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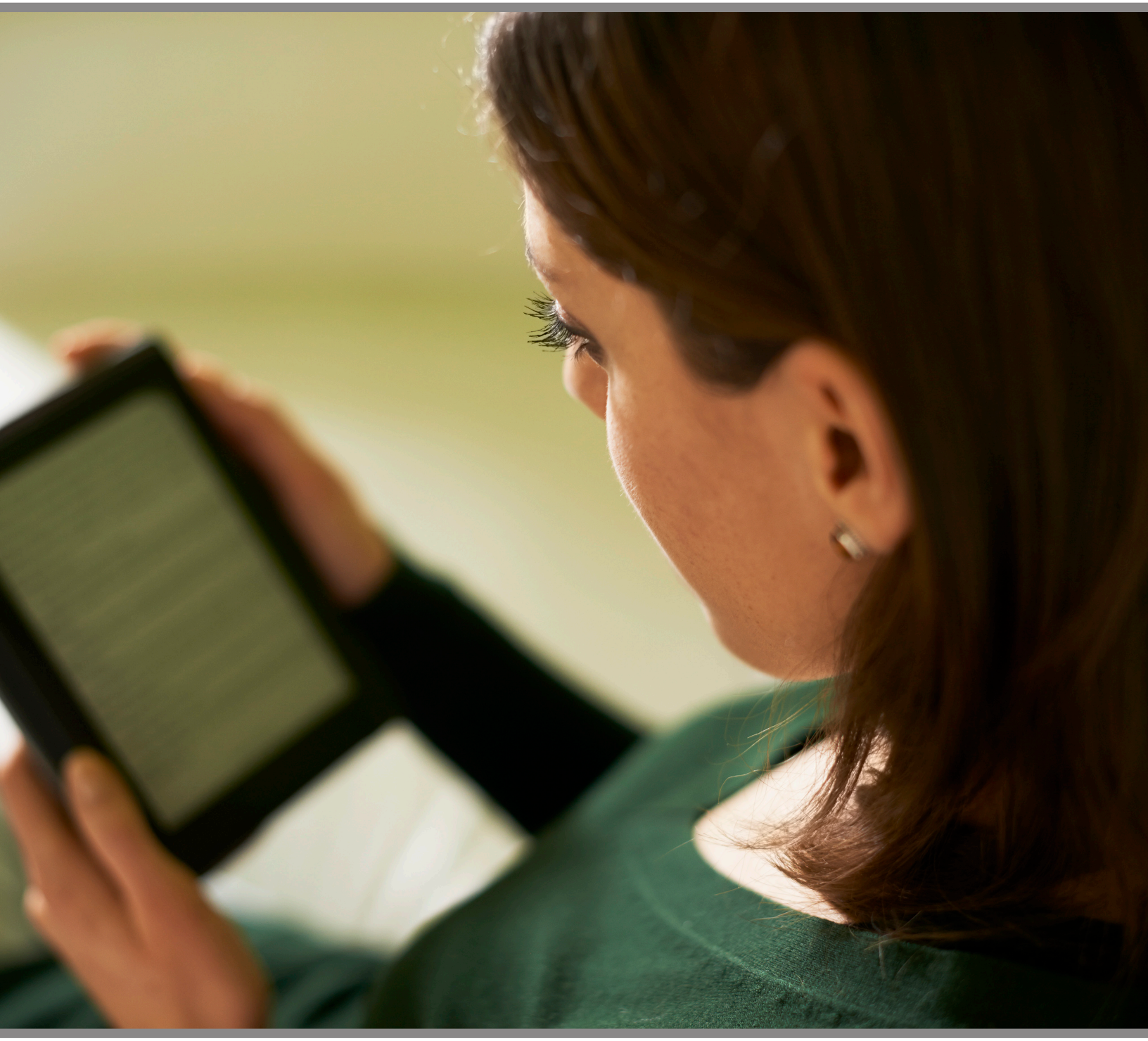
CANADIAN LAW LIBRARY REVIEW

REVUE CANADIENNE DES BIBLIOTHÈQUES DE DROIT



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IIII EDITORIAL BOARD / COMITÉ DE RÉDACTION

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

IIII From the Editor / De la rédactrice

Hello Everyone. Usually when I start to write my editorial for the CLLR, I start by looking over the articles and columns trying to find links and connecting themes that occur throughout the issue. This is an interesting issue because there are very few of those connections to be made. This issue is more eclectic than most and covers a wide range of subjects, and since that is the case my editorial will follow suit.

First of all, I would like to touch on Connie Crosby's *President's Message*. Although, as law librarians, we are only a small subset of a much wider community, it has been my usual habit to think very insularly about our profession, but every now and again it comes to me that we really are part of a wider community and should also think about ourselves in that way. In her message, Connie highlights the importance of our responsibility to the broader world as she discusses, amongst other thing, her representation of our Association at the National Reading Campaign's Aboriginal Roundtable.

Our first feature article, *E-Books in Canadian Law Libraries* by Olcay Atacan, discusses the challenges of incorporating e-book acquisitions and lending into law libraries. Many of us, as individuals, have already incorporated e-books and e-reading into our everyday lives. As a funny example of how easily the conventions of e-reader use have become inculcated into our thinking, just today when I was editing a printout of this issue, as I had the pages open before me on my desk, I tapped the right-hand side of the page to make the page turn and I was momentarily disconcerted when the page didn't magically turn itself, Harry Potter style. I have become so used to tapping on the screen to turn the page that I had to recalibrate my thinking to go back to print. Since the use of e-books has become part of our individual lives, readers naturally may come to prefer using them as part of their legal research as well and law libraries will have to respond to this demand as it occurs. We do however face some unique challenges incorporating e-books into our collections. This article provides a nice clear overview of the resources available to us, as well as the issues we are likely to face when starting to build a e-collection.

Our second feature, *Coping with Budget Cuts: How Canadian Libraries Compare with Other Countries,* is a comprehensive study of the state of libraries in Canada and a number of other countries throughout the globe. The authors find that shrinking library budgets are a universal phenomenon which have had a huge impact on every aspect of library service. Law libraries are not immune from this trend and this article discusses how law libraries throughout the world have adapted to this new paradigm of budget restraint.

Did you know that there is now a Museum of Broken Relationships? It was started by a lawyer in California. Julienne Grant talks about this museum, as well as other more serious topics in her column on the US Legal Landscape. Margaret Hutchison unpacks Australia's byzantine electoral system for us in her *Letter from Australia.* Apparently the sausage sizzle is an Australian electoral tradition that can't be missed. And in Jacquie Fishleigh's *Notes from the UK* we learn about the state of the discussion prior to the

actual BREXIT vote. At this point, however, the less said about BREXIT the better but I am wondering if there is a place for the BREXIT referendum in the Museum of Broken Relationships.

EDITOR
SUSAN BARKER

Bonjour à tous! Habituellement, lorsque je m'installe pour rédiger l'éditorial de la *Revue canadienne des bibliothèques de droit*, je commence par consulter les articles et les reportages pour déceler les liens qui les unissent ou les thèmes communs qui reviennent. Cette fois, il s'agit d'un numéro intéressant, car il y a très peu de liens à faire. Il est plus éclectique que la plupart des numéros antérieurs et traite d'une vaste gamme de sujets; par conséquent, mon éditorial sera à cette image.

Je commencerai par dire quelques mots au sujet du *Mot de la présidente*, de Connie Crosby. Il est vrai que nous, les bibliothécaires de droit, ne formons qu'un petit ensemble au sein d'une vaste communauté, et j'ai toujours eu tendance à voir notre profession comme un îlot isolé. Or, de temps à autre, il me vient à l'esprit que nous appartenons en fait à une vaste communauté et que c'est sous cet angle que nous devrions nous percevoir. Dans son message, Connie souligne à quel point nous avons une responsabilité importante envers le reste du monde lorsqu'elle mentionne, entre autres, sa présence à titre de représentante de notre association à la table ronde autochtone de la Campagne pour la lecture.

Notre premier article de fond, *E-Books in Canadian Law Libraries*, rédigé par Olcay Atacan, fait état des difficultés à intégrer les acquisitions et le prêt de livres numériques dans les bibliothèques de droit. Pour bon nombre d'entre nous, dans notre vie personnelle, les livres numériques et la lecture électronique font déjà partie intégrante de notre quotidien. Pour illustrer à quel point les conventions de la lecture électronique s'impriment facilement dans notre esprit, je vous offre une petite anecdote amusante : aujourd'hui même, alors que j'éditais une version imprimée du présent numéro, les pages étaient ouvertes devant moi sur mon bureau et, voulant tourner la page, j'ai tapé du côté droit de la feuille. J'ai été quelque peu déconcertée pendant un instant, lorsque la page ne s'est pas tournée d'elle même, comme par magie, à la Harry Potter. J'ai tellement l'habitude de taper sur l'écran pour tourner la page que j'ai dû remettre mon esprit en mode « documents papier ». Depuis que l'utilisation des livres numériques s'est inscrite dans notre réalité, les lecteurs en sont venus à préférer y mener leurs recherches juridiques, et les bibliothèques de droit devront répondre à cette demande à mesure qu'elle se présente. Nous sommes toutefois confrontés à des défis uniques quant à l'intégration des livres numériques dans nos collections. Cet article brosse un tableau clair des ressources dont nous disposons et des problématiques que nous risquons de rencontrer si nous amorçons une collection électronique.

Notre deuxième article de fond, *Coping with Budget Cuts: How Canadian Libraries Compare with Other Countries*, est une étude détaillée de l'état des bibliothèques au Canada et dans quelques autres pays. D'après les auteurs, la réduction constante des budgets des bibliothèques est un phénomène universel qui a eu d'énormes répercussions sur tous les aspects des services de bibliothèque. Les bibliothèques de droit n'échappent pas à la tendance, et cet article traite de la manière dont, aux quatre coins du monde, elles se sont adaptées à ce nouveau paradigme de restrictions budgétaires.

Saviez vous qu'il existe actuellement un Musée des relations rompues? Il a été fondé par un avocat en Californie. Julienne Grant traite de ce musée et d'autres sujets plus sérieux dans son reportage sur le paysage juridique américain. Margaret Hutchison nous décortique le système électoral byzantin d'Australie dans son article *Letter from Australia*. Apparemment, les saucisses grillées sont une tradition électorale australienne à ne pas manquer. Et dans l'article *Notes from the UK* de Jacquie Fishleigh, nous en apprenons sur l'état de la discussion avant le vote du Brexit. À ce stade ci, toutefois, le moins on en dit sur le Brexit, le mieux c'est, mais je me demande tout de même s'il y aurait une place pour le référendum du Brexit au Musée des relations rompues.

RÉDACTRICE
SUSAN BARKER

Call for Submissions

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

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

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

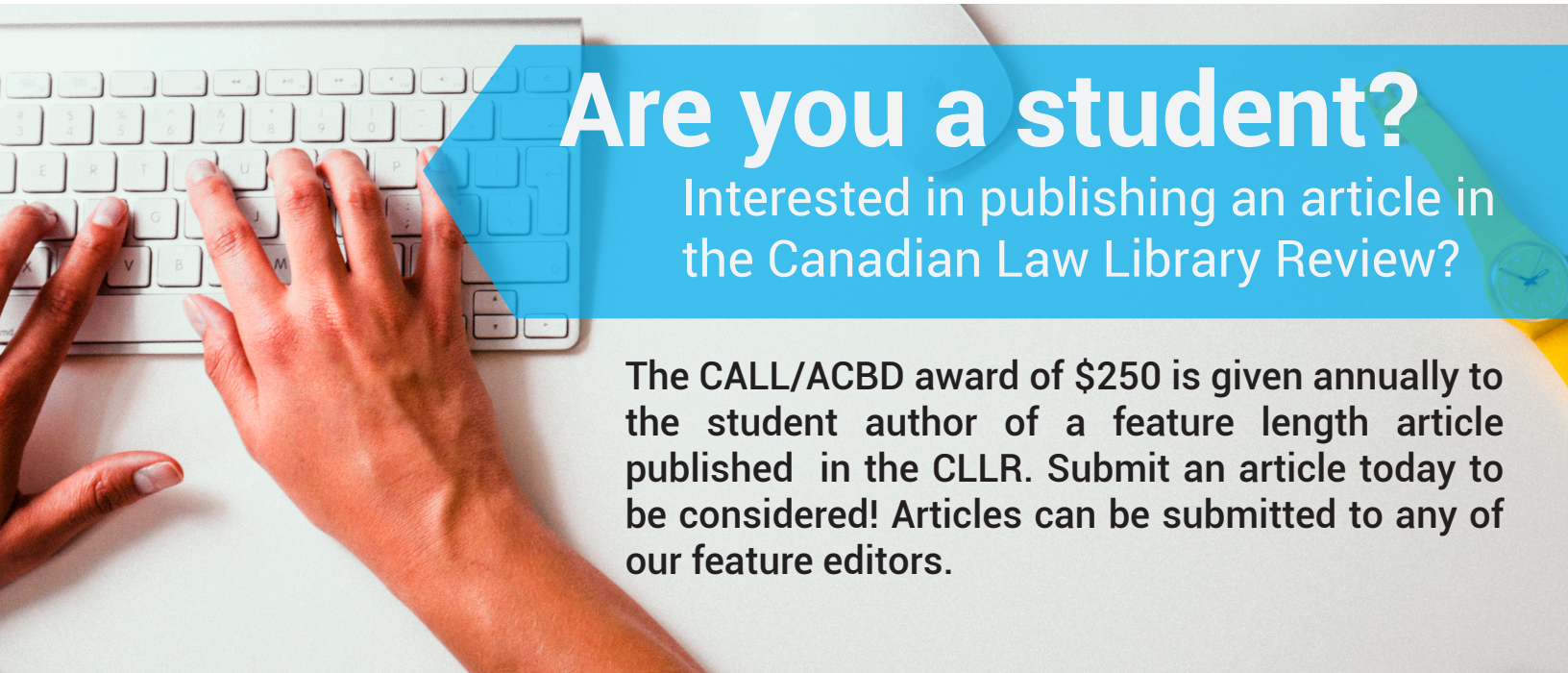
Canadian Law Library Review/Revue canadienne desbibliotheques de droit is indexed in the *Index to Canadian Legal Literature, Index to Canadian Legal Periodical Literature, Legal Information and Management Index, Index to Canadian Periodical Literature, and Library and Information Science Abstracts.*

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

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

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

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



IIII President's Message / Le mot de la présidente

As I write this on Canada Day, I become sentimental about being Canadian. We work hard to be inclusive as a society, supporting diversity as well as equality and fairness with respect to cultural background, sexual orientation and gender identity. We may not be perfect – we still have lots of work to do – but gosh, I am fiercely proud of what we have accomplished so far and hope we can keep pushing this equality agenda forward.

I'm also extremely proud to be a law librarian. While we support the larger legal community, those of us in law library and legal information roles also play an essential part in access to legal information and supporting open government information. Access to legal information is part of the larger movement for access to justice for average citizens. We help educate law students, lawyers, law clerks, law professors, judges and the public about how to find the law and changes in the law.

What does it mean to be part of the Canadian law library and legal information community in 2016? We help provide access to legal information when it comes in such a range of paper and electronic formats: we make it available, accessible, findable and retrievable. We work with our vendor partners to ensure the needs of our clients and colleagues are met. We work hard to get the best value for our budgets in a time when budgets are not increasing and often shrinking. And in an era when our organizations look to "do more with less" and push the work to the right people, we have a role to play in determining how processes might be remapped to accomplish this.

And what now? To start with, there is much work to be done in helping Canada's Aboriginal communities with social support, literacy, infrastructure, and access to justice. In 2014 at our conference in Winnipeg, Justice Murray Sinclair spoke to us of the heart-rending findings of the Truth and Reconciliation Commission of Canada. There was not a dry eye in the room when he shared a few select videos of testimony during his keynote address.

In October 2014, CALL/ACBD was invited to be an observer at the National Reading Campaign's Aboriginal Roundtable in Toronto, and I was privileged to represent our Association in that capacity. Ours was one of only two library associations in attendance. Over the two days. I met incredible, passionate librarians supporting communities from across Canada including those in some of the most remote locations imaginable, often with little or no government support or infrastructure. Our small group heard from speakers such as Dr. Sabrina Redwing Saunders, CEO of StonePath Research Group and CEO of Six Nations Public Library, Sylvia McAdam, author and co-founder of the Idle No More movement, Dr. Cindy Blackstock, Executive Director of the First Nations Child and Family Caring Society of Canada, and Associate Professor at the University of Alberta, Harriet Roy, Assistant Director of the Pahkisimon Nuyeàh Library System in La Ronge, Saskatchewan, author Joseph Boyden, and lawyer/former politician Bob Rae. We heard about the challenges in providing library services to Aboriginal communities both on reserve and off reserve, and how to provide greater access to reading and reading materials.

It is not an easy road when there is little government support. In April of this year the First Nation community Attawapiskat

in Northern Ontario made the headlines as their chief and council declared a state of emergency after many people – mostly youth – took or attempted to take their own lives. One need the community identified was for a library and reading materials. Did you know students from Ottawa's Ridgmont High School – along with their librarian and teachers – stepped up to the plate, organizing book donations in May?[1]

There are many other communities similarly hurting that could use our support. It is easy to feel overwhelmed in the face of such need. My touchstone is the Truth and Reconciliation Commission final report, released on December 15, 2015. I encourage you to explore the website if you haven't already. The *Calls to Action* portion especially provides us with some pointers[2] with respect to access to justice, drafting of new legislation, changes in the justice system, establishing archives and media centres, as well as education. There is much work to be done.

It is gratifying to see the newly forming Canadian Federation of Library Associations taking on support of the Commission's *Calls to Action* as part of their/our mandate. During the new association's initial meeting in January 2015 I spoke about the National Reading Campaign's work. I pointed out the need to take on the literacy and library needs of the Aboriginal communities as part of our advocacy work. The idea was favourably received.

I was therefore quite moved to see the following message released by the new Federation on June 21, 2016:

> *The Canadian Federation of Library Associations (CFLA-FCAB) reminds all Libraries that June 21 is National Aboriginal Day.*
>
> *At the CLA Forum in Ottawa in June 2016 the Federation Board adopted the following as its first priority: to promote initiatives in all types of libraries to advance reconciliation by supporting the Truth and Reconciliation Council's calls to action. In particular, libraries support the telling of the story of indigenous peoples and the education of all Canadians in indigenous culture and history.*
>
> *CFLA-FCAB looks forward to working together to ensure all Canadians gain a greater knowledge and understanding of First Nations, Inuit and Métis cultures, traditions and their contributions to Canada. Participation in National Aboriginal Day is one way to advance that essential priority.*
>
> *Paul Takala*
>
> *Chair*
>
> *Canadian Federation of Library Associations (CFLA-FCAB)*[3]

This is just the tip of the iceberg as to efforts in Canada that need the support of law library clerks, technicians, librarians and other information professionals. When our organizations look to reduce our numbers, we must question the motivation and look to how we fit into the bigger picture of the legal community as well as society as a whole. If we go, who will take on this work? Who will advocate for the marginalized? When lawyers tell us everything is on their computer, we must ask them who put it there and made it accessible for them. It is not just our own jobs at stake, but the lives of so many others depend on us.

Let's strive to do good work that will make future generations of Canadian legal information professionals proud.

PRESIDENT
CONNIE CROSBY

Au moment où je rédige ces lignes, en cette Fête du Canada, je deviens sentimentale en pensant à mon identité canadienne. Nous ne négligeons aucun effort pour être une société inclusive, qui appuie autant la diversité que l'équité et l'égalité en termes d'origine culturelle, d'orientation sexuelle et d'identité de genre. Nous ne sommes peut être pas parfaits – il nous reste encore beaucoup à faire –, mais qu'est ce que je suis fière de ce que nous avons accompli jusqu'à présent! Et j'espère que nous pourrons continuer à aller de l'avant pour favoriser l'égalité.

Je suis aussi extrêmement fière d'être une bibliothécaire de droit. Nous soutenons certes le milieu juridique en général, mais ceux d'entre nous qui assument des fonctions dans les bibliothèques de droit et dans le domaine de l'information juridique jouent également un rôle essentiel pour permettre l'accès à l'information juridique et favoriser l'ouverture de l'information gouvernementale. Pour le citoyen moyen, l'accès à l'information juridique s'inscrit dans le mouvement global d'accès à la justice. Nous contribuons à informer les étudiants en droit, les commis juridiques, les professeurs de droit, les juges et le grand public sur la manière de trouver les lois et les changements qui y sont apportés.

Qu'est ce que cela signifie que de faire partie de la communauté canadienne des bibliothèques de droit et de l'information juridique en 2016? Nous aidons à fournir l'accès à l'information juridique, qui se décline en tant de formes sur support papier et électronique : nous la rendons disponible, accessible, trouvable et récupérable. De concert avec nos partenaires fournisseurs, nous veillons à répondre aux besoins de nos clients et de nos collègues. Nous travaillons

[1] Stu Mills " Students Assemble Essential Library for Attawapiskat" CBC News, May 19, 2016. <http://www.cbc.ca/news/canada/ottawa/ottawa-students-essential-library-attawapiskat-1.3587779>.
[2] < http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf>
[3] <http://cla.ca/message-from-the-canadian-federation-of-library-associationsfederation-canadienne-des-associations-de-bibliotheques-cfla-fcab-on-national-aboriginal-day-2016/>

d'arrache pied pour utiliser de manière optimale nos budgets dans une période où non seulement ils n'augmentent pas, mais ils ont plutôt souvent tendance à fondre. En cette ère où nos organisations cherchent à optimiser les ressources et à confier le travail à accomplir aux bonnes personnes, nous sommes bien placés pour établir comment les processus pourraient être réorganisés à cette fin.

Et vers quoi nous tournons nous maintenant? Tout d'abord, il y a beaucoup à faire pour aider les collectivités autochtones du Canada aux chapitres du soutien social, de l'alphabétisation, des infrastructures et de l'accès à la justice. En 2014, lors de notre congrès à Winnipeg, le juge Murray Sinclair nous a parlé des conclusions bouleversantes de la Commission de vérité et réconciliation du Canada. Tout le monde était au bord des larmes lorsqu'il a présenté quelques témoignages vidéo pendant son allocution.

