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**CANADIAN LAW LIBRARY REVIEW**

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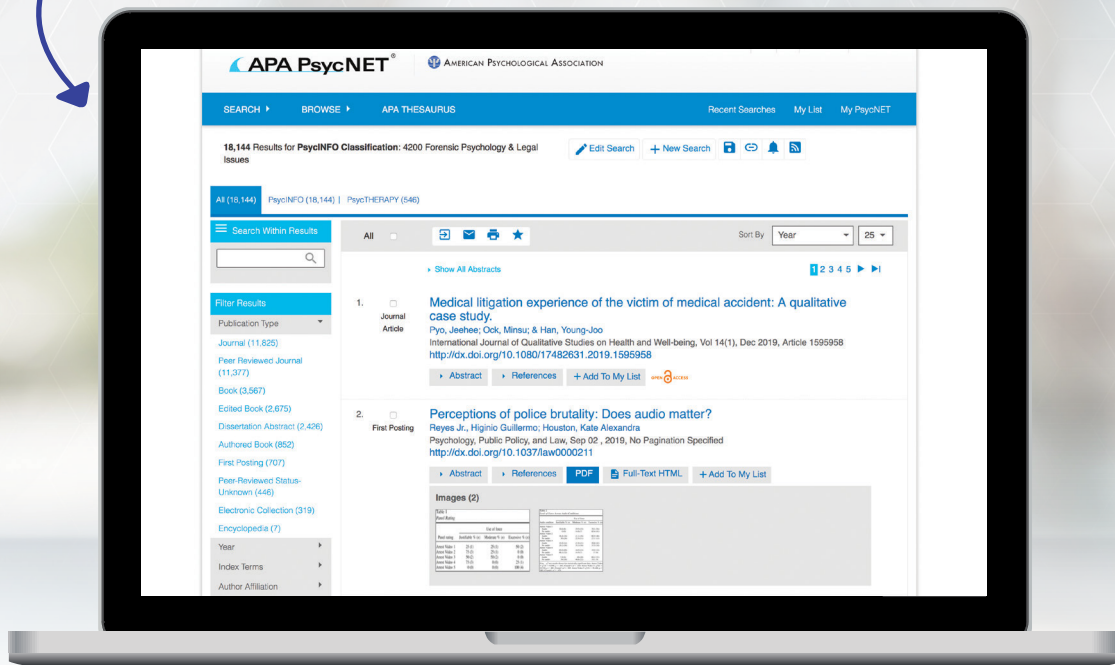
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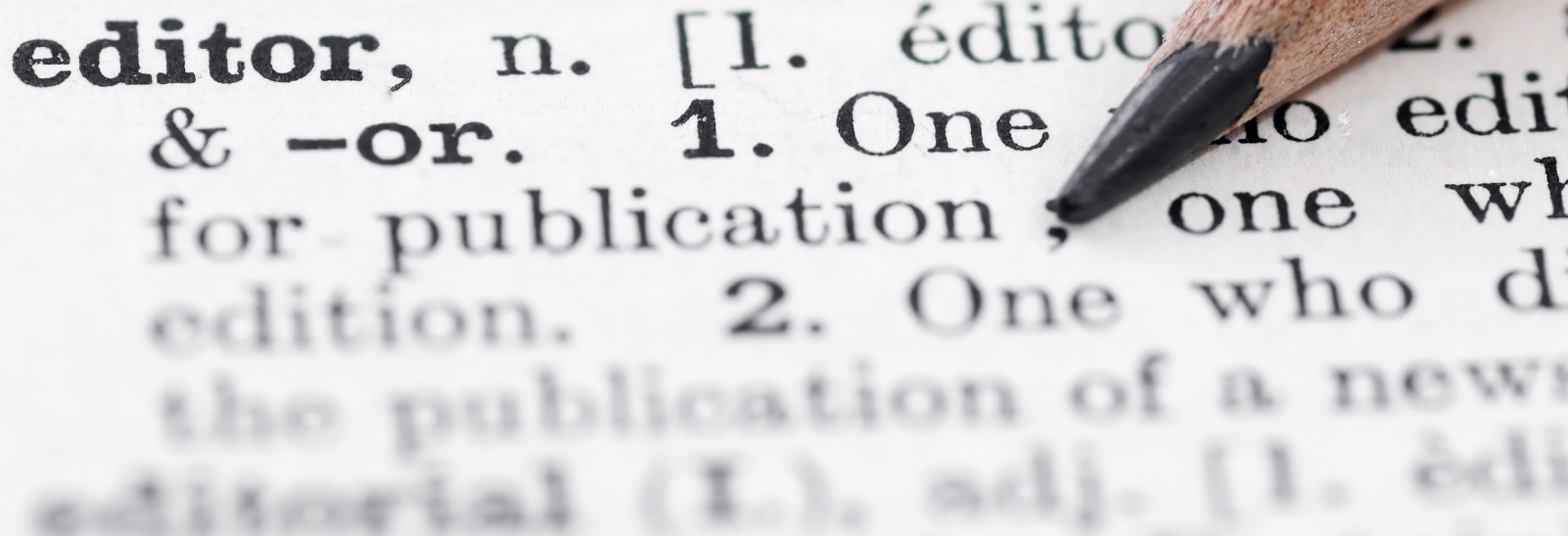
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See edition, and  
edition.  
**editor**, n. [1. édito  
& -or. 1. One who  
for publication; one wh  
edition. 2. One who d  
the publication of a new  
editorial (1), adj. [1. édi

### III From the Editor / De la rédactrice

Unfortunately, my letter is a bit more sombre than usual. This issue of *CLLR* is dedicated to the memory of Nancy McCormack, who passed away on July 17, 2019.

I didn't know Nancy very long, and really only in the capacity of my involvement with *CLLR*. Long before I became a law librarian, Nancy was editor of *CLLR* and steered the ship for several years. Most recently, she was one of my associate editors, along with Susan Barker, and I valued her assistance, which often involved minor pep talks. We only met in person once, but we were in touch often via email. She was always quick to respond to any questions I had and often reassured me that my opinion was sound and that she agreed with my direction. Her encouragement helped me overcome (some of) my imposter syndrome.

Her reputation as a law librarian preceded her. Known for always being busy and engaged with one project after another, Nancy was a workhorse dedicated to our profession. The first year I co-taught legal research, Cathy Cotter and I used *The Practical Guide to Canadian Legal Research*, which Nancy co-wrote with Cathy and John Papadopoulos, as our textbook and referred to it simply as "The McCormack Text" in class and in the syllabus. This cemented—in my mind, at least—her legendary status in the field. When I finally met her at my first *CLLR* annual meeting at the 2017 CALL/ACBD conference in Ottawa, I internally gasped as if I was in the presence of someone great. I was.

Many of us have stories about how Nancy touched our lives in one way or another, and you can read several of them on pages 9–12. Thank you to everyone who contributed. We've lost a giant, and she left big shoes to fill.

Goodbye, Nancy. You will be missed.

**EDITOR  
NIKKI TANNER**

Malheureusement, le ton de ma lettre est plus sombre que d'habitude. Ce numéro de *RCBD* est dédié à la mémoire de Nancy McCormack, décédée le 17 juillet 2019.

Je ne connaissais pas Nancy depuis très longtemps, et vraiment uniquement en raison de mon implication dans *RCBD*. Bien avant que je devienne bibliothécaire juridique, Nancy était rédactrice en chef du *RCBD* et a dirigé le navire pendant plusieurs années. Dernièrement, elle était l'une de mes rédactrices en chef, avec Susan Barker, et j'appréciais son aide, qui impliquait souvent de petits discours d'encouragement. Nous ne nous sommes rencontrées qu'une seule fois en personne, mais nous avons souvent été en contact par courriel. Elle a toujours répondu rapidement à toutes mes questions et m'a souvent rassurée sur le fait que mon opinion était juste et qu'elle souscrivait à mes directives. Ses encouragements m'ont aidé à surmonter (en partie) mon syndrome d'imposteur.

Sa réputation de bibliothécaire juridique l'a précédée. Reconnue pour être toujours occupée et impliquée dans un projet après l'autre, Nancy était une personne très dédiée à notre profession. La première année où j'ai coenseigné la recherche juridique, Cathy Cotter et moi-même avons utilisé le livre *The Practical Guide to Canadian Legal Research*, que Nancy a coécrit avec Cathy et John Papadopoulos, en tant que notre manuel et que nous avons simplement appelé « Le livre de McCormack » en classe et dans le syllabus du cours. Cela a cimenté—du moins dans mon esprit—son statut légendaire dans le domaine. Lorsque je l'ai enfin rencontrée lors de ma première assemblée annuelle de la *RCBD* à la conférence de *CALL/ACBD* 2017 à Ottawa, j'ai eu le souffle coupé intérieurement comme si j'étais en présence de quelqu'un de formidable. Je l'étais.

Plusieurs d'entre nous ont des histoires à raconter sur la façon dont Nancy a touché nos vies d'une manière ou d'une autre, et vous pouvez en lire plusieurs aux pages 9–12. Merci à tous ceux qui ont contribué. Nous avons perdu un géant et elle a laissé de « grands souliers à chausser ».

Au revoir Nancy. Tu vas nous manquer.

RÉDACTRICE EN CHEF  
NIKKI TANNER



## Are you a student?

Interested in publishing an article in the Canadian Law Library Review?

The *CALL/ACBD* award of \$250 is given annually to the student author of a feature length article published in the *CLLR*. Submit an article today to be considered! Articles can be submitted to any of our feature editors.



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

### *Seize the Day*

I am surprised to report that since my last message I have attained some new jobs. This is a surprise to me because I was perfectly content to be retired and work part-time for CALL/ACBD, part-time on (perpetual) home renovations, and part-time as keeper of my late father's estate. There is plenty of time for novel reading, ukulele playing, short walks with the elderly dog, spending time with the boyfriend and our busy grown daughters, experimenting in the kitchen, etc. I am absolutely living my best life, and for sure some of that has been sitting on my couch.

I received an email this summer from a former colleague asking if I was interested in building an online legal research course. This project is mainly a labour of love for the Legal Education Society of Alberta. Thinking about all the material I have created and collected over the years and how interesting it would be to work on this project, as well as how a reasonable fee for my time might be structured, made me want to say yes. Thinking about the travel I have booked and the time I have already committed to CALL/ACBD and other pursuits, I was tempted to say no. I said yes.

I was at a meetup in August where a lawyer friend told me about a legal tech solution he was testing. He said, "You *have* to meet these guys." I have never in my life turned down looking at new technology. Emails were exchanged. I have since added Client Relationship Manager (West) for Alexsei to my signature line. I have sorted out my priorities and made adjustments to add room for an exciting opportunity. It does help that all my roles can be set to my schedule.

These new roles are personally exciting—but why am I writing about them in *CLLR*? Firstly, our late colleague Nancy McCormack, who is being celebrated in this issue, was a woman who said yes. We can look at her life and career and recognize that she seized opportunities. Secondly, when celebrating a dear colleague, it allows us to be a bit introspective about why and how that person was a success.

What is it that drives us to say yes?

The law library is always the department of "Yes, and..." People in our profession can manage our workloads. We know how to make our work efficient and effective. We have practice with doing more with less—sometimes too much more, but that is a message for another day. How often have we said:

- Yes, and I will start that project in February...
- Yes, and to achieve that goal for the firm we will need to hire an additional library team member...
- Yes, and I would expect to be a named co-author for that writing project...
- Yes, and my current workload will need to shift in the following way...
- Yes, and by doing this I will achieve my goal of...
- Yes, and by doing this our institution benefits thusly...

Personally, I am an optimist. I know from a lifetime of experience that the busier I am the more I get done. There have been a few overwhelming days (prior to retirement) where there were 20 hours of work to do before the next cycle. There have also been days where reprioritizing seems like an hourly activity. Even so, everything necessary gets done.

I don't always have to maintain the highest degree of optimism because I am always part of a team. Teams help each other. As CALL/ACBD members, we are part of a large team. As Special Interest Group members, we are part of a team. As conference attendees, we are part of a team. As workers, we are part of a team within our organizations. Families, chosen or related, are teams. With our friends, we have teams—people who are on our side and listen, advise, or help us. We are never alone with our challenges, just as we are never alone with our opportunities.

Particularly, as a CALL/ACBD member, I have always had team support. I hope that the next opportunity that presents itself to you will inspire a yes. Maybe Nancy will be whispering in your ear to encourage you.



**PRESIDENT  
SHAUNNA MIREAU**

#### *Profiter du présent*

Je suis surprise d'annoncer que depuis mon dernier message, j'ai obtenu de nouveaux emplois. C'est une surprise pour moi, car j'étais parfaitement satisfaite d'être à la retraite et de travailler à temps partiel pour CALL/ACBD, à des rénovations de maisons (à perpétuité) et à temps partiel en tant que gardienne de la succession de mon défunt père. Il reste beaucoup de temps pour lire des romans, jouer du ukulélé, faire de courtes promenades avec un chien âgé, passer du temps avec son petit ami et nos filles adultes occupées, faire des expériences en cuisine, etc. Je vis absolument les meilleurs moments de ma vie, et bien sûr, en relaxant également sur mon canapé.

