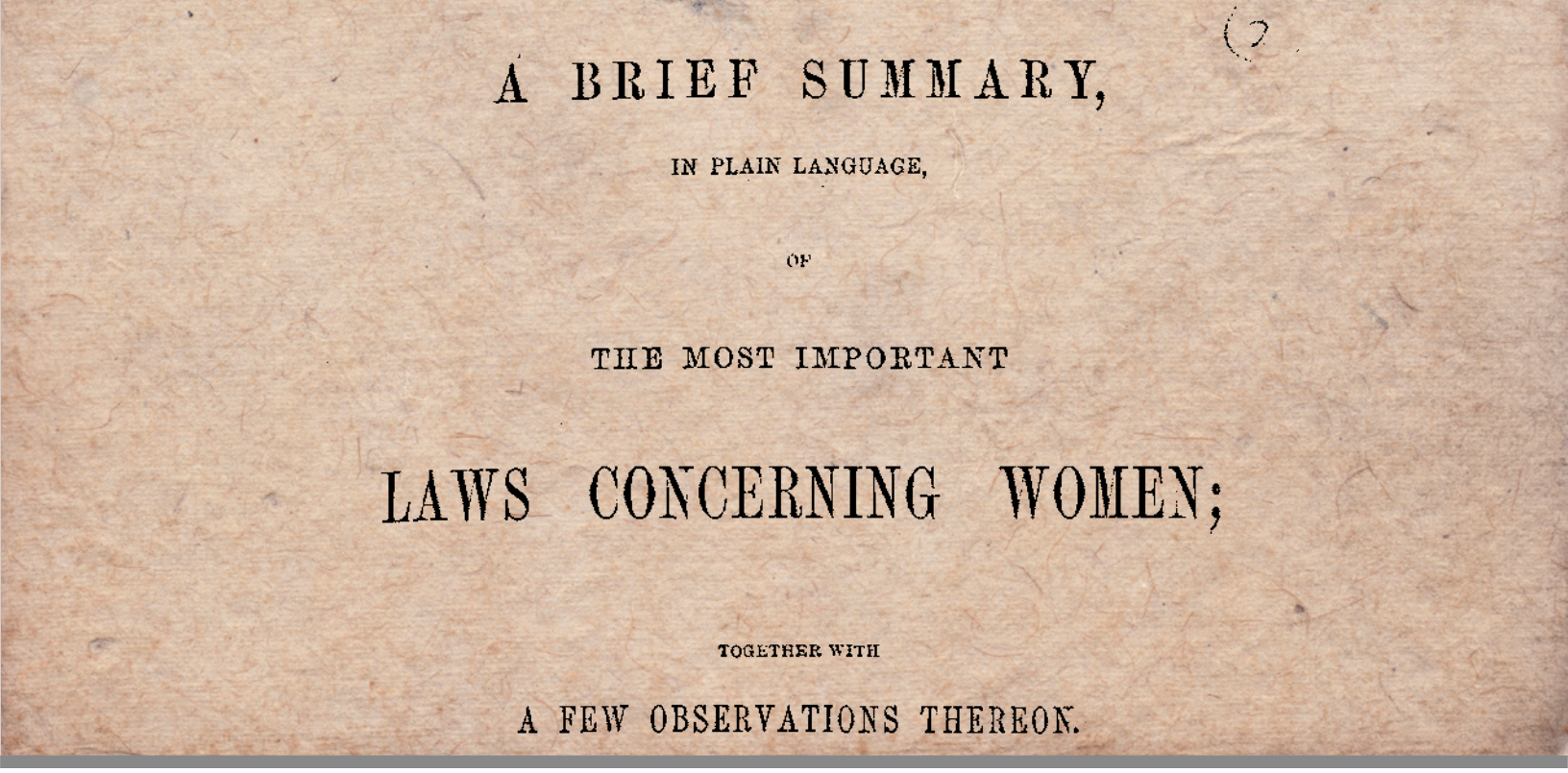
La *Revue canadienne des bibliothèques de droit* accepte les propositions d'articles pour sa nouvelle rubrique intitulée « Perspectives ». Nous recherchons de courts articles sur tout sujet susceptible d'intéresser les lectrices et lecteurs de la *RCBD*; par exemple, la recherche juridique, le rôle des bibliothécaires et du personnel des bibliothèques, la gestion et le leadership, la technologie, l'utilisation des médias sociaux, le développement des collections, le service à la clientèle et la gestion du savoir.

Les articles doivent compter entre 1000 et 2500 mots et peuvent prendre les diverses formes suivantes :

- un article d'intérêt pratique ou expérientiel décrivant un processus ou un projet, notamment les meilleures pratiques ou les leçons tirées;
- un commentaire ou un article d'opinion sur un sujet d'actualité et d'importance;
- une description d'une méthodologie ou d'une technique de recherche;
- un commentaire ou une analyse de cas portant sur une nouvelle loi ou un amendement;
- un entretien avec une grande personnalité innovante dans un domaine touchant les professionnels de l'information juridique;
- un bref rapport axé sur la recherche.

Si vous avez une idée pour cette rubrique, veuillez écrire à cllr.perspectives@callacbd.ca (avant de commencer la rédaction) afin de discuter du format et du sujet de l'article que vous proposez. Tous les membres de l'ACBD/CALL sont invités à proposer un article, quelle que soit votre catégorie d'adhésion.

Nous attendons avec impatience vos idées!


A BRIEF SUMMARY,

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A FEW OBSERVATIONS THEREON.

IIII The First Law Book for Women: Barbara Leigh Smith Bodichon and *A Brief Summary, In Plain Language, of the Most Important Laws Concerning Women*

By Amy Kaufman*

ABSTRACT

There have been many books written about the legal status of women, but in England, they had all been written by men. That changed in 1854. That year, long before women had equal rights or could practice law, Barbara Leigh Smith Bodichon wrote A Brief Summary, in Plain Language, of the Most Important Laws Concerning Women*. This article traces the book's creation and considers its impact on law reform.*

SOMMAIRE

De nombreux ouvrages ont été écrits sur le statut juridique des femmes. En Angleterre, ils ont été écrits par des hommes. Mais les choses ont changé en 1854. Bien avant que les femmes ne bénéficient de l'égalité des droits ou ne puissent pratiquer le droit, Barbara Leigh Smith Bodichon a écrit A Brief Summary, in Plain Language, of the Most Important Laws Concerning Women*. Cet article retrace la création de l'ouvrage et examine son impact sur la réforme du droit.*

Introduction

In the 1850s, a new type of book appeared in England: one written by women to explain the law as it affected women. As early as the 17th century, there had been books about the laws regarding women, but it was not until 1854 that a woman wrote a law book for women. *A Brief Summary, in Plain Language, of the Most Important Laws Concerning Women, Together with a Few Observations Thereon* by Barbara Leigh Smith (later Bodichon)[1] was an influential work that helped prompt reform to married women's property law, a central focus of the 19th-century women's movement. How was she able to create and distribute what would become the template for women law reformers in the English-speaking world into the 20th century?

Bodichon's Background and Influences

Barbara Bodichon (1827–1891) was the child of a wealthy Liberal politician and reformer and a milliner's apprentice. It was never clear why her parents did not marry, but the social and legal disabilities created by Bodichon's illegitimacy were

* Amy Kaufman is the head law librarian at Queen's University in Kingston, Ontario.

[1] (London: John Chapman, 1854) [*Brief Summary*].

mitigated by her father's wealth. He settled £300, later £1000, a year on her, which gave Bodichon the independence and means to pursue social and legal reforms for the rest of her life. Her reform work included co-founding Girton College at Cambridge, starting the *English Woman's Journal*, and writing reform-minded pamphlets. Bodichon was a central member of the Langham Place group, named for the London address where the *English Woman's Journal*'s offices published pieces by major feminist writers of the day and enabled other important work to improve the lot of women. Her circles included prominent women such as Marian Evans, Bessie Rayner Parkes, and Emily Davies.[2]

Bodichon's position as the daughter of a wealthy reformer allowed her to learn about the position of women and engage in the debates of the time. She would have heard about, and perhaps read, Caroline Norton's famous pamphlets that pressed for custody of her children following separation from her husband. While Norton's advocacy was instrumental in prompting the passage of the 1839 *Infant Custody Act*, which improved the rights of separated mothers to their children, Norton was a "professed antifeminist," uninterested in pressing for general legal reform.[3] Nonetheless, the pamphlets would have provided an example of how a woman writing about the law's deficiencies could prompt reform.

A clearer influence was John Stuart Mill. In 1849, Bodichon wrote in her notebook that Mill expressed himself "nobly and liberally" about needed reforms in *Political Economy*, but she wished he had addressed the injustice of laws regarding women more directly: "Philosophers and Reformers have generally been afraid to say anything about unjust laws … which crush women."[4] In every sense, Bodichon had the resources to address this void.

Her family provided the essential connections to lawyers and law books that allowed Bodichon to write *A Brief Summary*. She was able to call on family friend and lawyer Matthew Davenport Hill, a fellow reformer MP like her father. Hill had experience trying cases and campaigning for reform as well as the legal knowledge Bodichon lacked. He was also a co-founder of the Law Amendment Society, which would later prove instrumental in furthering her pamphlet's reach.[5] Hill's daughter Florence played an understated but critical role as their intermediary, prompting her father to work on Bodichon's pamphlet, working as his amanuensis, and contributing to Bodichon's manuscript in her own right.

One crucial way the Hills assisted Bodichon was to recommend books and articles. In one letter, Florence referred to "Mr. Wharton's Book of which you speak."[6] This was John Wharton's just-published *Exposition of the Laws Relating to the Women of England*, which became Bodichon's source text.[7] Florence also recommended *Stephen's Commentaries on the Laws of England*, "a recent work of which my Father thinks *very* highly."[8] First published in 1841, these were based on *Blackstone's Commentaries*, which were first published in the 1760s. Read by lawyers and non-lawyers alike, renowned for presenting an accessible overview of the laws of England, *Blackstone's Commentaries* were eventually rendered out of date by later law reforms. The successive editions of *Stephen's Commentaries* then became the standard and respected text for law students throughout the British Empire.[9] The Hills helped Bodichon identify key legal works, knowledge that would have been normally unavailable to those outside legal circles.

Bodichon later provided a list of needed texts that Florence helped her locate. Providing a glimpse into a women's network in action, Florence wrote that she thought a friend owned one: "I have written to ask her about it and if she can recommend others—it is a subject she used to take great interest in."[10]

An Overview of *A Brief Summary*

Bodichon's *Brief Summary* was an 18-page pamphlet on the laws regarding women that was designed to be accessible to a lay audience, particularly women, and to make clear, in an unthreatening way, the unfairness of the current laws. The first 10 pages present Bodichon's summary of laws concerning women, and the last six pages contain her remarks. The laws are grouped under the following headings:

- Legal Condition of Unmarried Women or Spinsters
- Laws Concerning Married Women
- Usual Precautions Against the Laws Concerning the Property of Married Women
- Separation and Divorce

---

[2] Sheila R Herstein, *A Mid-Victorian Feminist, Barbara Leigh Smith Bodichon* (New Haven: Yale University Press, 1985) at 10, 21; Candida Ann Lacey, *Barbara Leigh Smith Bodichon and the Langham Place Group* (New York: Routledge & Kegan Paul, 1986) at 1; Helen Blackburn, *Women's Suffrage; A Record of the Women's Suffrage Movement in the British Isles, with Biographical Sketches of Miss Becker* (London: Williams & Norgate, 1902) at 52.

[3] KD Reynolds, "Caroline Elizabeth Sarah Norton [nee Sheridan]" (25 September 2014) in Sir David Cannadine, ed, *Oxford Dictionary of National Biography*, DOI: <10.1093/ref:odnb/20339>; Herstein, *supra* note 2 at 48–51, 70.

[4] *Personal Papers of Barbara Leigh Smith Bodichon*, Girton College Archive, Cambridge (GBR/0271/GCPP), cited in Herstein, *supra* note 2 at 18.

[5] PWJ Bartrip, "Matthew Davenport Hill" (23 September 2004) in David Cannadine, ed, *Oxford Dictionary of National Biography*, DOI: <10.1093/ref:odnb/13286>.

[6] *Papers of Barbara McCrimmon Related to Barbara Bodichon* (6 August 1854), London, LSE Women's Library (GB/106/7/BMC/E2) [*Papers*, E2].

[7] (London: Longman, Brown, Green and Longmans, 1853).

[8] *Papers*, E2, *supra* note 6 [emphasis in original].

[9] John V Orth, "Blackstone" in Markus D Dubber & Christopher Tomlins, *The Oxford Handbook of Legal History* (Oxford: Oxford University Press, 2018) 359; Wilfred Prest, "Antipodean Blackstone" in *Re-Interpreting Blackstone's Commentaries: A Seminal Text in National and International Contexts* (Oxford: Hart Publishing, 2014) 145 at 153–54.

[10] *Papers of Barbara McCrimmon Related to Barbara Bodichon* (13 August 1854), London, LSE Women's Library (GB/106/7/BMC/E4).

- Laws Concerning a Widow
- Laws Concerning Women in Other Relationships
- Laws Concerning Illegitimate Children and Their Mothers

One type of law affecting women is omitted from her pamphlet: prostitution. Correspondence with the Hills reveals this to be deliberate. Florence had written to Bodichon,

> My father thinks it being desirable that no more than is absolutely necessary should be said upon those subjects which are considered as forbidden to women – especially young women. He fears the subject may call forth attacks upon your little work which would greatly injure the cause you are laboring for … [L]ong experience has convinced him that if we wish to reform the world we must be tender of its prejudices or we shall never gain a hearing.[11]

In accepting Hill's advice, Bodichon departed from her source text. However, even Wharton had found addressing prostitution laws difficult, calling them "subjects of great delicacy, yes, and sometimes of painful depravity."[12] If an established barrister was concerned about including these laws, it is no wonder that Bodichon chose to omit them in hopes of reaching a larger audience.

Bodichon borrowed much from Wharton, but she also introduced innovations to make her pamphlet more accessible to women. One of Bodichon's biographers related that Bodichon, "deeming [Wharton's book] a splendidly lucid account but doubting whether many women would wade through such a huge volume, … produced a summary, abstracting its main points."[13] She also modified his techniques to suit her purposes. For instance, she employed Wharton's approach of organizing chapters by the different legal statuses that women might occupy in a lifetime. But rather than starting at infancy and continuing chronologically, as Wharton did, Bodichon began with unmarried women and only included conditions of children as they relate to mothers. In this way, she spoke to the reality of women's lives. Women could read about themselves first, perhaps as "spinsters" or wives, and then learn about what rights they might have to their children in the event of a separation. Still later comes widowhood and then chapters on women in legally irregular relationships—like that of her own parents—and the rights of those women to their children. Wharton may well have had laudable intentions in writing a book dedicated "to the women of England," but he had not written his book directly to them. In his note to the reader, he referred to women in the third person, creating a sense that they were not, in fact, his contemplated audience.[14] Bodichon found ways to centre women as both her subject and her audience.

Bodichon eliminated Wharton's many footnotes, tables of contents, front matter, legal forms, and subject and case indices. These paratextual decisions reduced the number of pages and allowed for a smoother reading experience, but at the expense of the reader's ability to quickly locate specific issues. Bodichon substantively abridged and restated Wharton's legal assertions in plainer language and defined legal terms, incorporating definitions into sentences to reduce reading interruptions; for example, "If her father or mother die *intestate* (*i.e.*, without a will)."[15] She used disarmingly unemotional prose to highlight injustices. Here, on the left, is how Wharton explained the effect of marriage on the legal status of a woman, with Bodichon's equivalent on the right:

[H]usband and wife are treated at Common Law as one person indivisible, the personal and separate existence of the wife being legally considered as absorbed and consolidated in that of her husband, from which it is judicially indistinguishable, and under whose wing, protection, and cover she acts; hence marriage is technically styled *coverture*.	A man and woman are one person in law; the wife loses all her rights as a single woman, and her existence is entirely absorbed in that of her husband. He is civilly responsible for all her acts; she lives under his protection or cover, and her condition is called *coverture*.
The custody of the wife belongs to her husband, to secure which he may resort to the writ of *habeas corpus*.[16]	A woman's body belongs to her husband; she is in his custody, and he can enforce his right by a writ of *habeas corpus*.[17]

Bodichon's structure, short paragraphs, and careful diction allowed her pamphlet to appear both unprovocative and authoritative. The first two paragraphs read:

A single woman	A SINGLE woman has the same rights to property, to protection from the law, and has to pay the same taxes to the state, as a man.