En octobre 2014, l'ACBD/CALL a été invitée à assister comme observatrice à la table ronde autochtone de la Campagne pour la lecture, à Toronto, et j'ai eu le privilège de représenter notre association à ce titre. Il n'y avait que deux associations de bibliothèques à cette table ronde, la nôtre y comprise. Au cours des deux jours, j'ai rencontré des bibliothécaires passionnés et incroyables qui viennent en aide à des communautés de partout au Canada, même dans les régions les plus éloignées que l'on puisse imaginer, souvent dépourvues ou presque de tout soutien et de toute infrastructure du gouvernement. Parmi les conférenciers que notre petit groupe a pu entendre se trouvaient Sabrina Redwing Saunders, Ph. D., PDG du StonePath Research Group et PDG de la Bibliothèque publique de la Première Nation de Six Nations; Sylvia McAdam, auteure et cofondatrice du mouvement Idle No More; Cindy Blackstock, Ph. D., directrice générale de la Société de soutien à l'enfance et à la famille des Premières Nations du Canada et professeure agrégée à l'Université d'Alberta; Harriet Roy, directrice adjointe du Pahkisimon Nuyeàh Library System à La Ronge, en Saskatchewan; Joseph Boyden, auteur; et Bob Rae, ancien politicien et avocat. On nous a parlé des difficultés rencontrées dans la prestation de services de bibliothèque aux communautés autochtones, autant à l'intérieur qu'à l'extérieur des réserves, et de la manière d'améliorer l'accès à la lecture et à du matériel de lecture.

La route est jonchée d'embûches lorsque le soutien du gouvernement se fait aussi mince. En avril cette année, la communauté de la Première Nation d'Attawapiskat, située dans le nord de l'Ontario, a fait les manchettes, le chef et le conseil ayant déclaré l'état d'urgence à la suite de nombreux suicides et tentatives de suicide commis en majorité par des jeunes. Parmi les besoins énumérés par la communauté, il lui fallait une bibliothèque et du matériel de lecture. Saviez vous que des élèves de l'école secondaire Ridgemont High School d'Ottawa – ainsi que leur bibliothécaire et leurs enseignants – se sont mis à la tâche et ont organisé des dons de livres en mai?[1]

De nombreuses autres communautés tout aussi éprouvées auraient également besoin de notre soutien. On peut facilement se sentir dépassé devant des besoins si criants. Ce qui m'a le plus marquée, c'est le rapport final de la Commission de vérité et réconciliation du Canada, qui a été publié le 15 décembre 2015. Je vous encourage à aller explorer le site Web, si vous ne l'avez pas déjà fait. La partie des *Appels à l'action* en particulier nous donne quelques indications[2] en ce qui a trait à l'accès à la justice, à la rédaction de nouveaux projets de loi, aux changements à l'appareil judiciaire, à l'établissement d'archives et de centres médiatiques de même qu'à l'éducation. Il y a beaucoup à faire.

Je trouve gratifiant de voir la nouvelle Fédération canadienne des associations de bibliothèques apporter son appui aux *Appels à l'action* de la Commission dans le cadre de son mandat et, par le fait même, du nôtre. En janvier 2015, lors de la première réunion de la nouvelle association, j'ai parlé du travail réalisé par la Campagne pour la lecture. J'ai souligné qu'il nous fallait intégrer les besoins des collectivités autochtones en matière d'alphabétisation et de bibliothèques à notre travail de sensibilisation. L'idée a reçu un accueil favorable.

J'ai donc été très émue lorsque j'ai vu le message suivant, diffusé par la nouvelle Fédération le 21 juin 2016 :

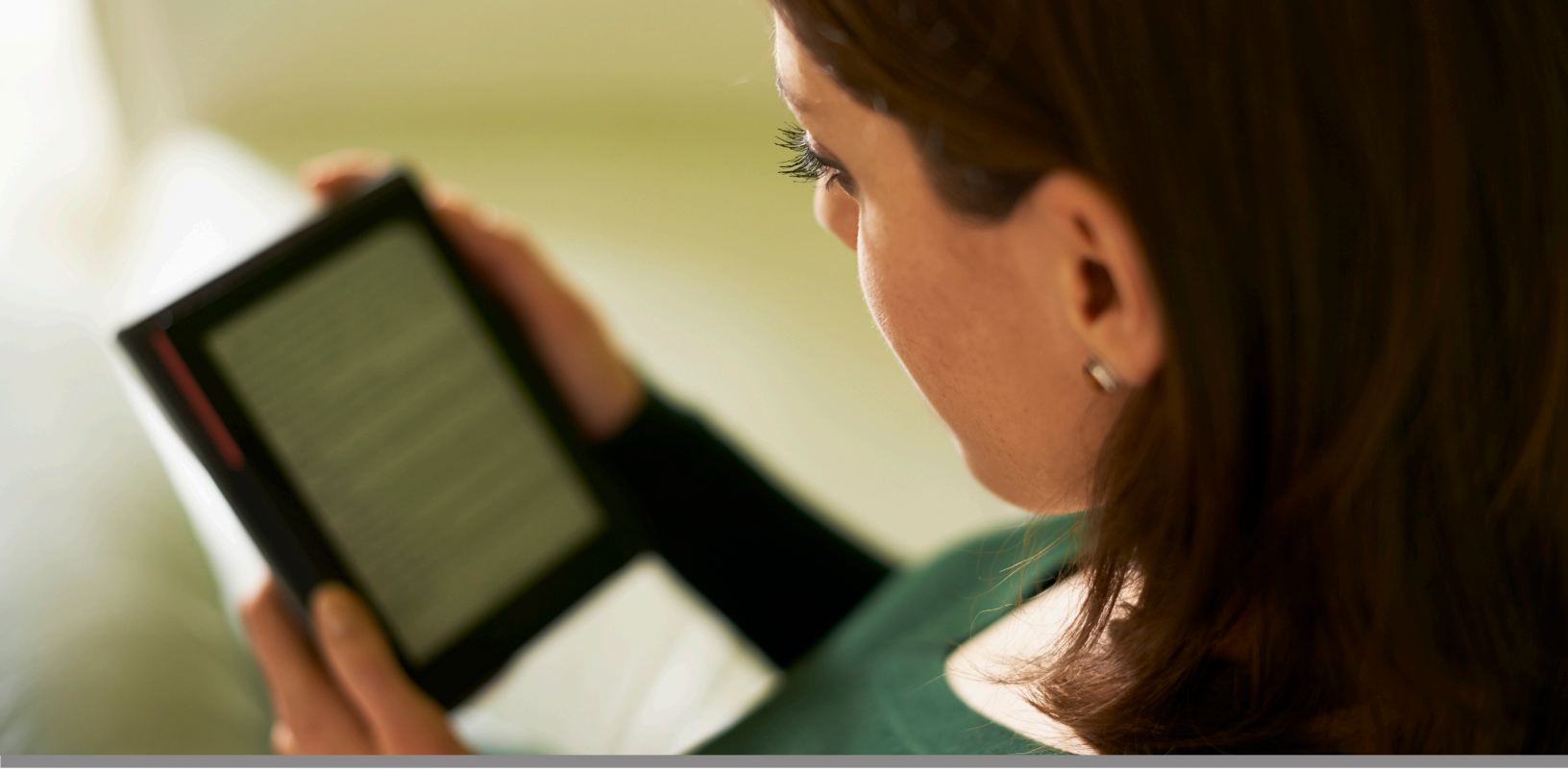
> *[La] Fédération canadienne des associations de bibliothèques (CFLA-FCAB) souhaite rappeler à toutes les bibliothèques que nous célébrons le 21 juin la Journée nationale des Autochtones.*
>
> *Lors du forum de l'ACB à Ottawa en juin 2016, le C.A. de la Fédération a adopté l'énoncé suivant comme première priorité : promouvoir les initiatives dans tous les types de bibliothèque afin d'encourager la réconciliation en soutenant les appels à l'action de la Commission vérité et réconciliation. Plus particulièrement, les bibliothèques appuient la narration du récit des peuples autochtones, et l'enseignement de leur culture et de leur histoire auprès de tous les Canadiens.*
>
> *La CFLA-FCAB est impatiente de cette collaboration qui permettra à tous les Canadiens de mieux connaître et comprendre les cultures et les traditions des Premières Nations, des Inuits et des Métis, et de prendre conscience de leur contribution à la société canadienne. Votre participation à la Journée nationale des Autochtones est un moyen de respecter cette priorité essentielle.*
>
> *Paul Takala*
> *président*
> *Fédération canadienne des associations de bibliothèques (CFLA-FCAB)*[3]

[1] Stu Mills " Students Assemble Essential Library for Attawapiskat" CBC News, May 19, 2016. <http://www.cbc.ca/news/canada/ottawa/ottawa-students-essential-library-attawapiskat-1.3587779>.
[2] < http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf>
[3] <http://cla.ca/message-from-the-canadian-federation-of-library-associationsfederation-canadienne-des-associations-de-bibliotheques-cfla-fcab-on-national-aboriginal-day-2016/>

Au Canada, les mesures et les initiatives requérant le soutien des commis des bibliothèques de droit, des techniciens, des bibliothécaires et d'autres professionnels de l'information sont très nombreuses, et beaucoup plus qu'il n'y paraît. Lorsque nos organisations envisagent de retrancher certains de nos postes, nous devons nous interroger sur les motifs de cette décision et étudier le portrait global du milieu du droit et de la société dans son ensemble pour déterminer la place que nous y occupons. Si notre profession est abolie, qui assumera ce travail? Qui se portera à la défense des groupes marginalisés? Lorsque les avocats nous disent qu'ils ont tout dans leur ordinateur, nous devons leur demander grâce à qui ils ont accès à ce qu'il leur faut, car il a bien fallu que quelqu'un l'y mette. Ce ne sont pas seulement nos emplois qui sont en jeu, mais aussi la vie de bien d'autres personnes qui dépendent de nous.

Appliquons nous de toutes nos forces à faire un travail exemplaire dont pourront être fières les futures générations de professionnels de l'information juridique au Canada.

PRÉSIDENTE
CONNIE CROSBY



IIII E-Books in Canadian Law Libraries **

By Olcay Atacan*

Abstract

E-books bring unique opportunities and challenges to law libraries. This article presents a synthesis of literature on incorporating e-books into Canadian law library collections and services. It further describes how e-book platforms, formats, and reading devices for Canadian law libraries affect collection development and cataloguing policies and it discusses vendor license agreements and copyright issues in the e-book context. The author recommends flexibility in licensing, use, and integration into library systems as main factors that will be critical to the success of e-books in the library environment.

Sommaire

Les livres numériques apportent des opportunités et des défis uniques aux bibliothèques de droit. Cet article présente une synthèse de la littérature sur l'intégration des livres numériques dans les collections et les services offerts par les bibliothèques de droit canadiennes. Il examine en outre comment les plates-formes pour livres numériques, les formats et les appareils de lecture utilisés par les bibliothèques de droit du Canada affectent le développement des collections et les politiques de catalogage ainsi que les accords de licence avec les fournisseurs et les droits d'auteur. L'auteur recommande une flexibilité en matière de licence, d'utilisation et d'intégration dans les systèmes de bibliothèques comme principaux facteurs qui seront essentiels au succès de l'utilisation des livres numériques dans l'environnement des bibliothèques.

In 1821, US Supreme Court justice Joseph Story said "the mass of law is to be sure, accumulating with an almost incredible rapidity."[1] This is the reality for today's legal environment. The systematic dissemination of cases and legislation is integral to understanding and practicing law. In addition, legal commentary is an essential tool for lawyers and judges seeking to organize and understand the growing quantity of published laws.[2] Legal treatises, written by subject experts who are often lawyers or judges bring together leading cases and relevant primary law and supplement them with expert commentary. These treatises are a helpful starting point when confronting an unfamiliar, novel, or complex situation.

Treatises save time and improve the quality of legal analysis and decision-making, when they work as intended, by enhancing understanding of primary authority.[3] They are important for legal research, and their contents need to be

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[1] A W B Simpson, "The Rise and Fall of the Legal Treatise: Legal Principles and the Forms of Legal Literature" (1981) 48 U Chicago L Rev 632 [Simpson].
[2] *Ibid*
[3] Peter W Martin, "Possible Futures for the Legal Treatise in an Environment of Wikis, Blogs, and Myriad Online Primary Legal Sources" (2016) 108:1 LLJ 10.

readily accessible.[4] Most law libraries house treatises in print. From the mid 1980s, treatises started being available electronically as part of online databases and in the late 1990s, they became available in e-book format.

This article reviews the challenges faced by legal libraries in purchasing, accessing and circulating Canadian legal e-books.

What is an e-book?

The Oxford dictionary defines an e-book as "an electronic version of a printed book."[5] E-book features differ by publisher. Some e-books are distributed as PDF documents, others use epub, kindle books, Apple ibooks, plain text, or html file formats.[6] In order for users to read these e-books, they must use a platform that is compatible with the appropriate file format. There are fifty-one e-book platforms[7] available for libraries. *EBL* (Ebook Library), *ebrary, LexisNexis Digital Library* (created by OverDrive), *Thomson Reuters ProView, ProQuest's MyiLibrary, My Books* and *OverDrive* are some e-book platforms that law libraries in North America use. These platforms will also enforce the publisher's licensing and access permissions. Some publishers may also provide a proprietary e-book app, as with Irwin Law and Thomson Reuters, to further wall off their content from other publishers.

E-books can be read in a variety of different e-book devices such as smart phones, tablets, and dedicated e-readers like Kindles, Nooks, Sony, Kobo or Laptops. Many e-book devices support pdf and epub file formats.[8] Libraries make their decision to purchase e-books based on content, technical specifications, functionality and business models of the e-book platforms.[9] If libraries do not use any of the available e-book platforms, they have to create their own e-book platform to be able to acquire, manage and circulate e-books.[10]

Some legal e-books are also available in WestlawNext Canada and Quicklaw databases but users must have subscriptions to the databases to be able to read the e-books online. They are not available for offline reading.

Canadian Legal Publishers

In Canada, some of the leading publishers of e-books are LexisNexis Canada, Thomson Reuters Canada, Emond Montgomery, and Irwin Law.[11]

LexisNexis Canada

In the US, LexisNexis e-books can be purchased with a subscription to LexisNexis Digital Library which partners with *Overdrive*. The digital library includes 1,700 legal e-book titles. Overdrive offers two options for reading an e-book: reading in the browser using the *OverDrive Read* program or downloading the book to read offline.[12]

In Canada, LexisNexis Canada provides individual e-books at no additional cost to its customers when they buy a print title. These titles do not include loose-leafs. Users download e-books in EPUB format and use *Adobe Digital Editions* or *Calibre* to read them. Users need to purchase the new editions of e-books to be able to update the content of the e-books. These e-books are restricted to one user and they are not recommended for libraries with lending services.

Recently, LexisNexis developed an app called *Lexis Note* for its loose-leaf titles. This app uses cloud technology to automatically update the loose-leafs. Electronic loose-leafs, when purchased with the print version of the loose-leaf, are available at a 75 percent discount.[14] This service is also tailored for personal usage and is useful for sole practitioners and small law firms, but is not intended for library lending services.

Irwin Law

Irwin Law has made all of its "Essentials" series titles available electronically in HTML format.[15] In partnership with *ebrary,* Irwin Law provides more than 100 e-book titles to libraries. Many Canadian universities, as well as the Alberta Law Libraries, the Law Society of Newfoundland and Labrador Library, the Law Society of Saskatchewan Library, and the BC Courthouse Libraries subscribe to Irwin Law e-books. Irwin Law E-Library titles can be read online or downloaded to be read offline using any of the three following platforms:

- *desLibris* library e-book platform which has over 60,000 Canadian e-books and electronic documents for library use;
- *Overdrive*; or
- *MyiLibrary*

Irwin Law recently developed the *Law Reader App* and its E-Library titles are available for users on their tablets. This feature is more suitable for personal use than for libraries.

Emond Montgomery

All Emond Montgomery case law books in print format come with a PIN, which allows users to download the PDF

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[4] Simpson, *supra* note 1 at 678.
[5] Online: <www.oxforddictionaries.com/us/definition/american-english/e-book>.
[6] John Burns, "E-book Formats: An Overview for Librarians" (2013) 1:1 eContent Quarterly 17.
[7] Mirela Roncevic, "E-Book Platforms for Libraries" (2013) 49:3 LTR 14-32 [Roncevic].
[8] John Burns, "E-book Devices: an Overview for Libraries" (2014) 1:3 eContent Quarterly 31.
[9] Roncevic, *supra* note 7 at 10.
[10] Monique Sendze & Laurie Van Court, "Own Your Own Ebook Lending Service" (2013) 33:7 Computers in Libraries 16 [Sendze].
[11] Ted Tjaden, *Legal Research and Writing*, 4th ed (Toronto: Irwin Law, 2016) at 51.
[12] Bess Reynolds, "E-books in Law Firm Libraries: the Practical Side" (2014) 18:6 AALL Spec 2.
[13] Online: < https://dl.lexisnexis.ca/licence.aspx>.
[14] Online: < http://www.lexisnexis.ca/en-ca/products/lexis-note.page>.
[15] Leslie J Taylor, "The Opportunities and Challenges in the Adoption of e-books in Academic Law Libraries" 2012 Can Law Libr Rev 180 [Taylor].

e-book. This PIN is for the owner of the print book, not for circulating in libraries. The PDF e-books expire after one year. Emond Montgomery also sells a subscription to its Law e-book series in the *My Books* platform. The subscription includes access to all PDF e-books. E-books can be read using *Adobe Digital Editions.*[16] The *My Books* platform is more suitable for library use and there is no expiration on the PDFs. The Law Society of Saskatchewan Library provides the Law e-book series to its members.

Thomson Reuters Canada

Thomson Reuters provides e-books on their *ProView* platform.[17] ProView eReference Library, including both e-books and the database formerly known as Carswell eReference Library, is a subscription-only collection. It includes 950 titles and subscribers receive automatic updates when there is new content available.[18] The eReference Library does not support circulation functionality but offers password-free access to its collection of e-books based on a library's Internet address. Libraries can enable organization-wide access to eReference Library for anyone in their IP address range.

Thomson Reuters also sells individual titles in e-book format. It requires the *ProView* platform to read the e-books and restricts the e-book to one user. Thomson Reuters also created a *ProView* app for its e-books. Users need a OnePass account and IP authentication to be able to use the app both when they are away from the office and when they are physically working at their organization. All e-book functions such as keeping notes, updating loose-leafs, referencing external links, etc. are tied to the OnePass account.

Opportunities and Challenges

Legal publishers have been producing e-books and incorporating new technological features to deliver the content conveniently to users via devices such as desktop computers, mobile devices or tablets.

E-books present many advantages to law library users. Some of the specific advantages of e-books are the ability to remotely access a potentially unlimited amount of content and to read and view content with or without an internet connection. These capabilities improve library services, especially for users of law libraries who are typically geographically or physically dispersed.

Law libraries have always been challenged with space issues.[20] Print law books take up a lot of shelf space and demand more each year. Maintaining the space and preparing printed books for the shelves is costly for most libraries. Digital copies of printed books free up space for other library services and reduce maintenance costs for the books and the shelves, if the library is willing to weed the print versions.

Loose-leaf filing is one of the most tedious tasks in any law library. It requires great attention to detail and it has to be performed frequently. Digital versions of loose-leaf publications come with automatic updates. This saves staff time and ensures that new content becomes available much more quickly.

Print books are usually linear with limited features, such as tables of contents or indexes.[21] E-books may come with additional features, depending on the e-book platform and reading device. These features include keyword searching, navigating between the chapters, creating bookmarks, highlighting the content, creating notes, controlling the size of text, automatic word definition, accessing external hyperlinks, printing, saving and copying text, and sharing. There is potential for this list to grow with the discovery of new technologies. Many of the e-book formats enable users to use a hyperlink function which allows them to pull up linked cases and statutes and to create annotations instantly.[22] However a subscription to databases such as Westlaw or LexisNexis is required in order to access cases from their databases.

Unlike circulating physical works, circulating digital copies has the potential to free up staff time from the labour intensive maintenance of a print collection.[23] The circulation activities are performed using proprietary e-book lending platforms. Another valuable feature of e-books is that they never get lost.

Nevertheless, despite the many advantages e-books offer, libraries still face many challenges in integrating e-books into their services.

Some of the Foreseeable Challenges for Law Libraries

An e-book purchase can be much different from a print acquisition.[24] A physical book is situated in the library and librarians control how it is served to their users within the limitations imposed by copyright law. When an e-book is purchased, libraries may start a long-term relationship with the e-book publisher. In these cases, libraries are forced to design their services according to the publisher's terms and conditions and technical advancements.

[16] Online: <http://www.emond.ca/products/ebooks.html>.

[17] Jean P O'Grady, "ProView Professional: Thomson Reuters Promises eBooks Which 'Break the Book Paradigm'" (17 July 2015), *Dewey B Strategic (blog)*, online: <http://deweybstrategic.blogspot.ca/2015/07/proview-professional-thomson-reuters.html>.

[18] Online: <http://legalsolutions.thomsonreuters.com/law-products/proview-ebooks/law-elibrary>.

[19] Taylor, *supra* note 15.

[20] David Whelan, "Collection Development and Law Libraries" (26 June 2010), David Whelan (blog), online < https://ofaolain.com/blog/2010/06/26/collection-development-and-law-libraries/>.

[21] M Muthu, "E-Books an Overview" (2012) 18: 4 Information Studies 253.

[22] LaJean Humphries, "Tracking a library e-conversion. Where is the budget?" (2015) 20:1 AALL Spec 35.

[23] Taylor, *supra* note 15.

[24] Christina de Castell for the EContent Task Force Canadian Urban Libraries Council, 2014 "EBooks in 2014 Access and Licensing at Canadian Public Libraries".

Legal publishers publish e-books for lawyers and the legal profession in general, and their approach reflects the fact that the profession is made up primarily of solo and small firm lawyers. Most of their e-book products are available for personal use and some publishers include the e-book version of the book free of charge with the purchase of a print version. However, libraries could purchase one or more copies of these e-books, knowing that they are strictly for one or two downloads and that sharing between devices is restricted. Even with these limitations, the e-books could be circulated in law libraries by downloading the e-books to dedicated e-book devices in the library and circulating the devices among library users.