Cet été, j'ai reçu un courriel d'un ancien collègue me demandant si je souhaiterais créer un cours de recherche juridique en ligne. Ce projet est principalement un travail d'amour pour la Legal Education Society of Alberta. Penser à tout le matériel que j'ai créé et rassemblé au fil des ans et à l'intérêt qu'il y aurait à travailler sur ce projet, ainsi qu'à la possibilité de structurer des frais raisonnables pour mon temps, m'a donné envie de dire oui. En pensant au voyage que j'ai réservé et au temps que j'ai déjà accepté de consacrer à CALL/ACBD et à d'autres activités, j'ai été tenté de dire non. J'ai dit oui.

En août, j'étais à une rencontre où un ami avocat m'a parlé d'une solution technique juridique qu'il testait. Il a dit : « Tu dois rencontrer ces gens-là ». De toute ma vie, je n'ai jamais refusé la nouvelle technologie. Des courriels ont été échangés. Depuis, j'ai ajouté « Client Relationship Manager (West) for Alexsei » à ma signature. J'ai réglé mes priorités et apporté des ajustements pour faire de la place à une opportunité excitante. Cela aide que tous mes rôles puissent être définis dans mon emploi du temps.

Ces nouveaux rôles sont personnellement excitants, mais pourquoi est-ce que j'écris à leur sujet dans RCBD ?

Premièrement, notre défunte collègue Nancy McCormack, qui est célébrée dans ce numéro, était une femme qui a dit oui. Nous pouvons regarder sa vie et sa carrière et reconnaître qu'elle a saisi les opportunités. Deuxièmement, lorsque nous célébrons un cher collègue, cela nous permet d'être un peu introspectifs sur le pourquoi et le succès de cette personne.

Qu'est-ce qui nous pousse à dire oui ?

La bibliothèque de droit est toujours le département « Oui, et ... ». Les membres de notre profession peuvent gérer notre charge de travail. Nous savons comment rendre notre travail efficace et rentable. Nous avons l'habitude de faire plus avec moins, parfois trop, mais c'est un message pour un autre jour. Combien de fois avons-nous dit :

- Oui, et je commencerai ce projet en février...
- Oui, et pour atteindre cet objectif pour le cabinet, nous devons embaucher un autre membre de l'équipe de bibliothèque...
- Oui, et je m'attendrais à être nommé coauteur pour ce projet d'écriture...
- Oui, et ma charge de travail actuelle devra évoluer de la manière suivante...
- Oui, et cela me permettra d'atteindre mon objectif de...
- Oui, et ce faisant, notre institution en bénéficie ainsi...

Personnellement, je suis une optimiste. Je sais par expérience que plus je suis occupée, plus je peux en faire. Il y a eu quelques jours accablants (avant la retraite) où il restait 20 heures de travail à effectuer avant le cycle suivant. Il y a également eu des jours où la redéfinition des priorités semble être une activité régulièrement mise à l'horaire. Malgré tout, tout le nécessaire est fait.

Je n'ai pas toujours besoin d'être optimiste, car je fais toujours partie d'une équipe. Les équipes s'entraident. En tant que membres de CALL/ACBD, nous faisons partie d'une grande équipe. En tant que membres de groupes d'intérêts spéciaux, nous faisons partie d'une équipe. En tant que participants à la conférence, nous faisons partie d'une équipe. En tant que travailleurs, nous faisons partie d'une équipe au sein de nos organisations. Les familles, choisies ou apparentées, sont des équipes. Avec nos amis, nous avons des équipes—des personnes qui sont à nos côtés et qui nous écoutent, nous conseillent ou nous aident. Nous ne sommes jamais seuls avec nos défis, tout comme nous ne sommes jamais seuls avec nos opportunités.

En particulier, en tant que membre de CALL/ACBD, j'ai toujours bénéficié du soutien de l'équipe. J'espère que la prochaine occasion qui se présentera à vous vous inspirera un oui. Peut-être que Nancy vous chuchotera à l'oreille pour vous encourager.



**PRÉSIDENTE  
SHAUNNA MIREAU**





Photo: Greg Black

## ||| In Memoriam: Nancy McCormack (1963–2019)

By Susan Barker\*

It is almost impossible to believe that I am writing this memorial for Nancy, and I do so with tears in my eyes. The law library community has lost a bright star, and we will miss her greatly.

As a law librarian, Nancy was a powerhouse. She was constantly writing and produced too many books and academic articles to count. She was such a well-respected author and an expert in our profession. Her legal research texts are mainstays of many law library and library school collections and are required reading in LRW classes throughout the country. It speaks well of Nancy's professional reputation and collegiality that so many members of our profession were willing to collaborate with her on many of her projects. She also edited the *Canadian Law Library Review* for a number of years, and I still remember her erudite letters from the editor. She set a standard that I was never able to achieve.

Nancy's influence reached far beyond simply writing and publishing. She was incredibly generous in sharing her experiences, knowledge, time, and often practical common sense with the community. She was an inspiration to many librarians and a wonderful role model. I remember a library student who was working at the Bora Laskin Law Library mentioning to me that when she was a student at Queen's, Nancy, who was the reference librarian there at the time, had inspired her to become a law librarian. It was Nancy's positivity and enthusiasm for the profession that motivated this student to choose a career in law librarianship, and that student has gone on to be a very successful law librarian.

Nancy meant so much to me personally. She was a wonderful colleague and a great friend. Kind and wise, she gave me so much valuable advice over the years, both personal and professional, and I often quote her to others. I can honestly say that without Nancy's support and encouragement, I would not have the career that I have today. Nancy encouraged me to go to library school, asked me to write my first-ever published article, recommended me as a collaborator on the first book I worked on, advised me on how to write a book proposal, gave me the opportunity to work with the *Canadian Law Library Review*, and encouraged me to apply to become its editor. There is not one aspect of my career on which Nancy has not had a positive influence, and for this I am enormously grateful. I truly believe that I am not the only one to feel this way. Nancy helped so many of us.

I spoke to Nancy a few times after her diagnosis, and the courage and grace she exhibited astonished me. But in exhibiting that courage and grace, she was the same person she always was. One of the things I admired most about Nancy was her strength of character. She knew who she was, and she was always herself. I so enjoyed her sense of humour and her keen observations on the absurdity of the world around her. The last email she sent me, only a few days before her death, was a joke. Nancy always made me laugh! I will miss her.

I hope you will all join me in extending our deepest condolences to her husband, Eric, and her family.

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\*Digital Services & Reference Librarian, Bora Laskin Law Library, University of Toronto

## REMEMBERING NANCY

Nancy McCormack mentored me when I was a law student and helped me realize what a great career law librarianship could be. I will always be grateful for her guidance. I also had my first job as a law librarian under her leadership and learned so much from her. At the recent celebration of life for Nancy, there were many beautiful stories shared of the different ways Nancy made a difference in so many people's lives. I know I speak for many colleagues and students when I say that Queen's just won't feel the same without Nancy here.

Amy Kaufman, Head Law Librarian,  
Lederman Law Library, Queen's University

Nancy cared deeply about the people she taught and mentored, and she worked hard for them to be successful. Students who took her Advanced Legal Research and Torts courses would often tell me how much they liked Nancy and that she was one of their favourite professors. I believe this is because she cared not only about what they needed to learn, but also about their well-being. She went above and beyond what was necessary in order to help students who struggled. She knew most of her students by name and took a keen interest in their various activities and pursuits. My office was located next to hers, and during her office hours I would often hear her banter and, more often than not, the sound of laughter from one of her students. I believe that her warmth, caring, and humour were part of what made Nancy such a great mentor and teacher.

Leslie Taylor, Reference/Technical Services Librarian,  
Lederman Law Library, Queen's University

In 2007, Nancy and I co-authored an opinion piece for the *TALL Newsletter* called "Blogs: Vanity Presses or Archives of Human Thought?"<sup>1</sup> Nancy argued for the former, and I provided the counterpoint.

Nancy didn't have much patience for blogs, which were fairly new at the time. Her own social media footprint is small. To my knowledge, she did not tweet or have a Facebook account.

If Nancy had blogged, her sparkling intellect and hilarity would have shone through. Here are some examples from that 2007 piece of her take-no-prisoners sense of humour:

"I find [blogs] a colossal waste of time and energy."<sup>2</sup>

"[S]urely only the most shameless exhibitionist is hoping for someone to stumble across his or her diary."<sup>3</sup>

"I can hardly wait until the day it costs money to have a blog. I'm hoping that cuts down on the amount of manure."<sup>4</sup>

Nancy graciously gave me the final word in that essay. This time, the final word goes to her: "I still believe in quiet places and private places and the idea that not everything should be on public display."<sup>5</sup>

Nancy was true to her word until the end.

Paola Durando, Health Sciences Librarian,  
Queen's University

I was introduced to Nancy at a Canadian Library Association conference many years back. We went to dinner, and I had the heartiest sustained laugh of my life. Nancy's razor wit took no prisoners. We'd be banging fists on the table, crying with laughter, and she would keep on, loving the audience and the sheer joy.

Nancy had a show on Queen's radio, CFRC, called *Small Towns, Big Dreams*. She loved music. She championed the should-be-known and soon-to-be-known artists. She would get us tickets to shows in funky little venues, sometimes involving swaying ferries over choppy Lake Ontario. We travelled as a team in Kingston: Nancy and Eric, Jackie Druery and Bruce, and me and Rich. What abides for me from her radio show, more than the music, was the halfway point when she would say, "it's time for a poem and I just happen to have one." I would tune in and just wait to hear her deep, clear voice.

Nancy, Jackie, and I would take occasional afternoons off together. We would run, not walk, out of our respective libraries, jump in her car, and shout "Drive!" Lord, she was fun. She loved the Thousand Islands area around Kingston, shopping for clothes, and lunch with friends. She cared deeply for her friends. She called out hypocrisy and championed the underdog. She saved the little creatures that fell into her pool. No ant was too small.

That voice I loved is eternally in my head: *it's time for a poem*.

Sharon Murphy, Associate University Librarian,  
University of Alberta

I first met Nancy 14 years ago when I came to work at Queen's University Library. It did not take long to recognize that Nancy was a special kind of person who was interested in you and just about everything else.

I have many lovely memories of Nancy, and I would like to share just one. A few years ago, I had an accident and was recovering in a retirement home in Kingston. Nancy came to see me and asked if I was reading and what I was reading. I told her I was a little traumatized, not able to focus, and not reading anything. An entire day without reading was unthinkable to Nancy, so she set about to fix that. The next day she brought me *The Oxford Book of Detective Stories*,

<sup>1</sup> Nancy McCormack & Paola Durando, "Blogs: Vanity Presses or Archives of Human Thought?" (2007) 26:4 TALL Newsletter 1. Available via HeinOnline.

<sup>2</sup> *Ibid* at 4.

<sup>3</sup> *Ibid*.

<sup>4</sup> *Ibid* at 5–6.

<sup>5</sup> *Ibid* at 8.

short stories with a focus to challenge me: a history of mystery writing from the 19th century onwards, organized chronologically, with stories by some of the world's most renowned and diverse mystery writers. It was the perfect book to get me reading again. She said the book belonged to her husband, Eric, and since he did not want it back, I could keep it, which I did. I will treasure it for a very long time. That was Nancy—she always seemed to know what you needed when you needed it, whether it was a hug, advice, a laugh, a coffee, or some reading material.

Jackie Druery, Head Humanities and Social Sciences Librarian, Queen's University

I am grateful for all I learned from Nancy, as she modeled leadership that was purposeful, compelling, and shrewd. The qualities that made Nancy a great person were also the ones that made her exceptional at her work: she was kind and caring, intellectually curious and enthusiastic about new ideas, utterly reliable, and amazingly patient. It is hard to imagine the library without her beneficent, loving presence. For me, Nancy is an excellent, exemplary librarian and scholar who has successfully created a model on how professional librarians should be. Nancy has been a mentor for me through her advice and help when needed. She has always been supportive and willing to listen to others, and I will never forget how she encouraged me to finish my PhD while working full time when I was going to give it up. She told me that I should follow my dream. I have always seen Nancy as being different from the others I have worked with or—as I like to describe her—being a sea of calm in a world of chaos. I am immensely grateful to have known and worked with Nancy. She is an inspiration to me and will always be remembered.

Thank you, Nancy. Your visionary legacy transcends generations.

Nasser Saleh, Head Engineering and Science Librarian, Queen's University

On September 13, I was honoured to host the celebration of life at Queen's Law for my dear friend Nancy McCormack. That day, in memory of Nancy—our lauded and beloved professor, librarian, mentor, and friend—flags across campus flew at half-mast.

Nancy and I started meeting for lunch in 2002. Lunch to Nancy meant getting off campus. She knew the importance of leaving work behind for an hour; she'd even written a book called *Managing Burnout in the Workplace*.

She made good use of her legal education in all sorts of situations, like during renovations. When starting to work with a contractor, she'd slip into the conversation: "Do you know what a tort is?"