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[11] *Papers of Barbara McCrimmon Related to Barbara Bodichon* (20 August 1854), London, LSE Women's Library (GB/106/7/BMC/E5) [*Papers*, E5].

[12] Pam Hirsch, *Barbara Leigh Smith Bodichon 1827–1891: Feminist, Artist and Rebel* (London: Pimlico, 1999) at 90; Wharton, *supra* note 7 at x.

[13] Hirsch, *supra* note 12 at 86.

[14] Wharton, *supra* note 7 at iii, ix.

[15] *Brief Summary*, *supra* note 1 at 3.

[16] Wharton, *supra* note 7 at 311–12.

[17] *Brief Summary*, *supra* note 1 at 6.

No political franchise	Yet a woman of the age of twenty-one, having the requisite property qualifications, cannot vote in elections for members of Parliament.[18]

Her critique is just below the surface; the "yet" a simple and almost unnoticeable conjunction to suggest to readers that something is off-balance.

Bodichon demonstrated how the law only served wealthy women, as married women's property could only be protected by a settlement, which required the work of a lawyer, and divorce was prohibitively expensive.[19] Regarding children, she stated blandly that their custody "belongs to the father." Rather than end it there, however, she added detail to prompt readers to question the fairness of the rule:

> During the lifetime of a sane father, the mother has no rights over her children, except a limited power over infants, and the father may take them from her and dispose of them as he sees fit.

She followed the same pattern for the law of inheritance. After lulling her reader with dry recitations of the law, she states, "A husband can, of course, by will deprive a wife of all right of the personalty."[20]

The "Remarks" section abandoned the summary format in favour of an argumentative essay. The choice to begin with a summary of the laws and then move to commentary is unusual: it would be more typical to start with comments in the way of an introduction, as her source text does. However, Bodichon's inverse arrangement had at least two advantages: first, it allowed her to present her evidence before making her arguments, and second, it created a first impression of neutrality by having the less obviously argumentative part of the work first. Bodichon began the "Remarks" section by inviting readers to ponder the laws and consider the need for reform:

> These are the principal laws concerning women.
>
> It is not now as it once was, when all existing institutions were considered sacred and unalterable; and the spirit which made Blackstone an admirer of, rather than a critic on, every law because it was *law*, is exchanged for a bolder and more discriminating spirit, which seeks to judge calmly what is good and amend what is bad.[21]

This seemed carefully calibrated to appeal to a conservative audience. One need not reject the legal authorities embodied in *Blackstone* in order to agree that change was needed. Rather than a call for revolution, she asked for "calm" judgment of the existing laws, which had been summarized above. Bodichon conceptualized reform as the removal of legal burdens: "the most urgently needed reforms are simple erasures from the statute book. Women, more than any other members of the community, suffer from over-legislation."[22]

Her remarks concluded with a comparison to the legal status of women in other countries that showed Englishwomen at a disadvantage. Examples included French law, under which "married women have a right, if they marry without a marriage contract, to claim at the death of the husband half of whatever he possessed at the time of marriage, or may have gained afterward," and Turkish law, under which "daughters succeed equally with sons in houses and landed property, and always take one-third of the personal property."[23] This strategy was originally suggested by Matthew Hill, who advised comparing English laws "with other and better laws in force in foreign parts, because the mind is naturally and properly more affected by that which has been reduced to practice than that which is mere theory," and many other women would go on to employ it in their law books.[24]

Publication and Public Response

A Brief Summary was published by John Chapman in 1854 and was available for purchase from his London office. Chapman published several pamphlets by early feminists, likely on commission.[25] Bodichon's wealth would have allowed her to enter into this arrangement. Her pamphlet's listed price was 3d (three pennies), which would put it in the most common and lowest-priced tranche of British publishing at the time.[26] It was an insignificant-looking quarto without embellishments or illustrations. It was likely sold without covers, as all extant copies consulted were bound differently. There is nothing to suggest that more money than necessary was spent to publish it.

Bodichon's first edition was published anonymously at a time when it was socially acceptable for women to publish under their own names. Readers enjoyed guessing the identity

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[18] *Ibid* at 3.

[19] *Ibid* at 3, 9–10.

[20] *Ibid* at 7, 10.

[21] *Ibid* at 13 [emphasis in original].

[22] *Ibid*.

[23] *Ibid* at 15–16.

[24] *Papers of Barbara McCrimmon Related to Barbara Bodichon* (20 August 1854), London, LSE Women's Library (GB/106/7/BMC/E6).

[25] Rosemary Ashton, *142 Strand: A Radical Address in Victorian London* (London: Chatto & Windus, 2006) at 298; Elizabeth Crawford, *The Women's Suffrage Movement: A Reference Guide 1866–1928* (London: UCL Press, 1999) at 576.

[26] "Works Related to Women", *Reasoner* (5 November 1854) 335; Simon Eliot, *Some Patterns and Trends in British Publishing 1800–1919* (London: The Bibliographical Society, 1994) at 75.

of authors of works, so this might have added to interest in the pamphlet.[27] The Hills' correspondence also sheds light on the decision, one Florence praises, for "you will perhaps know the *truth* of what people think, better than if it bore your name."[28] It could be useful to leave a question mark as to the gender of the author of a work on women's rights, so prejudice would not discourage readership. Bodichon would have been aware of longstanding public disparagement of women writing about the rights of women, most famously Wollstonecraft's *Vindication of the Rights of Woman*.[29] As a woman with no legal training, Bodichon's name would not bolster her book's authority, a central concern for law books.[30]

Reviewers were divided on the author's gender. In its skeptical mention, *The Athenaeum* assumed the author was male: "His complaint is that women are, by marriage, placed in the position of minors as regards their property. The Turks and the Hungarians are suggested as reformers in such matters." In contrast, the *Ladies' Cabinet of Fashion, Music and Romance* detected a "female intellect."[31] While Bodichon's motivation is unknown, she was following a path common for 19th-century novelists: to begin anonymously in order to gauge critical and popular reaction to a work, and then, if successful, to identify themselves on subsequent publications.[32] This is exactly what Bodichon did.

Chapman, Bodichon's publisher, was also the editor of *The Westminster Review*, a pre-eminent liberal journal. It was publishing the "most innovative, original, and humanitarian thinking" at the time, albeit with a circulation of only 650 in 1854.[33] While Chapman never made money, he succeeded in using it to promote women's suffrage among other liberal causes. *The Westminster Review* gave *A Brief Summary* almost a full page of substantive discussion, which was later identified as the work of scientist T.H. Huxley.[34] Describing it as "a careful little digest of the most important laws relating to the life of woman in England; and a few suggestive comments," Huxley concluded that

> women have been so systematically educated to their false position that they have hitherto slumbered under their indignity. But the tide of opinion is surely setting towards enlightened convictions on their rights and wrongs; and we regard this little pamphlet not only as a straw which shows the current, but as an influence, which, with its simple but significant teaching, may haply serve to direct it.[35]

The pamphlet's goals fit perfectly within *The Westminster Review*, so its inclusion was logical. However, Chapman had other motivations for promoting it. In addition to having a pecuniary interest in the success of the pamphlet, which was likely published on commission, he was also pressing Bodichon, unsuccessfully, to enter into an extramarital union with him.[36]

Widely circulated, *A Brief Summary* was credited with drawing "the attention of many persons" and "creating a sensation."[37] Noted and advertised in a number of publications, it also received critical attention.[38] Reviews of *A Brief Summary* were not uniformly positive outside of Chapman's circle, however. *The Practical Mechanic's Journal*, a monthly periodical costing one shilling, found it "to be a rather epigrammatic tirade against what is called over-legislation as regards the rights of woman."[39] With a circulation of 6,000, far exceeding that of *The Westminster Review*, this journal alerted its readers to new scientific discoveries and engineering innovations.[40] Alongside its scientific content, it included reviews of popular subjects. The editorial decision to review *A Brief Summary* in such a periodical, even negatively, suggests that the "woman question" had entered public discourse.

The only review found in a woman's publication comes from *The Ladies Cabinet of Fashion, Music and Romance*, which praised its concision:

> It is calculated to do much good, through its simplicity of statement and wise spirit of restraint … Many will read it, who would be deterred by more copious information more elaborately conveyed.

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[27] John Mullan, *Anonymity* (London: Faber and Faber, 2007) at 57–64, 76.

[28] *Papers of Barbara McCrimmon Related to Barbara Bodichon* (8 October 1854), London, LSE Women's Library (GB/106/7/BMC/E10).

[29] Hilary Fraser, Stephanie Green & Judith Johnston, *Gender and the Victorian Periodical* (Cambridge: Cambridge University Press, 2003) at 149.

[30] 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 638.

[31] "Our Library Table", *Athenaeum* (9 December 1854) 1493 at 1493; "Our Library Table", *Ladies Cabinet of Fashion, Music and Romance* (1 January 1855) 49 at 50.

[32] Mullan, *supra* note 25 at 141, 286–87.

[33] Crawford, *supra* note 23 at 457; "The Westminster Review" in *The Wellesley Index to Victorian Periodicals*, online: <proquest.com/historical-periodicals/wellesley-periodical-introduction-westminster/docview/2743441190/se-2>.

[34] "Contemporary Literature [see note in no. 1444]" in *The Wellesley Index to Victorian Periodicals*, online: <proquest.com/historical-periodicals/contemporary-literature-note-type-edit-see-no/docview/2743487661/se-2>.

[35] TH Huxley, "Politics and Education", *Westminster Review* (January 1855) 228 at 235.

[36] Crawford, *supra* note 25 at 576; Lacey, *supra* note 2 at 14n1.

[37] Hirsch, *supra* note 12 at 91; Constance Hill & Frederic Hill, *Frederic Hill: An Autobiography of Fifty Years in Times of Reform* (London: R Bentley and Son, 1893) at 305; Hester Burton, *Barbara Bodichon (1827–1891)* (London: John Murray, 1949) at 60.

[38] See e.g. "Books Received", *Economist* (14 October 1854) 1132; "Now Ready", *Athenaeum* (7 October 1854) 1191; "Works Related to Women", *Reasoner* (5 November 1854) 335.

[39] *Practical Mechanic's Journal* (April 1854) 255 at 255.

[40] "The Practical Mechanic's Journal" in John S North, ed, *The Waterloo Directory of English Newspapers and Periodicals 1800–1900*, Series 2 (Waterloo: North Waterloo Academic Press, 2003) at 430.

The drawing-room monthly's assertion that "a little *brochure* of this sort, which states simply these laws as they now stand, cannot be otherwise than acceptable" suggests Bodichon's efforts to make the pamphlet appear facially neutral were successful, allowing it to reach an audience that might have turned away from something considered too radical.[41]

While the issue of women's legal rights might have been mainstream by 1854, Bodichon's views about them were not. This is borne out by a lengthy essay in *Blackwood's Edinburgh Magazine* that appeared in 1856. Written by Margaret Oliphant but published anonymously, as was the magazine's practice, "The Laws Concerning Women" declared the pamphlet "one-sided and unequal."[42] As a conservative-leaning periodical, *Blackwood's* negative response is not surprising.[43] However, the review, despite its negativity, served to publicize the pamphlet to a much larger audience than the positive reviews in liberal journals could have achieved. Oliphant's essay was cited, usually with approval, by many newspapers.[44]

In the face of these attacks, Bodichon could rely on her networks. Her friend Bessie Rayner Parkes rebutted Oliphant in *The Ladies Companion*, a one-shilling monthly that printed the same material as *The New Monthly Belle Assemblée* and *The Ladies Cabinet*, which had already shown itself to be sympathetic to Bodichon's position.[45]

Prompted by her pamphlet, the Law Amendment Society, a group of reformist lawyers and politicians, drafted and introduced legislation to reform married women's property law.[46] Bodichon helped circulate a petition in support of this effort, and it, too, was presented to Parliament. Signed by more than 26,000 women, the petition was reprinted in the *Westminster Review* with the names of prominent signatories, including Elizabeth Browning, Elizabeth Gaskell, Harriet Martineau, and, of course, Bodichon herself.[47]

Subsequent Editions

Bodichon authored the second edition of her pamphlet in 1856 amid this intensification of public and legislative attention to women's legal rights. She highlighted her pamphlet's prominent position by including within it the "recent admirable report of the Law Amendment Society" and a description of the petition. She concluded with a call to action: "We wish all *women*, especially, to consider this proposed law," and if they decided it was just, to work toward its passage.[48] This edition, published by George Holyoake, followed the first edition's format but was only 12 pages in length. Its cheapness was even more pronounced. The verso of the title page, in the first edition blank except for a note on the printer, was now used as the first page of the text. Even though it was significantly smaller than the first edition, it had more text. The smaller size had been achieved largely through eliminating much of the blank space and resetting the text using a smaller print size with 48, instead of 40, lines of text per page.

Despite the work of sympathetic Members of Parliament to ameliorate the laws regarding married women's property rights, there was little progress. *The Divorce Act* was passed in 1857, but it fell short of what Bodichon had demanded for women's property ownership rights and the issue subsequently languished. It was the election of J.S. Mill to Parliament in 1865 and his advocacy for women's suffrage that helped re-energize the women's movement. Suffrage became a topic of public debate, with petitions presented to Parliament and suffrage societies established around the country.[49]

Bodichon's third edition was published by Trübner in 1869, the same year as the (temporary) achievement of the municipal franchise for women householders and the introduction of a bill that would become the *Married Women's Property Act* of 1870, the first step toward comprehensive reform of married women's property law in England.[50] In line with developments in the women's movement, this third edition put new emphasis on suffrage.[51] It had a slight title change: *A Brief Summary, in Plain Language, of the Most Important Laws of England Concerning Women, Together with a Few Observations Thereon*.[52] If Bodichon added "England" because she anticipated an international audience, she was correct. An American suffrage periodical noted its

[41] "Our Library Table", *Ladies Cabinet of Fashion, Music and Romance* (1 January 1855) 49 at 50.

[42] "The Laws Concerning Women", *Blackwood's Edinburgh Magazine* (April 1856) 379 at 379, 387; "The Laws Concerning Women" in *The Wellesley Index to Victorian Periodicals*, online: <proquest.com/historical-periodicals/laws-concerning-women/docview/2743390182/se-2>.

[43] "Blackwood's Edinburgh Magazine" in *The Wellesley Index to Victorian Periodicals*, online: <proquest.com/historical-periodicals/wellesley-periodical-introduction-blackwoods/docview/2743440516/se-2>; Susan Hamilton, "Women's Voices and Public Debate" in Joanne Shattock, ed, *The Cambridge Companion to English Literature, 1830–1914* (Cambridge: Cambridge University Press, 2010) 91 at 98.

[44] "Literature", *Caledonian Mercury* (5 April 1856) 3; *Morning Post* (4 April 1856) 3; *Bell's Life in London and Sporting Chronicle* (6 April 1856) 3; "Our Library Table", *North Wales Chronicle* (12 April 1856) 7; *Derby Mercury* (9 April 1856) 6; "Reviews", *Liverpool Mercury* (19 May 1856) 2.

[45] "The Laws of Property as They Affect Married Women", *Ladies' Companion* (June 1856) 295; Jeffrey A Auerbach, "What They Read: Mid-Nineteenth Century English Women's Magazines and the Emergence of a Consumer Culture" (1997) 30 Victorian Periodicals Rev 121.

[46] Michael Lobban, "Henry Brougham and Law Reform" (2000) 115 English Historical Rev 1184 at 1205; Herstein, *supra* note 2 at 85.

[47] Caroline Frances Cornwallis, "The Property of Married Women", *Westminster Review* (October 1856) 181 at 184; Lee Holcombe, *Wives & Property: Reform of the Married Women's Property Law in Nineteenth-Century England* (Toronto: University of Toronto Press, 1983) at 70.

[48] *A Brief Summary, in Plain Language, of the Most Important Laws Concerning Women; Together with a Few Observations Thereon,* 2nd ed (London: Holyoake and Co, 1856) at 9, 12.

[49] Holcombe, *supra* note 47 at 103–28.

[50] Herstein, *supra* note 2 at 88–91.

[51] *Ibid* at 167.

[52] Barbara Bodichon, *A Brief Summary, in Plain Language, of the Most Important Laws of England, Together with a Few Observations Thereon*, 3rd ed (London: Trübner & Co, 1869).

publication and reprinted a lengthy excerpt.[53] In 1888, when the International Council of Women met in Washington, D.C., it was called a "reputed able" work.[54] Its international reach even included Italy, where it was included in a bibliography of works on women in 1889.[55]

This edition contained almost 50 pages and cost one shilling. By its size, additions, and tone, it communicated more confidence. At 17 pages, the summary of the law was longer than earlier editions. Bodichon's remarks were also longer, spanning 11 pages. However, it is the paratext that most obviously sets this edition apart. Bodichon began with an alphabetical glossary of legal terms followed by an introduction. She also added seven appendices that included a precedent, common in practical law books, and more information about foreign laws for comparison.