Some publishers offer subscription services for their e-book libraries. These e-libraries come with a list of titles, but libraries may have limited flexibility to select individual titles for their collections. Although this model is better for law libraries in terms of sharing a copy among their usrs, subscription-based e-book libraries can be more expensive to operate than purchasing e-books individually. Overlap of titles within different e-libraries must be managed carefully or the library may end up paying for the same titles multiple times. Some publishers offer patron-driven acquisition based on traffic and patron interest in particular titles. This model guarantees that only the content that gets used gets purchased.[25] Ideally, libraries should determine the e-book titles in their collection, not publishers. Contracts between libraries and publishers should allow licencing individual and unbundled titles without usage limits.[26]

Libraries that purchase and provide e-book lending services do so subject to licence agreements with publishers. Licence agreements can be subject to negotiation and vary according to the size of a library, number of users, and how the e-books will be used, and by whom. The increasing amount of electronic content being licenced has an impact on how libraries provide access to copyright-protected materials.[27] The Canadian *Copyright Act* [28] allows libraries to reproduce library material under the fair dealing doctrine[29] and it provides the foundation for user rights.[30] However, digital products such as e-books come with electronic rights, which are not specifically mentioned or defined in the *Copyright Act*. If a library and a publisher agree in a contract that fair dealing will not apply to activities that are specified in the contract, then the contract's provisions prevail regardless of the Act.[31]

Generally, e-rights are defined in licencing agreements or contracts.[32] Amendments to the *Copyright Act* [33] brought flexibility to libraries in using, archiving and disseminating free content on the internet; however, the amendments prohibit removing or tampering with copyright information on works.[34] This is called "Rights Management Information." Rights Management Information encompasses any information that identifies a copyright owner and information relating to his or her work.[35] While the digital rights or digital locks provision must be taken into consideration in detail during the purchase or subscription of e-books, it is important not to overlook the fact that licenses may override the provisions of the *Copyright Act*.[36] Copyright law will be examined by the Federal government in 2017 and we, as librarians, should follow the changes closely and be involved with the decisions, as they will affect our services.[37]

Many e-books do not hyperlink to case law or statutes (e.g. Irwin Law e-books). Others advertise that they support hyperlinking to cases, but in fact come with some limitations on hyperlinks. For example, Emond Montgomery started including hyperlinks to CanLII cases only. Thomson provides hyperlinks; however, users need to be in their IP range or provide OnePass account credentials. Users must also have a user account to Thomson's WestlawNext Canada databases to access linked cases and statutes. These limitations can be overcome by providing additional links to non-commercial sites such as CANLII when there is no connection to the commercial databases.

Receiving and reading e-books in different platforms and different formats can create difficulties for librarians and library users. Additional training is required for librarians who provide e-books on different platforms. However, growing popularity in multi-purpose e-reader devices may encourage e-book publishers to use standard e-book files for proprietary e-book file formats.[38]

The circulation of legal e-books is especially challenging. As previously noted, to be able to circulate their e-books, libraries are bound by licence contracts. For e-books that are created for personal use and that come with single user access, some libraries provide these e-books on tablets.[39] However, significant problems are encountered when providing e-books on tablets including the circulation of the tablets in libraries, managing e-book software on different platforms, the cost of investing in tablet computers, and maintaining previous editions of e-books on the tablets.

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[25] Mirela Roncevic, "E-book Platform for Libraries" (2013) Library Technology Reports 10.

[26] Nancy K Herther, "Finally, a Breakthrough for Ebooks Let the Library Deluge Begin" (2015) Jan/Feb Online Searcher 41.

[27] Lesley Ellen Harris, "Lawyer or Librarian? Who will answer your copyright questions?" (2015) 28:1 IPJ 33.

[28] *Copyright Act,* RSC 1985, c 42.

[29] *CCH Canadian Ltd, v Law Society of Upper Canada,* 2004 SCC 13, [2004] 1 S.C.R. 339,.

[30] Tony Horave, "Ebooks licensing and Canadian Copyright legislation" (2009) 4:1 Partnership: Canadian Journal of Library and Information Practice and Research.

[31] *Ibid.*

[32] Lesley Ellen Harris, *Canadian Copyright Law*, 4th ed (New Jersey: Wiley, 2014).

[33] *Copyright Modernization Act*, SC 2012, c 20.

[34] *Copyright Modernization Act*, SC 2012, c 20 s 47.

[35] Lesley Ellen Harris, "Changes in Canadian Copyright Law" (2012) 16:6 Information Outlook 34.

[36] Chabriol Colebatch, "Pick your Digital Lock Battle: Is it the Law or Licenses we should be worried about?" (2013) 59:1 Can Libr Assoc 15.

[37] Michael Geist, "Real Change on Digital Policy May Take Time Under New Liberal Government" (20 October 2015), Michael Geist (blog), online:< http://www.michaelgeist.ca/2015/10/real-change-on-digital-policy-may-take-time-under-new-liberal-government>.

[38] William H. Walters, "E-books in Academic Libraries: Challenges for Sharing and Use" (2013) 46:6 Journal of Librarianship and Information Science 91.

[39] Renae Stterley, "Tablets in the Library: Trialling eBooks and IPads at Middle Temple Library" (2014) 14:2 Leg Info Mgmt 145-149.

Many subscription-based e-book licences limit the number of simultaneous users. If there is no web version of the e-book, this may affect the in-house reference activities in the library. In this case librarians need to check out an e-book for in-house use.

Libraries may use e-book platforms such as *OverDrive* or *ebrary* to circulate their e-books. Recently some publishers (e.g. Thomson Reuters) have been working with the SirsiDynix's EOS Library system to integrate their platform for circulation. Inter-library loan service is not available for e-books. E-book use can be monitored by publishers.[40] As opposed to physical lending where librarians control patrons' records, the e-books' electronic format is intermediated by the third party vendors or publishers. The vendors may store the user information for a period of time[41] and this has caused some concern about e-book users' rights. Some libraries address their circulation challenges by creating their own e-book lending services.[42]

Libraries try to provide a single point of access to their collections. E-books should not have to be any different than other resources that libraries include in their catalogue. However, cataloguing e-books is complex and the quality of MARC records that libraries receive from cataloguing services may not be up to the standard that libraries have achieved with print materials. Most law libraries create and manage MARC records for e-books. Whether titles are individually purchased or purchased as part of an e-book subscription, libraries often need to maintain their e-book MARC records manually. Creating catalog records for e-books requires coordination with acquisition and reference librarians. Acquisition methods and reference services can affect cataloguing policies and practices. Traditional acquisition and cataloguing workflows need adjustments to incorporate e-books to the library catalogues. Subscription-based packages such as Westlaw Canada come with their pre-packaged titles. Notification of added or deleted titles in the packages is critical information for cataloguers to update the access points in their collection. Decisions regarding issues such as licence type, subscription package or one-time purchase, and access methods must be communicated between departments if the library is to be able to control and provide e-book services to the library users efficiently.

There are many challenges with e-books in libraries. Donna E. Fredrik says e-books are a

> "disruptive technology and symptom of a transitional phase with bigger trends happening in the realm of electronic technologies. If e-books are recognized as a disruptive technology and if libraries take appropriate and adaptive actions to develop both structure and flexibility, they will thrive in an environment where electronic information is increasingly present."[43]

At the present time there are enormous challenges to integrating e-books into law library services. However, law libraries must embrace the use of e-books and assist their users' adoption of new information formats. More flexible licensing, use, and integration into library systems are among the many factors that will be critical to the success of e-books in the library environment.

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[40] Canada. Ebooks: *Digital Dilemmas for Consumers and Libraries* by Sally Sax Ottawa: Library of Parliament Research Pub, 2013 (HillNote No 2013-25-E) online: < http://www.lop.parl.gc.ca/content/lop/ResearchPublications/2013-25-e.htm>.
[41] Elizabeth Henslee, "Down the Rabbit Hall: e-Books and User Privacy in the 21st Century" (2015) 49 Creighton Law Review 23.
[42] Sendze, *supra* note 10.
[43] Donna E Frederick, *Managing ebook Metadata in Academic Libraries: Timing the Tiger* (Oxford UK: Chandos Pub. 2016).

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Issue	Articles	Advertisement Reservation / Réservation de publicité	Publication Date / Date de publication
no. 1	December 15/15 decembre	December 15/15 decembre	February 1/1 février
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IIII Coping With Budget Cuts: How Canadian Libraries Compare With Other Countries*

By Channarong Intahchomphoo, Margo Jeske, and André Vellino **

Abstract

This article has two main purposes. The first purpose is to compare information services, Internet infrastructure, library operations, and access to information between Canada and other countries around the World. The second purpose is to examine international initiatives and solutions from some law firm libraries and university law libraries in Europe in response to current global economic challenges. Findings indicate different alternatives have been used ranging from closing law libraries entirely to combining services with other institutions.

Sommaire

Cet article a deux objectifs principaux. Le premier objectif est de comparer la situation des services d'information, l'infrastructure internet, les activités des bibliothèques, et l'accès à l'information entre le Canada et d'autres pays à travers le monde. Le deuxième objectif est d'examiner des initiatives internationales et les solutions appliquées par certaines bibliothèques de cabinets d'avocats et des bibliothèques de droit universitaires en Europe en réponse aux défis économiques mondiaux actuels. Les résultats indiquent que différentes alternatives ont été utilisées, variant entre la fermeture complète des bibliothèques de droit à la fusion de services avec ceux d'autres institutions.

Introduction

This paper has two main purposes. The first aim is to examine how Canada compares to a representative sample of countries around the world with respect to its information services, internet infrastructure, library operations and access to information. We selected the following countries as a representative sample:

Commonwealth countries:	**Australia, Ireland, New Zealand, Pakistan, India, and the United Kingdom.**
European Union countries:	**Germany, France, Greece, Spain, Sweden, and the Netherlands.**
North American countries:	**United States**
Former Soviet Union countries:	**Hungary, Bulgaria, Poland, Romania, Russia, and Ukraine.**
Asia and Middle East countries:	**Japan, China, Morocco,Saudi Arabia, Turkey, Israel, and Egypt.**
African countries:	**Nigeria, the Republic of Congo, Senegal, South Africa, Zambia, and Tanzania.**
Latin American countries :	**Argentina, Venezuela, Brazil, Colombia, Cuba, and Mexico**

We used the selection criteria of literacy rate to determine which countries would be included in this study. To be

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included the country would have to have a high literacy rate greater than 49%. This particular criteria is important because it enables a meaningful comparison between countries that have similar demands for library services. This demand for library services led us to consider other related aspects of literacy across countries such as government funding policies for libraries, the type of library collections, and the technologies that are used to access information such as the Internet, e-books, etc.

The second purpose of this paper is to describe some of the international initiatives and solutions that various law libraries have used in response to the 2008 global financial crisis and the current economic challenges that they continue to face. As many analysts have concluded, the principal cause of this crisis was the U.S. housing market bubble, which led to the collapse of the major financial institutions that held overvalued subprime mortgages.[1] Many economists consider this crisis as the worst since the Great Depression and it continues to have its effects felt today.[2] Hence, many countries have been facing economic downturns and many libraries have to manage with greatly reduced budgets for sustaining information services, library operations, and technologies for access to collections.

The Study

As we noted in the introduction, the first aim of this study is to examine how Canada compares to other countries with respect to its information services, Internet infrastructure, library operations and access to information. These comparisons include some aspects of the countries' background, the estimated number of libraries, the access to the Internet that libraries provide, issues of copyright, and the status of information professionals. The data for this study was extracted from International Federation of Library Associations and Institutions (IFLA) reports, academic journal articles, online publications, as well as an interview undertaken by the first author.

Country Background: This section covers some of the background information about some of the countries with which we are comparing Canada, including the following three areas: population, language, and literacy.

Population, in this context, refers to the total number of people who live in a given geographical area and which, for any given library system, may simply be the number of people who are served by it. For our purposes, we consider the population of countries as a whole and consider their libraries in aggregate. Importantly, a country's overall population enables libraries to estimate the number of potential users, staff needed, and the volumes of collections required. Currently, Canada's population is approximately 35 million. In comparison, China has more than 1.3 billion people, India has a population of 1.1 billion, and the population of the Mexico is approximately 112 million.[3] Obviously, libraries in Canada have a much smaller number of users, staff, and collections than these more populous countries. However, on a per capita basis, Canada's user population, staff and collections are much larger.

The multilingual character of a nation is another characteristic that has an impact on services and collections. Libraries in such countries have to ensure that they develop linguistically suitable collections and provide appropriate services based on their official languages policy. Canada has two official languages and most libraries in Canada house multilingual collections mainly in English and French. Federal government libraries in Canada are also required to provide services in both English and French. Similarly, many African countries also have more than one official language. For example there are 11 official languages in South Africa, and both Swahili and English are official languages in Tanzania.[4] The effect of those official language laws in those countries is that library acquisition policies must be tailored to satisfy them.

In terms of literacy, the library has always been viewed by both governments and citizens as a knowledge centre. In societies that have a high literacy rate, citizens place a high value on libraries.[5] Statistics show that countries in the European Union have very high literacy rates: France 99%, Germany 99%, Greece 96%, Netherlands 99%, Spain 97.90%, and Sweden 99%.[6] Thus, library usage in the European Union countries is high and their citizens place a high value on libraries. Unfortunately, some other countries that we consider in this study have local socio-economic conditions which hinder the improvement of literacy levels. Some of the non-European union countries considered in this article still have to improve equality of access to education among their own populations in order to reach the high literacy rate of European nations. Some conditions that are not conducive to high literacy rates include the school systems, income inequality and the class structure of societies. For example, the caste structure and education system in India limits the literacy rate to only 61%.[7] Gender inequality in education caused in part by ideological discrimination against women can create a dramatic gender disparity in literacy rates, particularly in poor countries. In Senegal, for example, the literacy rate for females is 33.60% while for males it is 52.80%.[8] Similarly in Pakistan, the male literacy rate is 69.86%, but it is not much more than half that rate for the female population, at only 43.07%.[9]

Another condition that is disadvantageous to literacy is colonization. Both Pakistan and India are former colonies of the British Empire that gained their independence in 1947

[1] David Kotz, "The Financial and Economic Crisis of 2008: A Systemic Crisis of Neoliberal Capitalism" (2009) 41:3 Rev of Radical Political Economics 305, DOI: <10.1177/0486613409335093>.
[2] James Crotty, "Structural Causes of the Global Financial Crisis: A Critical Assessment of the 'New Financial Architecture'" (2009) 33:4 Cambridge J of Economics 3, DOI: <10.1093/cje/bep023>.
[3] International Federation of Library Associations and Institutions, "IFLA World Report 2010", online: <www.ifla-world-report.org> [IFLA].
[4] *Ibid.*
[5] Leslie Fitch & Jody Warner, "Dividends: The Value of Public Libraries in Canada" (1998) 11: 4 The Bottom Line: Managing Library Finances 158.
[6] *IFLA, supra* note 3.
[7] *Ibid.*
[8] UNESCO, "Senegal", online: < http://en.unesco.org/countries/senegal>.
[9] UNESCO, "Pakistan", online: <http://en.unesco.org/countries/pakistan>.

after 90 years of foreign occupation. Pyati points out that the development of public libraries in India increased in the post-independence period.[10] Literacy rates take generations to improve, particularly in a country that has historically faced dramatic political challenges. It seems almost impossible for libraries in countries with political uncertainty or conflict zones to be able to provide citizens adequate services and access to collections. In such conditions, personal safety and basic needs are the immediate priorities that naturally take precedence over literacy and libraries. In addition, there are numerous other factors in post-colonial countries like Pakistan and India that also contribute to their domestic literacy rates such as the number of languages spoken. In richer countries like Canada that have stable political and economic conditions literacy is less of a concern. Like the affluent European countries mentioned above, the literacy rate in Canada is very high at 99 %[11] and both female and male populations have equal access to education.

Estimated Number of Libraries: Every country that is a member of IFLA has its own national library. In general national libraries are responsible for the policies concerning information services and management for the whole country. For example, the King Fahad National Library is the legal depository for all the intellectual creations in Saudi Arabia. Similarly, Canada's Library and Archives of Canada (LAC) has the mandate to preserve the documentation of Canadian heritage and through the mechanism of legal deposit collects all material published in Canada. Unlike LAC, the Library of Congress, the national library of the United States, has both a domestic and international mandate related to information services and management. For example, the Library of Congress developed and is responsible for the Library of Congress Classification (LCC) system, which is used by libraries around the world including many academic libraries in Canada. The Library of Congress is also in charge of maintaining the Library of Congress Subject Headings, a controlled vocabulary used for bibliographic control in libraries around the world.

According to the 2010 IFLA World Report, in Canada there are an estimated 3,100 public libraries, 95 university research libraries, 14,300 school libraries, and 40 government funded research libraries.[12] In comparison China, with 38 times the population, had 300 university research libraries and 400 government funded research libraries.[13] Thus, if one considers only the statistics above, on a per capita basis Canadian university research libraries would seem to serve fewer users than university research libraries in the People's Republic of China. However, China has relatively fewer researchers per capita than Canada. If we assume the average researcher in China and in Canada produces the same number of citable documents per year, 2010 data from Scimago Journal and Country Rankings[14] indicate that, relative to the number of researchers (4x more in China) there are more university libraries per researcher in Canada but many more government research libraries per researcher in China. Although the 2010 IFLA report does not list the number of public libraries found in China, data from the National Bureau of Statistics of China shows that at the end of 2012 there were 2,975 public libraries and that this number rose to 3,073 by the end of 2013.[15] This indicates that while the number of public libraries per capita in China is much smaller than in Canada, China's rapid and continued economic growth allows it to invest more in public services and infrastructure, and that public libraries have benefited from this investment.[16] This is corroborated by from Scimago Journal and Country Rankings for 2014 which indicates a 32% growth in the number of citable documents over four years.[17]

Libraries and the Internet: Information technologies, especially the internet, have allowed libraries to make their services available to more users.

The data shows that the majority of Commonwealth countries (with the exception of the Islamic Republic of Pakistan) and European Union countries (except Spain) offer internet access to their users in approximately 81-100% of public libraries, university libraries, school libraries and government funded research libraries.[18] Not surprisingly, the high rates of Internet access found in Canadian libraries are also found in the Commonwealth and European Union.[19] In contrast, however, Internet access in libraries in Latin American countries, including Argentina, Venezuela, Columbia, Cuba, and Mexico, is very low due to poor Internet infrastructure and slow connections. Brazil is the exception, because libraries there receive significant government financial and policy support for digital library projects and initiatives, particularly for IT infrastructure development. Interestingly, the government of Brazil saw the benefits of establishing cooperation between government digital library projects and academic organizations and technology companies. As a result of the cooperation, they were able to improve Internet connectivity and to make online intellectual materials widely available at many local libraries.[20] Between 2002 -2006 during President Lula's administration, the government of Brazil launched a national mandate to reduce the domestic digital divide by increasing Internet access for low income families and populations living in remote areas. The government began to offer high speed Internet through satellite for people in remote locations who usually face problems accessing broadband Internet, and provided financial support for poor families to purchase computers.[21]

[10] Ajit K. Pyati, "Public Library Revitalizing in India: Hopes, Challenges and New Visions", online: (2009) 14:7 First Monday 6 <www.firstmonday.org/ojs/index.php/fm/article/view/2588/2237>.
[11] *IFLA, supra* note 3.
[12] *Ibid.*
[13] *Ibid.*
[14] SCImago Journal & Country Rank, "Country Rankings", online: <http://www.scimagojr.com/countryrank.php?area=0&category=0&region=all&year=2010&order=h&min=0&min_type=it>.
[15] National Bureau of Statistics of China, "Statistical Communiqué of the People's Republic of China on the 2012 National Economic and Social Development", online: (2013) < http://www.stats.gov.cn/english/StatisticalCommuniqu/201302/t20130222_61456.html>: National Bureau of Statistics of China, "Statistical Communiqué of the People's Republic of China on the 2013 National Economic and Social Development", online: (2014) < http://www.stats.gov.cn/english/PressRelease/201402/t20140224_515103.html>.
[16] Elaine Xiaofen Dong & Tim Jiping Zou, "Library Consortia in China" (2009) 19:1 Library and Information Science Research Electronic J 1.
[17] SCImago Journal & Country Rank, "Country Rankings", online: <http://www.scimagojr.com/countryrank.php?area=0&category=0&region=all&year=2014&order=itp&min=0&min_type=it>.
[18] *IFLA, supra* note 3.
[19] *Ibid.*
[20] Cavan McCarthy & Murilo Bastos da Cunha, "Digital Library Development in Brazil" (2003) 19:3 OCLC Systems & Services 114.
[21] Carolina Matos, "The Internet for the Public Interest: Overcoming the Digital Divide in Brazil" in Ernesto Vivares, Cheryl Martens, & Robert W. McChesney, eds, *The International Political Economy of Communication: Media and Power in South America* (Basingstoke: Palgrave Macmillan, 2014) 116.

While most Canadian libraries do not generally face the same kinds of challenges with Internet access as Latin American countries do, there are the exceptions with some libraries located in rural areas, particularly those in the northernmost region of Canada (Yukon, Northwest Territories, and Nunavut). Internet service providers do not invest significantly in telecommunications infrastructure in the Arctic region since it comprises a very large surface area of land that is sparsely populated. Therefore, most Canadians in the north depend on out-dated dial-up connections that provide only slow and unreliable internet access.[22]

Over the years, access to the Internet through the library has unfortunately given rise to some social and legal concerns. Some libraries have made the decision to use filtering systems on library Internet terminals to prevent users from accessing certain information sources. Those responsible for these library policies claim that this helps to prevent crime and to safeguard public morality.[23] In Canada, filtering software is used in libraries to some extent, mainly for the protection of children and the prevention of crime. Filtering software is also widespread in libraries in the United States.[24] Since the September 11, 2001 attacks, security has become a top priority for the US federal government and since the US and Canada share a border, both countries have put restrictions on Internet content on library terminals to reduce the incidence of criminal activity in public spaces. The legitimacy and efficacy of filtering and blocking of information is still an ongoing debate within library communities worldwide.[25]

Copyright Issues: Libraries have an especially important role to play in copyright law particularly when it concerns making copyrighted materials available to users both in physical and digital spaces, negotiating and signing licensed library resource agreements, and educating users on how to accurately use copyrighted materials to comply with copyright laws. Library collections contain books, DVD and audio CDs, works to which their author(s) or publishers have exclusive rights. Furthermore Canada's *Copyright Act* is well understood by librarians: the Supreme Court of Canada's interpretation of the Act hinges on a case involving libraries.[26] Copyright is a challenging issue because each country has different legal enforcement standards. Scholars are worried that copyright issues in the poorer countries, such as African countries, have an adverse effect on citizens' access to intellectual material. For example Egyptian copyright law confers the copyright owner the right to prevent the borrowing of their work, thus potentially hampering the social function of the library in providing access to textbooks.[27] In Canada, however, students do not face any such issues for access to textbooks. Academic libraries in Canada now even provide access to some electronic textbooks thanks to electronic protection measures that mimic the traditional characteristics of a "loan" for physical resources. Furthermore, materials can be provided through inter-library loan services from other institutions.