Nancy loved teaching. Last fall, she taught Torts for the first time to half of the first-year class. She set up her new course while compiling and editing the 5th edition of *The Dictionary of Canadian Law* that contained 31,000 entries. But she wouldn't simply use a colleague's syllabus. She had her own style, combining the best teaching methods of her own

university professors. She had a lot to choose from—she'd earned five degrees. She tested every lecture in advance on her husband, Eric, an English professor. Nancy was a huge music lover, and her all-time favourite performer was Celine Dion, who made her way into a Torts discussion. Nancy told me that when she had Celine blasting through her house, she was having a great day. And so, for Nancy, our hearts will go on—and on.

Lisa Graham, Communications Manager, Queen's Law

Nancy McCormack remains in my mind one of the most committed and talented members of our faculty. When we traded off classrooms or met in the school, she always had cheerful yet amusing comments on the here and now and endlessly found obscure references for me that I did not think could be tracked down. But, most of all, she treated the students who had the great good fortune to enroll in her unique Advanced Legal Research and Writing course as if each one were her only chance to "teach it right."

Regardless of background and prior exposure to integrating legal research, purposes, and methods with the process of writing and advocacy, she made it her job to ensure that each and every one of those students, whether JD or graduate, interdisciplinary or doctrinal, or opening new horizons, kept doing their work with detailed feedback until it was of exceptionally high quality. She made sure students from other learning traditions carried out their analytic and substantive reasoning for her course in ways that promoted their own knowledge agendas, regardless of whether they were JD or graduate students, and that they came out of her course with papers they were able to publish and integrate into their longer-term work products and agendas. She did this by providing repeated feedback and rewriting, editing, and researching sessions, encouragement, helpful sources and publication opportunities, and her own example. She simply did not let go until she thought each work had reached its peak for each individual student. The amount of insight and dedication she brought to this unbelievably high standard has given them all educational and personal capabilities that have helped them achieve goals that they often imagined were unattainable.

This special approach was never fully visible and only became clear to me as I saw just what she was accomplishing with the entire range of students for whom she took on these responsibilities.

Kathleen Lahey, Professor, Faculty of Law, Queen's University

I recall being struck by Nancy's strong sense of the importance of building communities. She invited me to make a presentation on the Canadian Charter@30 at the 2010 Joint Study Institute held in Montreal. The range of co-sponsors impressed me: the British and Irish Association of Law Libraries, the American Association of Law Libraries, the Canadian Association of Law Libraries, the Australian Law Library Association, and the New Zealand Law Librarian's Association. Nancy had organizational responsibilities for this meeting, which aimed to show "Canada's kaleidoscope" through sessions on constitutional

and parliamentary law, Aboriginal law, civil law, the courts and the judiciary, and legal ethics, with a final session on sovereignty in the Northwest Passage. Her membership in the Canadian Association of Law Libraries clearly linked her to library and legal communities around the world, and the design of the “Canadian kaleidoscope” was broadly attractive to the communities of law librarians, academics, lawyers, and judges in the audience. I shall always remember her for the sheer breadth of the communities that she inspired with her work.

Beverley Baines, Professor, Faculty of Law,  
Queen’s University

I had the privilege of working with Nancy on several legal publications. Nancy was a joy to work with and was the ideal co-author. Nancy was the first person I ever hugged the very first moment I met her—because of all our phone calls and emails up to that point, we were already friends. I thought Nancy and I would write many more books together. Nancy always had an idea for our next project. I will miss collaborating with her.

Melanie R. Bueckert, Legal Research Counsel,  
Manitoba Court of Appeal

Nancy was such a wonderful person. She was very good to me, and I very much appreciated her kindness and compassion. I can hardly believe she is gone, and I miss her a great deal. She was one of a kind.

Catherine Cotter, Head Law Librarian, Gerard V. La  
Forest Law Library, University of New Brunswick

If I were to pinpoint the main reason why I decided to become a law librarian, it would be the influence of Nancy McCormack. I graduated from Queen’s Law school in 2009 and spent a lot of time in the Lederman Law Library—researching, studying, pretending to study, panicking, and other typical law school pastimes. Nancy was my legal research professor, and I got to know her over the years and saw a bit of what it was like to be a law librarian, which gave me the idea that maybe that was something I could do someday. Nancy was kind, intelligent, and helpful, and I was in awe of her academic accomplishments. A few years later, when I was considering a new direction in my career, I thought of Nancy and my time at the Lederman Law Library and reached out. Nancy was encouraging and made me see that pursuing a career like hers was the right path for me, someone who enjoyed the research aspect of law and loved the idea of inspiring and teaching the next generation of lawyers. She ended up writing my MLIS reference letter, and over the years we crossed paths at conferences and through CALL/ACBD. I am certain I would not have found my career had it not been for her, and I will always be grateful for her impact on my life.

Joanna Kozakiewicz, Reference Librarian,  
City of Toronto Legal Services Division

My friendship with Nancy began at my second CALL/ACBD conference (Windsor, 2010), with a significant amount of socializing (!) in the casino. Nancy and I became fast conference besties. We spent hours at each conference together, catching up and laughing. Nancy loved to laugh. I swear the only lines on her face were laugh lines.

That is not to say Nancy couldn’t be serious. She took her scholarship seriously and was very prolific. She was not, however, selfish about her scholarly activities. She invited colleagues, often junior librarians, to join the *CLLR* editorial board or co-author books. I benefitted from Nancy’s largesse. It was at another conference (Montreal, 2013) that she invited me to join her in co-editing *CLLR*’s book reviews. What a fabulous opportunity to watch a master at work. On more than one occasion, I was awestruck by what she was able to weave together from a troublesome review. And her generosity showed in other ways. On three instances the past year, I was contacted by someone who said, “Nancy McCormack recommended you” for a project. I was not embarrassed to take Nancy’s leavings!

Nancy was also personally and professionally supportive of me. Upon learning that my mother was battling a terminal illness, I periodically and unexpectedly received little notes of encouragement. She was the only person with whom I discussed a possible joint appointment with the Faculty of Law, which she urged me to accept, as she was confident that I could handle a more expansive instructional role.

Generous, supportive, hardworking, and fun-filled. That is how I will remember Nancy.

Kim Clarke, Director, Bennett Jones Law Library &  
Doucette Library of Teaching Resources,  
University of Calgary

Nancy was a valued colleague and my friend. I was new to academia in 2008, and Nancy warmly welcomed me. I soon learned that I could count on Nancy, as she was always available to listen with an answer or support. She provided guidance and helped me navigate the world of law librarianship and academic law libraries.

I was delighted when she agreed to give the keynote address at the New Law Librarians’ Institute in 2016. Her wit and wisdom were on display, and she was an inspiration to the attendees, as demonstrated in such comments as:

“Nancy’s keynote address was one of the highlights for me—she is a wonderful storyteller and deftly wove some very salient lessons for law librarians into the narrative of her stories!”

“Great story telling.”

“Inspiring and entertaining.”

Nancy also shared my love of music. In fact, my best memories of Nancy mostly relate to music. Our conversations covered many topics but always came back to which concerts we had recently been to and whom we were hoping to see. She never forgave me for not inviting her to see Charo with me during the CALL/ACBD conference in 2010 at Caesars Windsor. Her last message to me was a wish for a relaxing summer, with loads of good music tossed in for good measure. Nancy, you are missed.

Margo Jeske, Director, Brian Dickson Law Library,  
University of Ottawa



## Legal Librarianship and the Justice Gap

By Dominique Glassman<sup>1</sup>

### ABSTRACT

*This paper examines the justice gap that currently exists in Ontario. Digital legal resources widen this gap because they are inaccessible and often prohibitively expensive for some institutions and members of the public. This paper discusses the systems in place at law libraries meant to disseminate information to specific groups within the academic community, as well as programs run by the Toronto Public Library that attempt to close the legal knowledge gap. This paper argues that specialized law librarians are in an optimal position to teach and empower public librarians and interested citizens to engage with available legal resources.*

### SOMMAIRE

*Cet article examine le déficit au niveau de l'accès à la justice qui existe actuellement en Ontario. Les ressources juridiques numériques creusent cet écart, car elles sont inaccessibles et souvent d'un coût prohibitif pour certaines institutions et certains membres du public. Cet article traite des systèmes mis en place dans les bibliothèques de droit afin de diffuser de l'information à des groupes spécifiques appartenant à la communauté universitaire, ainsi que des programmes gérés par la Bibliothèque publique de Toronto qui tentent de combler le fossé des connaissances juridiques. Cet article soutient que les bibliothécaires spécialisés en droit sont dans une position optimale pour enseigner et responsabiliser les*

*bibliothécaires travaillant dans les bibliothèques publiques et les citoyens intéressés à l'utilisation des ressources juridiques disponibles.*

### Introduction

There is an uneven distribution between available legal services and the public need for legal support. Much of the literature on legal librarianship condemns the legal profession, specifically lawyers, for not working hard enough to provide legal resources and assistance to those in need. Private sector law in particular is notoriously expensive, and not everyone qualifies for government-provided legal aid. Legal librarianship presents an opportunity to help demystify and de-professionalize the areas of law that affect many people who cannot gain access to professional legal services. This paper seeks to identify public areas of need and specific groups that require access to legal resources. This paper will also examine the social stratification that occurs within groups and communities based on access to finances, resources, and information. Furthermore, comparing the legal services offered by law firms, academic libraries, and public libraries in Toronto will demonstrate how the high cost of services such as Lexis Advance Quicklaw and WestlawNext Canada dictate access to resources. Despite these barriers, legal librarianship can help to bridge the

<sup>1</sup> Dominique Glassman is a recent graduate of the University of Toronto's Master of Information program. She has worked as a student library assistant at Robarts Library in the information and technology services department, and she hopes to work with legal records in the field of privacy and access to information. The author is passionate about access to information and increasing accessibility to digital services.

knowledge gap between the legal profession and members of the public through sharing expertise and using publicly available but often underused legal resources outside of the commercial sector.

### The Needs of Self-Represented Litigants

It is not enough to simply call for more accessible legal resources. There must be consideration for the specific needs of members of the public. Legal literature along with the Government of Canada's Justice Department identify the needs of one group in particular: self-represented litigants. Self-represented litigants are individuals without legal representation who still require access to the law and legal resources. There are many reasons why someone might be compelled or choose to go to court without a lawyer. These reasons include

feeling that they cannot afford a lawyer or do not qualify for assistance (this is the most prevalent motivation), not being able to find a lawyer, being unhappy with prior experiences, a lack of trust, and, for a few, a belief that they can do it themselves.<sup>2</sup>

Canadian studies have shown that the number of self-represented litigants has increased significantly in the past five years, primarily in the areas of family law and employment law. Self-represented litigants put pressure on the legal system, as they don't have a legal education or familiarity with court proceedings. Consequently, because they require special assistance, they can slow down the proceedings and generally decrease the efficiency of a system that depends upon the expertise of professional litigants.<sup>3</sup> Librarians cannot help people afford legal services, because this is very much a systemic problem; however, they can address some of the issues around self-represented litigants slowing down the legal process through lack of knowledge.

Currently, one of the issues that self-represented litigants face is public librarians' lack of legal knowledge. This is not surprising considering how expensive comprehensive legal resources are and how much specific training is required to navigate these resources, not to mention the time it takes to acquire even a basic understanding of the law. That said, libraries are well poised to help because specific needs have already been identified through statistical research. Offering programming and resources directed toward issues in family and employment law, as well as using government resources to keep up to date on trends on self-represented litigants in the Canadian court system, would allow libraries to offer services that could directly affect the difficulties currently facing those litigants.

Outside of a direct need for legal resources, there is a conceptual need for transparency and access to information in service of the informed citizen. There is no single definition of the informed citizen, and in her article "Legal Information, the Informed Citizen, and the FDLP: The Role of Academic Law Librarians in Promoting Democracy," Tammy Pettinato draws together different theoretical frameworks about what this concept means. The informed citizen in a legal framework is an informed democratic participant who is able to scan an information environment and extract content in order to "mobilize around certain issues when they see their rights, or the rights of others, being violated."<sup>4</sup> These citizens treat information as a function of social capital to increase democracy. Pettinato acknowledges that the informed citizen is an antidote to the "class of experts" who are acting in self-interest rather than the public good. Although lawyers are the presumed "class of experts" in a legal setting, it is more apt to suggest that in the context of the legally informed citizen, self-interested groups are Thomson Reuters and LexisNexis, companies that have cornered the market on electronic legal resources and charge prohibitively for their services.

Something that Pettinato does not fully address is how information as social capital is more easily acquired through higher social status—usually informed by income—and how this actually creates stratification within the seemingly homogenous idea of the informed citizen. Denvir, Balmer, and Buck draw a connection between "social class and knowledge of rights."<sup>5</sup> Pettinato's definition of the informed citizen includes taking action when they see a rights violation occurring, and, according to Denvir et al., "[t]hose without any formal education were most likely not to take action, while those who handled their problems alone were more likely to have higher degrees and higher incomes."<sup>6</sup> This comparison demonstrates the existence of unique needs, like those of the self-represented litigants, that exist within a greater social need for educational resources and institutional transparency. It is also indicative of a self-perpetuating cycle of being unable to take action in legal situations due to lack of proper information. Some people do not have the resources to become an informed citizen and therefore suffer the consequences of being unable to fight against—or even recognize—a rights violation. One of the consequences of this cycle is that vulnerable groups are more likely to repeat "similar behavioural patterns"<sup>7</sup> to their detriment when faced with a civil justice issue.