By 1869, John Chapman no longer had a publishing business, but he was still in a position to ensure publicity in *The Westminster Review*. In an article that must have been particularly gratifying to Bodichon, law professor Sheldon Amos confirmed Bodichon had accomplished the goal she had recorded in her notebook 20 years before, calling the new edition "a very courageous and well-advised step towards carrying out the principles of Mr. Mill's work."[56]

Both men and women were instrumental in the creation and dissemination of *A Brief Summary*. During its creation, Matthew Hill provided legal and political expertise, but his daughter, Florence, was the one who ensured Bodichon received his assistance. She was the central node of the relationship between Bodichon and the Hill family, connecting Bodichon not only to Florence's father but her brother Alfred, a lawyer with different expertise. Florence also contributed substantively. In one letter Florence wrote, "You will think we have made very free with your M.S. I am afraid—the notes in pencil are Rose's and mine, those in ink my father's—as we went through it before he did."[57] Florence and her sister Rose were Bodichon's earliest female network for the creation of *A Brief Summary*.

Legacy and Impact

Once *A Brief Summary* had been championed by the Law Amendment Society, it was the women in Bodichon's circle who helped circulate the petitions to promote its aims and wrote supportive articles. Bodichon's female networks also secured a legacy for *A Brief Summary*. Due to the ever-changing nature of the law, most legal publications quickly become obsolete, and Bodichon's pamphlets were no exception. However, within the women's movement, Bodichon's creation was long remembered for its innovative form more than for its content. For example, "Helen T." criticized the *Spectator* in 1869 for a biography of Bodichon that omitted her authorship of "two of [the movement's] best and most widely circulated pamphlets."[58] Author and suffragist Matilda Betham-Edwards later remonstrated with the editor of the *Women's Penny Paper* for not mentioning Bodichon's pamphlets, "models of the kind."[59] Years after its law was outdated, *A Brief Summary* continued to be cited in women's publications for its historical value, and its format and style became the standard for women law reformers highlighting legal deficiencies even into the 20th century and the fight for suffrage in Canada. But that, as they say, is a story is for another day.

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[53] Rebecca Moore, "Our English Correspondence: Letter XVII, Manchester, April 25th, 1869", *Revolution* (13 May 1869) 294 at 295.

[54] Ada Bittenbender, "Woman in Law" in *Report of the International Council of Women* (National Woman Suffrage Association, 1888) 173 at 178.

[55] Oscar Greco, *Bibliografia femminile italiana de XIX secolo* (Venice: Presso I pricipali librai d'italia, 1875) at 48.

[56] Ashton, *supra* note 25 at 255; Sheldon Amos, "Politics, Sociology, Voyages and Travels", *Westminster Review* (July 1869) 253 at 255.

[57] *Papers*, E5, *supra* note 11.

[58] "Women's Suffrage", *Spectator* (31 July 1869) 901.

[59] *Women's Penny Paper* (30 January 1896) 77.

IIII Law Students as Reference Assistants in an Academic Law Library*

By Ana Rogers-Butterworth† and Sonia Smith‡

ABSTRACT

In 2019, the Nahum Gelber Law Library at McGill University began a pilot project wherein three law students were employed as reference assistants, diverging from the conventional practice of employing library studies or undergraduate students. Law students bring prior legal research experience, subject area expertise, and the ability to contribute to library projects based on their specialized interests. This paper presents a review of the literature on this subject as well as of this pilot project and its various perceived benefits.

SOMMAIRE

En 2019, la Bibliothèque de droit Nahum Gelber de l'Université McGill a lancé un projet pilote dans le cadre duquel trois étudiants en droit ont été engagés comme assistants en référence, s'écartant ainsi de la pratique conventionnelle qui consiste à employer des étudiants en bibliothéconomie ou des étudiants de premier cycle. Les étudiants en droit apportent une expérience préalable de la recherche juridique, une expertise dans leur domaine et la capacité de contribuer aux projets de la bibliothèque en fonction de leurs intérêts spécialisés. Cet article présente une revue de la littérature sur ce sujet ainsi que de ce projet pilote et de ses divers avantages perçus.

Introduction

The practice of hiring students as reference assistants is widely recognized and implemented in academic libraries, including academic law libraries. Building upon this established practice, the Nahum Gelber Law Library at McGill University initiated a pilot project in the fall of 2019 to employ law students as reference assistants. Over the years, this project has undergone several adaptations to accommodate the growing prevalence of online engagement and to consider the busy schedules of law student employees. This article explores the outcomes of this approach, highlighting how it fosters a mutually beneficial relationship that supports the growth and development of both the students and the library.

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* This article is peer-reviewed.

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Literature Review

The benefits of employing student reference assistants in library services have been extensively studied, revealing positive outcomes for libraries, patrons, and the students themselves. O'Kelly et al[1] demonstrated that student "peer consultants" not only maintain service quality but also provide additional advantages, such as fostering learning outside the traditional faculty–student hierarchy. The researchers highlight that "peer-to-peer learning offers a 'safe harbor' in which students can manage their own learning experiences by exploring, practicing, and questioning their understanding of issues and topics with a well-trained peer."[2] The study showed highly positive responses from students to peer consultant interactions, and the consultants themselves expressed satisfaction with their learning experience. This research is supported by Brenza et al,[3] who assert that students are more comfortable approaching their peers. These authors also conducted a survey of student reference assistants, in this case specifically to gauge how their experience as library employees affects their perceptions of the library.

Faix[4] further supports O'Kelly et al's findings regarding improved service quality and states that a tiered model of reference service actually allows librarians to dedicate their attention to patrons who require more specialized or in-depth research assistance.[5] Faix conducted patron surveys to gather user satisfaction data, and respondents overwhelmingly indicated positive feedback on the interactions with reference assistants. Additionally, surveys were conducted with the reference assistants themselves to assess question difficulty levels and job satisfaction.[6]

In Wu's "win-win strategy," the library benefits from understanding individual students' strengths and priorities.[7] While this approach involves an initial investment from librarians to learn more about student employees, it ultimately allows for more effective management in the long run, as managers are then able to assign projects that are well-suited to each employee's skillset.

McClure,[8] in a paper reviewing a law-library-managed research assistant program, supports the findings that learning goes both ways. The author situates a comprehensive research assistant program within a broader critique of the current state of legal education, highlighting the lack of practical skills among graduating law students. McClure argues that a program like this better equips law students to navigate the professional landscape. The author also observed that certain library projects were enhanced by harnessing the skills and abilities of law student employees. Furthermore, McClure found that law student employees are uniquely positioned to suggest improvements to research training strategies and teaching, offering a valuable student perspective.[9]

Richman and Windsor[10] also address the advantages of employing librarian-supervised law students to provide research assistance in a faculty services research department. They provide a short history of employing law students as reference assistance in U.S. libraries, along with a survey they conducted of 124 academic law libraries' employment practices for hiring law students. This survey model was replicated in 2017 with Moser and Murphy, who surveyed 155 law libraries.[11] Moser and Murphy's updated study shows that it is more common to employ law students as research assistants than as reference assistants, but they highlight a case study in which a law library employs law students as reference assistants.[12]

Many articles not only highlight the benefits of employing student reference assistants in terms of workflow, library structure, and user needs, they also emphasize the social and educational benefits to the employees themselves. O'Kelly et al acknowledge the reciprocal nature of peer learning services, where reference assistants gain insight into their peers' research topics and the diverse range of questions within their discipline.[13] O'Kelly et al's model also implements a mentoring structure of peer consultants to foster peer learning among the consultants, ensuring the retention and transfer of knowledge as student employees graduate. In this way, the reference assistant position helps to improve employees' own research skills, an assertion also supported in research by Faix and by Richman and Windsor.[14]

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[1] Mary O'Kelly et al, "Building a Peer-Learning Service for Students in an Academic Library" (2015) 15:1 Portal: Libraries & Academy 163 at 163.

[2] *Ibid*.

[3] Andrew Brenza, Michelle Kowalsky & Denise Brush, "Perceptions of Students Working as Library Reference Assistants at a University Library" (2015) 43:4 Reference Services Rev 722.

[4] Allison Faix, "Peer Reference Revisited: Evolution of a Peer-Reference Model" (2014) 42:2 Reference Services Rev 305.

[5] *Ibid* at 306.

[6] *Ibid* at 309.

[7] Qi (Kerry) Wu, "Win-Win Strategy for the Employment of Reference Graduate Assistants in Academic Libraries" (2003) 31:2 Reference Services Rev 141 at 149.

[8] David McClure, "Joining the Conversation: Law Library Research Assistant Programs and Current Criticisms of Legal Education" (2013) 32:4 Leg Ref Serv Q 276.

[9] *Ibid* at 284.

[10] Harriet Richman & Steve Windsor, "Faculty Services: Librarian-Supervised Students as Research Assistants in the Law Library" (1999) 91:2 Law Libr J 279.

[11] Annalee Hickman Moser & Felicity Murphy, "The Reference Assistant" (2018) 110:1 Law Libr J 59 at 68.

[12] *Ibid* at 62.

[13] O'Kelly et al, *supra* note 1 at 168.

[14] Faix, *supra* note 4 at 312; Richman & Windsor, *supra* note 10 at 284.

Wu's article serves as a comprehensive management guide, emphasizing the importance of considering the needs of reference assistants to maximize productivity. The proposed "win-win" strategy focuses on ensuring that the reference assistant position benefits students not only as a source of income but also by enriching their academic and professional skillsets.[15] The "win-win" mindset is also reflected by Brenza et al, who focus on the importance of considering the needs and priorities of student reference assistants in order to position them as ambassadors of the library within the student body. By this standard, the positive impacts of the library should most thoroughly be felt by those students who understand it best, thereby reflecting the success of library services.[16]

Jacobson and Shuyler[17] write extensively on the student employee's perspective. This study evaluates the benefits of the student reference position across several factors of the students' lives, such as social life, academics, campus engagement, professional skill development, and emotional/psychological well-being. This study identifies that one of the stated drawbacks to student employment is less time for study. However, it posits that since the reference assistant position is academically linked, it may benefit students' academic pursuits and mitigate this negative impact.[18] Surveys conducted as part of this study concluded that students generally found their employment as reference assistants to be advantageous for their skill development, particularly in terms of customer service. Jacobson and Shuyler note that in general, student employment appears to exert a negative influence on grades and retention only if students work more than 20 hours per week.[19]

McDermott points out the advantage for a law student to hold a job as a reference assistant at the law library: "If law students understand that improved research skills will be a benefit of the position, they may appreciate having the experience on their resume and keep the job throughout law school."[20] McClure further highlights the value of the research, interpersonal, and problem-solving skills that law students acquire as reference assistants, advantages that can give them an edge in the job market: "They have the opportunity to get hands-on experience with legal research questions and databases that may not appear in traditional legal research courses."[21]

Based on the reviewed literature, it is evident that the hiring and training of student assistants in academic libraries, and particularly in law libraries, requires a systematic approach and a commitment to engagement and personal connection. O'Kelly et al's peer-to-peer learning program stands out as an exceptional case where student assistants are involved in answering not only basic directional questions but also higher-level research inquiries.[22] However, this program requires hiring students with a certain level of proficiency in library use and tools. The only other example discovered of students answering higher-level research questions was in Richman and Windsor's article, where law students were employed as librarian-supervised faculty research assistants.[23]

Wu emphasizes the importance of a systematic training program and assigning tasks based on student strengths.[24] Wu also notes that librarians tend to hire first-year students to maximize consistency and return on investment.[25] Wu suggests that building personal connections and understanding with the students are crucial factors in fostering their commitment and recommends taking a genuine interest in their lives and studies. Meanwhile, Malmquist recommends a rigorous training process that includes the library catalogue, noting that librarians should not assume that college students know how to use even basic library tools.[26] The only negative noted by Malmquist was that students occasionally do their homework or socialize with friends while on reference desk duty;[27] this concern was also mentioned by Faix.[28]

Overall, it appears that there is a need for more research on the unique environment of law libraries and student reference employees, particularly in light of technological changes that have affected how students engage with library reference services.

Reference Student Pilot Project

The Nahum Gelber Law Library has long relied on a team of three librarians and a head librarian to cater to essential functions, including reference services, instruction, targeted workshops, collection development, and outreach initiatives to both law faculty and students. However, in May 2019, one of the librarians relocated to a different role within the

[15] Wu, *supra* note 7.

[16] Brenza, Kowalsky & Brush, *supra* note 3 at 723.

[17] Heather A Jacobson & Kristen S Shuyler, "Student Perceptions of Academic and Social Effects of Working in a University Library" (2013) 41:3 Reference Services Rev 547.

[18] *Ibid* at 560.

[19] *Ibid* at 549.

[20] Margaret McDermott, "Staffing the Reference Desk: Improving Service Through Cross-Training and Other Programs" in John D Edwards, ed, *Emerging Solutions in Reference Services* (London: Routledge, 2001) 207 at 212.

[21] McClure, *supra* note 8.

[22] O'Kelly et al, *supra* note 1.

[23] Richman & Windsor, *supra* note 10.

[24] Wu, *supra* note 7.

[25] *Ibid* at 144.

[26] Katherine E Malmquist, "Managing Student Assistants in the Law Library" (1991) 83:2 Law Libr J 301 at 308.

[27] *Ibid*.

[28] Faix, *supra* note 4 at 315.

library system, resulting in a diminished workforce tasked with overseeing all these vital services. Despite extending an invitation to all librarians within the system, no one expressed interest in transferring to the position, primarily due to the considerable learning curve associated with the role.

To tackle this predicament, the possibility of employing students to assist with daily reference questions was considered. Following extensive deliberations on whether to hire library students or law students, the librarians at Gelber reached the consensus that law students who had successfully completed at least their first year of law school would be the most suitable candidates. This decision stemmed from the specific expertise required: familiarity with key legal databases, comprehension of legal terminology, foundational knowledge in law, and a strong command of both English and French languages. In anticipation of future reference assistance needs, a repository of questions and corresponding answers was meticulously prepared.

To initiate the recruitment process, three positions were advertised through the university's HR system, attracting numerous applications. In order to assess the candidates' knowledge of sources and research abilities, a concise test was designed based on real inquiries received at the reference desk. Proficiency in navigating the law subject LibGuides emerged as a crucial factor during the selection process. Some candidates successfully answered test questions by selecting the correct database and ensuring authenticated access by using McGill-supported LibGuides; others failed or found access blocked because they began their search in Google. This provided a clear distinction between students who understood the significance of their search strategy rather than relying solely on search engines like Google.

Once the three most qualified students were selected, they were provided with four hours of paid training, which included effectively using the catalogue, a detailed overview of the McGill University Libraries website, and an in-depth presentation on the primary legal databases. The reference assistants commenced their duties in the fall 2019 semester, with a total of 16 hours allocated to them, structured around their law school schedules. It was clearly communicated to the students that their academic pursuits remained their foremost priority, and the library made efforts to accommodate their exam schedules and moot competitions.

The reference assistants were informed that a law librarian was always available in case more in-depth reference services were required, and that they could refer any question to a librarian. The first semester proved to be very successful, with the students showing great enthusiasm and eagerness to do a good job. Their peers also began to seek help from the reference desk, indicating the quality of service provided by the students.

Having "insider" students working as reference assistants proved to be very beneficial, as they could inform librarians of paper due dates and current topics of interest among students. This enabled librarians to plan effective and timely library instruction, research projects, and other tasks.

When the COVID-19 pandemic forced the closure of public institutions on March 13, 2020, the library's reference services had to be immediately switched to online services. The team of trained reference assistants proved to be a great help in handling the number of questions received by email, allowing the librarians to focus their efforts on finding online resources to replace course reserves for most of the courses and supporting faculty in the sudden transition to online teaching.