Copyright issues are also central to libraries because of the licensing terms for works in electronic form. A recent judgement from the US 2nd Circuit appeals court sided with Google's claim that its scanning of library books constitutes "Fair Use."[28] and many authors involved in the class action lawsuit against Google still think that the settlement offered by Google is unfair.[29] There are also a lot of concerns over orphan works, for which no one has claimed authorship and concerns that Google will take ownership over them.[30] Interestingly, no Canadian library has agreed to participate in the Google Books Project.[31] Only American and European libraries have participated in Google's project, including the Austrian National Library, the Bavarian State Library, Columbia University Library and the Cornell University Library.[32] This shows that Canadian libraries treat copyright law on digitization differently than do some American and European libraries.

Status of Information Professionals: In Canada, to become a librarian, the candidate requires a Master in Information Studies (MIS) from a program accredited by the American Library Association. Yet librarianship remains an unregulated profession in Canada. Dali and Dilevko point out that a national policy and regulation agency would bring the status of the Canadian information professional closer to that of other regulated occupations and enable the recognition of international credentials.[33]

Librarianship is a regulated profession in the United Kingdom under the Chartered Institute of Library and Information Professionals (CILIP), a professional body representing librarians and other information professionals. One of the CILIP responsibilities is to ensure that all librarians have worked with a mentor and have demonstrated through their portfolio that they meet the required criteria to become a librarian.[34] Thus, a more formalized process for recognizing the status of information professionals exists in the United Kingdom.

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[22] Barney Warf, "Contour, Contrasts, and Contradictions of the Arctic Internet" (2011) 34:3 Polar Geography 3, DOI: <10.1080/1088937X.2011.589012>.
[23] Rachel Spacey et al, "Regulating Use of the Internet in Public Libraries: A Review" (2014) 70:3 J of Documentation 478 [Spacey].
[24] *IFLA, supra* note 3.
[25] *Spacey, supra* note 24.
[26] *CCH Canadian Ltd. v Law Society of Upper Canada,* 2004 SCC 13, [2004] 1 SCR 339.
[27] C Armstrong et al, eds, *Access to Knowledge in Africa: The Role of Copyright* (Claremont, South Africa: UCT Press, 2010) at 38.
[28] Mike Masnick, "Appeals Court Gives Google A Clear And Total Fair Use Win On Book Scanning" (16 October 2015), online: <https://www.techdirt.com/articles/20151016/08010632559/appeals-court-explains-yet-again-to-authors-guild-that-googles-book-scanning-is-fair-uses.html>
[29] Pamela Samuelson, "Academic Author Objections to the Google Book Search Settlement" (2010) 8:2 J on Telecommunications and High Technology L 491.
[30] *Ibid.*
[31] Google, "Google Books: Library Partners", online: <http://www.google.ca/googlebooks/library/ partners.html>.
[32] *Ibid.*
[33] Keren Dali & Juris Dilevko, "The Evaluation of International Credentials and the Hiring of Internationally Trained Librarians in Canadian Academic and Public Libraries" (2009) 41:3 International Information & Library Review 4, DOI: <10.1016/j.iilr.2009.07.005>.
[34] Chartered Institute of Library and Information Professionals, "Mentoring", online: <http://www.cilip.org.uk/cilip/jobs-and-careers/qualifications-and-professional-development/mentoring>.

Current Economic Challenges

Impact of Economic Recession on Libraries: Many libraries around the globe are challenged by dwindling resources.[35] Tight budgets directly affect acquisition and collection management, the range of services provided and the number of staff. This makes it very difficult for libraries to be able to purchase necessary materials and the number and frequency of programs or services may need to be curtailed. Salaries are one of the major operational costs for libraries. At present, many libraries are pressured to have a minimal number of librarians and library staff.[36] This practice can lead to a sense of pressure and work overload. The most common economic issue is inflation, which increases the general level of prices for goods and services. For libraries, this problem manifests in price increases for databases, periodicals, and books.[37] At the same time, the annual library budget may not be sufficient to keep pace with the increase in prices and publishers' bundling strategies. The current economic challenge is a global phenomenon, but is far more concentrated in Europe and North America.[38] Libraries in different countries respond to economic challenges differently.

Specific Impact on Law Libraries: Generally, law libraries around the world have responded to the global economic recession similarly to other types of libraries. The extent of the impact varies depending on the type of law library. At the university level in Canada, governments contribute funding to the university as a whole and some part of this funding is allocated to support its libraries. In addition, some universities have other sources of income such as student fees and private donations.

World economic conditions have forced people out of jobs and young people want to retrain themselves for better future employment. A law degree can serve these retraining needs and law program enrollments have not declined.[39] University law libraries are a key part of all university legal study programs: law students need help with their research papers and assignments and law professors need legal collections for their classes and research projects. They may also need law librarians to assist them with finding relevant case law, articles, and other materials. However, reduced government funding has resulted in corresponding reductions to university law library budgets.[40] Hence acquisition budgets will either decline or not see much increase.

Another specific impact of reduced government funding to universities is on staffing. In his report on the activities and funding of academic law libraries in the UK and Ireland for 2009/2010, Peter Clinch concludes that not many full time or new positions are being created for either law librarians or law library technicians and that the number of librarians per user is now much lower in many universities.[41] This higher workload for librarians can directly affect the quality of reference services offered and negate the ability to offer personalized services.

The economic downturn also has an impact on law firm libraries. Normally only large law firms have the luxury to operate their own private libraries; medium, small and sole legal practitioner groups often do not have sufficient funds nor enough human resources to run their own libraries. Often, they use the local law association libraries where they already are a member, courthouse libraries, and academic law libraries because they are able to conduct research as public users or alumni at either no cost or minimal fees. Many academic law libraries and some government and courthouse libraries are often welcoming to outsiders, as part of the library's mission to support social responsibility and the public's civil rights. So, ease of access elsewhere perhaps makes the decision to close a law firm library more palatable during a time of economic challenges, since lawyers can use library services elsewhere without much cost. There is also a growing trend of freelance legal assistants among small to medium law firms. Lawyers will hire temporary legal assistants to work on their current cases and to conduct research at the law libraries that are open to the public or where they are members.

Government law departments have been impacted greatly by austerity policies during the economic crisis. For instance, many government department libraries in Canada are now closed entirely or have been consolidated with other departmental libraries to share collections, services, and budgets and to serve users from across departments and agencies.[42] Courthouse libraries would seem to be an exception to this trend. Judges, lawyers and law clerks rely heavily on these legal collections to make sound judgments. Their decisions often establish the rule of law for their nation, influence international standards and set legal precedents that have considerable national and international consequences. Hence, court libraries funds are generally better protected during times of economic challenge than those allocated to other government department libraries,[43] but the lines between these types of law libraries has become blurred.

Reactions and possible solutions: The economic challenges facing libraries have been addressed in a variety of ways. This section examines how some European law librarians have handled economic hardship.

According to our interview with a librarian in the Netherlands regarding the impact of the current economic crisis on their region, we were told that we should:

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[35] Norm Medeiros, "Crisis Management" (2009) 25:2 OCLC Systems & Services 73.
[36] Ashley Parker, "Staffing Issues: Small Budgets, Big Shoes" (2010) 67:1 Arkansas Libraries 8.
[37] Walt Crawford, "What can be Done?" (2014) 50:4 Library Technology Reports 45.
[38] Wilfried Martens, "European Values in the New Global Content" in Thierry Chopin & Michel Foucher, eds, *Schuman Report on Europe: State of the Union 2012* (Paris: Springer Verlag, 2012) at 107.
[39] Herbert M. Kritzer, "It's the Law Schools Stupid! Explaining the Continuing Increase in the Number of Lawyers" (2012) 19:2-3 Intl J of the Leg Profession 209.
[40] Taylor Fitchett et al, "Law Library Budgets in Hard Times" (2011) 103:1 Law Libr J 91.
[41] Peter Clinch, "SLS/BIALL Academic Law Library Survey 2009/2010" (2011) 11:4 Leg Info Mgmt 272.
[42] Canadian Library Association, "CLA Member Advocacy Survey: The Impact of Federal Budget Cuts on Canada's Libraries" (November 2012), online: <http://www.cla.ca/Content/NavigationMenu/CLAat-Work/Advocacy/CLA_Member_Survey-Final_Summary_Report-Nov2012.pdf> [CLA].
[43] David Gee, "A Survey of Major Law Libraries around the World" (2013) 41:2 Intl J Leg Info 108.

"…expect in the period 2010-2014 serious budget cuts… the library organizations are looking for alternatives to substitute … :by having self-service libraries, also plug-in libraries, … by combining services with other institutions (although they also have budget cuts), by increasing digitized services …" [44]

Recent research conducted by Fiona Brown shows that some in-house law firm libraries in the UK have had to close their entire operations in order to reduce the law firm costs. Law libraries now provide services by sharing library staff and collections with other law firms or by outsourcing works to commercial law library and legal research service providers.[45] The fact that law firm libraries are privately funded, and with operational costs continuing to rise, means that law firms often must seek out other lower-priced alternatives. However, Brown's research indicates that there is a concern about the confidentiality risks of outsourcing. There are some risks associated with how the companies or providers deal with clients' usage history data. A lawyer can be at a disadvantage in a court case, if the opposition has knowledge of the research that has been conducted prior to the case being argued. This is a risk of outsourcing in any country around the world.

Christian Wolf, a law librarian at the Philipps-Universität in Marburg, Germany, describes in his research that the German government has recently begun to prevent Universities from incurring budget deficits but has also reduced their funding. Wolf is concerned about the foreign language law collection since the dwindling current budget will not allow university libraries to acquire the wide range of legal resources required to respond to the academic community's needs in the area of European Union laws and regulations.[46] A similar but worse situation is occurring at university law libraries in Spain. Some law libraries have been obliged to cancel subscriptions to regularly used law journals.[47] This is alarming and poses a very serious concern for the future quality of legal study and research in Spain.

In France, there is a positive example of how libraries are working together during a time of austerity. Since 2008, the French National Library and the Cujas Library (a Parisian inter-university law library) have been leading the national digitization program of heritage legal collections with other libraries in France that currently house legal collections including public libraries, academic libraries, government libraries, and private libraries. Their goal is to make heritage legal materials available for free online on "Gallica" (http://gallica.bnf.fr/).[48] This is a collaboration in which members are sharing costs and human resources but all still receive full recognition from the public and government. Importantly, each of them is still able to carry on their own work with smaller budgets.

In Canada, as we indicated above, many libraries are affected by current economic challenges, especially government libraries. There have been serious budget cuts and the federal and provincial governments are laying off staff to balance their books which has caused members of the Canadian Library Association (CLA) to be concerned about the impact of federal government policy on library budgets. A CLA report shows that more than 200 jobs have vanished at Library and Archives Canada over 3 years (2013-2015).[49] The Canada Revenue Agency is planning to consolidate nine libraries into one. The Transport Canada Library, the Public Service Commission Library and the Citizenship and Immigration Canada Library have closed, along with many other libraries in various government departments.[50] The Canadian Association of Law Libraries (CALL) has sent an official letter to the federal government's Chief Information Officer on behalf of association members nationwide expressing their concern with the current federal library budget cuts and the recent decision on ending the print production of several important government legal publications and making them only available in electronic formats. In addition, CALL also expressed concern that the federal government does not have a mature long-term digital curation and web archiving plan.[51] Canadian libraries are thus facing considerable economic challenges that are similar to those of libraries in Europe.

The examples from law libraries in Canada and Europe show that they have adopted some similar strategies, including closing libraries, amalgamating libraries, laying off staff and working with dwindling acquisition budgets. In addition, there is a lot of attention on the conversion to electronic services such as the digitization projects that make heritage legal collections available on the Web (such as the French project planned for Gallica), the plan to increase digital library services (as in the Netherlands example), and the decision to stop printing government legal materials and make them all accessible only on the internet to cut the costs of publication and distribution (in the Canadian example).

Limitations and Further Research

The first part of this paper compared a sample of countries around the world with respect to issues of concern for libraries. The source of this information came mostly from the 2010 IFLA World Report, which is the most current edition at the time of writing. Countries with emerging economies like China, India, and Brazil are working hard to improve their

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[44] Interview of librarian (2010), on file with the first author.
[45] Fiona Brown, "Outsourcing Law Firm Libraries to Commercial Law Library and Legal Research Services. The UK Experience" (2014) 45:3 Australian Academic & Research Libraries 2, DOI: <10.1080/00048623.2014.920130>.
[46] Christian Wolf, "The Law Library Profession in Germany" (2014) 14:2 Legal Information Management 2, DOI: <10.1017/S1472669614000267>.
[47] Katia Fach Gómez, "Spain and the Lost Legal Generation: Spain's Dysfunctional University System Is Also to Blame" (2014) 15:6 German Law Journal 9, online: <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2507996>.
[48] Claire Bonello, "Discovering the Digitised Law Library of Heritage Collections: A Collaborative Achievement between French Libraries" (2012) 12:4 Legal Information Management 9, DOI: < http://dx.doi.org/10.1017/S1472669612000667>.
[49] *CLA, supra* note 43.
[50] *Ibid.*
[51] Canadian Association of Law Libraires, "Federal Budget Cuts Jeopardize Access to Law / Les Compressions Budgétaires du Gouvernement Fédéral Mettent en Péril l'Accès au Droit" (12 April 2013), online: < http://www.callacbd.ca/en/content/federal-budget-cuts-jeopardize-access-law-les-compressions-budg%C3%A9taires-du-gouvernement-f%C3%A9d%C3%A9r>.

citizens' quality of life with government investment projects. In some cases this has resulted in considerable change as evidenced by the dramatic increase in the number of public libraries in China within only one year. Tracking such trends should be a topic for further research to better understand how libraries in those fast growing countries have changed in the last four to five years.

One limitation in the second part of this paper is that the research covers only a handful of samples of law libraries in European countries and Canada. There should be a future study with a greater number of law libraries in a larger number of countries. We might in this way discover more alternatives to how we can better cope with the economic recession and dwindling budgets.

Conclusion

This article compares Canadian library services to other libraries around the world. We used library data from representative countries from each continent. In total, 38 countries have been studied in this study including Canada. We found that Canadian libraries face the same kinds of service and operational issues as other libraries around the world as well as concerns regarding the status of information professionals, numbers of libraries, and Internet use in libraries. However, libraries in Canada do not face the same challenges when it comes to population, language, copyright, or literacy.

This article also describes some of the economic challenges and their effects on libraries worldwide. It focuses on law libraries in Canada and Europe and what those law libraries have been doing to find a way out of the economic crisis since 2008. We found that many alternative solutions have been used: closing law libraries entirely, combining services with other institutions, laying off staff, working with dwindling acquisition budgets, transforming library services to provide more digital channels, and increasing inter-institutional cooperation to share costs and responsibilities.

IIII Reviews / Recensions

Edited by Kim Clarke and Nancy McCormack

Abuse or Punishment? Violence Toward Children In Quebec Families 1850-1969. **By Marie-Aimée Cliche, translated by W. Donald Wilson. Waterloo: Wilfred Laurier University Press, 2014. 408 p. ISBN13: 978-1-77112-063-0 (softcover) $48.99.**

"When John K. asked his wife why she was beating their son, she answered that 'she was the mistress of her child,' whereupon he struck her in his turn, telling the indignant neighbours that he was the master and could treat his wife as he liked." With this quote from a 1798 Kings Bench decision, so begins Part I of Marie-Amiee Cliche's *Abuse or Punishment? Violence Toward Children in Quebec Families 1850-1969.* According to Cliche's well researched and thoughtful work, not only was corporal punishment towards children by their parents a parental right in early Quebec Society, it was a moral duty owed by parents to their child if they wished them to turn into well behaved constructive members of society. To "spare the rod was to spoil the child."

Cliche examines the evolution in child-rearing in Quebec by considering parenting books, periodicals, court records (particularly those from Juvenile Delinquents' court), advice columns and even comic strips running from the 19th century through to 1969. According to Juvenile Delinquent Court records examined, the consequence of abuse rather than instilling discipline and obedience in the child often had the reverse effect on abused children, making them secretive and dishonest and with many an abused child becoming in time, an abuser.

Part I provides copious examples from 19th and early 20th century sources, of severe and at times even horrific discipline being imposed upon, often very young children, by parental figures under the guise of proper parenting. While such discipline was meant to be instructional, more often than not it was out of all proportion to the alleged offense. That children were historically subjected to physical abuse by their parents was not so much a surprise (after all, it still occurs today), as was the degree to which contemporary society appears to have accepted the same with minimal questioning.

Part II, *An Urban Society 1920-1939* provides among other considerations a thorough examination of the "martyrdom" – or death by abuse under the guise of corporal punishment – of Aurore Gagnon by her step-mother with the tacit approval of her father in 1919 Quebec. Cliche examines original court records to document the decline of Aurore, the trial of her parents and the public response thereto. In addition, she gives careful consideration to the lack of response by Aurore's neighbours, teachers and extended family and the reasons for same. According to Cliche, it was the impact of the Gagnon case and others like it that caused Quebec society to begin to reflect upon the passive response to parental punishment and reflect upon a better way.

She then moves into *Part III, From WWII to the Quiet Revolution, 1940-1969*. Here she examines the advent of new ways of thinking which proposed allowing a child to develop as opposed to being molded by their parents and moving as parents from striking a "balance between love and fear to love without fear."

Tragically, however, corporal punishment was so ingrained into our psyche that well into the mid-20th century corporal punishment regularly featured as fodder for our amusement in popular comic strips and advice columns. Even more startlingly, into the 1950s and '60s considerable tolerance appears to have been provided in the court system to what was at times fatal child abuse when delivered under the guise a parent's entitlement to discipline through corporal punishment. Thankfully, as Cliche indicates in her conclusion, corporal punishment fell into disfavour such that by 1997 Judge Jacques Roy would declare in a judgment that "all Quebecois…must agree to raise their children without recourse to corporal punishment…Violence is no way to carry on a dialogue between adults, nor is it the way between adults and children."

While the book is clearly an examination of corporal punishment within Quebec Society, Cliche also examines what was going on in Ontario, America and beyond as it compared to or contrasted with Quebec. In addition, she examines the role that the Catholic Church played in supporting corporal punishment in Quebec in the 19th and early 20th century. Just as children should follow their parents' dictates without question, so too to should the parishioner follow the dictates of the church.

The study of the topic is thorough and her examination of court records, advice columns and cartoon strips allows the topic to be viewed from varied perspectives which is helpful and adds interest for the reader. While by no means dry, the book would be appropriate for academic circles. Furthermore, as a legal practitioner who has practiced in Child Protection Law for many years, I found the book of considerable interest as would social workers and other legal practitioners in Child Protection Law.

REVIEWED BY
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Antarctica in International Law. **Ben Saul & Tim Stephens, eds. Oxford: Hart Publishing, 2015. 1136 p. ISBN 9781849467315 (Paperback) $102.62.**

The first things that come to mind when one thinks of Antarctica are frigid temperatures, penguins and lonely research stations, but this geographic region is far more unique and complex than these stereotypes suggest. Indeed, this uniqueness led to the *Antarctic Treaty* in 1959 which itself is unique in international law. In *Antarctica in International Law*, the authors attempt (and, I would suggest, succeed) in showing that Antarctic law has, since the inception of the *Antarctic Treaty,* constantly adapted to meet new challenges and is now a sophisticated, inclusive, dynamic and responsive regime.

Interestingly, how this book manages to convey this evolving perspective is by reproducing the primary source material. This material includes not only the full text of the *Antarctic Treaty*, but also recommendations of various Antarctic committees, international treaties governing the area around the Antarctic region and discussions by various United Nations Committees on Antarctica.

While I will not go into specifics on all twelve parts of this book, I hope to highlight some of the more interesting aspects. Part One, for example, sets out the various treaties that make up the *Antarctic Treaty* series. Parts Three and Four deal with the core documentary output of the Antarctic Treaty Consultative Meetings (ATCMs). These meetings were crucial to the recommendations and decisions that went into forming the Antarctic Treaty Series.

Unlike most other legal texts in which authors highlight a few quotations from those meetings to make their point, this book brings together the full recommendations that came out of the ATCMs. However, because of space, not every primary source document is included. Instead, only those documents that cover the Antarctic region in a broad sense, rather than a localized area, are included. Given that the material is presented in chronological order, one can see how the Antarctic legal regime has evolved over time as needed.

Moving on, Part Seven of the book goes beyond the Antarctic Treaty Series to include treaties that are relevant to Antarctica. For the most part, they deal with environmental and conservation concerns. They also include the *International Convention for the Regulation of Whaling* and the *International Convention on the Prevention of Pollution from Ships* (MARPOL).

Judicial decisions that have some Antarctic connection are reproduced in Part Ten which is divided into two parts. The first covers judicial disputes between States that have been brought to the International Court of Justice. One of the most interesting disputes is the case *Australia v. Japan* from 2014 in which the Court held that Japan was in violation of the *Convention for the Regulation of Whaling*. Japan claimed that the taking of whales was for scientific research purposes, but the Court found otherwise.

The second part deals with cases that were argued in various domestic courts, most of these in the United States and Australia. Many have to do with environmental issues, including one in which a Japanese company was convicted of illegally killing whales in a marine reserve just off of Australia.

In keeping with its multinational outlook, the book does not contain policy or legislation from specific countries, but instead includes the various countries' positions on certain Antarctic issues in the form of excerpts from international meetings. While I certainly appreciate the authors wanting to keep a tight focus on this multinational outlook on Antarctica, I would have liked to have seen more national policy positions and discussions on some of the various environmental issues in order to understand how countries are framing

their arguments. This is more difficult to comprehend when one only sees small excerpts from international meetings. This is not a failing of the book, however, just a personal observation.

Overall, this book is an excellent way to see how the dynamics of the issues of Antarctica have changed from one of national self-interest to multinational protection. This would be a book suitable for any academic law library with an interest in environmental and/or international law.

REVIEWED BY
DANIEL PERLIN
Associate Librarian
Osgoode Hall Law School Library

***Bills of Rights in the Common Law.* By Robert Leckey. Cambridge: Cambridge University Press, 2015. xix 237 p. Includes a table of cases, bibliography and index. ISBN 978-1-107-68063-0 (paperback) $51.95.**

Judging by the title alone, the reader may be forgiven for thinking that perhaps this book might be about how the (pre-Charter) *Canadian Bill of Rights* SC 1960, c 44 has been interpreted by the courts. In fact, the scope of this book by Professor Robert Leckey – who was appointed Dean of the Faculty of Law at McGill in April 2016 – is much more ambitious and interesting.