Simply granting access to resources and information is not sufficient to serve members of an unequal society. Defining some of the many diverse public needs regarding legal information and resources has identified a void that librarians, as purveyors of information, are well suited to fill.

<sup>2</sup> "Self-Represented Litigants in Family Law" (last modified 18 January 2017), online: *Department of Justice* <[justice.gc.ca/eng/rp-pr/fl-lf/divorce/jf-pf/srl-pnr.html](http://justice.gc.ca/eng/rp-pr/fl-lf/divorce/jf-pf/srl-pnr.html)>.

<sup>3</sup> *Ibid.*

<sup>4</sup> Tammy R Pettinato, "Legal Information, the Informed Citizen, and the FDLP: The Role of Academic Law Librarians in Promoting Democracy" (2007) 99:1 *Law Libr J* 695 at 701.

<sup>5</sup> Catrina Denvir, Nigel J Balmer & Alexy Buck, "Informed Citizens? Knowledge of Rights and the Resolution of Civil Justice Problems" (2013) 41:3 *J Soc Policy* 591 at 595.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid* at 596.

Former Oxford law librarian Barbara Teale writes, “There is a continuing and ever greater need for source materials and authoritative explanation for the layman.”<sup>8</sup> Simply put, publicly available resources cannot be maximized without professional intermediaries whose jobs it is to facilitate both use and comprehension.

## Electronic Legal Resources

The rise of the electronic age has been incredibly significant for the proliferation of legal resources and information. According to mainstream information social theory, free market access to information as a result of technology will have a positive effect in reducing social stratification through increased accessibility to resources. However, a critical alternative to this theory suggests that “the public provision of information goods is viewed as a social goal while the current trend towards expanding proprietary interests in information is viewed as problematic.”<sup>9</sup> Given today’s consumer culture, non-proprietary legal information is less likely to exist. This trajectory of public to proprietary is reflected in the history of two of the most popular legal databases in North America. According to Samuel E. Trosow, “[w]hile the idea of electronic legal database was first developed by a non-profit entity, the Ohio Bar Association, it quickly fell under the control of private firms such as Lexis-Nexis and West Publishing.”<sup>10</sup> Initially created to disseminate access to information, databases like Westlaw/WestlawNext Canada and Lexis Advance/Lexis Advance Quicklaw have a monopoly on electronic legal resources, and for very good reason. Westlaw and LexisNexis were the two earliest digital legal resources available to law firms as early as the 1970s, and the sites have continued to acquire services that increase their worth. LexisNexis acquired CourtLink in 2001 and Westlaw acquired CourtExpress, both of which were initially independent court docket and case information services.<sup>11</sup> These acquisitions are just one example of how these sites continually expand and corner the market in a way that makes it difficult for smaller independent services to stay afloat.

According to Daniel Fisher in his article “The Law Goes Open Source,” some large law firms spend over \$4 million per year on LexisNexis and Westlaw subscriptions.<sup>12</sup> This has only increased preexisting hierarchies within the legal profession: bigger law firms remain big, while smaller law firms cannot afford subscriptions, and clients often get extremely high bills for the time researchers spend on these sites.<sup>13</sup> Aside from the initial stratification resulting from financial burden, “the systems are developing into two-way monitoring systems where data is captured about the

user every time the system is accessed.”<sup>14</sup> This reverses the flow of information commodification, and the databases continue to finesse their services based on their clientele. These resources are only increasing the justice gap, as they continue to shape what electronic legal resources look like for everyone, while catering to those who can afford high subscription and per-use fees.

## Electronic Legal Resources in Academic Libraries

The rise of Westlaw, LexisNexis, and other electronic resources has also had consequences within the sphere of academic legal librarianship. Many libraries now hold fewer volumes in their physical collections, and students rely “more and more on commercial electronic databases like Westlaw and LexisNexis or on the Internet.”<sup>15</sup>

However, even academic libraries do not have the resources to provide unfettered access to LexisNexis and Westlaw. Teale describes her trip to an anonymous library, where “a dedicated Lexis terminal was installed. It had limited access, of course, because of the cost.”<sup>16</sup> Similarly, the University of Toronto’s Bora Laskin Law Library cannot grant all users unrestricted access to Lexis Advance Quicklaw and WestlawNext Canada. There are tiers of access even within the university. All University of Toronto students are able to access Lexis Advance Quicklaw and WestlawNext Canada through the University of Toronto Libraries site, which authenticates them as a student through their UTORid and password and allows them to use these resources both on campus and remotely. However, similar to Teale’s example, non-law students logging in through the library portal do not have access to all of the services that WestlawNext Canada and Lexis Advance Quicklaw provide. University of Toronto Law students, on the other hand, have their own WestlawNext and Lexis Advance logins and full access to the service. Thus, even within a single academic institution, strict user licenses mean unequal access among the student population.

Despite the focus on electronic legal resources for university students, the human services that reference librarians provide are still a crucial part of legal librarianship. A study conducted by librarians on reference interactions at the Yale Law Library concluded that electronic resources are most effective when used as a supplement to in-person assistance. The study reasoned that it is easier to get questions answered face to face, and patrons do not have to deal with technical difficulties. This study is significant because it is once again indicative of how important the role of the legal librarian is in serving library patrons. There are

<sup>8</sup> Barbara Teale, “Law Librarianship and Legal Information Provision in the 21st Century” (2008) 8:1 Leg Info Mgmt 4 at 10.

<sup>9</sup> Samuel E Trosow, “The Ownership and Commodification of Legal Knowledge: Using Social Theory of the Information Age as a Tool for Policy Analysis” (2004) 30 Man LJ 417 at 420.

<sup>10</sup> *Ibid* at 460.

<sup>11</sup> Laura K Justiss, “A Survey of Electronic Research Alternatives to LexisNexis and Westlaw in Law Firms” (2011) 103:1 Law Libr J 71 at 72.

<sup>12</sup> Daniel Fisher, “The Law Goes Open Source” (12 June 2008), online: *Forbes* <[www.forbes.com/forbes/2008/0630/070.html](http://www.forbes.com/forbes/2008/0630/070.html)>.

<sup>13</sup> *Ibid*.

<sup>14</sup> Trosow, *supra* note 9 at 454.

<sup>15</sup> Seth Quidachay-Swan, “The Effect of Time of Day on Reference Interactions in Academic Law Libraries” (2013) 52:4 Reference & User Services Q 298 at 299.

<sup>16</sup> Teale, *supra* note 8 at 4.

no financially motivated access restrictions for university students when it comes to reference services. Customized and personal reference services are one thing that electronic services cannot provide for users. Furthermore, the work librarians do has the potential to be freely shared within a community of practice in a way that transcends the access restrictions to electronic legal resources.

Members of the public are also entitled to use the University of Toronto's library services, but they face more restrictions. Members of the public cannot access WestlawNext Canada or Lexis Advance Quicklaw remotely. If they wish to use these resources, they can come to campus and use the LIRA workstations, which allow them full access to the library's catalogue and e-resources but do not include the level of access law students have independent of the library catalogue.<sup>17</sup> In terms of reference services, according to the Bora Laskin website, librarians "provide basic reference help of up to 10 minutes to members of the public if [they] are not too busy."<sup>18</sup> This caveat is a definitive reminder that Bora Laskin is an academic library first, not a public library, and while their mandate includes serving the public, they prioritize providing reference services to students and faculty.

### Legal Resources in Public Libraries

Some members of the public might not live near an academic library or feel comfortable in an academic setting. Public libraries do a lot of outreach work within the community, particularly with more vulnerable groups in mind, but legal outreach provides a difficult challenge because public librarians have less access to resources than academic librarians do and are often not trained in the use of legal resources.

The presentation of and access to legal resources look very different in the public sphere, and legal resources are much more service-oriented than in an academic setting. Surveying the offerings of the Toronto Public Library system determines what is available for communities outside of academia and the private sector. The Toronto Public Library offers a series of talks at the Toronto Reference Library and libraries all over the city called [Law at the Library](#). Members of the Law Society of Ontario often present the talks, which focus on common legal issues like divorce, criminal law, and issues facing senior members of the community.<sup>19</sup> While these talks are good starting points, they are limited in both number and scope, and they might not address the specific needs of self-represented litigants preparing for a court case or those who are involved in a legal action and looking for assistance.

In terms of available electronic legal resources, the Toronto Public Library website offers LawDepot and LawSource. LawDepot is a database of do-it-yourself legal forms and is available for anyone with a Toronto Public Library card. LawSource is a Thomson Reuters product that offers Supreme Court of Canada decisions, Carswell Law Reports, Canadian Abridgement Digests, the Canadian Encyclopedic Digest, some legal journals, as well as Canadian statutes and regulations.<sup>20</sup> However, access to LawSource within the Toronto Public Library is limited. Library members cannot access the service remotely, and online access is only available in-person at the Toronto Reference Library and North York Central branches.<sup>21</sup> LawSource presents problems similar to accessing databases in academic libraries. Because it is limited to specific locations, LawSource is not accessible to patrons who are unable to get to North York or the Reference Library physically or within the hours that the libraries are open.

The problem that public libraries face is that they do not have the funds to employ specialized legal librarians on staff. Furthermore, many of the legal workshops for the public depend on having a lawyer or legal specialist donate their time. They can offer free tools and resources, but there is a knowledge and expertise gap between public and private, as legal services are only a small percentage of what public libraries do for their communities.

### What Can Libraries Do?

Currently, librarians are siloed by institutional status. It is far more likely that academic librarians would share information and resources with each other rather than with public librarians, and vice versa. Groups like the Toronto Association of Law Libraries (TALL)<sup>22</sup> and the Canadian Association of Law Libraries/L'Association canadienne des bibliothèques de droit (CALL/ACBD)<sup>23</sup> are great information-sharing and networking opportunities in the professional community. Librarians working in public libraries would not necessarily benefit from joining associations focussed exclusively on legal librarians. However, if groups like TALL could run professional development programs geared toward helping public librarians discover new legal services and maximize available resources in their libraries, it would create a chain of knowledge sharing that would benefit groups outside of academia with fewer information resources.

The law mandates that the government must make legislation public, both online and in print. According to the *Ontario Legislation Act*:

<sup>17</sup> "What is a LIRA Workstation?" (last visited 17 September 2019), online: *University of Toronto Libraries* <[onesearch.library.utoronto.ca/faq/what-lira-workstation](http://onesearch.library.utoronto.ca/faq/what-lira-workstation)>.

<sup>18</sup> "Members of the Public" (last visited 17 September 2019), online: *Bora Laskin Law Library* <[library.law.utoronto.ca/services/services-visitors/members-public](http://library.law.utoronto.ca/services/services-visitors/members-public)>.

<sup>19</sup> "Law at the Library: Upcoming Events" (last visited 17 September 2019), online: *Toronto Public Library* <[www.torontopubliclibrary.ca/programs-and-classes/featured/law-at-the-library.jsp](http://www.torontopubliclibrary.ca/programs-and-classes/featured/law-at-the-library.jsp)>.

<sup>20</sup> "LawSource" (March 2014), online (pdf): *WestlawNext Canada* <[www.westlawnextcanada.com/DynamicData/AttachedDocs/LawSource/LawSource\\_What'sIn.pdf](http://www.westlawnextcanada.com/DynamicData/AttachedDocs/LawSource/LawSource_What'sIn.pdf)>.

<sup>21</sup> "LawSource" (last visited 17 September 2019), online: *Toronto Public Libraries* <[www.torontopubliclibrary.ca/detail.jsp?Entt=RDMEDB0074&R=EDB0074](http://www.torontopubliclibrary.ca/detail.jsp?Entt=RDMEDB0074&R=EDB0074)>.

<sup>22</sup> "Membership" (last visited 17 September 2019), online: *Toronto Association of Law Libraries* <[talltoronto.ca/membership](http://talltoronto.ca/membership)>.

<sup>23</sup> "Developing and Supporting Legal Information Specialists" (last visited 17 September 2019), online: *Canadian Association of Law Libraries* <[www.callacbd.ca](http://www.callacbd.ca)>.



The Attorney General shall,

- a) maintain the electronic database of source law and consolidated law for the e-Laws website so as to facilitate convenient and reliable public access to Ontario legislation;
- b) safeguard the accuracy and integrity of the electronic database of source law and consolidated law that appears on the e-Laws website; and
- c) safeguard the accuracy and integrity of publications of source law and consolidated law printed by the Queen's Printer or by an entity prescribed under clause 41(1)(a).<sup>24</sup>

Although less intuitive than paid services, the Government of Ontario website provides links to all Ontario statutes and legislation via [e-Laws](#), and the same service exists at the federal level. The Ministry of the Attorney General's [Justice Ontario](#) site provides resources and answers to commonly asked questions about Ontario's legal system.<sup>25</sup> The government has worked hard in recent years to make legal resources more available online, but they are not mandated to do public outreach and promote services like e-Laws. Although not everyone has equal access to the internet, public libraries are spaces that could do more with available legislative resources. Offering talks and workshops that draw peoples' attention to the public's role in creating and disseminating legislation is a way to include a greater number of people in the democratic process. There is little public

libraries can do to make services like WestlawNext Canada and Lexis Advance Quicklaw more accessible; however, establishing partnerships with academic institutions, particularly ones that have a robust legal resources, time, and staff to support a public library, could potentially increase the flow of information and serve a wider range of people looking for assistance with legal issues.