Reference Statistics

Most reference questions at the Nahum Gelber Law Library are received via email. These inquiries can be sent to either of two liaison librarians or to the library's reference email, which is monitored on a schedule by the three student reference assistants. When needed, the librarians forward reference questions to the reference email to be answered by the on-duty reference assistant. Since March 2020, there have been periods of time where reference questions were

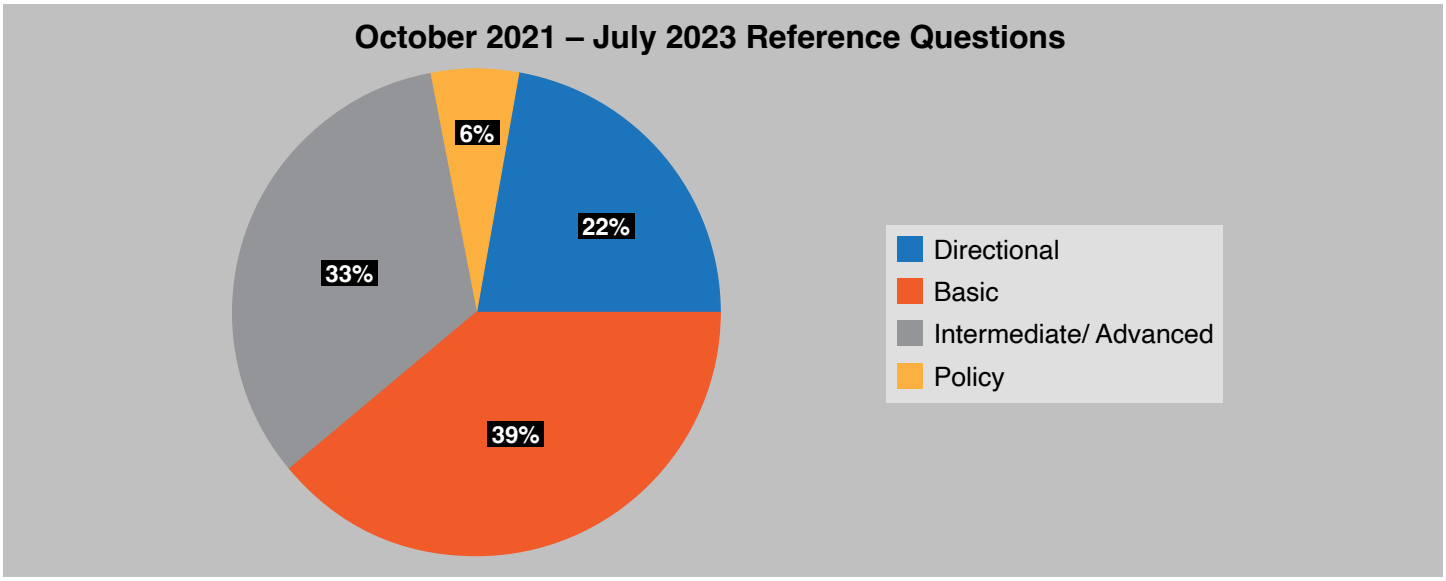


Fig. 1 October 2021–July 2023 Reference Questions Answered by Students

answered exclusively through email, or virtual meetings that were requested via email. Additionally, from May to August, the reference students are permitted to work remotely, allowing them to continue working for the library while pursuing summer internships. Consequently, a review of email-based questions provides a representative sample of the daily inquiries handled by reference students. Fig. 1 illustrates the distribution of these questions across various categories.

The categories of questions are determined using the LibInsight data recording tool by Springshare, as implemented by the McGill University Library. Although most questions addressed by reference students were classified as "basic," the "intermediate/advanced" category closely followed. The managing librarians review and categorize these questions.

The line between basic and intermediate/advanced questions relates to the time commitment and the depth and breadth of databases used. For example:

- Basic: locating a journal article or case, database registration, LibGuide navigation, finding legislation.

- Intermediate/Advanced: noting up case law, research project literature review, legislative backdating, locating sources of Indigenous law.

Of the questions answered by the students, librarians deemed the quality to be extremely high and comparable with their own reference question answers. The questions forwarded to the librarians were almost exclusively related to purchasing or database access, tasks that can only be handled by librarians. Only a handful of requests over two years were for assistance related to research strategies.

These statistics, along with the examination of the provided answers, demonstrate the ability of well-trained law students to effectively handle in-depth legal research questions from their peers.

Review of the Student Reference Service

The approach employed by the law library in hiring student reference assistants deviates from the methods discussed in the literature review in several notable ways. The most significant difference is that we hire law students rather than MLIS or undergraduate students. This decision allows for a deeper exchange of knowledge and training, as law students are not only employees but also members of the student body with a shared goal of educating themselves about the complexities of legal research.

This relationship also provides an opportunity for us to offer more in-depth legal research training to student employees, beyond the basics of top-level reference questions. Because the student assistants are actively engaged in their own legal research, they can offer valuable insights on the approach to teaching legal research techniques and the functionality of legal databases from both a student and employee perspective. They are eager to learn advanced research techniques, which is represented through astute comments and the questions they ask of their librarian managers. This facilitates a learning exchange between librarian and reference assistant rather than a one-way training. While the blurring of lines between employee and student may be perceived as a drawback, we see it as a positive factor that creates a higher calibre of employer/employee relationship and service. It is our principle to place the research needs and well-being of our students above all else, and this extends to student employees as well. By hiring law students as reference assistants, we have found a way to create a mutually beneficial relationship that fosters learning and growth for everyone involved.

Overall, the library's approach to student reference assistants offers several advantages over the traditional approach of hiring library students or using law students only as faculty research assistants. By hiring law students, the library benefits from their prior experience in legal research and can leverage their interests and expertise in subject areas to inform and inspire library projects. Law students commonly hold an undergraduate degree, if not a master's or higher. They have conducted research and have ongoing areas of specialization. By working with students, understanding their interests, and asking which classes or assignments they are working on, we cultivate library project ideas and assign tasks in which these students have expertise. As a bonus to the student, their on-the-job research does not take away from their classwork and may in fact benefit from it. Examples of this include helping to curate library exhibits: the library benefits by taking inspiration from student classroom projects to help curate a themed exhibit, while students benefit from researching an exhibit that aligns with their classwork. In this way, the library benefits from the students' legal education and the students benefit from applying their learning on the job.

Another way we have mutually benefitted is through a student's special interest in legal citation. One reference assistant expressed her interest in legal citations and her enjoyment of puzzling out difficult citation methodologies. Using this interest, we had her create a virtual legal citation tutorial as well as participate in a legal citation training workshop. These are examples of the type of ideas exchange and mutual learning that frequently happens when employing law students.

The literature review revealed a recurring issue of student reference assistants not giving enough priority to their jobs. It was observed that they often get distracted by friends, do homework at the desk, or become overwhelmed during exams.[29] However, it is important to acknowledge the benefits of hiring law students previously mentioned in this paper and show understanding and compassion for their demanding schedules. Law students are highly skilled workers who can make valuable intellectual contributions to the library. As managers, it is essential that we do not treat them as task-oriented workers who require constant monitoring while on the clock. Instead, we expect more from our law

[29] Faix, *supra* note 4; Malmquist, *supra* note 26.

student employees and take a results-based approach by giving them more freedom to work. For instance, we can be lenient when they do homework during slow times on the desk and keep in mind that the library benefits significantly from their academic background. Despite their occasional distractions during exam periods, we have not encountered any underperformance or lack of productivity in the long run.

We agree with O'Kelly et al's assessment that peer-to-peer learning benefits both sides of the reference transaction.[30] Reference assistants have noted that they gain academic benefits from a greater awareness of the topics their peers are researching. Additionally, other students often feel more at ease approaching a peer with their questions. As librarians, we've observed that students frequently begin a reference interaction with hesitation and apologies for taking up our time; however, they don't exhibit the same reluctance when approaching a fellow student at the reference desk. Hiring law students has proven to be particularly advantageous in this regard, as it provides access to both formal and informal communication channels among the law student population. We've found that the law student employees' contribution to promoting library workshops, information sessions, and job postings is invaluable. For instance, when we previously advertised a vacant position for a law library reference assistant through administrative venues, we only received 2–4 applicants. By comparison, when we asked one of our current reference assistants to promote the position on a law student social media group, we received applications from 13 highly qualified candidates.

Further Study

Based on the initial evaluation of the library's successful pilot project in employing law students as reference assistants, it has been determined that the project should proceed and would benefit from a more comprehensive assessment. Taking inspiration from O'Kelly et al's approach, we recommend the implementation of an employment satisfaction survey for student assistants and a user feedback form for individuals using the reference service. For future assessments, it would be advantageous to employ a more detailed rubric, such as the READ scale (Reference Effort Assessment Data), to further enhance the evaluation process.[31]

Potential Negative Impact

While there are compelling arguments for the generally positive impact of hiring law students as reference assistants in an academic law library, it is crucial to consider potential drawbacks as well. A noteworthy concern arises when considering the impact on the career trajectories of library students.

Offering reference positions to law students rather than their library student counterparts could potentially deprive library students of significant career-enhancing opportunities. A law student's career may be less directly impacted by working in a law library; conversely, for library students, gaining reference experience is a crucial steppingstone in their professional development. Experience working in a law library can be a huge advantage to early career librarians entering the job market, as law firms, government departments, and courthouse libraries value knowledge of legal databases. Moreover, the distinctive skillset that library students bring to the role, marked by a dedication to service and thorough reference interview processes, makes them particularly well-suited for such positions. As noted in our review of the pilot project, law students give priority to their legal education and future careers, which may result in their taking significant time off for exams, internships, or moot court competitions, creating potential disruptions in service continuity. In contrast, library students, who view reference experience as integral to their career path, may be more likely to prioritize their library roles.

Given these considerations, an alternative approach could be a balanced combination of law and library students in such positions. Such an inclusive approach would still foster a peer-learning environment across two different but important skillsets. This could enhance the overall confidence of librarian managers that reference questions are addressed effectively while simultaneously advancing the careers of library students.

The hiring practices for student positions are often not entirely within the managing librarian's control, especially in the context of varying institutional funding models. At McGill University there is a distinction between funds allocated for library students and those designated for law students. Traditionally, library students have been stationed at the main branch library; therefore, the hiring of law students for reference positions at the law library branch did not directly impact the overall hiring practices for library students. However, it could be interesting for the Nahum Gelber Law Library to creatively leverage these funding sources, pulling from both the undergraduate law student pool and graduate library student allocations. This innovative approach could mitigate concerns about depriving library students of significant career-enhancing opportunities while still creating an attainable pathway to our ideal scenario of a peer-learning student reference program.

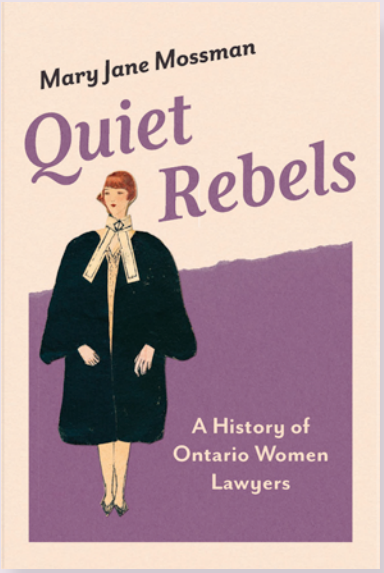
Conclusion

The library in question, like many other libraries, has faced downsizing in recent years. We currently have one fewer full-time librarian than we did four years ago. We also receive over 700 reference questions per year (approximately 33 per cent of which are in-depth research questions) in addition to managing our own branch library, which requires a reference desk that is staffed during working hours. Reference services are a top priority, and it is important to our library that someone is available to answer walk-in reference questions. Unfortunately, this creates an imbalance in time we can dedicate to research, promotion, teaching, collection development, and committee work.

[30] O'Kelly et al, *supra* note 1.

[31] Bella Karr Gerlich & G Lynn Berard, "Testing the Viability of the READ Scale (Reference Effort Assessment Data)©: Qualitative Statistics for Academic Reference Services" (2010) 71:2 College & Research Libraries 116.

The library's pilot project involved hiring well-trained law students capable of handling advanced legal research questions. As the outcome of this initiative, we discovered that employing these students allows us to maintain a high level of service despite cutbacks, providing effective responses to both basic and advanced research inquiries. This strategic decision proved invaluable in optimizing our overall library operations. Beyond the immediate benefits to reference services, we found that engaging well-trained law students resulted in unexpected advantages. These students, being closely connected to the student body, provided increased insight into the needs and preferences of our primary user group. Their presence enhanced our library's connection to the student community, fostering a more accessible and user-friendly environment. We found that hiring reliable students who are capable of answering advanced legal research questions is imperative to our ability to effectively do all aspects of our jobs.



Quiet Rebels

A History of Ontario Women Lawyers

Mary Jane Mossman

978-1-77112-592-5 | Cloth 460 pp. | $95.00
Ebook available

"It's a girl!" As the Ontario press announced, Canada's first woman lawyer was called to the Ontario bar in February 1897. *Quiet Rebels* explores experiences of exclusion among the few women lawyers up to 1957, and how their experiences continue to shape gender issues in the contemporary legal profession.

Author Mary Jane Mossman tells the stories of all 187 Ontario women lawyers 1897-1957, revealing the legal profession's gendered patterns. As a small handful at the Law School, (sometimes the only woman), they were often ignored, and they faced discrimination in obtaining articling positions and legal employment. Most were Protestant, white, and middle-class, and a minority of Jewish, Catholic, and immigrant women lawyers faced even greater challenges. The book also explores some changes, as well as continuities, for the much larger numbers of Ontario women lawyers in recent decades.

This longitudinal study of women lawyers' gendered experiences in the profession during six decades of social, economic, and political change in early twentieth-century Ontario identifies factors that created – or foreclosed – women lawyers' professional success. The book's final section explores how some current women lawyers, in spite of their increased numbers, must remain "quiet rebels" to succeed.

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IIII Reviews / Recensions

Edited by Dominique Garingan and Julie Lavigne

***Big Data*. Edited by Benoit Leclerc & Jesse Cale. Abingdon: Routledge, 2020. 148 p. Includes illustrations, bibliographic references, and index. *Criminology at the Edge* series. ISBN 9781138492783 (hardcover) $136.00; ISBN 9781032336992 (softcover) $42.36; ISBN 9781351029704 (eBook) $42.36.**

New technologies have propelled our world into an age where enormous amounts of data are generated daily. Experts have named this phenomenon "big data" and argue that it has led to profound changes in the ways human beings navigate their lives. Big data affects everything—both positively and negatively, often with unexpected outcomes—from how we vote in elections to how we choose the groceries we purchase.

But what exactly is big data, and, specifically, how is it relevant to the fields of criminology and criminal justice? These are the questions editors Benoit Leclerc and Jesse Cale attempt to answer in *Big Data*, the third book in Routledge's *Criminology at the Edge* series.

Featuring contributions from numerous experts, this informative collection examines how the data revolution currently impacts different areas of criminal justice, criminology, and law enforcement. Chapter topics are varied and include the effect of artificial intelligence on policing, the alarming rise of cybercrime, and the use of genetic data within the criminal justice system.

Of the eight chapters featured in *Big Data*, the most intriguing to me was the fourth, "Future applications of big data in environmental criminology." Written by three academics from Simon Fraser University, this essay looks at a fascinating (and somewhat controversial) new field of study that has emerged within criminology over the past decade. Examining crime patterns through a spatial and temporal lens, environmental criminologists are using huge amounts of computer-generated data to produce more predictive outcomes relating to criminal activity. The analysis includes a broad range of data, including how long people spend in particular places and their daily spending habits. The idea, the authors argue, is that certain patterns will begin to emerge throughout societal enclaves, leading to more effective policing and fewer criminal infractions.

While reading *Big Data*, I began to see two themes emerge. First, the big data revolution represents the largest technological disruption in history, the effects of which will continue to be seen for generations to come. Second, the ability to collect or generate enormous amounts of data is entirely meaningless to an organization unless they have measures in place that can effectively access, interpret, and disseminate this data. This remains an area of concern for criminal justice organizations across the globe that may not possess the necessary means to make sense of what they have collected.

To help alleviate this problem, *Big Data* concludes by suggesting a proposed framework aimed at facilitating engagement with data analytics in the fields of criminology and criminal justice. According to Leclerc and Cale, the purpose of such a framework is to create an understanding of the barriers and limitations that surround data collection before the disruption it has created for all of us becomes too insurmountable. Leclerc and Cale also advocate for

"ensuring the integrity of the knowledge generated through these means" (p. 14).

An enjoyable read, *Big Data* makes for a good addition to any academic library collection. This is especially the case for libraries and academic institutions that have a focus on cybercrime, criminology, or criminal justice studies.

REVIEWED BY
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***Legal Aid and the Future of Access to Justice*. By Catrina Denvir, Jacqueline Kinghan, Jessica Mant & Daniel Newman. Oxford, U.K.: Bloomsbury, 2023. xx, 279 p. Includes bibliography and index. ISBN 9781509957804 (hardback) $159.95; ISBN 9781509957828 (PDF) Open Access; ISBN 9781509957811 (ePub) Open Access.**

In 2021, the Legal Aid Practitioners Group, a membership organization supporting legal aid practitioners in England and Wales, commissioned a research team to complete a series of five surveys. The surveys aimed to gather data on the experiences, perspectives, and challenges faced by practitioners in the legal aid sector. Together, these surveys would be known as the Legal Aid Census and formed the "most comprehensive census of legal aid practitioners ever conducted in England and Wales" (p. 1).