Bills of Rights in the Common Law addresses how judges do judicial review with a bill of rights that gives them the power to strike down legislation. Professor Leckey asserts that scholars tend to analyze *what* judges do under a bill of rights, but have not paid as much attention to the techniques and tools that judges employ or refrain from employing in bills of rights adjudication. He argues that procedural and technical issues that are often dismissed by academics need to be better studied, and employs an empirically grounded perspective to remedy this neglect. The discussion throughout is informed by a close reading of case law as well as the secondary literature on judicial review and comparative constitutionalism.

The specific "bills of rights" that professor Leckey is considering are those of three common law jurisdictions: the *Canadian Charter of Rights and Freedoms*, the UK *Human Rights Act 1998* and the South African Bill of Rights (Chapter 2 of the *Constitution of the Republic of South Africa*). This selection of jurisdictions avoids engaging (and bogging the work down) in American debates on the legitimacy of judicial review. The choice of South Africa over the traditional favourite jurisdictions of North American comparators – Australia and New Zealand – emphasizes the importance of the Global South and provides an example of a "'strong form' review" bill of rights to compare to the UK and Canada (p 28).

This book makes a number of broad arguments through an analysis of judicial decisions of the highest courts in the three jurisdictions in question. The first is an argument against the notion of "bills of rights exceptionalism", i.e., the view that bills of rights adjudication is somehow novel in the common law world. Judges have always interpreted and applied statutes as well as private instruments and declared them invalid when necessary. The second argument has to do with the range of activities around judicial review available to judges, and how the emphasis in the literature on striking down obscures important discussions about when and why judges are reluctant to use their full power. The third argument considers the emphasis that judges place on the broader context and purpose of challenged legislation which "foregrounds systemic improvement over dispute resolution" (p.192). Finally, Leckey argues for a sustained normative evaluation of *judicial agency* – "judicial initiatives in rights cases that the bill of rights did not directly require" (p 19). This "under use of remedial powers" (p 2) is often praised as judicial restraint, and Leckey aims to demonstrate how judicial agency can lead to injustice for individual rights claimants.

A particular strength of this book is its comparative approach. The bills of rights, the histories and the legal contexts of Canada, the UK and South Africa don't map out perfectly and these differences allow for ample opportunity to not only compare and contrast but to uncover deeper patterns that would be difficult if not impossible to identify by only considering a single jurisdiction.

While this book is directed at the academy and addresses academic and theoretical problems, its value extends to practitioners as well as academics. The book's arguments and methodology are heavily grounded in case law and in empirical analysis. The discussion in chapter 4 on the doctrine of standing and that in Chapter 6 on how judges themselves describe and justify their approaches in resolving rights cases particularly stand out. Over seventy Canadian decisions are listed in the table of cases with almost as many UK and South African cases. The extensive bibliography provides a good entry point to the literature on comparative constitutionalism, judicial activism and rights adjudication.

This book belongs in the library of any academic law library in the common law world. The analysis here both of specific decisions and general patterns means that it will also be useful in the library of a firm or government department that is engaged in rights adjudication.

REVIEWED BY
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Nicholls Librarian and Director
John W. Graham Library, Trinity College, University of Toronto

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***The Science of Leadership: Lessons from Research for Organizational Leaders.* By Julian Barling. Oxford: Oxford University Press, 2014. 344 p. ISBN: 9780199757015 (hardcover) $53.00.**

In the field of leadership, books written on the topic can be grouped into two broad categories. The first consists of

books that are based on leadership theory and research, and are written primarily for academics and other scholars. The second category of books contains ideas and practical advice on leadership; however, these are not based on research. In *The Science of Leadership: Lessons from Research for Organizational Leaders,* Julian Barling achieves the lofty goal of producing a work that bridges this gap. He effectively draws on psychological and behavioural evidence-based research to provide practical guidance for leaders working in organizations. While Barling's book acts as a massive review of decades of research on leadership, it is also one that is highly readable and offers many insightful lessons.

The book covers a number of topics that are sure to be of great interest to academics and practitioners alike. The first three chapters of the book tackle some of the central questions regarding leadership. What is leadership and what are the major modern leadership theories? Do leaders matter? And, how does leadership work? In the fourth chapter, Barling provides a detailed overview of how leadership research is conducted. This chapter could be particularly valuable to a reader who may not have a great deal of background in research and research methodology. In addition, this chapter could be beneficial to a reader who may not be entirely convinced of the legitimacy of using evidence-based research to inform practice. Other topics covered in the book are whether leaders are born or made, leadership training interventions, leadership in different contexts (i.e. labour unions, sports, politics, and schools), gender and leadership, destructive leadership and followership. Taken together, the content of these chapters provides the reader with a comprehensive overview of the main issues in the field of leadership.

One thing that will become apparent to the reader early on in the book is that Barling does not attempt to give simple and straightforward answers or formulas to help leaders solve their problems. Barling even explicitly emphasizes this notion as he states that his book is not another "how-to" book that provides easy linear solutions to complex problems. Instead, Barling synthesizes, analyzes, and interprets a wealth of research on leadership and presents nuanced views and surprising and counterintuitive conclusions that are arguably far more valuable than an easy linear solution to a leadership problem. In doing so, he respects the reality that leaders do indeed face complex challenges in their day-to-day affairs that require the use of wisdom, ingenuity and flexibility. The insights presented in Barling's book give leaders the opportunity to develop these qualities, which is one of the book's greatest strengths.

In summary, "The Science of Leadership" would be an excellent addition to any Canadian law library. Those working in the area of employment law could be particularly interested in the chapter on destructive leadership since it provides a solid review of the literature on the nature and consequences of abusive leadership. Furthermore, academic library administrators and librarians could benefit from the knowledge and guidance offered by the book because these individuals often take on leadership roles in the University. Finally, the book may be of interest to law students since they will likely end up working in organizational environments with the hope of rising into senior positions with important leadership responsibilities.

REVIEWED BY
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John Howard Society of Kingston and District

***Creating Legal Worlds: Story and Style in a Culture of Argument.* By Greig Henderson. Toronto: University of Toronto Press, 2015. x, 180p. Includes bibliographical references and index. ISBN 978-1-4426-3708-5 (hardcover).**

In *Creating Legal Worlds*, Greig Henderson, Associate Professor of English at the University of Toronto, presents a thorough analysis of judicial writing which he describes as "...how judges create normative universes for us to live in and fashion ethical images of themselves as judges every time they decide a case" (p 3). Henderson illustrates his arguments with close readings of notable decisions from Canada, the United States, and the United Kingdom. He analyzes the choices judges make – both which facts to present, as well as the style of presentation – to show how this is crucial to how the reader receives and perceives the substance of the judgment. In particular Henderson focuses on the idea that storytelling is a persuasive tool, "... that narrative is an integral element of legal argument, not something simply tacked on to humanize the law or authenticate the parties" (p 3). He illustrates how these choices can appeal to the biases of the reader, and as well, often reveal the biases of the writer.

The book is dense, demanding almost as close a reading as Henderson himself gives to the subject matter. Nonetheless, it is well worth the effort, as Henderson is, I think, very successful in his endeavour. While this is not a how-to manual on legal writing, Henderson meticulously presents examples of what he feels is good and effective judicial writing and what is not. Each chapter focuses on a different aspect of his thesis, including persuasive writing, the rhetoric of causation, the use of analogy, and basics of narrative theory. There are many useful and practical concepts here and ideas that inform the process of legal writing.

While the book is aimed primarily at the judiciary, it could also be an excellent fit for first year law students. Again, this is not a how-to manual on legal writing; however, the ideas here apply equally to reading, not just writing, a judgment. I remember many times in first year law, where I read the concurring decision, and thought, "Yes, I agree!" Then, I went on to read an equally persuasively written dissent, and I thought, "Wait – I also agree." It then becomes the student's job to reconcile these two positions, to deconstruct these arguments, and understand how each fits together, and fits within the larger body of case law on an issue. Henderson's book could be very useful in this deconstructive process, providing strategies to analyze how a judge has crafted a

decision. He notes that in a judgment:

> ...there are always two kinds of stories. One is a human story, a concrete narrative of who did what to whom, where, when, how, and why. The other is a legal story, an abstract narrative of issue, fact, law, and conclusion, a story that is more a logic of justification than a narrative of events ... the art of persuasion resides in knowing which story to tell. (p 8)

I would argue that from the perspective of a law student reading the judgment, there is significant advantage, as well, in knowing which of these stories is being told. No doubt, this book could provide an excellent complement as recommended reading in any legal research and writing curriculum.

REVIEWED BY
HEATHER WYLIE
Law Librarian
Alberta Law Libraries
Calgary, AB

***Cybercrime in Canadian Criminal Law.* By Sara M. Smyth. Toronto: Thomson Reuters, 2015. 280 p. ISBN/ISSN/Product Number: 978-0-7798-6714-1 (softcover) $87.00.**

Cybercrime in Canadian Criminal Law is a good text for anyone wishing to learn something about this area of law, but what's more, it's also an interesting read. The book is not only for the legal practitioner, but contains many fascinating details that would be of interest to the average reader as well. As an example, the reader will learn that the term "spam," as it applies to unsolicited email, was actually taken from a *Monty Python* skit.

One might assume that in reading a book on cybercrimes, one would be inundated with technical IT facts, and that is indeed what the reader will find in the introductory chapter. It is worth noting, however, that interesting read or not, a good understanding of how technology works is beneficial to truly understanding cybercrimes.

The reward for getting through this technical chapter is the book's second chapter, which features a historic and philosophical analysis of what the internet was and once was envisioned to be. We're told how John Perry Barlow saw the internet, in its early days, as "a world that all may enter without privilege or prejudice accorded by race, economic power, military force, or station of birth." What follows is the question of *if* the internet should be regulated, with the likes of philosophers John Locke and Thomas Hobbes pulled into the discussion. Parts 2 and 3 of the book ("Traditional Crime in Cyberspace" and "Computer Misuse Crimes") attempt to answer this question by detailing all of the terrible things people do to each other on the internet.

The average reader will likely be interested in the discussion of the many different ways people can be tricked or defrauded online found in the chapter on identity theft and cyber fraud. Chapters on child sexual abuse and cyber-bulling, though upsetting to read, provide the same level of useful legal information. Further along, the book discusses viruses, hacking and spam and how they function and apply to current technology. The author makes sure to point out instances where any of these crimes converge upon or come up against privacy and Charter rights in a Canadian legislative context.

The fourth and final section of the book discusses problems with regulating and prosecuting cybercriminals. This section delves into the issues of international jurisdictions with varying levels of regulation and enforcement. The problems inherent in attempting to prosecute someone for a crime they committed against someone else on the other side of the world are examined, as well as the treaties and conventions which exist to mitigate these problems.

The book itself is current, but given that technology is forever evolving, it is not surprising that cybercrimes and the law associated with it are likewise forever evolving. Legal and statistical references from the past few years and references made to recent high-profile cases such as those involving Rehtaeh Parsons and Amanda Todd are provided. One thing that could be considered for a third edition might be to remove any mention of "the Net," a term possibly not used since the 1995 Sandra Bullock movie. Regardless, for anyone interested in cybercrimes and how Canadian legislation and courts are adapting to this fairly recent area of law, this book is an excellent place to begin.

REVIEWED BY
EMILY LANDRIAULT
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***Fundamentals of Canadian Competition Law,* 3d ed. By James B. Musgrove, ed. Toronto, Ont : Carswell, 2015. lxvii, 782 p. Includes bibliographic references and index. ISBN 978-0-7798-6703-5 (softcover) $196.00.**

This title is the third edition of an in-depth foundational text on competition law. *Fundamentals of Canadian Competition Law* is written with a focus on the basics for novice practitioners and, for the more seasoned lawyer, concentrated analysis of specific issues in competition law. The book is one of the few published with a Canadian perspective and is the most authoritative on the subject. This third edition follows two earlier versions in 2007 and 2010, published after major amendments in 2009, with the original intention that editions would be published every five years.

Readers are lead through fundamentals of competition law,

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with chapters covering the following topics: introduction and overview; institutional overview and statutory history; market power and definition; criminal conspiracy; non-criminal review of agreements among competitors preventing or lessening competition substantially; refusal to deal; price maintenance; exclusive dealing, tied selling, market restriction and other reviewable practices; abuse of dominance; merger notification; substantive merger review; misleading advertising and marketing; civil conspiracy and other economic torts; private applications before the Competition Tribunal; powers of investigation; intellectual property; private litigation and class actions and foreign investment review. Each chapter includes an introduction and defines basic concepts before diving into the substantive analysis. While the title focuses on Canadian law, the book also contains some references to anti-trust law in the United States.

Additional resources are available for any Canadian Bar Association member using *Fundamentals of Canadian Competition Law.* The CBA website provides access to the text online for members, with the capacity to search the text using keywords, author, title, type, subject, and dates. Included in the print version, are mirror English and French chapters on the *Investment Canada Act.* The extras are very helpful, particularly when someone might need access and the print is not at hand.

The editor, James Musgrove, has been recognized for competition, marketing and advertising work both nationally and internationally. The list of contributors to the 18 chapters is impressive and lengthy. Several authors are listed as leading competition practitioners in *The Canadian Legal Lexpert© Directory* including Brian Facey, Randal Hughes, Mark Katz, Adam Fanaki, Kevin Wright, Michelle Lally, Barry Zalmanowitz, Madeleine Renaud and Susan Hutton.

The text is one of the few resources on this topic suitable for the novice or senior practitioner in the area of competition law. The volume includes forewords for the three editions, acknowledgements, a list of chapter authors and contributors, a table of contents, a table of cases, footnotes, appendices of the *Competition Act, Competition Tribunal Act, Notifiable Transactions Regulations* and a sample merger notification form and certificate, a selected bibliography and an index. There are plenty of footnotes and references throughout the volume. A Table of Cases rounds out the text, with both citations and page number references to the book. That makes this tome a star.

Fundamentals of Canadian Competition Law would be a welcome addition to any collection on this topic. The book is easy to read and provides a plain language discussion of competition law concepts. The text is also available in print and online versions that include legislation and forms. Librarians, as well as novice and more practiced lawyers will

appreciate this edition and it is a must for any competition practice collection.

REVIEWED BY
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***Justice and Authority in Immigration Law.* By Colin Grey. Oxford: Hart Publishing, 2015. xi, 241 p. Includes bibliographic references and index. ISBN 978-1-84946-599-1 (hardcover) £35.00.**

Mass immigration is arguably one of today's most pressing global issues. While states in the Middle East and Europe try to control the flow of unprecedented numbers of migrants over their borders, horrendous stories and images make it impossible to ignore the dire consequences that state policies on immigration can have on the most vulnerable and disadvantaged migrants.

Justice and Authority in Immigration Law provides a particularly timely examination of the demands of justice in immigration law and policy. Colin Grey is a legal advisor at the Immigration and Refugee Board of Canada. This book began as his dissertation for the Doctor of Juridical Science (JSD) programme at New York University. It is organized into a number of sections in which the author argues for a principled and just approach to immigration governance. Specifically, he addresses the following two questions: Do obligations of justice toward migrants constrain immigration regimes? If so, what principles of justice apply?

In part one, Grey frames the problem of justice and authority in terms of immigration governance. In particular, he introduces the central tenet of immigration law – the discretionary doctrine by which states are granted broad discretion over immigration matters. Two interpretations of the discretionary doctrine – the absolutist and the principled – compete for primacy. Adherents to the absolutist interpretation say that states have an absolute right to exclude any and all migrants based exclusively on national self-interest. In contrast, those that uphold the principled view argue that the discretionary doctrine should be exercised in a principled fashion, although the specific principles limiting state discretion over immigration governance are unclear. This part serves to provide sufficient context to help the reader grasp the arguments that follow in Parts Two and Three.

In chapter three, Grey draws on Immanual Kant's postulate of public right and offers a convincing argument that states owe a duty to establish immigration regimes that are reasonably just. Reasonably just immigration regimes are those that govern immigration in a way that "seeks to avoid the unjustified injury to any person" (p 62). In turn, the duty to be reasonably just creates a duty owed by migrants to comply with those reasonably just regimes. In this way, the author clearly establishes a principled alternative to claims of absolutism in immigration governance.

In chapter four, Grey acknowledges that despite the availability of a principled alternative to absolutism, states often govern as though absolutism were a defensible moral stance. To refute this possibility, Grey makes a reasonable challenge to the philosophical defences of absolutism put forth by Michael Walzer and Thomas Nagel. Grey further expands on the principled alternative to absolutism in the following chapter. Building on John Rawls' discussion of a natural duty of justice, Grey provides an account of how immigration regimes can have authority by seeking to comply with principles of justice in immigration.

Having established that obligations of justice do constrain immigration regimes, Grey then turns to answering the second overarching question of the book: What does justice in immigration demand?

In chapter six, Grey answers this question by proposing two principles of justice in immigration. The first principle states that "immigration policies can only be justifiably capped in order to ensure the stability of the state's political conception of justice and to protect the legitimate expectations of its members" (p 9). The second principle, which he calls the indirect principle of freedom of migration, states that "immigration laws and policies of admission or exclusion will be unjust if they require unjust implementation or give rise to other forms of collateral injustice" (p 9).

In chapter seven, Grey further elaborates on these principles of justice. Specifically, he argues that liberal constitutional democracies must give priority of admission to the worst-off migrants up to the threshold where the stability of the state's political conception of justice and the legitimate expectations of its members can still be protected. 'Worst-off' is determined in accordance with the number of restrictions to a migrant's basic liberties in his or her state of origin.

One real strength of the book is both the tone and content in these last two chapters on the principles of justice in immigration. The author espouses an attitude of reasonableness and impartiality, and of openness to the concerns of others that inspires the reader to imagine how principles of justice in immigration can have a positive effect on societies.

Grey himself acknowledges that he has not comprehensively addressed all of the questions about immigration governance. Furthermore, he points out gaps and limitations in his arguments. These acknowledgements show that Grey promotes further work to be done on this topic and welcomes the contributions of others.

In conclusion, it is important for any prospective reader to know that this book is essentially a work of legal theory and political philosophy. Without a background in these subjects, this book could be difficult to read. That aside, this book is well-written and well-argued, and the credentials of the author lend it a good degree of credibility. Grey's

book is ideal for academic law libraries, especially ones that support a strong curriculum in immigration law. In addition, it would valuable for those with an interest in the reform of immigration law and governance.

REVIEWED BY
LESLIE TAYLOR
Reference/Technical Services LIbrarian
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***Leading the Way: Canadian Women in the Law.* By Julie Soloway and Emma Costante. Toronto: Lexis Nexis Canada, 2015. viii, 210 p. ISBN/ISSN: 9780433487111 (soft cover) $65.00.**

Leading the Way: Canadian Women in the Law is a collection of 50 biographies of Canadian women in Law which celebrates the huge gains made by women over the past 125 years. The book outlines their achievements, and demonstrates how their determination, strength, perseverance, and their refusal to accept the status quo were instrumental in the evolution of women's rights, not just in the legal arena, but for all women in Canadian society.

The book is organised chronologically into five chapters. Each chapter contains ten biographies highlighting these women's accomplishments and reflecting a particular theme for the section. The first chapter looks at trailblazers – those early women who were pioneers of women's rights at a time when women couldn't vote, run for office, or inherit property. These were the ground breakers – women who would become the first female Canadian lawyer, the first female criminal defence lawyer, the first female judge, and the first woman to argue before the Supreme Court of Canada.

The second chapter focuses on the 1970s. While continuing to look at other ground breakers (e.g. the first Chinese-Canadian female lawyer, the first Indigenous woman called to the Bar, the first female Chief Justice, the first Black female judge), the book discusses these women through the lens of changing times when there was increased recognition of women's individual and plural identities. It also looks at the additional challenges faced by those who, due to race, culture, socio-economic status or other issues, were further disenfranchised.

The 1980s is the focus of Chapter 3 which covers the advances made by women in a time when the legal landscape of Canada was changing dramatically. Not only was the Canadian constitution patriated, but the *Canadian Charter of Rights and Freedoms* came into being, affecting all Canadians, not just women.

Chapter 4, entitled *Taking the Reins,* highlights Canadian women lawyers in the 1990s who became leaders in both the public and private sector, in government, the judiciary, and on the international stage. Finally, Chapter 5 looks at women lawyers of the new millennia, examining the concept of "balance," i.e., juggling personal, work, and community responsibilities, while negotiating diverse career paths and lifestyles.

It is, clearly, not an easy task to write mini-biographies. When faced with limited space, choosing what to include and what to omit is a challenging decision. Selecting and then uniting pieces so they illustrate a common theme is also difficult, and the authors have not been wholly successful in either of these areas. For example, the biographies are somewhat uneven in their coverage of the women and sometimes provide what appear to be unnecessary facts or details, while leaving out others that might help to cement the thematic connection among them.

More successful is the introduction and a wrap-up section found in each chapter. These, along with the book's main introduction, are very good, and explain the various themes while also providing the historical context of the time period under discussion, and interesting commentary and analysis on women in the broader legal and political landscape overall. More space dedicated to these sections (and perhaps fewer but more detailed biographies with additional analysis) would have resulted in a better read, as the analysis of how these diverse women changed the Canadian legal world was most interesting.

This book is meant to be both a tribute to the women who achieved so much and advanced the cause of all Canadian women, and also an inspiration to young women embarking on a legal career today. The Conclusion, entitled *Looking Ahead: Lessons for Our Daughters,* provides a positive and encouraging outlook. And, while somewhat uneven, the book succeeds in its purpose, offering inspiration to new women lawyers in all areas and practices not to be limited, and to continue to strive for change and improvements, for themselves and for other women.

REVIEWED BY
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***Legal Services Regulation at the Crossroads : Justitia's Legions.* By Noel Semple. Cheltenham, U.K.: Edward Elgar, 2015. viii, 319 p. Includes bibliographic references and index. ISBN 978-1-78471-165-8 $135.00.**

In the past decade, the legal profession has been subject to more stresses than ever before. The demand for new lawyers has fallen sharply, more clients are unable to afford fees, and technology is making inroads into servicing routine transactions. What's a self-regulated profession to do?

Lawyers in Australia and England and Wales have introduced and are carrying on under alternative business structures (ABS) legislation. American lawyers are resisting any change. In Canada, lawyers have been regulated by

law societies in the same way for hundreds of years. Yet the way people are accessing legal services is changing. In response, several provinces have begun to study new ways to regulate the profession to keep on top of these changes, led by Nova Scotia.