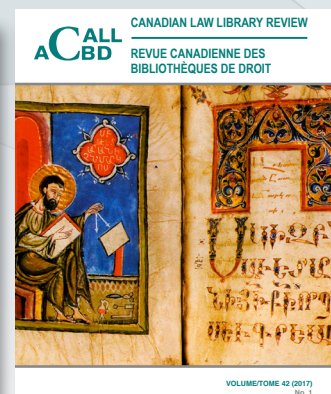
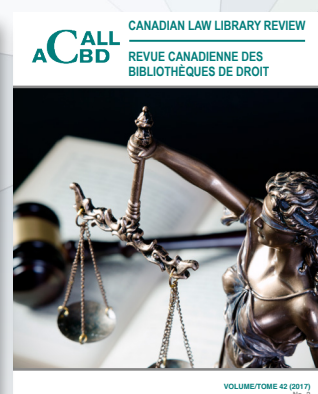
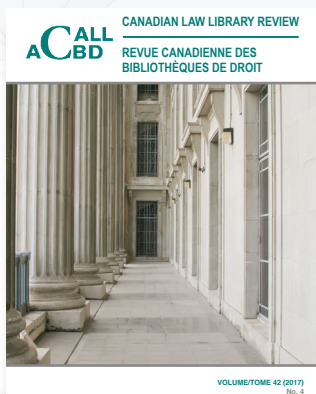
## Conclusion

The legal profession is stuck in a stalemate when it comes to innovations geared toward closing the justice gap. While legal databases like LexisNexis/Lexis Advance Quicklaw and Westlaw/WestlawNext Canada are the best in terms of relevancy and scope, they are not easily accessible to organizations and individuals outside of the private sector. Despite the financial barriers to access, there is also implicit and tacit knowledge required to maximize the use of these resources that is difficult to acquire without advanced training. Legal databases package public resources to expedite and simplify legal research for paying customers. The original information sources, particularly government websites, are a way to circumvent expensive services, but they require innovation on the part of librarians to help reach the public. Librarians and information professionals in public institutions are working to share resources with the public in a more meaningful way, and resource-sharing between the government and libraries, as well as the public and private sectors, can facilitate this work.

<sup>24</sup> *Legislation Act*, SO 2006, c 21, Schedule F, s 2.

<sup>25</sup> "Justice Ontario" (last modified 9 November 2015), online: *Ministry of the Attorney General* <[attorneygeneral.jus.gov.on.ca/english/justice-ont/index.php](http://attorneygeneral.jus.gov.on.ca/english/justice-ont/index.php)>.

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## III Reviews / Recensions

Edited by Kim Clarke and Elizabeth Bruton

***Debating Rights Inflation in Canada: A Sociology of Human Rights.* By Dominique Clément. Waterloo, ON: Wilfred Laurier University Press, 2019. x, 161 p. Includes bibliographic references and index. ISBN 978-1-77112-244-3 (softcover) \$24.99.**

Dominique Clément's *Debating Rights Inflation in Canada* is intended to augment a report he co-authored, "The Evolution of Human Rights in Canada," published by the Canadian Human Rights Commission in 2012. The book's goal is to stimulate discussion on the effects that rights inflation has had and could continue to have in Canada.

The intended audience includes both current human rights academics and practitioners as well as those who are new to the subject matter. The writing is academic, suitable for the undergraduate level. This text is interdisciplinary due to the range of perspectives that are included in the commentary and could be incorporated into various courses. Each author has their own notable writing style, which does not detract from the impact of the text, but rather allows the experience and perspectives of each individual to come through clearly in their writing. A table of contents, endnotes, and an index assist with navigating the text.

Several other books that look at human rights through a sociological lens have been published in recent years; however, none appear to take Clément's unique approach. He has written a thought-provoking essay and sought commentary that challenges his own work. To elaborate, the text is divided into two parts. The first is Clément's analysis of rights inflation in Canada. The second is a series of commentary from four experts in the field of human rights who challenge and elaborate upon Clément's analysis.

Each author brings their expertise to the topic based on their own professions and experiences, which include academia, activism, legal practice, and the political sphere.

Clément's essay provides a brief history of human rights in Canada. He suggests that, around the time the *Charter of Rights and Freedoms* was created in 1982, Canadians began choosing to frame grievances as violations of their human rights, partly because of increased public rhetoric on the subject. Clément uses a wide range of social issues to depict this transition, including racism, sexism, religion, poverty, housing, bullying, pornography, freedom of information, collective bargaining, and more. He concludes with the statement that citizens' human rights claims are paramount and, to protect one's core human rights, other means of resolution exist or can be created to address grievances, systemic social issues, and moral wrongs.

The authors of each commentary take Clément's bold discourse into thoughtful consideration. They respectfully voice diverging opinions and mention shared concerns regarding rights inflation. One item of note is that the term "rights inflation" has a negative connotation. Several points within the responses to the essay show concern for individuals who may choose silence over addressing their needs when their human rights are not being adequately recognized. Human rights need to expand as society evolves and, as such, broadening the scope of human rights is the appropriate democratic response to social injustices. Measurable examples of how expanding human rights improves lives are discussed with references to refugees, women, people of faith, education and health care systems, etc.

While this book does not provide a comprehensive historical review of human rights within Canada, it is acknowledged that, particularly for individuals who are new to the subject, such an historical analysis may be necessary for a deeper understanding of the issues surrounding rights inflation. The author/contributors recommend supplementing this text with another book authored by Clément, *Human Rights in Canada: A History*, as well as [HistoryOfRights.ca](http://HistoryOfRights.ca), Clément's personal website. In his essay, Clément includes a significant number of citations that include additional contextual information. However, while on one occasion graphs were referenced for statistics, the visuals themselves were not included in the text to aid the reader. In addition, the book may have benefited from the use of footnotes rather than endnotes after each commentary.

Overall, Clément's approach to a critical analysis of human rights inflation is not only engaging for the reader but could also assist in teaching critical thinking skills. It encompasses a variety of perspectives on a timely topic. It is a provocative read that encourages people to consider how the application of human rights as a means of resolving societal injustices has evolved and the potential consequences and impact rights inflation may have on Canadian society.

REVIEWED BY  
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Instruction & Reference Librarian  
Sir James Dunn Law Library  
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**Digital Privacy: Criminal, Civil and Regulatory Litigation.**  
Gerald Chan & Nader R Hasan, eds. Toronto: LexisNexis, 2018. xvi, 286 p. Includes table of contents and index. ISBN 978-0-433-47529-3 (hardcover) \$140.00.

As the editors state in the preface, "[t]he goal of this book is to promote the continued development of a coherent body of privacy law across different areas of law" (p. x). In terms of the scope of this work, "[w]hat began as a modest attempt to summarize and explain the law around 'computer searches' in the criminal and quasi-criminal context, has given way to an attempt to produce an inter-disciplinary approach to understand and litigate issues at the nexus of privacy, law, and technology in the Digital Age" (p. ix).

Experts from Stockwoods LLP authored each of the chapters. The first three focus on the state's efforts to access citizens' personal information by searching their devices and accessing information held by third parties, particularly text messages and emails. The next section examines the law governing invasions of privacy committed by private individuals or organizations. This section includes a discussion of privacy-related crimes, as well as civil and regulatory regimes, including class actions. Child pornography and the distribution of intimate images are

also addressed. The book's final chapter addresses the admissibility of digital evidence. The editors did not include a chapter containing collected prognostications about how the law might develop in this area.

The text has a fair bit of criminal content, but it also covers civil topics. However, its focus is on the federal [Personal Information Protection and Electronic Documents Act](#), and while it does not address similar provincial statutes, it does briefly touch on statutory privacy torts and legislation concerning the non-consensual distribution of intimate images that several provinces have implemented.

While the book is well written and organized with a detailed table of contents and index, the biggest hurdle it faces is how quickly it will be out of date. The book was published in November 2018, and thus does not include a discussion of the Supreme Court's recent decisions in [R v Reeves](#), [R v Jarvis](#), or [R v Mills](#). While it does contain extensive case law references, including recent lower court decisions and numerous American authorities, it will need to be updated frequently. A companion blog and table of cases would have been helpful additions.

I associate Chan and Hasan with *Ruby on Sentencing*, which they have been helping to write since 2012.<sup>1</sup> However, they have also contributed to LexisNexis's *Canada at 150* collection,<sup>2</sup> and Gerald Chan has co-authored, with Susan Magotiaux, *Digital Evidence: A Practitioners Handbook*, part of Emond's Criminal Law Series.<sup>3</sup> While Chan and Hasan's text does provide some practical advice, its single chapter on digital evidence cannot match the coverage provided by a comprehensive handbook like Chan and Magotiaux's or Scanlan's older *Digital Evidence in Criminal Law*.<sup>4</sup> Of course, McIsaac's loose-leaf *The Law of Privacy in Canada* also addresses some of these topics.<sup>5</sup>

This text does an admirable job of bringing together digital privacy issues in both the criminal and civil spheres in an organized and coherent manner. It provides a helpful framework for addressing emerging issues, like digital device searches or the search and seizure of third party information. Practitioners looking for practical tips for handling digital evidence may wish to consider Chan and Magotiaux's Emond text instead. But lawyers, judges, and academics trying to conceptualize a workable legal framework for digital privacy issues will be interested in this ambitious and multifaceted text.

REVIEWED BY  
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<sup>1</sup> Clayton Ruby, Gerald J Chan & Nader R Hasan, *Sentencing*, 8th ed (Markham, Ont: LexisNexis, 2012) and, more recently, Clayton Ruby et al, *Sentencing*, 9th ed (Toronto: LexisNexis, 2017).

<sup>2</sup> Heather MacIvor & Arthur Milnes, eds, *Canada at 150: Building a Free and Democratic Society* (Toronto: LexisNexis, 2017). Chan contributed to the chapter on "Constitutionalism"; Hasan contributed to the chapter on the "Rule of Law."

<sup>3</sup> Gerald Chan & Susan Magotiaux, *Digital Evidence: A Practitioner's Handbook* (Toronto: Emond, 2017).

<sup>4</sup> Daniel M Scanlan, *Digital Evidence in Criminal Law* (Aurora: Canada Law Book, 2011).

<sup>5</sup> Barbara McIsaac, Rick Shields & Kris Klein, *The Law of Privacy in Canada* (Scarborough: Carswell, 2004) (loose-leaf updated 2018, release 8).

***Drug-Impaired Driving in Canada.* By Nathan Baker. Toronto: Irwin Law, 2018. 243 p. Includes references. ISBN: 978-1-55221-492-3 (paperback) \$60.00; ISBN 978-1-55221-493-0 (eBook) \$60.00.**

*Drug-Impaired Driving in Canada* tackles a complex and relatively new form of criminal litigation. The number of drug-impaired cases is only likely to increase with the more liberal cannabis laws enacted in recent years, making this text very timely. The book's substantial research foundation is obvious; however, it is, at its heart, a practical handbook. It is evident that the book was written with criminal litigators in mind.

After an introduction, the second chapter provides a comprehensive review of the Standard Field Sobriety Tests (SFST) and Drug Recognition Evaluations (DRE) testing used by various North American agencies. The chapter contains many useful tidbits that can be used to question the testimony of police officers and medical professionals. The next three chapters delve into the actual testing of a number of drugs and their effects.

Chapter 7, "Charter Considerations," is a great resource for the criminal litigator, as many impaired cases turn on *Charter* issues. This chapter was extremely practical, as it walks one through the steps of the investigation to the "nuts and bolts" of a trial, beginning with the "Call in the Middle of the Night." Case summaries are arranged under off-raised *Charter* issues, allowing for a quick scan as needed. While reading this chapter, I kept referring back to the Drug Influence Evaluation form from Chapter 1.

After discussing Bill C-46 and the drug-impaired amendments to the *Criminal Code* in Chapter 8, Baker scanned how the provinces and territories have amended their legislation in response to the new Federal laws in the following chapter. Relevant provincial laws are *Traffic Safety Acts* and cannabis management, control, or education statutes. It was interesting to observe the variation of legislation across the country, which may provide additional arguments for the defence counsel, especially on parity.

Baker effectively communicates common concerns with drug-impaired driving cases in Chapter 10, giving the litigator the ammunition to defend these types of cases. While he intersperses discussions of legislation and cases throughout the book, he devotes Chapter 12 to "Useful Cases," in which he has arranged summaries of cases in a topical manner. This chapter is a great starting point in researching this area of law.

Baker included a few illustrations, charts, and checklists in the text but more would have been welcomed. The Drug Influence Evaluation (p. 3) chart and Drug Symptomatology Matrix (p. 54), for example, will be very helpful to litigators. Perhaps Baker could include useful charts and illustrations relating to a particular drug and the ng/100ml of blood, the rate of elimination, and the amounts of the particular drug to cause impairment in the next edition.