According to the authors of *Legal Aid and the Future of Access to Justice*, such a comprehensive census has been long needed. In the book's introduction, the authors describe the profound impact of the 2012 *Legal Aid, Sentencing and Punishment of Offenders Act* (*LASPO*) on legal aid in England and Wales, and the many subsequent reports, commissions, and studies that have tracked these impacts since *LASPO* came into force. Following a compelling summary of the foundation and history of legal aid in the U.K., the authors position the Legal Aid Census as a necessary step to "elucidating comprehensive conditions on the ground" (p. 21) in a post-*LASPO* and "post-COVID" context.

Against this backdrop, this book builds on the original published findings from the Legal Aid Census, which were published in a 2021 report titled *We Are Legal Aid*. The authors use the Census's qualitative data to build an even more detailed analysis of the legal aid sector. This analysis expands upon secondary practitioner concerns that could not be addressed in the initial report and explores thematic connections between the Census and relevant academic literature.

Individual chapters speak to the current state of the legal aid sector and its future by painting a profile of its practitioners, describing its working conditions, exploring the sustainability of its current remuneration model, reflecting on the response to the COVID-19 pandemic, presenting recruitment and retention patterns, and finally by considering the future of legal aid.

For a publication that so closely aligns itself to a singular study for which a public report has already been produced, potential readers might naturally wonder whether this book is a necessary or useful addition. I believe that it is. For one, the book's sizeable bibliography reveals the extent of the authors' engagement with the scholarly literature and previous reports and studies to integrate the Legal Aid Census data more fully within academic schools of thought and public discourse, thus adding valuable depth and context to the report's findings. Secondly, and more importantly, the authors mobilize their detailed analysis and propose recommendations for policy reform and identify areas for future research, both of which are absent from the original *We Are Legal Aid* report. However, readers need not take my word for it. For the low investment of a free download from OAPEN, they can consult the book and determine its value for themselves.

As the authors themselves write, "there has been no shortage of prior work that seeks to ascertain the scale and depth of the impact of legal aid reforms on different areas of legal need and access to justice … but none has yet been able to capture the widespread and deep-rooted nature of these problems in a way that has reinvigorated commitments to recognising the important role of legal aid" (p. 20).

In my view, the bridge this book creates between academic works and first-hand practitioner accounts represents a commendable step toward the knowledge mobilization of research into legal aid in the pursuit of this laudable goal.

REVIEWED BY
KRISANDRA IVINGS
Manager, Monograph Description
Library and Archives Canada

***Public Health Crisis Management and Criminal Liability of Governments: A Comparative Study of the COVID-19 Pandemic*. Edited by Michael Bohlander, Gerhard Kemp & Mark Webster. New York: Bloomsbury, 2023. xii, 368 p. Includes preface, list of contributors, abbreviations, and index. ISBN 9781509946310 (hardcover) $180.95; ISBN 9781509946327 (ePUB) $162.85; ISBN 9781509946334 (PDF) $162.85.**

Public Health Crisis Management and Criminal Liability of Governments opens with Jean Edmond Cyrus Rostand's famous quotation from his 1938 book *Thoughts of a Biologist*: "Kill one man, and you are a murderer. Kill millions of men, and you are a conqueror. Kill them all, and you are a God." This quotation is ultimately about power and privilege, and *Public Health Crisis Management and Criminal Liability of Governments* examines the ways in which various governments possessed and exercised their powers and privileges in the context of the COVID-19 pandemic. While an ordinary person faced penalties if they breached COVID-19 restrictions, this book asks the question of what penalties or sanctions governments might face.

The book conveniently offers a table of contents, a list of contributors, and a list of abbreviations used in the text. Following an introduction and one chapter outlining the emergence and global spread of SARS-CoV-2, the book is a comparative examination of 13 countries' responses: Brazil, England, France, Germany, India, Indonesia, Iran, the

People's Republic of China, South Africa, Spain, Sweden, Turkey, and the United States. The final chapter provides a summary and considers responses to the COVID-19 pandemic in relation to crimes against humanity.

Each contributor begins their chapter with a contextual introduction followed by a constitutional, legal, and policy overview. Within the introductions, contributors comment on specific constitutional and legal principles regarding the criminal liability of high-ranking government and public officials, the scope of responsibility and areas of tolerated risk of each jurisdiction, the impact of immunities, and prosecutorial matters.

Discussions on causation follow the contextual overviews. Most chapters include comments on general causation principles, such as thin skull scenarios. Some chapters also include discussions on the structure of homicide offences and assault, aggravated assault, and serious bodily harm offences. Most contributors examine murder and manslaughter, offences related to actions that cause serious bodily harm, offences regarding unborn fetuses, interrupting the courses of viable pregnancies, and failure to render assistance. Following this, contributors discuss the crime of epidemic alongside crimes against humanity. Sections on defenses, justifications, and excuses follow the discussions of the crimes. Each chapter concludes with discussions on corporate criminal liability, forms of participation, attempts and sanctions, sentencing, punishment, reparations, and restorative justice. All within the context of answering the question of, during the initial stages of the pandemic, "to what extent did senior government officials cause death of serious illness that otherwise would not have occurred had it not been for the officials' conduct?" (p. 2) and what is their criminal liability?

Public Health Crisis Management and Criminal Liability of Governments may not be directly applicable to practitioners in Canada due to the omission of research regarding the Government of Canada's response to COVID-19; however, they may find the book worth consulting for a global comparison of the effects of COVID-19 and for analyses of other jurisdictions' responses to the pandemic. There are a variety of articles on healthcare liability during COVID-19, but none from this perspective.

One challenge with the text was the complex language, which many readers may struggle with. In addition, the levels of detail provided varied widely, with some chapters featuring vague and general discussions while others went into more depth.

Ultimately, legal practitioners or researchers may wish to consult this book for the abundance of information and resources cited. As the only text of its kind, *Public Health Crisis Management and Criminal Liability of Governments* serves as an introductory global comparative law treatise on COVID-19 responses and the criminal liability of governments.

REVIEWED BY
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***Standards for the Control of Algorithmic Bias: The Canadian Administrative Context*. By Natalie Heisler & Maura R Grossman. Boca Raton, FL: CRC Press, 2024. 108 p. Includes bibliographic references and index. ISBN 9781032550220 (hardcover) $64.95; ISBN 9781003428602 (eBook) $24.95.**

Artificial intelligence (AI) is in the news everywhere you look, with a lot of talk about its ability to replace lawyers (and librarians!), or at least streamline simpler tasks, such as summarizing cases or articles. But what happens when AI moves into the realm of decision making? How can we ensure that there is no bias in the AI-based decisions? How do we protect human rights when there are no "humans" involved in making the decisions?

In *Standards for the Control of Algorithmic Bias: The Canadian Administrative Context*, Natalie Heisler, Managing Director for Responsible AI at Accenture, and Maura R. Grossman, a research professor in the School of Computer Science at the University of Waterloo, review the precursors required to allow machine learning (ML) in automated decision making (ADM) in the administrative realm. They discuss the idea that many uses of ML ADM can cause more harm than good due to its potential for unjustified disparate impact; that is, disparate impact or unintentional discriminatory outcomes "for which no operational justification is given" (p. 3).

The book comprises five chapters. In Chapter 1, the authors compare the application of the European Union's proposed regulation for harmonised rules on AI under the *Artificial Intelligence Act* (Procedure 2021/0106/COD) with Canada's *Directive on Automated Decision-Making*, which applies to federal administrative bodies possessing decision-making authority conferred by legislation regulating the rights, privileges, or interests of external clients. They then speak to the link between equality rights and ADM, using a case study from Wisconsin's Correctional Offender Management Profiling for Alternative Sanctions (COMPAS). Used in sentencing since 2012, a later analysis of the COMPAS decisions determined racial disparities that the automated system was supposed to reduce. Longer sentences were found to have been given to Black offenders who were guilty of the same offenses as white offenders. The authors then examine how the legislation will hold up to judicial review. Currently, there is no precedent for ADM determinations, and the process for judicial review is slow. Compliance with standards will help mitigate the algorithmic bias in the programming of the ML ADM process. Heisler and Grossman go on to propose three dimensions of control: mitigation of the creation of biased predictions, evaluating predictions for influence of algorithmic bias, and measuring disparity.

Chapter 2 speaks to the foundational principles of administrative law—transparency, deference, and proportionality—and discusses how they are equally important in ML ADM. The authors use a scenario to review ideas for data standards, such as construct validity, input data, knowledge limits, measurement validity, and accuracy of input data. They further discuss the standards for evaluation of predictions—namely, accuracy/uncertainty and individual fairness—and include a table of proposed standards.

Chapter 3 talks about monitoring decisions as a requirement to determine how much, if any, discrimination is found in the automated decisions. Heisler and Grossman speak to the *prima facie* test for discrimination in the Supreme Court of Canada's decision in *Fraser v Canada (Attorney General)*, 2020 SCC 28 and talk about legislative and policy approaches to measuring disparity. They further discuss the types of disaggregated data required to ensure there is no discrimination in the decisions and provide a table of standards for measuring disparity.

Chapter 4 provides an overview of the standards framework and consolidates the standards listed in the previous chapters. Heisler and Grossman discuss how to implement the standards and remind us that this is only part of an agency's approach to ADM. Stakeholders, social scientists, ethics specialists, data scientists, and quality specialists, as well as legal and data privacy experts, should all be involved, as there is a need for broad and diverse perspectives when creating standards and measuring decisions.

Chapter 5, the conclusion, speaks to the requirement of mitigating disparate impacts of ML ADM, reiterating that it must not infringe on human rights and that standards regulating these types of decisions must be created using both technological and legal perspectives. The quality of predictions must be the focus, and disparity in the ML ADM outcomes must be constantly measured and accounted for. Standards should also be made publicly available. The authors conclude that more study is needed before ML ADM is used.

Standards for the Control of Algorithmic Bias: The Canadian Administrative Context is a concise text that speaks to the potential harms involved with ML ADM. The authors lay out a very logical and simple process that should be initiated prior to any decision making. Nine pages of bibliographic references to resources cited throughout are also included at the end of the book. I recommend this text to anyone interested in the ways AI can be used to automate decisions, particularly to those building the systems.

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***The Trouble with Big Data: How Datafication Displaces Cultural Practices*. By Jennifer Emond, Nicola Horsley, Jörg Lehmann & Mike Priddy. London: Bloomsbury Academic, 2022. Includes index. ISBN 9781350239623 (hardcover) $143.95; ISBN 9781350239654 (eBook) Open Access.**

The authors of the open-access book *The Trouble with Big Data: How Datafication Displaces Cultural Practices* adopt a humanistic approach to analyzing the capabilities and limits of big data. They present their arguments and perspectives through a humanities and cultural studies lens and have a strong academic tone throughout.

The book focuses on the findings of the Knowledge Complexity (KPLEX) Project, a multidisciplinary project to identify sources of miscommunication and misunderstanding of big data. These sources include issues surrounding language and discourse, the heterogeneity of definitions of data, and the tensions between data and narrative (p. 2). The authors encourage readers to reframe big data questions from issues related to data protection and abuse to questions "centred [on] the human experience" (p. 159).

Chapter 2, "What do we mean when we talk about data?", addresses the "linguistic slipperiness" (p. 26) of the term "big data." It begins by introducing the human need for a metaphor to situate big data and technology within societal contexts. Big data is often described as a natural resource inextricably linked to being an "ephemeral, mobile, [and] invisible" commodity available to sell and trade for capitalist profits (p. 23). This context disassociates data from the human and cultural experience, displacing culture from datafication. This chapter also discusses data in relation to information and knowledge, as well as the inherent cultural biases that occur when viewing and interpreting data. The authors note that "the power of data is strongly, and perhaps ironically, linked to its context" (p. 33) and there is a need for both experts and citizens to be more aware of their knowledge environments.

Chapter 3, "Making sense of big data," provides an overview of the traditional yet ever-changing landscape of the humanistic research processes. The authors make an argument against the negative perception that humanistic research is "subjective, lacking rigour, or [is] even emotion-driven" (p. 45) and therefore less valuable compared to its data-driven counterpart. They note that it is the hermeneutic approach of humanistic research that ultimately creates knowledge. This chapter also describes the challenges humanistic researchers experience when conducting research, including when available information is fragmented or not discoverable due to digitization.

Chapter 4, "Please mind the gap: The problems of information voids in the knowledge discovery process," and Chapter 5, "Data incognita: How do data become hidden," discuss "the dark side of discoverability" (p. 96). Noting that there is often a disconnect between the software creators and the users of aggregated search engines, such as Google, and there are intrinsic biases within these systems that threaten the maintenance and discoverability of humanistic resources, the authors provide an overview of factors that lead to data becoming hidden through digitization projects, including inconsistent description methods, a lack of material expertise, and legal restraints, such as privacy. They are optimistic that the risks related to the discoverability of cultural information can be mitigated with the inclusion of cultural heritage institutions as key partners in the development, management, and sharing of humanistic data and research infrastructures.

In Chapter 6, "From obscure data to datafied obscurity: The invisibilities of datafication," and Chapter 7, "Power through datafication," the authors critically study the dominating influence big data has on our culture. Arguing that "deference to human reasoning is being displaced" (p. 105) and the "norms of datafication [are] pervad[ing] our approaches to

every field of knowledge" (p. 106), the authors also warn of the increasing power asymmetries and inequalities of big data, where authority is "exerted in an opaque, algorithmically implemented way" (p. 152). To oppose the discourses of power over big data, they call for it to be treated as a public commodity and for it to stay in the public ownership, just as is the non-digital cultural commons.

In the final chapter, "Expatriates in the land of data: Software tensions as a clash of culture," the authors pose a series of humanistic and culturally framed questions to the reader related to the future of technology and big data. The authors also discuss software production as a culture in itself and reinforce the need for software production and datafication infrastructures to serve the public good.

The Trouble with Big Data: How Datafication Displaces Cultural Practices references an impressive range of historical and contemporary examples and resources, making this text most appropriate for an academic audience. This book would be a useful addition to academic libraries that support programs and research related to the humanities and social sciences, digital humanities and digital cultures, information and library sciences, science and technology, and media studies.

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***Unwritten Constitutionalism.* By Maxime St-Hilaire, Ryan Alford & Kristopher Kinsinger, eds. Toronto: LexisNexis, 2023. xxxvi, 255 p. Includes tables of cases and index. ISBN 9780433528203 (softcover) $125.00.**

The papers in *Unwritten Constitutionalism* originated from The Unwritten Principle of Constitutionalism in Canadian Jurisprudence, the Runnymede Society's March 2022 academic symposium, and were also published in volume 110 (2023) of the *Supreme Court Law Review*. Divided into four parts, the collection opens with a foreword by Justice Russell Brown (as he then was), one of the judges who wrote the majority decision in the 2021 constitutional law case involving the City of Toronto, discussed below. There is also a detailed table of contents, a table of cases, and an introduction written by editors Ryan Alford and Kristopher Kinsinger. Abstracts of each paper and a four-page index is also included.

Part I, Unwritten Principles and the *City of Toronto* Ruling, contains three papers related to the Supreme Court's decision in *Toronto (City) v Ontario (Attorney General)*, 2021 SCC 34, which looked at the province of Ontario's decision to enact legislation redrawing municipal electoral ward boundaries during an election campaign. Ryan Alford begins by emphasizing the importance of constitutional history in "An Oak Whose Leaf Fadeth: The Barrenness of Constitutionalism without Constitutional History." Brian Bird and Kristopher Kinsinger next propose renaming and reframing unwritten constitutional principles as animating principles in "Constitutional Exegesis, Animating Principles and *Toronto v. Ontario*." Finally, Vanessa MacDonnell and Philippe Lagassé discuss legal and political aspects of unwritten constitutional principles in "Investigating the Legal and Political Contours of Unwritten Constitutional Principles after *City of Toronto*."[1]

Part II, Constituent Power and Constitutional Amendment, contains two papers addressing constitutional amendment, both written by professors from outside Canada. Richard Albert from the University of Texas in Austin is Canadian and has published over 25 books on constitutional reform. His paper, "The Most Powerful Court in the World? Judicial Review of Constitutional Amendment in Canada," focuses on the Supreme Court of Canada's role in constitutional amendment. Yaniv Roznai, from the Harry Radzyner Law School in Israel, contributes "We the Limited People? On the People as a Constitutional Organ in Constitutional Amendments," which discusses developments in Kenya, along with other comparative examples.