I'm fascinated by the potential for major disruption in the legal industry. I've been working in a law library for 10 years, and while at first I thought all sorts of changes would be happening (AFAs, anyone?) I've come to realize change in the legal community happens very slowly. The Prairie Law Societies recently collaborated on a discussion paper on the subject of innovating regulation in which they specifically looked at entity regulation (regulating law firms), compliance-based regulation, and ABS. Interestingly, they referenced *Legal Services Regulation at the Crossroads: Justitia's Legions*, in that paper.

The author of this book, Noel Semple, is an assistant professor at the University of Windsor Faculty of Law. He teaches and writes in the areas of civil dispute resolution, legal ethics and professionalism, and family law. This book was written during a SSHRC Postdoctoral Fellowship at the University of Toronto Faculty of Law. Not surprisingly, Professor Semple has become the go-to expert on legal regulation.

This text is a thorough history of the regulation of the profession. Semple explains "[l]egal services regulation consists of rules about who can provide legal services, what characteristics those services must possess, and under what conditions they can be provided" (pp 3-4).

Semple describes the current situation as competitive-consumerist legal services vs. a professionalist-independent tradition. Instead of purchasing full service advice, clients are asking for limited scope retainers. How does current self-regulation ensure that clients aren't misled by this limited advice, and how do lawyers ensure they won't be sued for malpractice? And just who should be able to offer legal services anyway? Answers to these questions and more are found in the concluding section of the work entitled "A Path Forward."

The text is divided into four parts. It begins with an extensive introduction and history of regulation in the common law world. It then moves on to a discussion on whether the status quo can survive, followed by an explanation why the current format of regulation should survive. The final part examines what the future of regulation could look like. There are extensive bibliographic references for further investigation along with a detailed index.

Part I, which takes up a third of the entire text, introduces the concepts of competitive-consumerist legal services and the professionalist-independent tradition. On the consumer side are technological advances such as online preparation of documents that require little legal intervention, and limited retainers. The professionalist-independent tradition focuses on individual lawyers as independent moral agents, and is primarily the current format for the profession in North America (p 4).

Part II asks: 'Does professionalist-independent regulation have a future?' The chapters in this Part "elaborate the case against professionalist-independent legal services regulation, showing that it courts regulatory failure and impedes access to justice" (p 93). Semple concludes "[w]e do not regulate lawyers in order to make justice more accessible; we regulate lawyers in order to protect vulnerable clients and third parties while promoting public goods such as the rule of law" (p 182).

Part III discusses the case for professionalist-independent regulation, while Part IV lays out a potential route to regulation, identifying reforms that enhance client accessibility and increase regulatory effectiveness without abandoning lawyers' core values.

While scholarly, *Legal Services Regulation at the Crossroads* would be good reading for anyone interested in knowing more about self-regulation and the legal profession. It should likely be on the shelf of academic and law society libraries.

REVIEWED BY
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***A Plain Language Handbook for Legal Writers,* 2d ed. By Christine Mowat. Toronto: Carswell, 2015. 2 volumes. 800 p. Includes illustrations. ISBN: 978-0-7798-6690-8 (softcover) $149.00.**

This second edition of *A Plain-Language Handbook for Legal Writers* aims to fill a void in plain language writing publications by providing a comprehensive "workshop in a book" for lawyers who wish to develop plain-language writing skills and for non-lawyers who often read and sign legal documents in their personal and professional lives. The goal of plain language writing is to ensure that communications are easily understood and effective through the use of clear language and structure. Not surprisingly, many legal writers could benefit from learning how to use plain language as it is not uncommon to come across legal documents and texts that are filled with confusing elements such as wordy phrases, jargon, and multiple negatives.

The handbook is written by Christine Mowat, a plain-language expert and advocate with over 30 years of experience developing and teaching plain-language writing workshops for lawyers. An update and expansion of Mowat's 1998 handbook, the new edition has six additional chapters and includes contributions from plain-language experts from around the world. To accommodate the new information, the handbook has been split into two volumes.

The first five chapters provide background and context to

the field of plain language, emphasizing why it matters to legal writers and readers. Mowat thoroughly outlines the descriptions of plain language as stated by leading experts. She illustrates the importance of considering the reading audience when drafting documents, considers the ethical foundations of plain language, and highlights the rationale for the use of inclusive and gender-neutral language.

This part of the handbook ends with a chapter dedicated to the testing and evaluation of plain-language documents. Effectively describing how testing plain-language projects can ultimately save an organization time and money, Mowat includes tests that an organization can use to ensure that their plain-language documents are readable and effective. She also advises readers on the advantages and disadvantages of different tests depending on the writings being reviewed. Included in this chapter are the CLARITY Guidelines, which act as plain-language guides for legal writers.

The subsequent chapters, written by legal practitioners and plain-language advocates, each relate plain language to a specific area of law, including legislation, wills, aboriginal law, and contracts. The authors ably describe how documents written in these areas of law could benefit from the adoption of plain language and provide numerous useful "before and after" examples where standard legal clauses and writings are contrasted with their plain language counterparts. This method of comparison, used throughout the two volumes, is extremely useful as it clearly demonstrates the value of plain language to the reader.

Mowat closes the first volume discussing the future of plain language, and provides plain-language book summaries, interviews, and a bibliography.

The second volume of the handbook acts as a workbook to complement the first volume; however, it could be a stand-alone resource given the useful examples and exercises it provides. The volume's first part is described as a "Plain-language Toolbox." It includes an expanded version of the CLARITY Guidelines for Legal Writers featured in the first volume with examples and exercises pulled from real legal writings that the reader can complete to test their comprehension of plain-language skills.

Also found in this volume are rules and tests on a myriad of technical aspects of writing, including capitalization, numbers, and possessives. While it is intended for legal writers, all writers would find this part useful. Mowat clearly describes writing rules and then provides appropriate exercises to test the understanding of the rules. While technical, the exercises used are not intimidating for the average reader since Mowat uses relatable and understandable examples.

The second volume finishes with expanded plain-language model documents and more before-and-after samples and exercises related to the discrete areas of law covered in the first volume. All of these examples and exercises serve to reiterate how and why plain language matters in a legal context. Lawyers can see first-hand that the documents they write are less ambiguous and, more importantly, less contentious if plain language is used.

On a practical note, the handbook's form and design lend a great deal to its success as a handbook. The soft-cover volumes lay flat easily so reading them and writing in them is not awkward. The organization and design, including the use of lists, headings, charts, and so on, add to its readability. Each volume also includes a detailed table of contents and an index.

A Plain-Language Handbook for Legal Writers would be a welcome addition to any law library's arsenal of legal writing texts. The handbook successfully fulfills its goal: while there are other plain-language texts for a legal audience, there are few that present it in such a hands-on way. And though it is intended for lawyers, non-lawyers too would benefit from reading and using this handbook in order to be clearer and more effective writers.

REVIEWED BY
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***Red, White, and Kind of Blue? The Conservatives and the Americanization of Canadian Constitutional Culture.* By David Schneiderman. Toronto: University of Toronto Press, 2015. x, 314 p. Includes bibliographic references and index. ISBN 978-1-4426-2947-6 (cloth) $75.00. ISBN 978-1-4426-2948-6 (paper) $32.95.**

Red, White, and Kind of Blue? will serve many readers with different interests. In this book, author David Schneiderman considers how Stephen Harper's tenure in office as Prime Minister of Canada has influenced Canadian constitutional culture. Specifically, he is interested in the issues and complications around the adoption of, or the desire to adopt, aspects of American constitutional culture in Canada. This text is a very useful tool for gaining an understanding of the constitutional culture in Canada, along with a comparative look at that of the United States.

Schneiderman states in the introduction, and at other keys parts of the book, that he does not aim to demonize Harper or the Conservatives in his analysis; rather, he wants to conduct a serious examination of the impact of the Conservatives, and particularly Stephen Harper, on the Canadian constitutional culture. He points out that Canadian identity and culture is often considered a grey area, defined by what 'it is not' and highly influenced by American culture whilst keeping it at arm's length. Schneiderman's concern is that the Harper Government, in trying to address the issues of the day and find solutions to problematic areas of Canadian governance, chose to:

> mimic some of the most problematic aspects of U.S. governance, with its separate executive branch, divided and gridlocked congressional government, and dysfunctional judicial confirmation hearings. It would have been less objectionable if it had been suggested that Canadians take up elements of U.S. constitutional practice that are worthwhile replicating. (p 4)

All that said, while the title of the book names the Conservatives as the focus of their examination into how Canadian constitutional culture is affected, it is really Stephen Harper, as the agent of Americanization, who receives the bulk of Schneiderman's attention.

The organizational approach of this text is fairly straightforward. The first chapter provides an overview of Canadian and American constitutional differences and their development over time. The following four chapters examine specific events or processes under the Harper Government. Each of these chapters contains a brief overview, historical background from the American and Canadian experiences, and then an analysis of the specific issue. Schneiderman periodically brings in a thoughtful analysis of the media coverage of these issues, providing the viewpoint of the general public and the popular understanding of rights and constitutional processes. What information did the media provide to citizens ? What was the tone and accuracy of the coverage? Was there any attempt to educate or provide some background on the basics of constitutional law or parliamentary procedure?

Chapters 2 through 5 zero in on specific instances of the Americanization of the Canadian constitutional culture. Chapters 2 and 3 focus on prorogation, specifically, the prorogation of Parliament in 2008 which came about in reaction to a threat of coalition. A discussion follows of Harper and the Conservatives implying that Harper was directly elected by Canadians, (p 99) along with a discussion of "Harper's New Rules," (p 78, n 28), and the "presidentializing" of the Prime Minister (p 80). Also discussed is the 2009 prorogation, which came about in reaction to requests to disclose documents from the Canadian Armed Forces related to handing over detained persons for torture in Afghanistan.

Schneiderman also examines the role of the Governor General, and the separation of powers between the executive and legislative branches within Canada and the United States. He discusses the aborted Senate reform rollout by the Harper Government, and the adoption of judicial nomination hearings. These two chapters provide background on the mechanics of the processes as well as a consideration of efficacy and transparency. It should be noted that Schneiderman does not shy away from contradictions to his overall theory, and points out instances where the Harper Government has a "countervailing tendency […] of enhancing Canada's British connections," such as having the Queen's portrait hung "prominently in all Canadian embassies and consulates," the renaming of the Canadian Navy as the "Royal Canadian Navy," and the commemoration of the War of 1812 at its 200th anniversary (pp 22-23).

Schneiderman ends both his introduction and conclusion with a hope that his book will help to revive interest in Canadian constitutional culture and provide a launching point for further discussion on how we can learn not only from our history, but also by looking at foreign examples. The text is heavily researched with citations and references to historical and theoretical texts ranging from formative moments of legal theory in western Europe to current writers, making it ideal for future researchers or those with a general interest to do more reading.

This book would make a great addition to any academic library or the personal libraries of those interested in either constitutional law or the influence of Stephen Harper and the Conservatives on Canadian constitutional culture. It could also serve as a base for those considering how Canada might consider new models for its institutions and processes within our Constitutional culture, just as the author intends. This constitutional law newbie certainly appreciated the accessible, yet intelligent and thorough, nature of the historical development of the comparative approach to constitutional culture in Canada and the United States, in addition to the analysis around the Americanization theory.

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REVIEWED BY
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Regulating Food-Borne Illness: Investigation, Control and Enforcement. **By Richard Hyde. Oxford, UK: Hart Publishing Ltd. 2015. xx, 252 p. ISBN 978-1-84946-673-8 (hardcover) £60.00. ISBN 978-1-84946-961- 6 (Adobe pdf ebook) £59.99 ISBN 978-1-84946-962- 3 (ePub) £59.99.**

Regulating Food-Borne Illness analyzes the regulatory framework and investigation involved in responding to and controlling outbreaks of food-borne illness, including the prospect of prosecuting or bringing enforcement actions following such incidents. The author, Richard Hyde is an Assistant Professor at the University of Nottingham, School of Law in the UK. He notes that the work is unique in that it is based, in part, on empirical research including interviews with regulatory personnel and reviewing documents from actual incidences of food-borne illness.

The book is organized into eight parts, with three general chapters setting out the outline of the book, the various players in the regulatory network, and the content of the regulations and powers of regulators. The next three parts

delve into investigation, control, and enforcement in detail. The author closes the book with a summary of the themes elicited from the data and positing possibilities for the future about reacting to incidents of food-borne illness. Then there is a final short part outlining the conclusions.

Each topic is discussed with reference to the law, literature and/or the findings of the data review. The author conducts his discussion from both a legal and a practical standpoint. He stresses that the main goal of regulators will be to manage the incident from a public health and safety point of view. Enforcement will naturally take a secondary role. One of the conclusions drawn is that there can be a tension between the two goals, as evidence gathering may be done in a manner to expedite the goal of controlling the situation, but with the result of having inadmissible evidence for the enforcement goal.

The very object of the area being regulated is a fundamental necessity – food – and the regulatory arena involves a complex network of participants and critical public health goals. For example, food regulation involves a number of different participants, competing and overlapping jurisdictions, and national and local bodies. The food industry also has diverse players such as producers, manufacturers, and distributors. In addition, those who report concerns can include medical professionals, consumers, childcare workers etc.

While this work addresses several of these issues, most of the foundational source information and research is from the United Kingdom, which means that the practical use for a Canadian legal practitioner in this field may be limited. However, for an academic researcher – legal or otherwise – the work could be of interest on many levels. It provides a thorough overview of the UK system. The methodology of the analysis and the observations about the regulatory practices might also be of interest.

The book is of a length (236 pages of content) that makes it quite readable. The information is logically organized. Its detailed table of contents, bibliography and index all make the book a useful reference work as well.

The discussion is useful and considers reasonable and practical comments about the regulatory framework as well as about the actual conduct of investigations. The conclusions and observations are seemingly well-suited to an environment where events are often fast paced, have high stakes and with multiple goals to fulfill. They are grounded in the research, both empirical and academic, and Hyde is careful to point out where his concluding comments may apply to a wider regulatory setting and where they are confined to the regulation in the food industry. All in all, *Regulating Food-Borne Illness* is a thought-provoking book.

REVIEWED BY
JANE CAVANAGH

***Salhany's Police Manual of Arrest, Seizure & Interrogation 11th ed.* By Ian Scott and Joseph Martino. Toronto: Carswell, 2015. xxxvii, 349 p. Includes table of cases and authorities and index. ISBN: 978-0-7798-6718-9 (paperback) $75.00.**

It is interesting to contemplate that (former) Ontario Superior Court Judge Roger Salhany began this longstanding title in 1981 as a self-published effort. Fransal Publications was based in Kitchener and named after Frances, Judge Salhany's spouse. Over the last thirty-four years eleven editions have been released to provide solid guidance for police officers on the critical range of topics reflected in the title. Since 2011, Ian Scott and Joseph Martino have been honouring the tradition established by this publication. Both of these authors have considerable experience working with, and around, police officers, especially under the auspices of the Special Investigations Unit (SIU) in Ontario. This review will discuss specific highlights and modest shortcomings of the current edition.

Immediately, it would be worthwhile to include the important concept of 'search' in the title for this work. As a legal concept, the notion of search precedes both intellectually and procedurally that of seizure. A lawful seizure may not take place absent a lawful search. Of course, the publishers are perhaps loathe to modify the pre-existing title for the sake of clarity. In any event, this edition offers readers a range of significant appellate cases that have been released since the 10th edition. As well, the authors include updated amendments to the *Criminal Code* dealing with citizen powers of arrest resulting from Bill C-26 in 2013.

The substance of this new edition is valuable insofar as it serves to remind the reader of several key decisions (particularly out of the Supreme Court of Canada) that impact upon some aspect of Canadian policing. This includes *Hart,* [2014] 2 SCR 544 (SCC) which highlighted the problematic weaknesses inherent in a "Mr. Big" operation. Also discussed are cases that consider the common law authority of police to detain someone as an "extraordinary" power, the prohibition of police officers conferring with lawyers prior to preparing their notes in (SIU) investigations, and the prohibition on the use of general warrants where the police should be applying for wiretap authorizations.

This, albeit useful, manual could have included more academic writing for specific aspects under consideration. The vital importance of secondary literature should not be ignored in this type of resource. For example, the authors speak about issues relating to police interrogation and interviewing but offer little of substance when they mention key "studies" that present this, that or the other perspective. Why not simply offer a few key examples in a footnote for the reader to pursue? This is actually done in a couple of instances, for example on page 321, where the British Psychological Society Research Board's *Guidelines on Memory and the Law* (2008, revised 2010) are cited in the text. There is a growing academic literature dealing with police interrogation and interviewing that police (and other)

readers could benefit from understanding. The authors could easily enhance their content with scholarly materials that are routinely weighed by the courts when deliberating on legal arguments.

This work is certainly valuable for police officers seeking to update themselves on key court decisions that deal with matters that form part of their working lives. Clearly, arrest, seizure (including search), and interrogation (including interviewing) constitute foundational elements of police activity. I suspect that the twelfth edition will devote some attention to the details of *R v Ghomesi* and offer advice on how police might do better at preparing victims and witnesses for court testimony in sexual assault cases. This manual serves a salutary purpose by accepting the notion that police agencies, and their officers, may benefit from a perspective that pursues organizational learning and continuous improvement.

My overall assessment of this edition is positive, with the above noted suggestions for enhancements. The new editors have picked up where the Honourable Roger Salhany left off and police officers across Canada should welcome and reflect upon this ongoing publication that provides a consolidation and commentary on legal aspects of their service to the community.

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IIII Bibliographic Notes / Chronique bibliographique

By Susan Jones

Carey Lening, "Personalization, Privacy, and the Problem of 'Oversharing'" (January/February 2016) 40:1 Online Searcher 50-53.

If you've noticed how the advertisements on Facebook seem tailored to your interests or how search engines seem to know what you're searching for before you do, then you're aware of the issues that are so simply stated in the title of this article by Carey Lening. Lening is a competitive intelligence and legal research analyst for Knowligence, LLC in San Francisco, California and in the first part of the article, she discusses two important issues in today's online environment: *search personalization and data security.* In the second part, she outlines a few simple tips to avoid the oversharing that leads to the problems associated with search personalization, along with tips to ensure your data remains as secure as possible while working online.

To show how *search personalization* has grown, the author recalls the early days of the World Wide Web. To put this into context, this was when Yahoo! was the most popular search engine. At that time, there wasn't any such thing as search personalization – everyone saw the same ads and search results were based only on the search terms used and the search engine's ranking system. And although cookies were being used by advertisers and search engines, they collected little personal information about users. As the author so aptly illustrates, if Alice in Cleveland and Bob in Dallas both searched for the best restaurant in Alice's hometown, both would receive the same search results.

All of this changed in 2004, however, when Google introduced search personalization. Cookies were now much more sophisticated and the information they collected about users had a direct impact upon their search results. Today, search engines, social networks, and operating systems collect information about users' searches, location, online behaviour, and devices, all of which is used to build detailed, personalized user profiles. So, if Alice and Bob searched for the best restaurant in Cleveland today, their results might be very different. Depending on her search history, Alice's top search results might be her local favourites, while Bob, never having visited Cleveland, might see the restaurants ranked highest by visitors to that city.

Search personalization presents some advantages to users in their personal capacity, but is problematic for online searchers in their professional capacity. The profiles that search engines, social networks, and operating systems build and develop about users don't distinguish between their personal and professional roles and some interesting things can happen when those two roles overlap. To illustrate, the author notes that Google's search algorithm takes into account users' past searches to determine what websites appear on the first page of search results and what advertisements users see. As a result, users who frequently visit the website of a specific news organization in their personal capacity might see results from that site first when conducting research in their professional capacity.

Another drawback to search personalization, especially as algorithms become even better at matching search results with what they think users like, is the creation of filter bubbles. That's the term used by Eli Pariser in his book, *The Filter*

Bubble: How the New Personalized Web is Changing What We Read and How We Think (Penguin Books, 2012). The filtering of results that comes with search personalization – what Pariser refers to as the "invisible algorithmic editing of the web" – limits users' exposure to new ideas, new subjects, and new points of view, along with access to important information.

In addition to search personalization, *data security* is another concern arising from today's online environment. The author advises readers to be cautious about using shared data networks in cafés, libraries, and other places where unencrypted information is easily monitored. She also recommends practicing good security hygiene when using cloud-based services to store client files and confidential information. To that end, strong passwords are an absolute must when working online and two-factor authentication provides added protection from anyone seeking to steal sensitive information.

The author has a few simple, straightforward tips that anyone can follow to avoid oversharing and minimize the impact of search personalization. The first tip is to *browse privately.* Although they all have different names, most browsers – both standard and mobile – offer a private browsing option. Features may vary from browser to browser, but generally-speaking, most of them don't store users' search histories or the names and size of any downloaded files. In addition, the autofill option on search bars is disabled and most private browsers either block cookies or restrict their use to the current session. For more information on using the major browsers' private browsing options (i.e., Chrome, Microsoft Edge, Firefox, Internet Explorer, and Opera), the author recommends reading the Digital Citizen's Guide to private browsing <www.digitalcitizen.life/how-browse-web-incognito-all-big-browsers>.

The author's second tip to avoid oversharing is to *be unique.* By this, she means setting up separate browser profiles for personal and professional use. Most browsers offer the option of setting up additional user profiles and the author suggests this as an alternative when private browsing isn't a workable option. To learn more, the author recommends How-To Geek's guide on using multiple profiles <www.howtogeek.com/139705/how-to-use-multiple-browser-profiles-in-any-browser/>.

The third tip to minimize the effects of search personalization is to *delete your search history periodically*. Some browsers, like Google, Bing, and Yahoo, allow users to delete their search history or specific search results, and to set parameters on the type of search data that's collected while using the browser. Even so, it's important to be aware that some cookies are indestructible. In 2011, computer security researchers discovered so-called "supercookies" or "zombie cookies" embedded in certain software and scripts that could be "respawned" after they were deleted. When it was discovered in 2014 that some Internet providers were embedding these supercookies into every search, they claimed it was to ensure the best possible service to users, but as the author notes, they're more likely used to support advertisers. For additional tips on deleting your search history, see Molly Wood's *New York Times* article of April 3, 2014, "Sweeping Away a Search History" <www.nytimes.com/2014/04/03/technology/personaltech/sweeping-away-a-search-history.html>.