The book contained expected and unexpected research tools. It has a detailed table of contents, comprehensive index, and table of cases. The appendix provides an extremely useful list of possible disclosure materials that the

defence counsel could request for review or examination. The glossary is another great resource, especially for abbreviations and medical terms. A practical suggestion would be to have page numbers included in the appendix and glossary to allow litigators to quickly find where a term is discussed in greater detail.

To date, there are very few publications in this specialty area of criminal law. I applaud Mr. Baker in tackling this medically driven, developing area of criminal litigation. I would recommend this book to any criminal litigator, whether new to or experienced with drug-impairment trials.

REVIEWED BY  
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***Enforcing Exclusion: Precarious Migrants and the Law in Canada.* By Sarah Grayce Marsden. Vancouver: UBC Press, 2018. 237 p. Includes bibliographic references and index. ISBN 978-0-7748-3774-3 (softcover) \$32.95.**

*Enforcing Exclusion* should be on every immigration lawyer's bookshelf. It is the result of a pre-2015 study conducted by the author and combines interviews and traditional legal research methods.

Marsden defines precarious migration status as that which "is marked by the absence of any of the [specified] elements normally associated with permanent residence (and citizenship) in Canada" (p. 15). She interviewed 28 migrants with self-reported precarious or uncertain migration status prior to or at the time of the study and five frontline agency workers who interact with migrants daily.

Guided by the reported experiences of the participants, Marsden investigates and analyzes the body of legislation, policies, and institutional practices affecting precarious migrants. She addresses decisions by frontline decision makers and tribunals and incorporates an analysis of a handful of pertinent court and tribunal cases. Her focus is federal, but she also explores provincial laws and policies, primarily those of British Columbia.

The text is very engaging. While setting migrants' experiences firmly inside a legislative framework, the author strategically sprinkles excerpts and paraphrased anecdotes from interviews throughout. The book is unique in starting from the harmful repercussions of the immigration system on precarious migrants and working backward to the laws, policies, and decisions that led to them.

The book has a short introduction and a postscript that briefly addresses the federal political and legislative landscape in 2018 as compared to the time frame covered by the study. It contains endnotes with bibliographic references, two short appendices describing the interviewees and interview questions, and a detailed index.

The first chapter discusses the historical and demographic context of current immigration laws in this country. It goes on to describe the style of the study's interviews and research methods, as well as its limitations.

Chapter 2 explains how categories of migration status are determined under the [Immigration and Refugee Protection Act](#) and associated regulations, and which services are available to members of which categories. It also highlights the uncertainties, frustrations, and fears that migrants experience at different points within the immigration scheme.

The next three chapters delve into the ways in which precarious migrants are excluded from social benefits and their real and perceived barriers to remedies. Chapter 3 deals with workplace issues such as employer–employee power imbalances, deskilling, job security and mobility, and employment standards. Chapter 4 covers education, health, employment insurance, and income assistance. Chapter 5 examines the ways in which a line is drawn and enforced, formally and informally, between those with membership to a state and those without.

In the sixth and final chapter, the author refers to a collection of Canadian human rights cases. She analyzes whether entitlement to equal benefits and protection under the law should be tied to a person’s immigration status. She then turns her attention to provincial and international law, including the UN’s Migrant Worker Convention. She ends the book with suggestions as to how conditions for migrants could be improved if the walls between “members” and “outsiders” were to be broken down.

While all of the laws and government institutions described in the book operate independently of each other, the author artfully makes it clear how “they are all bound together in migrants’ lived experience” (p. 8), and why we as a society need to do better.

REVIEWED BY  
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***Fitness to Plead: International and Comparative Perspectives.* Edited by Ronnie Mackay & Warren Brookbanks. Oxford: Oxford University Press, 2018. xxxi, 323 p. Includes list of contributors and index. ISBN 978-0-19-8788478 (hardcover) \$75.00; ISBN 9780191092718 (Kobo) \$59.99, (Kindle) \$66.27.**

In *Fitness to Plead: International and Comparative Perspectives*, Ronnie Mackay, professor of criminal policy and mental health at De Montfort University, and Warren Brookbanks, professor of law at Auckland University of Technology, bring together legal scholars from common law (England, Wales, Scotland, Canada, New Zealand, Australia, United States) and civil law (Netherlands, Italy) countries to explore the very complex subject of the doctrine of fitness to plead. In the book’s foreword, Lady Hale of the Supreme Court of the United Kingdom asks us if we “[s]hould be glad or sorry that so few people are found ‘unfit to plead’ in criminal trials,” an intriguing question and starting point for the problems explored throughout the book.

*Fitness to Plead*, part of the Oxford Monographs on Criminal Law and Justice Series, comprises 14 chapters and includes a table of cases and a table of legislation organized by the aforementioned jurisdictions in addition to sections for the

European Court of Human Rights, the International Criminal Court, and various international criminal and military tribunals. The book also includes a useful subject index.

In each chapter, the authors summarize the development of the fitness to plead in their jurisdictions, define key legal concepts and procedures, and discuss how courts and governments have attempted to solve particular problems over time. For example, in Chapter 2, “The Development of Unfitness to Plead in English Law,” Mackay discusses a new test for unfitness to plead that was introduced “as a result of litigation in the Channel Island of Jersey, the first and so far, only British jurisdiction to incorporate decisional competence into a test for unfitness to plead” (p. 7). By contrast, in Canada there is still a relatively low bar for testing fitness. As noted by Garry Ferguson in Chapter 6, “Unfit to Stand Trial: Canadian Law,” courts in Canada have adopted a lower threshold than that of “analytical capacity,” whereby fitness requires only “limited cognitive capacity” (p. 110).

Many of the authors also discuss legal reforms either proposed or undertaken to improve the law. For instance, in Chapter 8, “Fitness to Stand Trial under Australian Law,” Ian Freckelton examines proposals put forth in recent reports by the New South Wales Law Reform Commission (2013), the Victorian Law Reform Commission (2014), and the Australian Law Reform Commission (2014; 2017). Other authors, such as Richard J. Bonnie in Chapter 9, “Fitness for Criminal Adjudication: The Emerging Significance of Decisional Competence in the United States,” make proposals for future developments.

The perspective of *Fitness to Plead* is international and comparative. It is exploratory and scholarly rather than a reference tool for practitioners. As stated in the general editor’s preface, “the publication of this volume is likely to make an important contribution to the cause of law reform in relation to fairness and the criminal process” (p. xi).

Titles such as *Fitness to Stand Trial: Fairness First & Foremost* (Irwin Law, 2018) and the loose-leaf title *Mental Disorder in Canadian Criminal Law* (Carswell, 2006–) are better suited for the practitioner looking for practical guidance on the intricacies of fitness processes in Canada. In the conclusion, Mackay and Brookbanks also acknowledge that “the particular perspective [of their book] is that of clinicians, lawyers, and policy makers, but not that of the consumers who are the subjects of unfitness-to-stand-trial investigations. While their interests may overlap with some of the themes explored here, they are also distinctive and warrant a much fuller investigation” (p. 299).

I recommend *Fitness to Plead: International and Comparative Perspectives* for law students, legal scholars and advocates, and policy makers, as well as members of the public who are interested in the intersection of mental disorders and the criminal law.

REVIEWED BY  
**GOLDWYNN LEWIS**

*Law Librarian  
Public Prosecution Service of Canada*

***Inadmissible to Canada – The Legal Barriers to Canadian Immigration*, 2nd ed. By Lorne Waldman. Toronto: LexisNexis, 2018. xix, 556 p. ISBN 978-0-433-50060-5 (softcover) \$140.00.**

The provisions in the [Immigration and Refugee Protection Act](#) dealing with the inadmissibility of permanent resident applicants and their accompanying regulations are complex and challenging. They most certainly warrant the attention that Lorne Waldman provides in this text.

It is worth noting that Waldman is one of Canada's foremost immigration and refugee lawyers. He has frequently appeared before the courts, often pro bono, to challenge, successfully, such high-profile cases as wearing niqabs during citizenship oaths, restoring health care for refugees, and striking down the use of security certificates. He is also a prolific author, with *Immigration Law and Practice*, *Definition of Convention Refugee*, and the annual *Canadian Immigration and Refugee Practice* to his credit, and he is the contributor to *Halsbury's Laws of Canada – Immigration and Citizenship*. In addition, Waldman was invested into the Order of Canada in July 2018.

In the introduction to *Inadmissible to Canada*, the author plainly states that this “book will discuss the inadmissible classes, the way they are applied to persons seeking to enter into Canada and to persons in Canada and will discuss how a person can overcome inadmissibility” (p. 1). And that is what you get. The text closely follows the sequence of the legislative provisions, with each of the inadmissibility grounds discussed separately and in detail. Inadmissibility on security grounds is the most fulsome chapter of the book and criminal inadmissibility is the second longest, which is understandable given the concern that immigrants will pose a danger to Canadian society. In 2016, the Canada Border Service Agency revealed that 95 per cent of the reports they wrote on inadmissible applicants were for criminal or serious criminal reasons.

Excerpts from case law are plentiful and found within each chapter. Waldman also intersperses his own commentary and insights throughout the book in equal measure. While the material is presented in an entirely objective manner, the last chapter, a new addition to the second edition, discusses various mechanisms that are available to overcome an inadmissibility finding. This text will most likely be used as a reference tool, as opposed to providing an academic overview of Canadian immigration law.

Clearly laid out and well indexed, this book provides a thorough review of the legislation and related case law. The full text of the *Immigration and Refugee Protection Act* is also included as an appendix. This is an essential resource for anyone trying to navigate Canada's immigration system.

If you already have Waldman's *Immigration Law and Practice* in your collection, or if you have access to it through Lexis Advance Quicklaw, you may not need to purchase a copy of *Inadmissible to Canada*, except perhaps for the sake of convenience. *Inadmissible to Canada* is essentially identical to Chapter 5 of *Immigration Law and Practice*.

REVIEWED BY  
**PAUL SAWA**

Director, Library Services  
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***Indigenous People and the Criminal Justice System: A Practitioner's Handbook*. By Jonathan Rudin. Toronto: Emond, 2019. 305 p. Includes bibliographic references, table of cases, and index. ISBN 978-1-77255-304-8 (softcover) \$115.00.**

*Indigenous People and the Criminal Justice System: A Practitioner's Handbook* is Volume 7 of Emond's Criminal Law Series.

In this book, Jonathan Rudin, who has spent his entire legal career working in Indigenous law, goes beyond the foundation of criminal law in Canada: case law and the *Criminal Code*. Rudin's discussions of how the criminal justice system has treated Indigenous people is not in itself new. What makes this book unique is Rudin's guidance to Crown attorneys, defence lawyers, and judges as to how they should conduct themselves and what they need to consider when the person finding themselves enmeshed in the criminal justice system is Indigenous.

The book comprises several sections, with each section building on the previous one. Chapter 2 discusses various inquiries and reports that have dealt with Indigenous people appearing within the justice system. The author notes that most of the recommendations found in these reports of inquiry have gone unfulfilled.

The third chapter reviews what Crown and defence lawyers and judges need to take into account while working with Indigenous people appearing within the criminal justice system. What is unique about an Indigenous client? What is the general perception toward Indigenous people? For example, the notion of “Aboriginal English” is particularly enlightening as a cultural issue. An awareness of how an Indigenous person uses the English language, or uses silence, is important.

The fourth chapter is primarily a review of the *Gladue*, *Ipeelee*, and *Williams* cases and how these decisions fundamentally changed the way in which the Court (Crown and defence lawyers, juries, and judges) viewed and carried out sentencing of Indigenous offenders. Rudin introduces these cases by first describing two cases from the earlier part of the 20th century: the 1917 trials of Sinnisiak and Uluksak, which highlighted the impact of the colonialism of imposing Canadian law on the Arctic; and in 1971, the *Fireman* case, which revealed an early attempt by the courts to acknowledge the accused as an Indigenous person.

The fifth chapter builds on the sentencing principles raised in the Chapter 3 discussion of the *Gladue* case. In particular, Rudin discusses the *Gladue* reports. These are prepared for judges to review the life history of the offender and any recommended programs that would have a positive impact on the sentencing

of the offender. Rudin also discusses how these reports are disclosed in court proceedings and how an offender may waive their right to *Gladue* being applied to the case.

The sixth chapter outlines how *Gladue* is applied outside of sentencing, in particular to dangerous offenders and to such criminal processes as bail and parole hearings. Rudin reveals his own view that *Gladue* reports should not be used in bail hearings given that an offender could spend months in jail while these reports are prepared.

The seventh chapter deals with the benefits and drawbacks of sentencing circles. Interestingly, Rudin points out that, although rooted in Indigenous tradition, sentencing circles are not an Indigenous practice.

This book is intended for Crown attorneys, defence lawyers, and judges working with Indigenous offenders. The layout of the book emphasizes its more practical approach, making it less attractive to academics. Each chapter ends with a “Best Practices” list, which highlights the chapter’s more interesting subject matter. One very useful feature of the book is the Mock *Gladue* Report, outlining how it has been prepared and presented to the court. Legal literature has need of a book like this that assists lawyers with the practicalities of working with Indigenous offenders. Rudin should be commended for filling this need through his helpful points and excellent analysis.