Part III, Natural Law and Common Good Constitutionalism, contains three papers. The first, by Stéphane Sérafin, Kerry Sun, and Xavier Foccroulle Ménard, is "Notwithstanding Judicial Specification: The Notwithstanding Clause within a Juridical Order" and addresses the role of the *Charter*'s notwithstanding clause. Next, Michael Foran and Conor Casey provide a view from across the pond in "Constitutionalism and the Common Good: On the Role of Unwritten Principles." Justice Peter Lauwers of the Court of Appeal of Ontario responds in the third paper in this section, "A Voice from the Attic: A Canadian Take on Common Good Constitutionalism," offering several critiques of the concept.

Finally, Part IV contains just one paper, a special comparative article by Matthew Harrington from the Université de Montréal, "Unwritten Principles and the American Constitution."

Given that this volume arose from an academic symposium, it is not difficult to understand why it tends to be fairly philosophical in tone. While it is rooted in the recent *City of Toronto* case, it extends its scope to weightier, more esoteric topics of constitutional and political theory. For those looking primarily for commentary on the Supreme Court's decision, other options include various portions of *Halsbury's Laws of Canada*, as well as constitutional and municipal law texts; in fact, as of December 2023, at least 30 pieces of commentary citing the case are freely available on CanLII, including *The Canadian Constitutional Law Open Access Casebook*.[2] For lawyers, judges, and scholars grappling with issues of constitutional interpretation, the papers in this volume may provide some additional tools and insights.[3]

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[1] For further commentary, readers can see Philippe Lagassé & Vanessa MacDonnell, "Writing Canada's Political Constitution" (2023) 48:2 Queen's LJ 1.

***Witness Preparation, Presentation, and Assessment.* By Justice Cameron Gunn, Mona Duckett & Patrick McGuinty. Toronto: Emond, 2023. xxiv, 338 p. *Criminal Law* series: volume 16. Includes table of cases and index. ISBN 9871774623763 (softcover) $133.00; ISBN 9781774623770 (eBook) $120.00.**

Every litigator, whether civil or criminal, is faced with witness issues: preparing them, calling their evidence, and assessing their evidence in argument. In *Witness Preparation, Presentation, and Assessment*, the authors have created a comprehensive and practical handbook addressing these issues, focusing primarily on criminal proceedings for both Crown and defence lawyers.

The book has three parts. Part I is about general witness preparation, both for the Crown preparing witnesses and the defense preparing the accused to testify. It also addresses issues of competence, compellability, vulnerable or child witnesses, uncooperative or unsavoury witnesses, and expert witnesses. Each of these has its own challenges and requirements, and the authors expertly tailor their discussion specifically to criminal proceedings. This part also includes tips for preparing for cross-examination.

Part II addresses witness presentation, beginning with direct examination and difficult witnesses, including the steps required to refresh a witness's memory and how to apply to admit a prior statement. The chapter on cross-examination is particularly helpful, as cross-examination is a difficult skill to learn and to teach, with some unique pitfalls. This section includes opinion evidence from lay witnesses and experts, police witnesses, and best practices for vulnerable witnesses. When discussing each kind of witness, the authors outline best practices and considerations and include practice tips for cross-examination. This part includes a chapter on the rule from *Browne v Dunn* (1893), 6 R 67 (HL), when this rule is triggered, and when and how to object.

It concludes with a section on assessing witness credibility, beginning with the trier of fact's obligation to assess witness evidence, and going on to address reliability and veracity, including how these can impact the assessment of credibility. It ends with sufficiency of reasons, or the court's obligation to state why they accept some of a witness's evidence.

Each section within the chapters includes ethical and practical takeaways. In addition, there are tables with checklists for quick reference, which are likely to assist new practitioners. For example, the first chapter includes a table with a checklist of rules for a testifying witness. It encompasses the information that should be conveyed to a witness who is going to testify, whether called by the Crown or the defense. The book ends with a reliability and credibility checklist for assessing witness testimony.

This is a practical, direct, and concise manual for preparing witnesses, calling evidence, and assessing their evidence. In particular, the thorough table of contents, practical takeaways, and checklists are invaluable for instances when a lawyer has a 10-minute break during a trial and needs to find an answer quickly.

I would highly recommend *Witness Preparation, Presentation, and Assessment* for criminal lawyers and judges, regardless of their level of experience.

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[2] See also Robin Ketcheson, "Unwriting the Unwritten Principles of the Electoral System" (2022) 16 JPPL 265.

[3] See also Léonid Sirota, "Purposivism, Textualism, and Originalism in Recent Cases on *Charter* Interpretation" (2021) 47:1 Queen's LJ 78, 2021 CanLIIDocs 13940 (canlii.ca/t/7n6k5).

IIII Bibliographic Notes / Chronique bibliographique

By Kate McCandless

Scott Hamilton Dewey & David Zopfi-Jordan, "Mitigating Citation Errors in the Interlibrary Loan System" (2023) 115:4 Law Library Journal 407, online: *AALL* <aallnet.org/llj_issue>.

Incorrect or inaccurate citations are a plague on the practice of interlibrary loans (ILL). Deciphering these flawed citations can cause ILL librarians considerable stress and lost time, and "technology has not yet solved the problems of identifying and fixing incorrect citations or the additional time spent doing so" (p. 426). If an ILL librarian receives an incorrect citation, they must work to track down the correct information before submitting the request to the holding institution. These errors are costly in both time and wages. Incorrect citations take "more time to process and some of that time [is] frequently being spent by higher-salaried library staff … on average, ILL requests including incorrect citations cost roughly 3.18 times more than those with correct citations" (p. 427). As both ends of an ILL request rely on the work of librarians and other information professionals, it not only causes a loss of time on the requestor's end but the lending library's as well. Citation errors thus become "potentially even more serious and costly in the ILL context" (p. 427).

To save time, stress, and energy, Dewey and Zopfi-Jordan provide a summary of helpful tools and resources to help correct vague, incorrect, or inaccurate citations.

For books, the authors suggest "using segments of the information provided, with the hope that some information may be correct" (p. 428). Note that "conferences or special publications may not list individual authors, making the title often the most valuable data point" (p. 428). Use the ISBN and online table of contents to locate page numbers or correct publication years. WorldCat is very useful in this regard, as is AddALL, a website that "can find both in-print and out-of-print books" (p. 428). Sometimes purchasing a copy can be less expensive than ILL postage, so tools like AddALL that provide pricing from various shops can be useful when evaluating one's options.

For journals, leverage the ISSN to confirm citation information for an article (p. 429). Sites like Ulrichsweb, which is "a database providing information about journals" (p. 429), can be used to help locate where an article actually "lives." Furthermore, many article citations include "[a]bbreviations of journal titles or other information [that] can cause confusion for library patrons and librarians alike" (p. 430). But many discipline-specific websites host records of abbreviations, which can help you decipher any confusing citations; for example, the University of British Columbia has a lookup tool in their Legal Citation Guide for both law report and journal abbreviations.

Other key tools and resources:

- *The Interlibrary Loan Practices Handbook*, 3rd edition (2011) "is an important resource for the interlibrary loan practitioner because it includes the basic workflow for lending and borrowing, copyright information, and web tools" (p. 432).
- The American Library Association's Interlibrary Loans Resource Guide is "an enormously helpful and informative resource" (p. 432). It includes key policy documents, an approved ILL form for libraries to use,

and "a section with links and guidelines specifically concerning international ILL services derived from the International Federation of Library Associations" (p. 432). It also provides other links to books and documents offering "best practices for ILL, document delivery, and resource sharing" (p. 432).

- The Internet Archive's Wayback Machine is an "important tool for identifying and accessing problematic materials" as it "can help find materials that are no longer accessible through usual channels due to their age … [W]hen hyperlinks produce no results, the Wayback Machine often can reveal the source of the problem and perhaps find the item sought" (p. 433).

- HathiTrust is another great resource "for dealing with older materials" as it allows you to download "page ranges or entire texts of public domain works. HathiTrust is often particularly helpful in tracing earlier titles and title changes that may frustrate researchers looking for a work in current databases" (p. 433).

Remember to keep an eye out for professional development and continuing education opportunities regarding difficult requests and ILL. These can include practical training on the tools available or make learners aware of new and helpful resources (p. 434). While citation errors can be headache-inducing for ILL professionals, Dewey and Zopfi-Jordan's tips can help reduce stress, wasted time, and expenses for library teams.

Amy A Emerson, "Leveraging Technology to Promote Access to Justice" (November/December 2023) 28:2 AALL Spectrum 10, online: *AALL* <aallnet.org/spectrum_issue>.

This article highlights the Leveraging Technology to Promote Access to Justice course at Villanova University's Charles Widger School of Law. The course is "designed for law students who are interested in the intersection of law and technology and have a desire to do work that promotes access to justice for low-income and self-represented litigants" (p. 10). The students engage with open-source software to "create online guided interviews … that contextualize the legal process for the user" (p. 10). The goal is to create a product or app that can be immediately implemented by community partner organizations (p. 10).

Students start the course by writing a memo to gain "an understanding of the substantive and procedural law involved in the project" (p. 11). Next, they learn how to translate this into plain language for the average person, followed by how to use the software to design a tool to assist in the legal quandary. The students are responsible for the execution of the project and must create a "scope document" that details the boundaries of the project, the tasks, the concrete steps for competition, deadlines, and how all stakeholders of the project will contribute (p. 11). Importantly, they leverage a storyboard that provides "a graphical or written flowchart that represents the information-gathering process that will occur during the building of the legal application" (p. 11). The storyboard and design document also inform the legal logic behind the app. It dictates "how one procedural step leads to the next [and] how the law applies to different factual scenarios" and anticipates the needs to the user (p. 11). The students then test the applications in order to "identify whether they need to improve their understanding of the law, improve their written communication, or improve their technical skills, all of which provide for professional growth by clarifying one's strengths and weaknesses in context" (p. 11).

This method of teaching produces "self-regulated learners" who are "focused on acquiring knowledge and skills rather than on simply earning a grade" (p. 12). As Emerson states, "When students can properly attribute where their learning has gone wrong and where it has gone well, they learn to become lawyers who are able to appropriately adapt to their work" (p. 12). The students also learn how to translate law into prescribed forms for the layperson and thus can more easily relate to the experience of someone without a formal legal education who is undertaking a legal matter. Most importantly, students learn how they can systematically apply technology to address legal problems, as "[t]here is a key and vital role for future lawyers who can embrace technological innovation to address public policy" (p. 12).

The course encourages students to think critically about their role within the larger legal system and "engage in systematic critiques of the law" (p. 12). The author provides additional information on the benefits of running such a course at your law school. The ability to bring law students into "boots on the ground" law during their studies to create meaningful change with community partners cannot be undervalued.

Niamh Hanratty, "An Introduction to Patents for Legal Information Professionals" (2023) 23:3 Legal Information Management 162, online: *Cambridge University Press* <doi.org/10.1017/S1472669623000403>.

This article offers a starting place for newcomers to the world of patents. Hanratty provides an overview of the patent process and breaks down how patents are labelled and their typical lifecycle. She emphasizes that "[l]egal information professionals who undertake patent research need to be versed in how to identify patents, how to determine the status of a patent and how to investigate the litigation history of patents" (p. 170).

As Hanratty states, a patent "is a legal document that grants an inventor exclusive rights to their invention for a specified period," commonly twenty years (p. 162). There are millions of patents in the world; thus, a system has been established to assist with identifying which one you are looking for within a sea of other patents. When a patent completes the registration process, known as patent prosecution (p. 163), it is assigned an identifier according to a standardized code. This is particularly useful as "it is very difficult, and in most cases practically impossible, to find a patent based on the title alone" (p. 165). Hanratty walks the reader through what each component of the patent number (country code, running number, and kind code) means, how they are assigned, and their quirks.

Some knowledge of patents is valuable for legal information

professionals so we can assist with patent litigation, infringement research, and conducting due diligence searches regarding patent portfolios (p. 162). Patent information is generally online without restrictions from government offices (i.e., the Canadian Patents Database), although proprietary databases and tools are available. Hanratty writes that patent numbers can vary over time due to the evolution of the standard, and this is especially true of the kind code (p. 163). The World Intellectual Property Office has established a standard for kind codes, but it does not contain all codes in existence. Proprietary products tend to provide a list of all codes available in their database freely, and, as Hanratty notes, they tend to be more user-friendly (p. 163).

While this may appear as though one is searching for a needle in a global haystack, a blessing of patent research is that the applications are standardized around the world and are freely available online. This means that "we know where to look for certain types of information, even in foreign-language documents. Even if we cannot read the document, we know where to find the publication date and the application number" (p. 163). Hanratty walks the reader through a patent example and shows where each identifier appears on a patent document. One can even confirm the legal status of a patent by checking the relevant central database; for example, when checking a European patent, turn to the European Patent Office. However, as Hanratty notes, the legal status section available on patent office databases tends to be unreliable, as registers are infrequently updated (p. 170). When confirming if a patent has been subject to litigation, it is best to turn to a case law database and search for the patent directly. It can be "useful to search using the final three numbers of the patent and the country code using a 'within' connector" (p. 170).

This subject guide is a fulsome introduction to patents and provides a great starting point when handling an intellectual property research query. The article includes several figures to help illustrate how the information is visually presented on an application page. I encourage all information professionals to obtain a copy of this article for future reference if their employing organization touches on intellectual property matters and research.

Helene Klodawsky, *Stolen Time* (2023), online (video): *National Film Board of Canada* <nfb.ca/film/stolen-time>.

This documentary follows Melissa Miller, a personal injury lawyer and partner at Howie, Saks & Henry LLP, on her quest to represent families whose loved ones have been mistreated while living in nursing homes and assisted living facilities. The film highlights the struggle of trying to bring accountability to large corporations who care for some of society's most vulnerable individuals.

Miller is bringing mass torts against corporations to bring to light the suffering that occurs there. According to Miller, "the most common complaints are serious dehydration, malnutrition, injuries, misdiagnoses, you name it. I don't know why this exists quite the way that it does, other than it's been status quo and I think that families have been kept in the dark" (6m17s). The challenge is to accurately present several cases as "connected dots" to the court and demonstrate that there has been systematic negligence in conjunction with record profits for shareholders (14m30s). This is more complicated in light of the COVID-19 pandemic and the laws that were passed aimed at protecting these facilities from litigation. Miller states: "Our government wants to protect and provide immunity to those who are the ones responsible for the needless deaths of our vulnerable elderly. Where is the accountability in that? Where is the justice?" (10m35s).

Miller and her team highlight that they cannot simply demand that the government reform laws and regulations because the corporations are backed by powerful lobbying groups and larger industry groups. Some even have former government representatives, who aided in the privatization of the long-term care system, sitting on corporate boards, earning salaries, and receiving income via their shareholdings. These cases of abuse and negligence are becoming more common, however, as we have seen highlighted in the news time and time again. As Miller notes, the "insurance companies are getting very frustrated with having to continually be the ones paying out as a result of ineptitude within the system" (23m00s). The goal is for financial pressure to force the lobbying groups, and then the government, to enact tougher laws to help ensure these homes are run with more empathy and safety measures for residents and staff.

This documentary provides an intimate look at Ontario's long-term care industry and the holes that desperately need to be patched. The stories highlighted through Miller's clients demonstrate how easily this can impact our lives, whether someone we love lives in a long-term care facility or works at one.

Special thanks to the National Film Board of Canada for graciously providing me viewing access. *Stolen Time* premiered at the Atlantic Film Festival on September 18, 2023. Please contact the National Film Board of Canada for information on how you can view the film.

Elizabeth Reeve, "Behind the Scenes: The Assemblée Nationale's Team of Translation Professionals" (2023) 46:3 Canadian Parliamentary Review 29, online: *CanLII* <canlii.ca/t/7n7wz>.

This article provides a glimpse of some of the "behind-the-scenes" work that makes our government machine run. Reeve highlights the Assemblée nationale du Québec's "dedicated crew of 20 highly skilled language professionals, hailing from various provinces, countries and continents" and their challenging work of translating laws and other government documents (p. 29). They are often "at the heart of the action, dealing with highly confidential documents which afford them an unusually intimate view of the inner workings of the legislative process" (p. 29). Translating documents began in 1759, when it became clear that both English- and French-speaking populations needed to access and understand them. Finding skilled individuals to complete this work has also been a continuous problem. Reeve notes that minutes from a 1768 council meeting indicate that they had difficulty "finding a truly competent English-to-French translator" to undertake the task (p. 29). Currently, the team

almost exclusively produces French-to-English translations.