The author also offers a few tips for ensuring your confidential data remains as secure as possible in today's online environment. Her first tip on this front is to *use strong and unique passwords.* Not only should passwords be strong and unique, they should be changed regularly. Microsoft offers some useful guidelines for creating strong passwords, and although the article is geared to its Vista users, the principles are of general application <windows.microsoft.com/en-us/windows-vista/tips-for-creating-a-strong-password>.With so many passwords to remember, and the expectation that they'll all be unique, it can be difficult to keep track of them without writing them down. To help with this task, the author recommends using a password manager, such as Lastpass, KeePass, or 1Password. To learn more about which one may be right for you, have a look at Lifehacker's review of its top five password management tools <lifehacker.com/5529133/five-best-password-managers>.

The second tip for ensuring the security of personal and professional data is to use *two-factor authentication*. Two-factor authentication has become an option for many of the services we use on a regular basis, including Dropbox and Facebook. Also called 2FA, two-factor authentication means providing some factor in addition to a password to gain access to services. The second factor could be a one-time passcode, a text message sent to your mobile phone, or even some type of biometric identification, such as a retinal scan or fingerprint. For more information on two-factor authentication, the author's recommended reading is TeleSign's "Ultimate Guide to Two-Factor Authentication"<www.turnon2fa.com/>.

The author's third tip for keeping your data secure is using a virtual private network. We live in a mobile world, and armed with a mobile device and a WiFi connection, we can work almost anywhere, but using a public network puts your data at risk. To reduce that risk and protect your online privacy, the author recommends using a virtual private network, commonly referred to as a VPN. Very simply, a VPN provides users with a secure Internet connection, ensuring that all information sent and received by your device is encrypted and protected from eavesdroppers, hackers, and anyone else lurking out there. Of course, none of this comes free, but there are a number of affordable options. For more information, the author points to Torrent Freak's review of VPN service providers <torrentfreak.com/anonymous-vpn-service-provider-review-2015-150228/>.

The final tip, which the author says is for those truly committed to protecting their privacy, is to *use an onion router*. An onion router, like Tor (torproject.org), protects data in layers of encryption, much like the layers of an onion. As the encrypted data makes its way through a large network, from one relay to the next, a layer of encryption is peeled back, revealing

its next destination. Using this type of browser masks a user's location, blocks the use of cookies, and prevents the monitoring of online activities. To raise the level of security even more, the author recommends combining the use of an onion router with a search engine that doesn't save users' search results, like DuckDuckGo <duckduckgo.com/>.

Search personalization and data breaches are realities in today's online environment, but an awareness of the issues make us better informed, and by implementing some of the tips outlined in this article, we can better protect our privacy and personal information.

David Lee King, "Twelve Tips to Better Writing for the Mobile Web" (January/February 2016) 36:1 Computers in Libraries 12-16. Available online: <infotoday.com/cilmag/jan16/King--Twelve-Tips-to-Better-Writing-for-the-Mobile-Web.shtml> (accessed 15 April 2016).

In this article, David Lee King, Digital Services Director at Topeka and Shawnee County Public Library in Topeka, Kansas, presents 12 tips for writing for the mobile web. At one time, we only needed to concern ourselves with writing for the web generally, but things have changed. The reasons for this change are probably obvious, but the statistics bear mentioning. According to the Pew Research Center's 2015 Technology Device Ownership Report, 68 percent of American adults own a smartphone. That's a big jump from the 35 percent who owned one in 2011. And if you work with students and young lawyers, you probably won't be surprised to learn that 86 percent of adults aged 18 to 29 own smartphones, as do 83 percent of adults aged 30 to 49. Those figures represent a large number of users who could be visiting our websites using a mobile device. For that reason, the author believes it's important to write in a way that helps smartphone users find what they need quickly and easily. To help us meet the needs of this fast-growing group of users, the author offers 12 tips to better writing for the mobile web.

The author's fist tip is to *write for the small screen*. Keep the size of smartphones in mind when writing content for the mobile web and make sure your message is conveyed within the four corners of the small screen. Equally important is the size of the text on the small screen. A responsively-designed website ensures that text automatically changes to fit a variety of screens, but otherwise, check to make sure your words are easily read on a smartphone.

The author's second tip is to remember the importance of *touching the screen.* Smartphone users touch their screens to scroll up-and-down and side-to-side. They also touch the screen to activate links, copy and paste text, and start videos. Because touching the screen is so integral to the operation of smartphones, it's important to keep this in mind when writing for the mobile web. For example, the author advises against embedding a scrollable box in the middle of a web page for the simple reason that inadvertently touching and then scrolling through the embedded content – instead of the larger page – could be confusing to some users.

The third tip to better writing for the mobile web is to *engage readers quickly.* Smartphones can send an audible, pop-up notification for every new text message, email, tweet, Facebook post, Snapchat video, and news alert, so there's a lot to distract smartphone users from what they're doing. With so many other things vying for their attention, you need to make sure your mobile content loads quickly and engages readers.

The author's fourth tip is to *think short.* Smartphone users aren't looking for long descriptions of services and resources, so when writing for the mobile web, make your point and do it in as few words as possible. To that end, the author recommends focusing on one idea, topic, or goal per page, and then editing your writing to make every word count.

The fifth tip is to *create strong titles.* Strong titles, according to the author, are five to six words in length, fact-based, self-explanatory, and describe the main point of the accompanying article. To illustrate, the author points to bbc.com as an organization that exemplifies these principles. BBC headlines like "Four Countries That Don't Exist" and "Tiny Lizard Fights off Coyotes" are short, to-the-point, and make clear the topic of the article. To further emphasize the importance of strong titles, the author compares these headlines to those he found on the homepage of a large public library. "Explore a Universe of Fun", "Celebrate with Us", and "Explore and Learn" are short, but they don't convey anything about the accompanying article. To further encourage their use, the author notes that strong titles improve search engine optimization.

The sixth tip is to *focus on the benefits*. When writing about resources and services, focus on telling readers what's in it for them. In other words, explain why they should use or care about the resource or service you're describing.

The seventh tip is to *front-load the call to action.* This tip not only applies to writing for the mobile web, but also blog posts, press releases, and Facebook posts. A call to action simply tells the reader what to do next. For example, the call to action in a blog post about an upcoming author reading is inviting readers to attend the event. To further emphasize the call to action, the author recommends front-loading the content. Using this approach, you set out the most important information – in other words, the objective of the article, blog post, or press release – right up front and follow it with further information and details, if necessary. Turning back to the example, the article about the author reading would begin with the author's name, some identifying details, and the fact of his or her visit, followed by the date and time of the reading and the invitation to attend the event. Then, if necessary, follow the call to action with additional information about the author and the event itself.

The eighth tip is to *make content scannable.* In today's online environment, articles aren't read so much as they're

scanned, usually with a specific purpose in mind, like finding a link, an instruction, or some piece of information that will help the reader along to the next step. Typically, when working on a laptop or desktop computer, readers scan the page in an F-shape, starting in the top left corner, then across and down. On a smartphone, however, readers scroll down the page, which they can do very quickly with a touch of their finger. To enhance the scannability of content, the author recommends converting sentences to bullet points whenever possible. Adding headings and subheadings also increases scannability by breaking up the text into chunks that can be scanned quickly and easily.

The ninth tip is to *be conversational.* In today's online environment, readers are drawn to content written in an informal, casual tone. To achieve that conversational tone, the author suggests using familiar terms, like "we" and "you". Also, you can realize a more conversational tone by writing the way you would speak to a friend or colleague. If you're having difficulty adopting a conversational tone in your writing, try reading your content out loud and asking yourself if it sounds like something you would say to a friend or colleague. If it doesn't, then rewrite it until you achieve the right tone.

The tenth tip to better writing for the mobile web is to *actively engage customers.* Writing content for the mobile web is one thing, but if you want readers to respond, then you have to take steps to actively engage them. Get the conversation started by asking a question ("What are you reading?") or asking for an opinion ("What do you think about service X or resource Y?").

The eleventh tip is to *use images.* Statistics show that readers respond favourably to online content and social media posts that combine text with images. Images catch readers' attention, make the content more interesting, and appeal to those who are visual learners. Just make sure the images you use are relevant and support the message you're trying to convey.

The twelfth and final tip is to *ignore your English teacher*. We've all had certain rules about writing drilled into us during our school years, but when it comes to writing for the mobile web, ditch those rules . . . at least some of them, anyway. You can't ignore spelling, of course, and you still need to ensure your writing conveys the message clearly and easily. So what rules can you break? The rule against using incomplete sentences or sentence fragments, for one. It's okay to use sentence fragments, albeit sparingly, when writing for the mobile web. A sentence fragment can express a feeling very effectively and, when used judiciously, can have a powerful impact (e.g., Just saying!). You can also ignore the rule about spelling the numbers one through nine. Using numerals (e.g., 5 vs. five) improves the scannability of the content. Finally, it's okay to use one- or two-sentence paragraphs when writing for the mobile web. The standard, minimum three-sentence paragraph can look interminably long on the screen of a smartphone. Short chunks of text, along with the addition of white space, improves the readability and scannability of content.

To see these writing tips in practice, check out the Topeka and Shawnee County Public Library's website (tscpl.org), as well as the author's blog (davidleeking.com).

Theresa K. Tarves, "Why Can't I Just Use Westlaw or Lexis? Promoting Lesser Known Legal Research Platforms to Law Students" (Winter 2016) 35:3 ALL-SIS Newsletter 3, 5. Available online: <http://www.aallnet.org/sections/all/resources/newsletter/35-3.pdf> (accessed 15 April 2016).

"Why can't I just use Westlaw or Lexis?" You've probably heard this before if you work with law students or recent law school graduates. A lot of emphasis is placed on learning the ins-and-outs of Westlaw and Lexis during the first year of law school, so it's no wonder that students turn to one or both of them for practically all their research needs. Such heavy reliance on these two research platforms means that students often don't realize there are other resources available, some of which may be more useful and effective for particular types of research. It's in their best interests, though, to familiarize themselves with the resources and tools outside of Westlaw and Lexis. For one thing, some students will find themselves working for firms or organizations that don't subscribe to either major platform. Secondly, even if they do have access to Westlaw or Lexis, there's a cost associated to using these tools – unlike at law school – and the firm or organization may require them to turn to alternative resources first. So how do you introduce students to other resources in order to break them of their Westlaw-or-nothing-else approach to research and prepare them for the realities of legal practice? Luckily, Theresa K. Tarves, Emerging Technology and Digital Research Librarian at Penn State Law in State College, Pennsylvania, tells us how in this article.

To expose students to other resources, the author recommends *starting them early*. At the author's own institution, first-year law students are exposed to other resources during the course of their legal research class, but there's a lot of material to cover in the course, so it's not possible to introduce all of the available alternative legal research tools. For that reason, just a few resources are selected to bring to students' attention. During the author's part of the course, she highlights Bloomberg Law, Fastcase, HeinOnline, and selected reputable free resources, like government websites. Her demonstrations of the resources and discussions of their associated costs are accompanied by in-class assignments for the students. Despite her efforts, the author isn't surprised to find that students continue to rely heavily on Westlaw and Lexis, but many students do seem to understand the importance of being aware of alternative resources, particularly in their post-law school careers.

Once you start them early, make sure to *continue the exposure.* Advanced legal research courses present great opportunities to continue students' exposure to other resources in their second and third years of law school, but

not all students enrol in these classes. In order to continue the exposure to as many upper-year students as possible, the author suggests featuring a database of the month. Make sure to explain why the database is useful to students and publicize the featured database on the library's website, social media accounts, or any other channel of communication that reaches students. You may even want to consider a monthly workshop demonstrating how to use the featured database. The author also suggests a contest requiring students to complete an assignment using the featured database with prizes awarded to the winning student from each year.

Another way to continue students' exposure to other legal research resources is to appeal to their interest in the practice of law. Students are interested in learning what's going to help them garner that job at a great law firm or to make an impression once they get there. To that end, the author suggests marketing alternative legal resources as tools for legal practice. At her own institution, a certificate program in practice-oriented research is offered to upper-year students. The program concentrates on the sort of research required in practice and the resources available to carry out that work.

Finally, to continue the exposure to alternative resources, the author suggests connecting with faculty. While this may not be as effective as the efforts to reach students directly, it can prove to be very useful. By making faculty aware of the other resources available at the library, they can pass on that information to those students who ask them research-related questions. In the author's own experience, many students have made inquiries at the library about resources recommended to them by faculty.

Using Westlaw and Lexis effectively is an important skill for students to learn during the course of their law school careers, but so is learning about, and understanding how to use, other legal research platforms. By exposing students to tools beyond Westlaw and Lexis, librarians can help develop students into well-rounded legal researchers and produce

IIII News from Further Afield / Nouvelles de l'étranger

Notes from the UK

London Calling!

By Jackie Fishleigh*

15th June – just over a week to go before polling day on 23rd June.

On the brink…

I wasn't planning to cover the UK's possible BREXIT again this time but I feel I have to.

The polls are now showing a 6% lead for the Vote Leave campaign and people at No. 10 are having a panic as to what, if anything, they can now do to convince a reluctant electorate that staying in the European Union makes sense. "Project Fear" – the constant spewing out of statistics and expert opinions that highlight the many dangers of life outside the EU – appears to have largely failed. It did seem even to me that some of these messages were concocted in a rather desperate manner.

Millions of Britons feel that they just cannot or don't want to cope with the number of immigrants who have arrived at our shores and have ended up putting pressure on our schools, hospitals and housing. Some immigrants are accused of taking employment from the existing population, others are resented for not working and instead receiving hand outs from social services without making a contribution.

As a keen supporter of the Remain campaign (although not active within it), I am shocked at how close we are coming to abandoning our 40 years+ relationship with the European Union. Like many others, I am still in shock that we are even having a referendum on the subject.

I wonder what kind of a message leaving the European Union will send to the outside world? Do we really want to isolate ourselves and say goodbye to an organisation that has maintained peace on this previously divided and frequently war-torn continent? To the biggest trading market in the world? To our 27 neighbours who are generally helpful and friendly to us?

I can only hope there is time for a minor miracle…

That in the same way that the Scots ultimately kept our Kingdom United by anonymous individuals just quietly voting No to independence, the same may happen with our relationship with the EU. That enough voters will accept that the EU is far from perfect, that immigration is an issue but which cannot be directly laid at the door of Brussels, and that ultimately being part of Europe's biggest organisation is worth continuing with and participating in to our mutual benefit.

Does this sound like a prayer? It kind of is! I am keeping my fingers firmly crossed.

Meanwhile. the Queen has just celebrated her 90th birthday (how long will she go on? She puts us all to shame in terms of dedication and indefatigability), and England is threatened with expulsion from the Euro football tournament (a huge deal over here) due to violence caused by fans running amok in France, albeit under huge provocation by Russian fans who appear to be thugs/professional criminals.

It's a stressful time to be English and not one I ever expected to experience.

Until next time! Take Care.

JACKIE

Letter from Australia

By Margaret Hutchison**

Hello from a cool Canberra,

Well, as predicted, the Governor-General agreed to the Prime Minister's request for a double dissolution election of both Houses of Parliament and we go to the polls on 2 July, either in the middle of or at the start of winter school holidays, depending on which state you live in.

The grounds for the double dissolution, the rejection by the Senate of the legislation re-establishing the Australian Building and Construction Commission (ABCC) has hardly been heard of during the very dull & boring campaign. This is one of the longest election campaigns on record, seven weeks, and in winter as well which doesn't go down well with voters. As one columnist put it, it's a yawn and there's Tweedledum and Tweedledee campaigning for your vote.

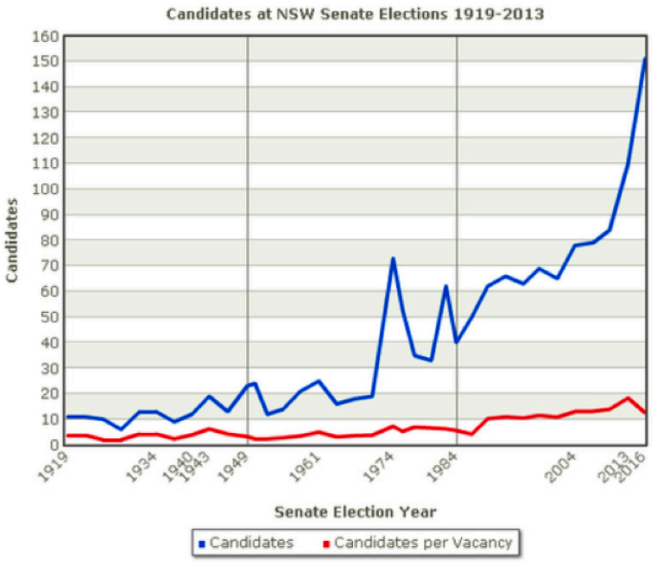
The ABCC was an independent, statutory authority, responsible for monitoring and promoting workplace relations in the Australian building and construction industry. It was established under a previous Liberal government, then removed by a more union-friendly Labor government and then the present Liberal government under, goodness knows which Prime Minister, (there's been one a year for the past few years) tried to reintroduce it to try to stamp out the corruption in the construction industry as revealed by the Royal Commission into the Construction Industry, chaired by former High Court justice, Dyson Heydon.

Another note is that one of the unspoken reasons that the Prime Minster went for a double dissolution election was to try to get rid of the independent senators who were controlling the Senate and with whom the government had to negotiate in order to get bills passed. Unfortunately for the Prime Minister, the quota for a senator to be elected drops from 14.3% to 7.7% of the total vote as a double dissolution election returns 12 Senators per state rather than the usual six per state at a half-Senate election, so several of the more colourful and controversial senators are likely to be re-elected and some interesting candidates may enter the Senate for terms of either 3 or 6 years, depending on how many votes they received. The first 6 candidates elected, will have a 6 year term while the remaining 6 will have a 3 year term as each state returns 12 senators. The two senators from the territories (Australian Capital Territory and the Northern Territory) have terms tied to the House of Representatives terms.

In previous elections the Senate ballot paper in the more populous states has been table-cloth size and needed a magnifying glass to read the names. Again it looks like a table cloth in New South Wales with 151 Senate candidates arranged in 42 columns (one for each party and ungrouped independents) vying for 12 seats and much the same for most of the other states.

The ABC (Australian Broadcasting Corporation) has a blog[1] by an election nerd, Antony Green, who has a day job as an academic at the University of Sydney but is retrieved from the deep freeze for commentary on any election, federal or state. He has a fascinating graph of the incredible increase in candidates for the Senate in New South Wales. All of them have to pay a A$2000 deposit to stand, which they lose if they or the group in which they are standing don't receive more than 4% of the total first preference votes.

Also, please pity us poor voters in the Australian Capital



Territory, not only do we have a federal election campaign to tolerate, we also have our local government elections coming up in October. Last Saturday, I went to my local shopping centre and there were supporters for the federal candidates AND also local government candidates handing out fliers. I thought that was a bit too much politics, even for a city that runs on politics. Still it could be worse, one year there was a federal election on one Saturday and then the territory election a week later. The ACT election was a bit

swamped under all the federal campaigning that year. As the ACT has safe federal Labor seats due to the number of public servants in the electorates, we don't receive the same attention (or porkbarreling promises) as the marginal seats interstate.

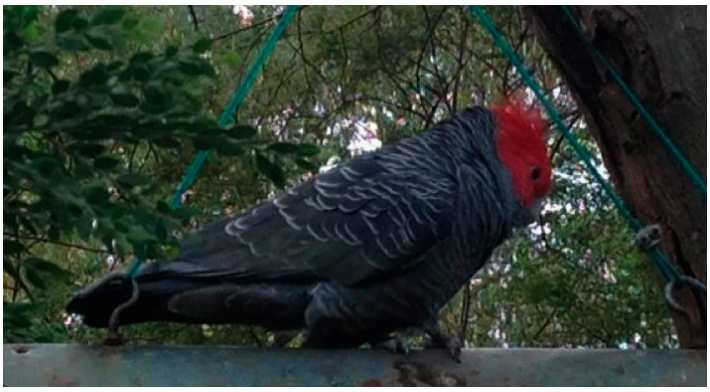
I can either queue up at my local school through the smoke of the sausages and onions cooking for the sausage sizzle fundraising for the school's parents association, or else I can go and vote in Old Parliament House, where the as the website says, "In the very place where decisions that shaped our nation were made." –That's democratic!

I voted at Old Parliament House last election in 2013[2] and the staff were told to expect 600 people in total but by the time polls closed at 6pm, more than 6000 people had queued patiently to vote. There was a sausage sizzle there as well, you can't have an election in Australia without a sausage sizzle, it's traditional!

As you can tell there's not much happening elsewhere except the Victorian legal profession got their wigs in a flap, literally. At the beginning of May, the Victorian Chief Justice made a statutory determination that judges in all divisions will no longer wear wigs in court. Following that, the judges of the Common Law Division resolved that counsel would no longer wear wigs in any matters in that Division. This led to a severe case of one judge feeling disrespected when 5 barristers appeared before him wearing wigs and one junior barrister didn't, and he did not recognise them on their appearance.

The transcript of the proceeding is circulating amongst the Victorian Bar along with a copy of the County Court's 2 page listing of judge by judge wig preference for both civil and criminal matters. Barristers will have to keep a reduced size copy amongst their papers when racing from appearance in one court to another to be prepared.

To segue off, here are some pictures of the ACT faunal emblem, the Gang-gang cockatoos, the males have a red head or wig, while the females don't. They also have a call like a creaky door but a quiet growl while eating. I have to stand outside while they are eating to prevent the sulphur crested cockatoos and rainbow lorikeets from harassing them. It's not much fun at -3 degrees.



Until next time, when we all might know whether we have vote in a freezing July or a slightly more temperate month.

MARGARET

The US Legal Landscape: News from Across the Border

By Julienne Grant***

I'm writing this column after having spent three weeks abroad – mostly in Scandinavia. Throughout the trip, I was barraged with questions about the forthcoming US presidential election. It really gave me pause to realize how important this election is – not just domestically, but globally. There is so much riding on America's choice, from our stance towards immigration (will a border wall really be built?) to who will be the next SCOTUS (Supreme Court of the US) Justice.

This column includes an update on SCOTUS, as well as what's trending in US law firms and law schools. I also report on several "hot-button" law-related issues here in the US, ranging from transgender washrooms to Airbnb. Finally, there's a section on one US lawyer's unusual extracurricular activity – opening the Museum of Broken Relationships (I kid you not). I thought I'd heard everything when Ralph Nader opened the American Museum of Tort Law last year, but this new museum in Los Angeles is even more (shall we say) extraordinary.