REVIEWED BY  
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***The Internet, Warts and All: Free Speech, Privacy and Truth.* By Paul Bernal. Cambridge: Cambridge University Press, 2018. x, 290 p. Includes notes, bibliography, and index. ISBN 978-1-108-42221-5 (hardcover) \$126.95.**

For better or worse, the internet is ubiquitous: it’s how we communicate, receive news, watch television, listen to music, and more. It’s such a large part of our lives that we often take it for granted and assume that those “in charge” of content—giants like Google, Facebook, and even the government—have our best interests at heart. In *The Internet, Warts and All: Free Speech, Privacy and Truth*, Paul Bernal, a senior lecturer in information technology, intellectual property, and media law at the University of East Anglia, shows how our assumption is wrong and discusses the internet’s “warts,” namely threats to free speech, privacy and surveillance, truth vs. fiction online, trolls, and fake news.

After an introductory chapter, chapters 2–4 discuss the myths of the internet, specifically that internet content is permanent, the internet is a perfect archive, and search engines and social media platforms are unbiased. The next three chapters discuss the implications of freedom of speech and privacy online. Bernal examines free speech from many different angles and asks if it should “include the right to lie, the right to abuse, threaten, insult or offend? To use racist, misogynist or homophobic language? To make

transphobic jokes?” (p 107). While most of us are rightly repulsed by such language, Bernal shows how banning this type of speech can lead to a slippery slope of censorship. Bernal also addresses a prevalent privacy myth that is a pet peeve of mine: if you have nothing to hide, you don’t need to protect your privacy. Bernal asserts that everyone is entitled to privacy, not just criminals, a sentiment I agree with wholeheartedly.

Chapters 8 and 9 discuss trolls and fake news, respectively, and I’ll admit that I enjoyed these chapters the most, as they explained the origins of issues I’d heard about only after they blew up on social media. For example, Chapter 8, “The Trouble with Trolls,” discusses controversies such as GamerGate, Milo Yiannopoulos’s role in harassing *Ghostbusters* star Leslie Jones on Twitter, and the suicide of Brenda Leyland after news reporters confronted her for trolling the parents of missing child Madeleine McCann. Bernal shows that while laws have been enacted to counteract online abuse and trolling, such laws often don’t work, and he suggests that social media platforms could do better to shut down such abuses.

Chapter 9 takes on fake news and uses the example of Vlad Tepes’s reputation as a monster—solidified by Bram Stoker’s *Dracula*—to illustrate how fake news has always been an issue, even in the fifteenth century. Bernal examines how social media gives fake news power and discusses ways in which platforms can solve the fake news problem themselves. Luckily, we’ve seen strides in this direction with Facebook’s new policy on misinformation and false news; however, as Bernal stresses in Chapter 4, the use of so-called neutral algorithms by social media platforms and search engines can affect our access to information, as they often reflect the views of their creators. Thus, while they can detect fake news, they also have the potential for bias, so one has to wonder what else they filter out of our feeds.

The tenth and final chapter tells us that we have to acknowledge the internet’s warts so we can come up with proper solutions. Bernal himself suggests ten rules of thumb as guidelines for users and lawmakers on navigating the pitfalls of the web.

I found this book disturbing in places, and it really hits home how much of ourselves we give over to the internet. While I like to think that I’m overly cautious with what I share online, Bernal left me wondering if I’m cautious enough. Although he is based in the U.K., Bernal references legislation from many jurisdictions, including Canada and the U.S., and many of the concepts and news items referred to are universal; thus, the book isn’t limited by geography. Bernal writes in plain language in an almost conversational style that makes the text accessible to anyone, regardless of legal expertise. Bernal brings in non-legal examples throughout, including the aforementioned nod to Vlad Tepes, and refers to U.K. comedies *The IT Crowd* and *Little Britain*. Over all, *The Internet, Warts and All* is a well-written, informative text on the problems the internet has caused, our inability to fix them with outdated methods, and possible solutions. While it may not be helpful in a law firm library, academic (law and

non-law) and government libraries would be wise to include this in their collections.

REVIEWED BY  
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Gerard V. Law Forest Law Library  
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***Natural Resources & Human Rights: An Appraisal.* By Jérémie Gilbert. Oxford: Oxford University Press, 2018. xviii, 195 p. Includes list of abbreviations, table of cases, table of instruments, table of cases, selected bibliography, and index. ISBN 978-0-19-879566-7 (hardcover) \$99.00.**

This is a difficult book to review. On the one hand, it is probably a good resource for anyone doing further research in the area of natural resources and the overlap with human rights. On the other hand, as a reader I was disappointed. I do not think it lived up to its potential.

The author's goal, as set out in his introduction, was to provide a comprehensive review of human rights norms, procedures, and principles and to set out a human rights-based approach to the management and use of natural resources. As well, Gilbert wishes to examine the interaction and potential impact of international human rights law on other branches of international law governing the management of resources.

At the end of the book, I was left thinking that the author had fallen short. Despite the fact that the author tells us over and over again how important international human rights are to natural resource conservation and use (possibly because it is in the title of the book), he does not really "show" the importance, at least in a convincing way.

In some ways, the book struck me as "immature." What do I mean by this? It seems to have been written by an academic too close to his days of being a student. As opposed to putting forth a position and then explaining why it made sense, this book read, at least in part, like a lengthy essay written to demonstrate to the teacher that the author knew the subject matter and had done the appropriate research.

A final overall comment is that the book is written from a left-wing perspective. This is not surprising. In today's age, it is perfectly understandable that a treatise on environmental law and human rights would be written from this perspective. One could argue (my bias) that the right has to some extent ceded environmental discussion and human rights to the left, the right being seemingly content to push forward a short-sighted "economics over environment" agenda designed to win the next election. The difficulty for the reader is that some of Gilbert's premises come across as very dogmatic and not allowing for discussion.

In terms of the content of the book, Chapter 1 deals, in general, with sovereignty and reclaiming peoples' rights. I was confused with his description of "the people" and how "the people" are sub-divided, what ancestral lands are, and so on. I wondered, if "the people" aren't the government, who are "the people"? How can "the people" decide something when they are so amorphous? He didn't explain.

Chapter 2 deals with property rights and natural resources. In this chapter, and many others, there is a focus on Indigenous people and their right to natural resources traditionally used and necessary for the continuation of their way of life. There is a suggestion that if something was traditionally in their possession, they should have legal ownership of it. There was discussion of a distinction between property rights and usage rights. As I understand his argument, Gilbert wants the state to give not just usage of, for example, forests, but also title to the Indigenous peoples and local communities (whatever they are). The impression given was that privatization is bad and communal use is good.

Chapter 3 deals with governance over natural resources and human rights. This chapter again refers to the confusing term "the people." Are ordinary citizens "the people," or does this term only apply to those who are Indigenous or tribal? The author opens a discussion here about a possible conflict arising when an Indigenous group decides who is entitled to benefit from the use of the natural resources. Could this entitlement result in further human rights abuses? Could women or people with darker skin have fewer rights?

Chapter 4 focusses on natural resources and the Indigenous peoples' right to their livelihood. There is also a discussion of war crimes and pillage and the question of whether deprivation of natural resources could constitute genocide.

Chapter 5 deals with cultural rights and natural resources. The focus here is on the rights of Indigenous people to practice traditional ways of life, and on the Indigenous and local communities' "traditional knowledge over natural resources." To some extent, this may be part of the theme of "Indigenous and local is good, corporate or international is bad," which runs through the text. To his credit, though, Gilbert does talk about issues such as Indigenous groups being prejudiced against other Indigenous groups, using as an example the Dalits in India who are forbidden from sharing water wells used by higher castes.

Chapter 6 deals with protecting natural resources and discusses climate change, among other topics. This could have been a very intriguing chapter and, again, to be fair to the author he has clearly done a lot of research. Unfortunately, the prose is not gripping and often it seems like quotations are there for the sake of showing he has done research rather than to advance his argument.

Overall, I would call this book a timely one because it comes along when the topics it discusses should be discussed. Unfortunately, this is not the book we were waiting for—that book still needs to be written. This book may start the discussion, but I think that is as far as it goes. It has potential, but that potential was not realized.

REVIEWED BY

**JOHN K. LEFURGEY**

*Partner, Martens Lingard LLP  
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## III Bibliographic Notes / Chronique bibliographique

By Nancy Feeney

**Leslie A Street and David R Hansen, “Who Owns the Law? Why We Must Restore Public Ownership of Legal Publishing” (2019) 26:2 J Intellectual Property L 205.**

As the long-standing legal maxim *ignorantia juris non excusat* states, ignorance of the law is no excuse: a person cannot defend their actions by claiming they did not know the law. The best way for an individual to know the law is to have access to such law. Throughout the ages, access has been provided through publication, be it stone tablet, declaration, or written word. Today, the internet is the favoured mode of publication of primary legal materials. In Canada, access to the law is straightforward, both federally and provincially, with a few minor jurisdictional quirks. In stark contrast, access to American law can be challenging, especially for an average person with limited research experience or tools. Many of the barriers to easy access to American law are directly attributable to the legal publishing landscape, which is dominated by an ever-consolidated group of entities. While ownership of the law is not synonymous with publication, the two concepts are indelibly entwined in the American legal system.

In this article, Leslie Street, director of the law library and associate professor of law at Mercer University School of Law in Georgia, and David Hansen, associate university librarian for research, collections and scholarly communications at Duke University, canvass the history of legal publishing in the United States and highlight various barriers to access to the law in electronic publishing, including copyright law, contract law, and the *Computer Fraud and Abuse Act*. They demonstrate that the current U.S. legal publishing system fails to provide the public with sufficient, reliable access to the law. Street and Hansen conclude their paper with recommendations for how state governments, legal

publishers, libraries, and others can ensure robust public access to the law moving forward.

Online publication of primary legal materials is now the norm, and government institutions are expected to adhere to this publication model. Street and Hansen warn that even though “[o]nline publication is necessary ... not all online publication is sufficient” (p. 209). Users must be able to rely on the currency and authenticity of the sources they use—the law accessed must be official. Additionally, preservation of historical versions of the law is equally important; potential litigants often need to consult the version of the law in force at the time their cause of action arose. The online environment poses significant challenges regarding preservation. Digital archiving can be a major undertaking not in the economic interest of a commercial legal publisher, leaving other institutions to take up the mantle.

Street and Hansen’s central premise is that official published law is not adequately accessible online. Commercial publishers control access by using protections afforded to them by the law. Copyright law is often used to restrict the public’s access to legal sources. Editorial enhancements, like annotations and headnotes, are the most commonly protected elements. Issues of accessibility arise when a jurisdiction contracts with a commercial publisher to create the “official” version of the law, and that version includes editorial enhancements. Additionally, resources like technical standards, which third parties—not legislatures or courts—often create and incorporate into law by reference, can pose unique copyright issues effecting accessibility.

Commercial publishers also control online access to the law through their database’s terms of use provisions. Street

and Hansen believe that these provisions are even more problematic and restrictive than copyright law. Terms of use contracts generally prohibit the reproduction of content from the website or database; consequently, libraries, archives, or any other “memory institution” could be prohibited from preserving the law. Finally, Street and Hansen posit that the *Computer Fraud and Abuse Act*, which was enacted to combat computer hacking, is broad enough in scope to be used to prosecute individuals who exceed terms of use when engaged in legal research.

Street and Hansen conclude their paper by recommending solutions to the problem of adequate online public access to the law in the United States. First, they believe that individual state governments should take over all publication functions and eliminate all copyright protections and terms of use restrictions to state legal materials. Further, state courts should make all judicial decrees, decisions, and opinions freely available through their own court websites. With regard to the preservation of legal materials, Street and Hansen believe that law libraries should become more involved in digitization efforts, as well as creating and maintaining finding tools. Commercial publishers, according to Street and Hansen, should not restrict access to the law when they have contracted with a state to publish official versions; these contracts should fully compensate the publishers, thereby eliminating the need for additional charges to the public. Further, terms of use restrictions should be eliminated: users should be able to freely download, copy, print, and use.

Street and Hansen believe that state legislatures must take the lead “to reaffirm the democratic principles that underlie public access to the law” (p. 248). While theoretically sound, they present their recommendations without practical suggestions for actual implementation. Government intervention, as well as educational institution involvement, will be costly in terms of finance and labour. Street and Hansen do not even hint at these potentialities. Further, the paper does not provide examples of other jurisdictions’ approaches to the issues outlined. A mention of Canada’s successful provision of public access to the law would have made the authors’ conclusions more convincing.

**“Initiatives to Counter Fake News in Selected Countries” (2019), online: *Law Library of Congress* <[www.loc.gov/law/help/fake-news/index.php](http://www.loc.gov/law/help/fake-news/index.php)>.**

For better or worse, the problematic and politically charged term “fake news” has entered the lexicon. The challenges posed by the propagation of “disinformation” or “misinformation” are also dire and far-reaching. A recent report by the Global Directorate of the Law Library of Congress examines the strategies and methods employed by various countries to address these challenges. The report examines the legal approaches taken by 15 countries, representing all regions of the world, to combat the proliferation and amplification of disinformation via social media platforms. The countries covered in the report include Argentina, Brazil, Canada, China, Egypt, France, Germany, Israel, Japan, Kenya, Malaysia, Nicaragua, Russia, Sweden, and the United Kingdom.