An example of translation work is producing the *Order Paper and Notices* and the *Votes and Proceedings* for the Assemblée in both French and English, as dictated by the *Constitution Act, 1867* (p. 29). A "small, specialized group of translators" receive the *Order Paper* at 5 p.m. and must have it "published on the Assemblée website in both languages before 8 a.m. the next morning" (p. 29–30). For *Votes and Proceedings*, "translators work in pairs, dividing up the work as it comes in, doing any necessary research, and revising each other's work in order to put the *Votes and Proceedings* online as quickly as possible" (p. 30).

Most of their work, of course, concerns bills and other legislation. There is a constitutional obligation to provide the documents in both French and English, "with the two versions being equally authoritative" (p. 30). Bills often require considerable research, as they often contain "specialized vocabulary" (p. 30). This is particularly difficult to undertake, as "[n]o one outside the legislative translation and publication directorate is privy to all the different bills being worked on, which means the team cannot consult any specialists other than the legislative drafters and legal advisers who work with the translation revisers" (p. 30). Further still, as Québec is based in a combination of civil law and common law, it has formed expressions and concepts that are wholly unique to Québec. A simple Google translate query will never suffice.

Translators often do not have the luxury of waiting for the final version of a French-language bill to begin their work (p. 31). They "must simply adapt their text as each new French version comes in" (p. 31). Thus, much revision, proofreading, and research is required from translators, legal advisers, revisers, and editors (p. 31). This is very much an iterative process, as amendments are constantly made between tabling and passage.

Finally, "[b]efore a bill is introduced in the Assemblée, a trio of editors reads the French and English versions aloud in parallel, from start to finish, to detect any remaining errors, typos or inconsistencies" (p. 31). While seemingly archaic and overly dramatic, this presents an opportunity to test the accuracy of the work before it reaches the public. Clearly, the translators who assist with keeping our governments running are an essential part of the "machine" providing equal language access in Québec. Their contributions are both fascinating and awe-inspiring.

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

By Erin Clupp

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

Courthouse Libraries B.C. (CLBC)

Supporting Our New Calls and Strengthening Community Connections

Hello, 2024! The pandemic interrupted many of our patterns and ways of interacting, communicating, and assisting our clients. Disruptive? Definitely. But also, an opportunity to step back, reassess, and refresh our approach. In 2023, we started a campaign to rebuild awareness and strengthen our relationships with legal professionals and organizations that provide referrals and services. There is a pandemic cohort of lawyers (over 2000) who have been newly called to the B.C. bar and many notaries, paralegals, and legal advocates who aren't aware of the resources and services CLBC offers. In 2024, we are pushing even harder with our efforts to reach these groups with legal research training and supports for their practice. Some of the initiatives we are focusing on are:

- Curated booklists for newly called lawyers to help with practice management and substantive law topics.
- Modified library tours that include an introduction to accessing physical materials on our shelves. Many new calls have only conducted research remotely!
- Outreach to connect with new lawyers and raise awareness of CLBC's services and how we can help them in their practice. We have started a five-part email series targeted at new calls. Stay tuned for more details!
- Training webinars to share practical tools, like trauma-informed practice and legal research skills.
- Reaching out to new calls to learn their legal resource priority needs and how we might improve our collection to meet those needs.

SUBMITTED BY
LISA WINKELAAR
Librarian, Kamloops Branch
Courthouse Libraries B.C.

Manitoba Law Library Inc. (MLL) and Prison Libraries Committee (PLC) of the Manitoba Libraries Association (MLA) Partnership

Introducing the Legal Information for Incarcerated Manitobans Initiative

The Manitoba Law Library Inc. (MLL) and the Prison Libraries Committee (PLC) of the Manitoba Libraries Association (MLA) have partnered to encourage and promote legal education and the development of law libraries for people incarcerated

in Manitoba's provincial institutions. Karen Sawatzky and Kirsten Wurmann are heading this program, with funding for three years from the Manitoba Law Foundation.

Prison Libraries are often overlooked as an integral part of corrections and are not set up to bring information to incarcerated people. As a result, information poverty along with low literacy levels do nothing to help incarcerated individuals deal with the complexities of an information-driven society, nor does it offer access to the necessary information, legal or otherwise, needed to understand and solve problems. By setting up libraries in provincial correctional institutions with legal resources and programming, the initiative can work to ensure that rights and freedoms of incarcerated Manitobans are not relinquished in terms of their legal needs.

Concrete strategies include:

- The creation and upkeep of legal collections (both purchased and free resources), which will be housed in a special cart or shelving unit and made accessible via an integrated library system to organize and keep track of the collection. This might also involve assisting Manitoba Justice with providing information through their tablet project.
- The creation and delivery of legal information programming through various clinics offered by the University of Manitoba's Law School and access to legal reference through a toll-free phone service offered by MLL.
- The creation of legal information resources in plain language and accessible formats to help incarcerated Manitobans access legal information and process the knowledge for their circumstances. This would include one-pagers of legal FAQs on specific and often-asked legal topics, resources/booklets on prisoners' rights and human rights, and/or a graphic novel on prisoners' rights by an Indigenous writer/illustrator.

We would like to thank the Manitoba Law Foundation for supporting this project. We also received support from LexisNexis Canada, Thomson Reuters Canada, and Emond Publishing.

SUBMITTED BY
KAREN SAWATZKY & KIRSTEN WURMANN
Manitoba Law Library Inc. (MLL)
& Manitoba Library Association (MLA)

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

Association des bibliothèques de droit de Montréal (Association) a connu une année rassembleuse. Tout comme les années dernières, de nouveaux membres se sont joints à l'Association, ce qui reflète la pertinence de l'Association dans le milieu des bibliothèques montréalaises de droit. L'Association a profité de la levée des consignes sanitaires strictes pour reprendre graduellement certaines activités en personne. En renouant avec le traditionnel lunch de la rentrée, le souper des Fêtes et une Assemblée générale en présentielle, les membres ont pu mettre à jour leurs habilités de réseautage et développer ainsi des opportunités d'échanger leurs expériences et leurs connaissances. D'autres activités offertes à distance ont contribué à enrichir des discussions sur des préoccupations communes telles que les veilles médiatiques et législatives. En effet, une table ronde a permis des échanges sur les meilleures pratiques en matière d'information courante en plus d'offrir aux membres un inventaire d'idées novatrices sur la transmission efficace d'informations en provenance de sources multiples.

Nous avons entamé avec enthousiasme déjà une nouvelle année avec un calendrier d'activités aux goûts du jour soit l'avènement de l'intelligence artificielle générative en recherche juridique et l'écriture épicène. À suivre!

The Montreal Association of Law Libraries (Association) had a very busy year. As in previous years, new members joined the Association, reflecting its relevance to the Montreal law library community. The Association took advantage of the lifting of strict health regulations to gradually resume some face-to-face activities. By resuming the traditional back-to-school lunch, the holiday dinner, and a face-to-face General Meeting, members were able to update their networking skills and develop opportunities to exchange experiences and knowledge. Other activities offered remotely contributed to enriching discussions on common concerns such as media and legislative monitoring. In fact, a roundtable discussion provided an opportunity to exchange best practices in current information, as well as offering members an inventory of innovative ideas on the effective transmission of information from multiple sources.

We have already enthusiastically embarked on a new year, with a calendar of activities in line with the latest trends: the advent of generative artificial intelligence in legal research and epicene writing. Stay tuned!

SUBMITTED BY
DOMINIQUE MONETTE
Présidente/President, ABDM/MALL

Vancouver Association of Law Libraries (VALL)

Legal information professionals across B.C. have been very active this past year, hosting some great virtual learning sessions and in-person networking events. At our annual Spring Social event last June, Alex Everitt (Harris & Co.) was recognized for her contributions as 2022/23 president and her commitment to raising up the professional stature of law librarians in B.C. New faces were added to the executive in the summer, with several returning ones.

We kicked off the 2023/24 season with our inaugural substantive session in October by hosting a webinar featuring Sarah Sutherland, who discussed the hot topic of generative AI as a current and potential research tool for lawyers and law librarians. Sarah provided an overview of the implications of generative AI for the legal community, then led a discussion surrounding challenges and concerns.

This was followed by a tour and lunch at my organization, Courthouse Libraries B.C. (CLBC), at the end of October.

Staff were delighted to meet so many law librarians from different firms and settings and to get firsthand feedback on CLBC resources and services.

In November, we hosted a very insightful presentation by lawyer Tom Isaac from Cassells, who helped us explore recent issues in Aboriginal Law. A summary would be impossible, as there was so much detail and complexity. Without any attribution to Tom, I will say that one thing I took away was the shocking fact that a political commitment to UNDRIP is honourable, but it's nearly impossible for government to harmonize all its laws with UNDRIP. If you want to learn more, Tom wrote several books on the topic, including *Aboriginal Law*, 5th edition, and *Key Developments in Aboriginal Law, Volume 2*.

We had our annual Holiday Networking Lunch at the Sutton Hotel again this year, made extra fabulous due to sponsorship from Quickscribe and LexisNexis. There was no PD programming that day, but a lot of catching up and sharing of information—the epitome of what a networking event should be!

Our Program Committee continues to be as busy as ever, with winter/spring planning well underway. Continuing the theme of generative AI, and with generous sponsorship from Thomson Reuters, in February we hosted a discussion with Abdi Aidid, assistant professor of law at the University of Toronto and co-author of *The Legal Singularity: How Artificial Intelligence Can Make Law Radically Better.*

There are also plans for a repeat of a successful event held last year: Lightning Talks. We will have a panel of law librarians sharing the microphone, talking about something new or interesting that's going on in their workplace. This is a popular event, with lots of questions and information-sharing. Then we will come full circle and wrap up the year with our Spring Social event in June again.

That's all from VALL for now. We wish everyone across the country a very happy New Year!

SUBMITTED BY
CAROLINE NEVIN
President, VALL

CALL/ACBD Research Grant

The Committee to Promote Research and CALL/ACBD invite members to apply for the CALL/ACBD Research Grant. Applications are currently closed, but visit callacbd.ca/awards for information on other funding opportunities.

The CALL/ACBD Research Grant was established in 1996 to provide members with financial assistance to carry out research in areas of interest to members and to the association. Please refer to our Committee page for a copy of the application form and to view our collection of past research projects.

The Committee is excited to receive proposals and we encourage members to apply or to contact us to discuss a project you are interested in. Members who previously applied but were not awarded funding are welcome to reapply.

Co-Chairs, CALL/ACBD Committee to Promote Research:

Beth Galbraith (bgalbraith@cwilson.com) & Christine Brown (christine.brown@ualberta.ca)

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

IIII News from Further Afield / Nouvelles de l'étranger

London Calling: Notes from the U.K.

By Jackie Fishleigh

Former Library and Information Manager (Retired), Payne Hicks Beach, London, U.K.

Hi, folks!

A belated happy New Year 2024!

Large areas of the U.K. are flooded right now, and a damaging six-day junior doctors' strike has just finished, but the main topic of conversation is actually a long-running legal dispute that started over two decades ago, when a new computer-based accounting system, known as Horizon, was rolled out in Post Offices across the land.

PM Announces New Law to "Swiftly Exonerate and Compensate Victims" of the Post Office Scandal

A four-part ITV drama, *Mr Bates vs The Post Office*, has stopped the nation in its tracks, as it has brought home to viewers the shocking plight of close to a thousand sub-postmasters and -postmistresses who, between 1999–2015, became embroiled in a Kafkaesque situation in which they were wrongly held liable for shortfalls at their Post Offices.

As pillars of their communities, they were known to be helpful, friendly, knowledgeable, and, crucially, honest people. According to their contracts, they were held personally liable for making up any losses at the end of each day.

Many were forced to use their savings or borrowed from banks or relatives to settle these on the computer system.

Others, who were unable to make up the missing money, had their branches abruptly closed down and were then charged with theft or, in some cases, with the criminal offence of false accounting. This was despite the fact that they had repeatedly complained that the new computer system was the source of the errors. Those who spoke out were told that they were the "only one" who had problems with Horizon.

Worse, some of the sub-postmasters and -postmistresses were advised by their lawyers to plead guilty to avoid being sent to jail. Others were given prison sentences. They lost their jobs, livelihoods, homes, and access to their children. In terms of their reputations, in some cases they were pictured on the front of their local newspaper being led to a cell, wearing handcuffs.

As a result, many became bankrupt, ill, or suicidal as their family life was destroyed. They lived in the streets or in battered old caravans, shunned by the local people who used to be customers and friends. Meanwhile, the missing money ended up in the Post Office's profits!

Delay After Delay

As we start 2024, just 95 out of more than 900 convictions have been overturned, according to Post Office Minister Kevin Hollinrake.

Although government officials say that a bill aiming to grant unprecedented blanket acquittals should be introduced "within weeks," it will still take until the end of the year for this new law to be enacted. The complaint that "justice delayed is justice denied" springs to mind.

In January, Rishi Sunak told MPs in the House of Commons that

> [t]his is one of the greatest miscarriages of justice in our nation's history … People who worked hard to serve their communities had their lives and their reputations destroyed through absolutely no fault of their own. The victims must get justice and compensation. We will make sure that the truth comes to light, we right the wrongs of the past and the victims get the justice they deserve.

About time.

The Power of Television

I have never watched a TV series that has had such an immediate impact. I was aware of the scandal, and even wrote about it in this column a couple of years ago, but I had assumed that the situation must have been pretty much dealt with.

The victims were assured that they would receive "fast and fair compensation" back then. A public inquiry was set up in 2020, after a landmark civil court ruling in 2019, which established that there were faults in Horizon. Fujitsu, the company that developed Horizon software, had claimed that only the postmasters could access their branch's computer system, when the truth was that their engineers accessed the live data remotely and could alter it.

Many Legal Issues Raised by this Unprecedented Scandal

The bill is likely to ask Parliament for the first time to overturn the unsafe verdicts of multiple courts. Compensation has so far only been available to those who have been exonerated by the criminal review process. This process has led to victims waiting for years for the courts to wade through hundreds of convictions. Clearing people's names on a blanket basis so they can get compensation aims to speed things up.

There is some nervousness that mass exonerations will set a dangerous legal precedent. No evidence will be considered, and there will not be any public declarations of innocence.

The independence of the judiciary will be compromised, as, although most postmasters were convicted under private prosecutions, some were tried in the Crown Court. There is a risk that a minority who are actually guilty will escape justice and could even be given compensation in error as a result.

The government still has more than 190 contracts with Fujitsu, worth around £3 billion. Fujitsu still has many questions to answer at the ongoing public inquiry, particularly to explain its refusal to cooperate when asked to look at how the technical errors in the Horizon accounting software might have led to the shortfalls appearing.

Burden of Proof Reversed

It is shocking that the burden of proof was turned around by the Post Office's investigators when they asked sub-postmasters and -postmistresses to "tell us why it wasn't you" who stole the missing cash. The mail managers had no access to the information that could prove their innocence, meaning they were presumed to be guilty. Investigating officers were under a duty to be fair in searching for evidence, whether this was helpful or unhelpful to their case. One victim, Jo Hamilton, described them as "wicked." The Post Office is owned by the U.K. government.

To some television viewers, the way legal actions are funded came as an unpleasant revelation. The series highlighted the fact that the individual victims had to band together with numerous others to afford legal representation. Despite their historic victory in court, each victim's compensation was greatly reduced after legal costs were deducted.

The scandal has shown how the Post Office was able to bypass the police and the Crown Prosecution Service because it had conflicting roles as victim of the losses, investigator, and prosecutor. This governance structure is not fit for purpose.

Who Was Mr Bates?

Alan Bates was an ordinary sub-postmaster who just would not accept that he was at fault for his losses, and he has spent 15 years of his life tirelessly fighting to prove it was the Horizon IT system and not the mail managers who caused the money to go missing.

In 2009, after establishing via a journalist at *Computer Weekly* magazine that he was not alone in having problems, Bates decided to hold a meeting in the centre of the U.K. He chose Fenny Compton in the county of Warwickshire, where he hired the village hall. Tea and biscuits were provided.

More than 30 victims arrived, later forming the Justice for Subpostmaster Alliance (JFSA) campaign group, and the rest is now legal history.

With very best wishes,

Jackie

Letter from Australia

By Margaret Hutchison

Manager of Technical Services and Collection Development, High Court of Australia, Canberra, Australian Capital Territory

And it's January. It was supposed to be a hot, dry summer, but it's been coolish and extremely wet so far, with a cyclone in North Queensland, severe storms in southeastern Queensland at Christmas, and rain, rain, and more rain in Victoria, with flooding in regional areas. In Canberra, it's just cool and wet, the government grass-cutting teams are flat out, and, no, I don't know what they do in winter when the grass doesn't grow.