Law Firm News: Associates' Pay and the $2,000 US Per Hour Uber Lawyers

Results of several recent surveys on US law firm activity are worth mentioning. Altman Weil's "2016 Law Firms in Transition" survey was conducted in March and April 2016 and polled managing partners and chairs at 800 US law firms with 50 or more attorneys.[3] Completed questionnaires were received from 356 firms (45 percent return rate). Among the survey's findings was that about 62 percent of non-equity partners and more than half of equity partners at reporting firms were not sufficiently busy, while only about 21 percent of associates were underworked. Over 96 percent of firms indicated that they generally have underperforming

[2] Jenna Clark, "Old Parliament Overun by Voters. Canberra Times September 7, 2013 " online: <http://www.canberratimes.com.au/act-news/old-parliament-overrun-with-voters-20130907-2tbue.htm>
[3] Eric A. Seeger and Thomas S. Clay, 2016 Law Firms in Transition: An Altman Weil Flash Survey (Altman Weil, Inc., 2016),<http://www.altmanweil.com/dir_docs/resource/95e9df8e-9551-49da-9e25-2cd868319447_document.pdf>

lawyers. The survey also revealed that 54 percent of firms dropped lawyers because they didn't have enough work, but 90 percent said they hired new graduates. Authors of the survey concluded in their "key findings" that market demand for legal services has not rebounded from pre-recession levels and overcapacity is dragging down firm profitability.

A June 17 article in *Law360* reported on the results of the staffing firm Robert Half Legal's recent poll of 200 US attorneys with hiring power, representing the country's largest law firms and corporations.[4] According to the study, 31 percent of law firms planned to add positions in the July-December period in 2016 – the highest percentage since 2013. Two-thirds of respondents indicated that it was difficult to locate staff with needed skill sets, and 41 percent said they expected litigation to provide more employment opportunities than other practice areas. Among those who indicated litigation was the hottest area, the top sub-specialties mentioned were commercial litigation and insurance defense.

These figures were released at about the same time a number of large US law firms announced plans to raise pay for incoming first-year associates. According to the *ABA Journal*, New York firm Cravath, Swaine & Moore announced on June 6 that it was increasing its starting salary for associates to $180,000 US[5] A number of large US firms quickly followed suit, including Cooley, Simpson Thacher, and Cleary Gottlieb. The same *Journal* article specified that compensation for senior associates at Cravath was also being raised – $190,000 US for the class of 2014, up to $315,000 US for the class of 2008.

Another *Law360* article on June 17 reported that associate salary increases have not been limited to those lawyers based in NYC; large firm lawyers in more remote places like Anchorage and Cheyenne are also getting raises.[6] The article indicated that this may result in an attorney exodus from NYC as the larger paychecks go further in cities with lower costs of living. Associates' pay hikes have not been lauded across the board, particularly by big firm clients. According to a June 16 *ABA Journal* piece, Bank of America's global general counsel (David Leitch) has informed a group of law firms that he has no intention of absorbing the cost, stating that he was not aware of any "market-driven basis for such an increase."[7] For a complete lambasting of these pay hikes, see Mark Cohen's June 20 posting on the Legal Mosaic website entitled "'Taking My Talents to South Beach': Law Firm Version."

Above and beyond the high salaries of big firm associates are the US attorneys who garner $2,000 US per hour – members of the "new elite club of lawyers commanding 25 percent more than the top hourly rate reported just a year ago," according to *Law360*.[8] These high hourly rates stand in contrast to the overall diminishing hourly work rate growth, indicating that clients are willing to pay top prices for the right lawyer. Although there is no definitive list of these *uber* attorneys, *Law360* compiled a hypothetical list that includes: David Boies (Boies, Schiller & Flexner), who argued for Gore in *Bush v. Gore;* Ted Olson (Gibson Dunn), a former US Solicitor General; and Paul Clement (Bankcroft PLLC), another former US Solicitor General.

Also worth mentioning is a BTI Consulting Group list of the 25 law firms general counsels recommend. The report, as described by *Law360*, was compiled utilizing the content of over 300 telephone interviews conducted between March 9 and September 10, 2015.[9] Firms that have made the list for more than five successive years include Mayer Brown, Baker & McKenzie, McGuireWoods, Bryan Cave, Foley & Lardner, and Sidley Austin. The number one factor that drove recommendations was reportedly client service. *Law360* also compiled a list of the top 20 global firms of 2016; that is, those that had the biggest global presence and handled the largest and most ground-breaking international cases during the past year.[10] Allen & Overy (UK) garnered the number one spot for the second year in a row, followed by DLA Piper (US), White & Case (US), Freshfields Bruckhaus Deringer (UK), and Norton Rose Fulbright (UK). The average size of the firms on the list was 2,327 attorneys working out of an average of 42 offices.

What all of the above means is hard to say. My own interpretation is as follows: It's sweet to get a job as an associate at a big US law firm – you likely won't be bored, and you will earn big bucks (at least enough to pay your rent and make a dent in your law school student loans). The problem is that there aren't enough of these jobs to go around. It's also sweet to be a member of law's practicing elite that command $2,000 US an hour; but again, there positions are few and far between.

Law School News: It's Good to be in the Top Tier

Mid-tier and low-tier US law schools (and their graduates) continue to be hurt by the saturated job market for attorneys. An article in the June 17 issue of the *New York Times,* "An Expensive Law Degree, and No Place to Use It" focused on the beleaguered Valparaiso University Law School (unranked in the 2017 US News survey).[11] Valparaiso, which is located in northwestern Indiana, offered buyouts to its tenured faculty in February, and 14 of 36 full-time professors have already taken the bait or retired. The School also plans to reduce its student body by about a third in the next few

[4] Jack Newsham, "Survey Finds 3-Year High in Law Firms Looking to Hire," Law360, June 17, 2016, <http://www.law360.com/articles/808349/survey-finds-3-year-high-in-law-firms-looking-to-hire>. See the full Robert Half Legal study at <https://www.roberthalf.com/sites/default/files/Media_Root/images/rhl-pdfs/robert_half_legal_2016_salary_guide.pdf>.
[5] Martha Neil, "First Year Associate Pay will be $180K at Multiple BigLaw Firms Following Cravath's Lead," ABA J., June 8, 2016, <http://www.abajournal.com/news/article/cravath_raises_first_year_associate_pay_to_180k_effective_july_1>.
[6] Aebra Coe, "Associate Pay Hikes Could Spur NYC Exodus," Law360, June 17, 2016, <https://www.law360.com/articles/808166>.
[7] Debra Cassens Weiss, "Why Raise Associate Pay to $180,000? Bank of America's Top Lawyer Questions the Need," ABA J., June 16, 2016, <http://www.abajournal.com/news/article/why_raise_associate_pay_to_180000_bank_of_americas_top_lawyer_questions_the/>.
[8] Natalie Rodriguez, "Meet the $2,000 an Hour Attorney: What it Takes to Earn Top Dollar in the Rate-Crunch Era," Law360, June 11, 2016,< http://www.law360.com/articles/804421/meet-the-2-000-an-hour-attorney>.
[9] Aebra Coe, "The 25 Law Firms GCs Recommend to their Friends," Law360, June 8, 2016, <http://www.law360.com/articles/671874/the-25-law-firms-gcs-recommend-to-their-friends>.
[10] Jacqueline Bell, "Law360 Reveals the Global 20 Firms of 2016," Law360, June 20, 2016, <https://www.law360.com/articles/807403/law360-reveals-the-global-20-firms-of-2016>.
[11] Noam Scheiber, "An Expensive Law Degree, and No Place to Use it," N.Y.Times, June 17, 2016, <http://www.nytimes.com/2016/06/19/business/dealbook/an-expensive-law-degree-and-no-place-to-use-it.html?_r=0>.

years – down from 450. Applications for admission have dropped over 50 percent since 2007, although the cost of attending still remains high and recent graduates profiled in the piece have large amounts of debt with low prospects for attorney positions. As of April, fewer than 70 percent of Valparaiso's Spring 2015 graduating class was employed, and fewer than half were working in jobs that required a law license; just three out of 131 graduates are in large firms. The author's article gloomily concluded, "Given the tectonic shifts in the legal landscape, the relevant issue may not be how much law schools like Valparaiso should shrink. Today the more important question is whether they should exist at all."[12]

Law school graduates with high debt and no job (or a low-paying one) who want to sue for possible misrepresentation of employment statistics were dealt a blow in March. As mentioned in my previous column, a former student of the Thomas Jefferson School of Law in San Diego went to trial, accusing the School of inflating its graduates' employment figures and salaries. The plaintiff alleged that she relied on those statistics in deciding whether to attend the School. She sought over $100,000 US in damages. On March 24, after less than a day of deliberations, a San Diego Superior Court jury rejected the plaintiff's fraud claims (9 to 3).[13]

In an effort to keep US law schools honest about their employment statistics, the ABA's Section of Legal Education and Admissions to the Bar is conducting random audits of US law schools' job data for the class of 2015. According to an *ABA Journal* article, auditors are scrutinizing data from 10 law schools and from 382 students from 156 law schools to ensure that schools followed proper protocol in collecting and verifying employment statistics that were released in May.[14] Any serious errors that are discovered may result in private or public reprimands, fines, and/or probation. An outside consulting firm is conducting the audits, and funding is being drawn from a $250,000 US fine imposed on the University of Illinois College of Law in 2012 for misreporting admissions data. The audit results will not be released unless a school is publicly sanctioned.

Upper-tier US law schools, however, don't seem to be suffering. The average number of applications for all US law schools (195 total) last year was 1,650, but Georgetown had 7,748, Columbia had 5,716, and Harvard had 5,206.[15]Yale (the US' top-rated law school in the *US News* list) had the highest percentage of students offered admission who ultimately enrolled last fall (74.3 percent).[16] At Harvard, 60.4 percent of accepted students enrolled. At the bottom were Vanderbilt at 11 percent and Charleston School of Law at 10 percent.

What all of the above means is hard to say. My own interpretation is as follows: It's sweet to be accepted and attend a high-tier US law school. The investment will likely be worth it.

SCOTUS News: Eight is Not Enough

SCOTUS continues to operate with eight justices after the death of Justice Antonin Scalia. In my last column, I mentioned four high-profile cases that might be affected by Scalia's absence, and three of those decisions have been announced as of this writing. In *Friedrichs v. California Teachers Association*, the Court considered whether unions that represent government employees can collect fees from workers who decide not to join. When the case was heard with Scalia on the Court back in February, his vote was expected to be against the unions. With a 4-4 tie, however, the Court let the Ninth Circuit opinion stand, which essentially gave the unions a win.

In *US v. Texas*, an important immigration reform case, the Court was again deadlocked at 4-4. As a result, the Court let the Fifth Circuit ruling stand that precludes the Obama administration from conferring temporary work permits to millions of illegal immigrants and delaying their deportation. The Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) and Deferred Action for Childhood Arrivals (DACA) programs were at the heart of the controversy. According to Dean Erwin Chemerinsky of the University of California, Irvine School of Law, *Zubik v. Burwell* (a challenge to Obamacare's contraceptive coverage) also highlights how Scalia's absence has affected SCOTUS. In *Zubik*, the Court essentially decided nothing, remanded the case back to the appeals court, and "the parties and the law are left in a state of uncertainty."[17]

The Senate's Republican leadership continues to claim that the choice to fill Scalia's seat must be left to the next US president, and they refuse to give President Obama's nominee a hearing. Fifteen former ABA presidents have addressed a letter to Senate leaders demanding a hearing and vote on Judge Merrick Garland. The letter says that there is no election year exception, and it states that the Republicans' refusal "materially hampers the effective operation" of the US judiciary.[18] Current ABA President Paulette Brown has also released a statement urging Congress to act swiftly on the Garland nomination. The ABA Standing Committee on the Federal Judiciary has given Garland a "well-qualified" rating, based on interviews within the US legal community.[19] An opinion piece that appeared in the March 7 issue of the

[12] *Id.*
[13] See "Jury Rejects Fraud Claim Against Law School," S.D. Union-Trib. March 24, 2016, <http://www.sandiegouniontribune.com/news/2016/mar/24/thomas-jefferson-law-school-verdict/>.
[14] Debra Cassens Weiss, "Law School Job Statistics Get Extra Scrutiny in Random ABA Audits," ABA J., June 14, 2016, <http://www.abajournal.com/news/article/law_school_jobs_data_gets_extra_scrutiny_in_random_aba_audits>.
[15] Debra Cassens Weiss, "This Law School had more than 7,700 Applications; Which Schools are in the Top 10?" ABA J., April 4, 2016, <http://www.abajournal.com/news/article/this_law_school_had_more_than_7700_applications_which_schools_are_in_the_to>.
[16] Jordan Friedman, "10 Law Schools Where the Most Accepted Students Enroll," US News & World Rep., May 31, 2016, <http://www.usnews.com/education/best-graduate-schools/the-short-list-grad-school/articles/2016-05-31/10-law-schools-where-the-most-accepted-students-enroll>.
[17] Erwin Chemerinsky, "Chemerinsky: These Two Decisions Highlight How Scalia's Absence Has Affected the Court," ABA J., June 2, 2016, <http://www.abajournal.com/news/article/chemerinsky_these_two_decisions_highlight_how_scalias_absence_has_affected>.
[18] Debra Cassens Weiss, "15 Former ABA Presidents Call for Hearings on Garland," ABA J., April 11, 2016, <http://www.abajournal.com/news/article/fifteen_former_aba_presidents_call_for_hearings_on_garland>.
[19] Debra Cassens Weiss, "Merrick Garland Gets ABA's 'Well-Qualified' Rating; Its President Calls for Senate Action," ABA J., June 21, 2016, <http://www.abajournal.com/news/article/merrick_garland_gets_a_well_qualified_rating_from_aba>.

National Law Journal conjectures on what would happen to the Court, depending on whether the new US president is a Democrat or Republican.[20] Among the possibilities of a Democrat majority Court, Leon Friedman opines, would be the elimination of the death penalty and the overruling of cases like *Citizens United*, which allows unlimited campaign expenditures by corporations. A Republican court, on the other hand, might endanger same-sex marriage rights and could translate many of Scalia's dissents into law.

On May 18, Republican presidential candidate Donald Trump released a list of his potential SCOTUS nominees. According to the *New York Times*, the Trump campaign did not reveal how it compiled the list, which included six federal appeals court judges that President George W. Bush appointed, and five state supreme court justices who were appointed by Republican governors.[21] The majority of the picks were men and all were white. Notably absent was Trump's sister, Maryanne Trump Barry, who is a senior judge in the US Court of Appeals for the Third Circuit. (Interestingly, she was nominated for this post in 1999 by then President Bill Clinton.)

Apple v. DOJ Update

As reported in my last column, the U.S. Department of Justice (DOJ) and Apple Inc. were at odds over a locked iPhone. Since that time, the FBI was able to open the phone without Apple's assistance. However, the issue of encrypted cell phones and whether the US government may compel a company like Apple to unlock them rages on. Companies like Apple continue to indicate they are determined to protect their customers' privacy against US government intrusion. In a New York drug case, the DOJ has appealed a court ruling that said Apple does not have to assist with the extraction of data from an iPhone. State and federal authorities in a number of jurisdictions have also indicated that they want access to encrypted smartphones confiscated in criminal cases. In more than 12 pending cases, the US government has again cited the *All Writs Act* of 1789, a broad statute that was adopted during the first US Congress. According to Professor Fred Cate of Indiana University's Center for Applied Cybersecurity Research, the issue will not be settled until SCOTUS rules on it.[22]

Transgender Restroom Access

Another hot-button issue here in the US is whether transgender individuals should be required to only access public bathrooms that match their gender assigned at birth. The question is creating contentious debates at local, state, and federal levels, with cases already making their way through various court systems. In May, President Obama sent a non-legally binding letter to all US public schools, directing them to allow students to use the facilities that correspond to their chosen gender identity. The letter threatened loss of funding to schools that didn't comply.[23] In North Carolina, the state legislature has passed a law requiring people to use public bathrooms matching the gender on their birth certificate. In Kansas, the Kansas State Board of Education voted not to adhere to the President's directive, while the New York City Council approved a bill on June 21 that requires single-stall public bathrooms to be gender neutral. This is another issue that may not be resolved until SCOTUS addresses it (hopefully with nine judges on the bench).

Court Cameras

A pilot project on cameras in the courtroom that ran in 14 federal district courts between July 2011 and July 2015 has been given a thumbs down. In a report released in March, a panel of the Judicial Conference of the US concluded that cameras in the pilot courtrooms usually made witnesses more distracted or nervous.[24] Specifically, the report found that 59 percent of judges who participated in the program indicated that cameras distracted witnesses, while 64 percent said that the cameras made witnesses more nervous than they would have been without the cameras rolling. The report also found that judges and parties generally had a low level of interest in televising proceedings. The panel concluded that expanding the program to all 94 US federal district courts was not justified. Advocate groups for cameras in the courtroom, such as Fix the Court, expressed disappointment with the decision and characterized the Judicial Conference as being an obstacle to greater transparency in the federal judiciary.[25]

The Airbnb Debate

The international online rental service Airbnb has been around awhile, but I had my first experience with it in May. A friend and I rented an apartment in Copenhagen for a week while we were attending a conference. The apartment was fantastic (despite the difficulties we had deciphering the washing machine instructions that were written in Danish), and we saved a ton of money by renting rather than staying in a hotel. I would definitely use the service again.

At least here in the US, however, the company is facing a variety of legal challenges. In Chicago, for example, Mayor Rahm Emanuel is working to regulate the service and glean some money from it. Airbnb has been at odds with the Mayor over his plans and at one point threated to sue. Negotiations are ongoing as of this writing with the *Chicago Tribune* reporting that the most recent version of the plan includes a $60 US per-unit fee that would cover the cost of

[20] Leon Friedman, "How the Election Will Shape the High Court; Look Past the Debate Over when to Nominate a Justice, and You'll See a Very Different Future," 38 Nat'l L. J., March 7, 2016, <http://www.nationallawjournal.com/id=1202751496630/How-the-Election-Will-Shape-the-High-Court?slreturn=20160521104736>.
[21] Alan Rappeport and Charlie Savage, "Donald Trump Releases List of Possible Supreme Court Picks," N.Y. Times, May 18, 2016, <http://www.nytimes.com/2016/05/19/us/politics/donald-trump-supreme-court-nominees.html>.
[22] Brandon Bailey, "Resolution in FBI-Apple Case Prolongs Larger Legal Battle," Chi. Daily L. Bull., March 30, 2016, at 6.
[23] See Julie Hirschfield Davis and Matt Apuzzo, "US Directs Public Schools to Allow Transgender Access to Restrooms," N.Y. Times, May 12, 2016, <http://www.nytimes.com/2016/05/13/us/politics/obama-administration-to-issue-decree-on-transgender-access-to-school-restrooms.html>.
[24] Sam Hananel, "Federal Judges Give Negative Reviews to Court Cameras," Chi. Daily L. Bull., March 18, 2016, at 1.
[25] <http://fixthecourt.com/2016/03/judicial-conference-says-no-to-expanding-cameras-pilot-program/>.

licensed inspectors.[26] The Mayor also wants the company to set up a 24-hour hotline for people to call to report any problems, such as wild partying in rented units. According to the *Trib,* several aldermen have contended that Airbnb is turning parts of "their hip neighborhoods into hotel districts."[27]

The short-term rental industry has also spurred debates and concerns in other Illinois communities, as well as other places around the nation. In New York, the state legislature recently passed a bill that would prohibit online apartment listings for rentals lasting less than 30 days. In San Francisco, the Board of Supervisors voted to require vacation-rental marketplaces (such as Airbnb) to remove rentals that are not registered with the city. Los Angeles is also considering rules that would regulate short-term apartment rentals. Airbnb has also been hit with accusations of racism, which it has vowed to fight.[28] (A Harvard Business School study published last December, for example, indicated that racism is widespread in services like Airbnb and Uber). A class action discrimination suit against Airbnb was filed in May in the US District Court for Washington D.C., although the company's response has not been filed as of this writing.[29] A *New York Times* article explains that Airbnb's class-action waiver clause may shield it from any liability.[30]

The Museum of Broken Relationships

One of the founding partners of the Los Angeles law firm Quinn Emanuel (John B. Quinn) has helped open a new museum – the Museum of Broken Relationships. The Museum is based on the concept of a museum of the same name in Zagreb, Croatia. The LA museum displays "'artifacts of doomed unions and failed romances'" donated by the broken hearted.[31] If you're wondering what these artifacts are, they include an empty tube of toothpaste and a wedding dress in a pickle jar. (I have a few items myself that I could contribute, but I won't go there.) Mr. Quinn contends that he is not a romantic, but is interested in relationships; litigation, he contends, is all about broken relationships. According to the museum's website, "[The museum] will feel right at home in a city that is steeped in such history of wild dreams and crushing defeats."[32] General admission is $18 US, although seniors and students can get in for $15 US (Somehow, I don't think it's fair to charge high school students and the over 60 crowd to see remnants of failed relationships, but what do I know.) Mr. Quinn is "'happily married'" and has not donated any personal items to the museum.

Conclusion

Again, I hope I have provided an overview of law and politics here in the US over the past few months. By the time this column is published, our Republican and Democratic presidential candidates should be in place, along with their running mates. AALL's annual meeting will also be "in the books," and I promise to provide a full report.

As always, if any readers would like to comment on the above, or make suggestions for additional content, please feel free to contact me at jgrant6@luc.edu. I was actually quite pleased (and flattered) recently when I received a request from a Canadian colleague who wanted to reprint some of the column's content for her law association's newsletter.

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[26] John Byrne, "Emanuel's latest Airbnb Plan Includes Fee to Help Policing of Rental Hosts," Chi. Trib., June 14, 2016,< http://www.chicagotribune.com/news/local/politics/ct-emanuel-airbnb-amended-ordinance-met-20160614-story.html>.
[27] *Id.*
[28] Katie Benner, "Airbnb Vows to Fight Racism, but Its Users Can't Sue to Prompt Fairness," N.Y.Times, June 19, 2016, <http://www.nytimes.com/2016/06/20/technology/airbnb-vows-to-fight-racism-but-its-users-cant-sue-to-prompt-fairness.html?action=click&contentCollection=Travel&module=RelatedCoverage&region=EndOfArticle&pgtype=article>.
[29] <http://www.classaction.org/media/pdf/selden-v-airbnb.pdf>.
[30] Benner, *supra* note 26.
[31] Debra Cassens Weis, "Quinn Emanuel Leader Launches Museum of Broken Relationships in Los Angeles," ABA J., June 9, 2016, <http://www.abajournal.com/news/article/quinn_emanuel_leader_launches_museum_of_broken_relationships_in_los_angeles>.
[32] <https://www.brokenships.la/about-us/>.

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