Voice to Parliament Defeated

So, back to the legal and political world. In my last letter, I wrote of the referendum to establish an Aboriginal and Torres Strait Islander Voice to Parliament. As you may be aware, it was defeated by an overall majority of 60.06 per cent voting No and 39.94 per cent voting Yes. Every state and the Northern Territory voted No, but the Australian Capital

Territory (ACT), with its usual left-wing attitude, voted Yes.

The reasons for the failure of the referendum will be analysed and debated for many years. It seems obvious that any referendum proposal that doesn't have bipartisan support will fail. Another reason included the fact that voters had to make a decision based upon the concept of a Voice to Parliament rather than providing a detailed model for its implementation. Previous referenda had been based on clear yes/no choices—e.g., should judges retire at 70, should discrimination against Indigenous Australians in the Constitution itself be removed—but this referendum involved voting on a concept. Also, the Yes campaign was divided internally, while the No campaign was more united. Another aspect was social media and the misinformation that spread through those channels, such as the idea that "they'll take our houses, and we'll all have to pay rent to live in our home."

The government can still introduce a Voice to Parliament without amending the Constitution but would probably be committing electoral suicide. Most states and territories have committed to a treaty process, but it's going to be a slow process.

Another result of the failure of the Voice referendum is that Australians are unlikely to vote on a possible republic in the future. On coming to office in 2022, the Labor government had suggested the possibility of holding a referendum on the republic if it was re-elected in 2025 for a second term and even appointed an assistant minister for the Republic to advocate for the change. Don't worry, the holder of the office, Matt Thistlethwaite, has other portfolios to keep him occupied, since the republic referendum is on the backburner: he is also the Assistant Minister for Defence and for Veterans' Affairs.

NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs

In November, the High Court heard a case that has endless political and legal ramifications. *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs* concerned a stateless Rohingya Muslim from Myanmar who was detained in September 2012 upon his arrival in Australia by boat without a valid visa. He was released from immigration detention in September 2014, after being granted a temporary bridging visa. This visa was cancelled in 2015 after he was convicted and imprisoned for child sexual offences. He was refused a protection visa because he did not satisfy criteria in section 36(1C) of the *Migration Act*, which requires that an applicant not be a person whom the minister considers, on reasonable grounds, "having been convicted by a final judgment of a particularly serious crime, is a danger to the Australian community." The man could not be returned to Myanmar due to the rules regarding non-refoulement, a principle that prohibits their return to a country where there is a risk to their life or where they would face persecution, and no other country has yet been found to take him. He was therefore placed in immigration detention as an unlawful non-citizen.

Since the early 1990s, Australia has had a policy of mandatory detention and mandatory removal of "unlawful non-citizens." This means that anyone in Australia without a valid visa—including people who have had their visas cancelled or refused—must be placed in immigration detention and deported from Australia to their country of citizenship or another country that will accept them. Refugees without a visa will therefore continue to be held in immigration detention. Immigration detention is also used to hold some people while their visa applications are being processed and decided upon by the government. Unlike criminal detention (or imprisonment), which is imposed as punishment following conviction of a criminal offence, the purpose of immigration detention is not punishment, but is administrative in nature. For example, immigration detention is used to hold people while decisions are made as to whether they are allowed to enter the country or not, and to make them available for deportation in situations where their visas are cancelled or refused.

The matter of *NZYQ* required the High Court to reconsider its 2004 decision in the matter of *Al-Kateb v Godwin*, which dealt with a very similar factual situation. The decision established that indefinite detention was lawful under the *Migration Act*.

Al-Kateb was a stateless Palestinian man who had been refused a protection visa and taken into detention as an unlawful non-citizen for the purpose of removing him from the country. As he was a stateless person, removing him from the country was a practical impossibility, and he faced detention for the rest of his life.

He argued that his detention was unlawful. A majority of the High Court held that Al-Kateb's indefinite detention was lawful under the *Migration Act*, as the detention was administrative and not punitive in character. The man's detention was continuing for the purpose of removing him from Australia, notwithstanding that that purpose was presently incapable of being fulfilled. A minority of the bench found that the *Migration Act* should not be interpreted as permitting indefinite immigration detention.

The Minister of Immigration subsequently intervened and granted Al-Kateb a visa on a discretionary basis. The man was released from immigration detention, but the High Court's decision in his matter remained good law.

This decision in *Al-Kateb* has been heavily criticised over the years by lawyers, human rights advocates, and academics both within Australia and overseas. While challenges to *Al-Kateb* had been heard before, *NZYQ* was the first case to directly challenge this decision.

As a result of the decision, the plaintiff was released almost immediately, and the government went into panic mode, as they expected the High Court to reject the appeal. One hundred and forty-nine people who were held in detention were released within the month following the decision. In response to reports that recently released detainees were arrested for allegedly re-offending since their release and concerns for community safety, the government hastily introduced and passed two new pieces of legislation.

New Legislation Swiftly Passed

The *Migration Amendment (Bridging Visa Conditions) Act* imposes extreme surveillance and control mechanisms on non-citizens released into the community as a result of the decision and was debated and passed within just one day, roughly one week following *NZYQ*. The amendments impose 28 mandatory visa conditions "restricting conduct and movement" for all of those released, alongside a requirement to wear an electronic monitoring device and adhere to a daily curfew unless the Minister is satisfied that no risk to the community is posed. If these conditions are breached, the Act creates a criminal offence of up to five years' imprisonment with a mandatory minimum of one year. Unlike parole conditions imposed following a criminal sentence, the Act does not create a mechanism for independent oversight or review of these conditions, which may be imposed indefinitely.

The second reform introduces a new preventive detention regime for those released, which applies only to non-citizens. It allows for the re-detention in prison (not immigration detention) of those recently released upon the Immigration Minister's application to a court. Despite a released non-citizen's criminal sentence being served, the court will assess whether an individual previously convicted of a serious violent or sexual offence poses "an unacceptable risk" of committing another such offence in the future. This legislation will almost certainly be subject to further challenge before the courts as it discriminates against non-citizens based on their migration status.

Also, the government will face challenges for compensation for "aggravated" and "compensatory" damages for alleged false imprisonment resulting from the *NZYQ* case. Several cases were lodged but discontinued before Christmas when the government lifted the ankle bracelet and daily curfew restrictions for the individuals concerned. The payout could be hundreds of thousands of dollars, as lawyers for those challenging also point to New Zealand's minimum of $150,000 a year for imprisonment after wrongful conviction as a guide to the likely scale of claims.

So, we shall wait to see what happens next.

Until next time,

Margaret Hutchison

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

By Sarah Reis

Foreign & International Law Librarian, Pritzker Legal Research Center, Northwestern Pritzker School of Law, Chicago, IL

Happy New Year! The spring semester has just started, though this semester would be much more aptly named the "winter" semester here in Chicago. Our city just experienced its first winter storm of the season, which disappointingly ended up being mostly freezing rain instead of snow, but the forecast was bad enough that all classes were canceled at the law school on the Friday of the first week of classes. At Northwestern Law, classes are rarely canceled because cold temperatures and snow are common, so this semester has gotten off to a bit of a dramatic start. We're also currently in the middle of an extreme cold spell with negative temperatures (in Fahrenheit) over the next few days.

I'm teaching my FCIL Research course again this semester. This will be my sixth time teaching it, and I can attest that it is true that teaching a course gets easier each year, as I hardly felt any first day nerves. When this semester ends, I am looking forward to traveling to Norway in June and meeting and seeing librarians from around the world at the IALL Annual Course. The first and only time I have been able to attend the IALL Annual Courses was when it was held in Sydney, Australia, in October 2019. I haven't traveled internationally since then, but I'm excited to travel overseas after more than five years without going abroad.

Law Schools and Bar Exam

Despite last summer's Supreme Court decision striking down affirmative action programs in college and university admissions, applicants of color have not been deterred from applying to law schools. According to LSAC data, over 43 percent of law school applications for the 2024 fall admissions cycle were submitted by minority candidates, making it the most diverse applicant pool in history. The incoming class of 2023, which was the final class admitted before the affirmative action ban took effect, also is the most diverse class in history, made up of 40 percent students of color, also per LSAC.

The ABA's Council on the Section of Legal Education and Admission to the Bar has proposed revising standards to provide more job security for untenured faculty by giving full-time legal writing faculty "presumptively renewable long-term contracts."

Another ABA proposal that was approved for Notice and Comment would allow "a fully online law school to apply for, and potentially earn, provisional and full ABA-approval," so that a school such as Purdue Global Law School may become eligible for ABA accreditation. As of now, with respect to distance education, the ABA permits law students to earn up to 50 percent of their credits remotely when pursuing their J.D., but that revision to the accreditation standards is very new, as it was approved by the ABA's House of Delegates in August 2023.

In late summer, the NCBE announced that the NextGen bar exam will be launched in July 2026, which will reduce the total exam time from 12 hours to nine. Following this announcement, jurisdictions have been announcing their future plans to administer the new bar exam. The current Uniform Bar Exam will be offered through February 2028 to help jurisdictions make the transition.

Legal Employment

The ABA released a report titled *Profile of the Legal Profession 2023*, which contains interesting data about demographics of lawyers, wages, legal education, women

in the legal profession, and other topics. According to this report, there are more than 1.3 million lawyers in the United States, and the number increased 5 percent between 2013 and 2023. More than one-fourth of all lawyers live in New York and California (my state, Illinois, ranks fifth for the state with the most lawyers). In 2013, 34 percent of lawyers were female, while that percentage grew to 39 percent in 2023. The number of lawyers of color also increased: in 2013, 11 percent of lawyers were people of color, while in 2023, the percentage was 21 percent. Improvements in gender and racial diversity of lawyers over the past decade is positive to see, but there is still a long way to go until the profession can truly be viewed as diverse.

The National Association for Law Placement (NALP) found that the Class of 2022 law graduates had the highest employment rate in 35 years, with a 92.1 percent employment rate, but disparities in employment by race/ethnicity persisted. White graduates had an employment rate of 93.4 percent, while Black graduates had a rate of 89.2 percent and Native American and Alaskan Native graduates had a rate of 86.5 percent.

However, according to the Thomson Reuters Law Firm Financial Index, law firms have reduced annual fall hiring of new associates as expenses rise and demand for legal services slowly recovers. For Am Law 200 firms, the size of first-year associate classes this past fall were the smallest since 2020 (-24.8 percent in September 2023, compared to the average of September 2021 and September 2022).

Small law firms, consisting of firms with 29 or fewer lawyers, reported making progress on improving how their time was allotted, increasing the amount of time spent practicing law to 61 percent in 2023, whereas it had been 56 percent in both 2021 and 2022. This equates to approximately 150 additional billable hours over a year. This increase in time spent practicing law was made possible because the amount of time spent dealing with administrative tasks decreased from 11 percent in 2021 and 2022 to 9 percent in 2023.

SCOTUS

In late February, the Supreme Court will hear oral arguments for highly watched cases in which the decisions may affect those beyond U.S. borders due to their subject matters: free speech online and ozone-forming pollution.

Two social media cases, *NetChoice LLC v Paxton* and *Moody v NetChoice LLC*, will be heard on February 26. These cases examine the constitutionality of state laws from Florida and Texas that regulate whether social media platforms such as Facebook or X (Twitter) can control the content and information posted on their websites by users. The issue is whether these laws violate the companies' First Amendment rights to decide what speech appears on their platforms and whether they can retain the ability to remove, demonetize, or hide content that they don't want published on their platforms.

On February 21, the Supreme Court will hear arguments from an emergency appeal stemming from a challenge to the EPA's "good neighbor rule," which restricts emissions from power plants and industrial sources that cause downwind pollution and contribute to ground-level ozone, in *Ohio v Environmental Protection Agency*. While advocates for the environment and public health support the good neighbor rule because it cracks down on smog, industry groups unsurprisingly criticize the rule because they're far more concerned about their profits and do not wish to take measures to reduce their pollution.

The Supreme Court has recently announced that it will add *City of Grants Pass v Johnson* to its docket, which addresses whether a city can enforce a ban on public camping against homeless people. Other cities will be watching this case closely; for example, in January, the U.S. Court of Appeals for the 9th Circuit left an injunction against the City of San Francisco in place, which prevents the city from clearing homeless encampments without offering alternative shelter. Gavin Newsom, the Governor of California, filed an amicus brief supporting the City of Grants Pass back in September.

In the 2023 Year-End Report on the Federal Judiciary, Chief Justice Roberts commented on artificial intelligence and concluded, "I predict that human judges will be around for awhile. But with equal confidence I predict that judicial work—particularly at the trial level—will be significantly affected by AI." This report also contained some statistics about the workload of the courts. The number of cases filed in the Supreme Court decreased 15 percent in October Term 2022 compared to the prior year. Cases filed in the U.S. court of appeals also fell in FY 2023, declining by 4 percent, but civil cases filed in U.S. district courts increased by 24 percent and cases filed in U.S. bankruptcy courts increased by 13 percent compared to FY 2022.

U.S. Courts

With the 2024 presidential election coming up later this year, state supreme courts have had to decide whether Trump can appear on ballots, and the U.S. Supreme Court will soon weigh in on whether he can be kept off 2024 presidential ballots due to his attempts to overturn his loss in the 2020 presidential election.

In December, the Colorado Supreme Court declared that Trump was ineligible for the White House under the insurrection clause (section 3 of the 14th Amendment) and consequently could not be listed as a candidate on the presidential primary ballot.

The U.S. Supreme Court granted review of the Colorado Supreme Court's ruling. *Donald J Trump v Norma Anderson* will be expedited with oral argument scheduled for February 8. (Not insignificantly, three of the nine Supreme Court justices were appointed by Trump, while Justice Thomas's wife supported Trump's efforts to overturn the results. Will these justices recuse themselves? Very unlikely, especially Justice Thomas!)

The Oregon Supreme Court declined to hear a case pertaining to Trump's eligibility to appear on the primary and general election ballot, stating,

> Because a decision by the United States Supreme Court regarding the Fourteenth Amendment issue may resolve one or more contentions that relators make in the Oregon proceeding, the Oregon Supreme Court denied their petition for mandamus, by order, but without prejudice to their ability to file a new petition seeking resolution of any issue that may remain following a decision by the United States Supreme Court.

As a result, Trump will remain on Oregon's primary ballot for now.

Beyond election law-related cases, federal courts have also been considering cases involving generative AI. Several lawsuits alleging copyright infringement by A.I. platforms have been filed in federal courts. The Authors Guild filed class action lawsuits on behalf of fiction authors and nonfiction writers alleging that OpenAI and Microsoft illegally copied the authors' copyrighted books to develop AI technologies. In December, the *New York Times* similarly sued OpenAI and Microsoft, alleging that the companies used copyrighted articles without authorization to train chatbots, which compete with the news organization as a source of information.

In response to incidents involving lawyers citing non-existent cases, judges have started issuing standing orders for their courtrooms, and courts have started amending rules regulating the use of generative AI in court filings. In the U.S. District Court for the Eastern District of Texas, a general order issued on October 30 amended the local rules to address the use of AI technology by *pro se* litigants and attorneys. For attorneys, the rule on standards of practice was amended to permit lawyers to use AI technology if they believe the client would be best served by the use, but "the lawyer is cautioned that certain technologies may produce factually or legally inaccurate content and should never replace the lawyer's most important asset—the exercise of independent legal judgment" and the lawyer "must review and verify any computer-generated content to ensure that it complies with all such standards."

The U.S. Court of Appeals for the Fifth Circuit is also considering amending the Fifth Circuit Rules to require a certificate of compliance attesting to the following:

> Additionally, counsel and unrepresented filers must further certify that no generative artificial intelligence program was used in drafting the document presented for filing, or to the extent such a program was used, all generated text, including all citations and legal analysis, has been reviewed for accuracy and approved by a human.

Copyright

With the start of every new year, it's always interesting to see which works enter the U.S. public domain, so I'm going to end this column on a fun note. On January 1, works from 1928 and sound recordings from 1923 became free and open to all. For law-related works, this means that case reporters published by commercial publishers, such as the Federal Reporter Second Series and the New York Supplement, are now freely available online for volumes published up to 1928. What's much more fun are the literary works, and a few book titles that caught my eye that are now in the public domain include A. A. Milne's *House at Pooh Corner* (this is the book where Tigger gets introduced!) and Agatha Christie's *The Mystery of the Blue Train*.

Until next time!

Sarah

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 callacbd.ca.

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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 callacbd.ca.

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