Four general approaches emerge from the survey. Some countries use their existing laws to regulate the media, even though these laws often pre-date the internet or other current technologies. Other countries have enacted new legislation sanctioning social media organizations that spread false information. A third tactic taken by another group of countries is proactively identifying and blocking misinformation before it is widely disseminated. Similarly, these countries are attempting to establish viable methods of verification of information and its source. The final group of countries are establishing media literacy campaigns and other efforts to educate the public to be more discerning regarding their consumption of news.

**Stories from the Stacks (2014–), online (podcast): *Hagley Museum and Library* <[www.hagley.org/research/programs/stories-stacks](http://www.hagley.org/research/programs/stories-stacks)>.**

Located in Wilmington, Delaware, the Hagley Museum and Library was established in the 1950s to commemorate the sesquicentennial of the E. I. du Pont de Nemours & Company. The museum is a member of the Independent Research Libraries Association and offers research grants to scholars. The Museum and Library’s Center for the History of Business, Technology, and Society produces a podcast featuring the work of these researchers.

In the most recent episode, “Beauty Sold Everywhere: The Early Globalization of Avon,” Emanuela Scarpellini, professor of history at the University of Milan, discusses the history of the Avon cosmetics company. Using Hagley’s collection of trade journals, advertisements, and internal company documents, and oral interviews of salespeople and consumers, Scarpellini traced the history of consumer culture and the exportation of American standards of beauty. In an age of pre-globalization, Avon was one of the first global companies that used direct influence on consumers. By relying on “Avon ladies,” everyday housewives, to promote the company’s products, Avon transformed the market of cosmetics—idealized beauty was achievable by all. Scarpellini also studied the changing format of the Avon catalogue. Since the catalogue was the main tool for selling items, every product had a photo and description inside. This could provide insight into a further study into the history of packaging.

In the episode “How the Emerging Tech World Turned Patents into Weapons,” Gerardo Con Diaz, professor of science and technology studies at the University of California, Davis, discusses his study of software patenting in the United States during the 1950s and ’60s. He focussed on IBM, drawing heavily on Hagley’s large collection of company materials and court documents to trace the litigation of patent and copyright infringements and antitrust actions.

In the very early days of machine computing, the hardware consisted of circuitry, tapes, and punch cards. Early software programs included systems for payroll processing and scientific computational programs. These programs were bundled on computers, as they are now, but in the

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**Continued on page 28**



# ||| Local and Regional Updates / Mise à jour locale et régionale

By Jonathan Leroux

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

## MANITOBA

The Manitoba Law Library Inc. has started an internship program. One student from the library and information technology program at Red River College will be working at the courthouse library one day a week over the academic year. This year's intern is Meagan Acquisto. The goal of the program is to develop future legal information professionals for the Winnipeg law library community.

**SUBMITTED BY**  
**KAREN SAWATZKY**  
Manitoba Law Society

## VANCOUVER ASSOCIATION OF LAW LIBRARIES (VALL)

Greetings from Vancouver!

VALL has a number of new executives for 2019/2020, with Beth Galbraith (vice president), Tanya Stoparczyk (membership), Jason Wong (programs), Jen Brubacher (VALL Review), and Katherine Melville (VALL Review) joining Susannah Tredwell (past president), Angela Ho (treasurer), Danielle Brosseau (programs), Joni Sherman (webmaster), and me, Marnie Bailey (president).

In September, Zena Applebaum treated us to an informative and engaging discussion titled "Analytical Fitness and your Data Diet," which was well attended and brought forth a lively discussion amongst the attendees. We had a coffee morning meet-and-greet with the new CEO of Courthouse Libraries B.C. in October, and our upcoming November session is a lunch-and-learn with two members of the B.C. Hansard publication team.

**SUBMITTED BY**  
**MARNIE BAILEY**  
President,  
Vancouver Association of Law Libraries 2019/2020

## LEGAL RESEARCH & WRITING SPECIAL INTEREST GROUP (LRW SIG)

At our annual meeting at the CALL/ACBD conference in Edmonton, LRW SIG members talked business before engaging in a lively discussion on the legal research skills of law students and new graduates. This is a recurring theme each year—one that probably won't change in the future! Special thanks to Matt Renaud for taking minutes in the absence of co-chair Nikki Tanner.

Following the meeting, the CanLII/CALL Working Group

met to discuss their project: creating instructional content for CanLII. Members of the working group created fantastic content for CanLII over the summer, with more to come. The working group is open to all CALL/ACBD members, not just those involved with the LRW SIG. If you'd like to join the working group, or learn more about it before making a decision, contact Nikki Tanner ([nikki.tanner@unb.ca](mailto:nikki.tanner@unb.ca)) or Hannah Steeves ([hannah.steeves@dal.ca](mailto:hannah.steeves@dal.ca)) for more information. We look forward to hearing from you!

At the next CALL/ACBD conference, we'll be looking for a new co-chair to join Hannah when Nikki steps down. If you'd like to throw your hat into the ring, please contact either co-chair for more information.

**SUBMITTED BY**  
**NIKKI TANNER AND HANNAH STEEVES**  
Co-Chairs, Legal Research & Writing SIG

beginning, the classification of the “intangible” programs created problems. IBM believed that software was a text best protected by copyright. In contrast, software developers believed their products were machines that deserved the stronger protection of patents. These differences in position advanced the long-term business positions of the parties. Until 1980 and the passage of the *Computer Software Copyright Act*, computer programs were registered in the U.S. Copyright Office as a book or pamphlet. This classification, offering the least amount of intellectual property protection, had major implications on the computing industry.

Often in the course of assisting our patrons, librarians are privy to discrete issues or problems, but only the smallest slice of the issue at hand; rarely do we see the final product or the part that our collection or resources may have played in the researcher's bigger picture. This podcast provides a fascinating insight into just how library and archival sources can be used creatively.

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

### Notes from the U.K.: London Calling

By Jackie Fishleigh\*

Hi folks!

#### Boris, Boris, Boris...

Well, as you have no doubt noticed, we have a new PM!

It's a dangerous job—Brexit has already destroyed the last two Tory PMs, Theresa May and David Cameron.

According to Johnson, when he met the Queen at Buckingham Palace for the first time, [she remarked](#) that she didn't "know why anyone would want the job."

As a matter of coincidence and personal amusement, PM Johnson's chancellor of the exchequer, Sajid Javid, once met my good friend Mark at a parents' evening in West London. Mark was teaching economics to Javid's daughter at the time, and Javid wanted to be certain that his daughter would get an A\*. Meanwhile, my retired civil service lawyer friend Nigel once wrote our new foreign secretary Dominic Raab's appraisal when they both worked at the Foreign and Commonwealth Office (FCO). What a small world it is!

#### Prorogation of Parliament an Affront to Democracy

Just when it seemed that the whole Brexit saga could not get any more convoluted, it has suddenly taken a huge lurch into the even more bizarre.

Almost as soon as he took over from Theresa May, PM Johnson vowed to get us out of the E.U. by the end of October on a "[do or die](#)" basis, meaning that this would even be without a divorce deal if necessary.

On the 28th August, [Boris vowed](#) that he would limit parliament's opportunity to sabotage his Brexit plans by announcing his new legislative agenda on the 14th October at the Queen's Speech, the formal state opening of a new session of parliament. By effectively shutting parliament from mid-September for around a month, he hoped to reduce the parliamentary time in which lawmakers could try to block a no-deal Brexit.

Suspending parliament ahead of a Queen's Speech is the historical norm in Britain. However, given the tight deadline for Brexit, this decision to limit parliamentary scrutiny weeks before the country's most contentious policy decision in decades prompted an immediate outcry. The prorogation of parliament in such a high-handed manner was seen by many as an "affront to democracy," including Tom Watson, deputy leader of the Labour Party, who [tweeted](#), "This action is an utterly scandalous affront to our democracy. We cannot let this happen."

#### The Rebels' Bill to Defeat a No-Deal Brexit is Rushed Through

On Tuesday 4th September, following the defeat of the government in the House of Commons by 328 votes to 310, the rebels' [European Union \(Withdrawal\) \(No 6\) Bill](#) began its stages through parliament.

#### Extension or Election?

Johnson made it clear that he would not even consider asking the E.U. for another [Article 50](#) extension. He added that he would rather "[be dead in a ditch](#)" than do so. Instead, he put down a motion calling for a general election under

the [Fixed-term Parliaments Act 2011](#). As a rule, our general elections should occur in a planned manner just once every five years. However, if two-thirds of the House of Commons approves or there is a vote of no confidence, this can be overridden. Meanwhile, the main opposition—i.e., the Labour Party—has said it will not support the call for an election, which is likely to happen this coming Monday 9th September.

### Slouching in the Commons

Furious MPs [criticised](#) the “disrespectful” body language of Jacob Rees-Mogg, Leader of the House, during the crunch debate on 3rd September. Given the grave subject of whether or not to hand control of the Brexit process to those seeking to avoid no deal, Rees-Mogg’s fellow MPs accused him of showing contempt for parliament as he reclined on the iconic green benches, appearing to be half-asleep.

Caroline Lucas, MP for the Green Party in Brighton, [scorned](#) his inappropriate behaviour: “Now, there’s been a lot of talk about democracy tonight and the Leader of the House, who—I have to say—with his body language throughout this evening has been so contemptuous of this house and of the people.”

### Dominic Cummings – Boris’s Right-Hand Man

Although he is not a politician, nor has he ever been a member of the Conservative Party—nor any other party, for that matter—Dominic Cummings is known in the corridors of Westminster as a former special advisor to then education secretary Michael Gove and, more importantly, as director of the successful Vote Leave campaign back in 2016. He is said to have insisted on the [mass sacking of 21 Tory rebels](#) who blocked a no-deal Brexit. Some commentators say he is running a “[reign of terror](#).” Cummings is supposedly the real brains behind Boris’s Brexit plans.

### Breaking News: Parliament Passes Law to Stop No-Deal Brexit

As I write, Boris Johnson’s Brexit plans suffered a further blow as [a bill](#) to block a no-deal outcome on Halloween [completed its passage](#) through parliament. The parties opposed to his scheme to crash out of the E.U. with a hard Brexit—i.e., Labour, Liberal Democrats, Greens, Scottish Nationalists, and even some Tories—have become increasingly united against him. Johnson’s “[bull in a china shop](#)” approach to ending the civil war in the Tory party has actually exacerbated it.

The legislation, tabled by senior Labour backbencher Hilary Benn after MPs seized control of the Commons agenda, is now due to become law by going to the Queen for royal assent on Monday. The Prime Minister says the legislation will “scupper” his chances of a withdrawal deal with Brussels.

### First GDPR Fine Issued

It is little more than a year since the [General Data Protection Regulation](#) (GDPR) was implemented in the U.K. The GDPR is a legal framework that sets guidelines for the collection and processing of personal information from individuals who live in the European Union.

British Airways [has been fined](#) 1.5 per cent of its annual worldwide income and faces a £183 million fine over a passenger data breach. Personal data of 500,000 customers were stolen from its website and mobile app, according to the [Information Commissioner’s Office](#) (ICO). ICO is a non-departmental public body that reports directly to Parliament and is sponsored by the Department for Digital, Culture, Media and Sport.

### Open Justice – Landmark Decision for Access to Documents to Non-Parties

The Supreme Court case [Cape Intermediate Holdings v Dring](#), [2019] UKSC 38, concerned the disclosure of documents believed by an asbestos victims’ support group to contain valuable information about the dangers of asbestos. In her lead judgment, Lady Hale said, “[t]he default position should be to grant access to documents placed before a judge and referred to by a party at trial unless there was a good reason not to do so. It should not be limited by what the judge has chosen to read” (at para 13).

### Lady Hale’s Keynote Speech at the BIALL Conference

Speaking of Lady Hale, she recently gave the keynote speech at the [50th BIALL Conference in Bournemouth](#) last June.

In a packed auditorium, with a storm raging away on the nearby coast, Lady Hale managed to ignore the constant click of cameras as [she addressed](#) her theme with laser-like focus. Her subject was the ways in which the law has changed since her undergraduate days at Girton College, University of Cambridge, in the early 1960s. The areas she picked out for scrutiny were judicial review, human rights, the European Union, devolution, and equality.

Concluding, she said that one of the biggest challenges facing the law in the future will be determining the primacy of U.K. law and how to separate it from the various E.U. legislation we have had since the 1970s. Assuming we leave, that is...

### Transparency of the Court

Another hot potato Lady Hale wanted to tackle was the transparency of the court itself:

We do our best, says Hale, to explain the role of the Supreme Court and the work we do. As well as publishing conventional judgments, we publish a two-page summary. Judgment is also delivered as a piece to camera, by one of the justices, explaining the case in under five minutes using language anyone can understand. These as well as the live feed of hearings are all on YouTube.

But, as [reported by ICLR’s Paul Magrath](#), Hale agreed that

it would be useful to provide access to the papers in the case, without which it is hard to know what is going on even if you can follow it on the live relay or in person. (Providing such access—which was done in the Miller case—for all appeals would indeed be a welcome development.)

On 11 January 2020, Lady Hale will [step down](#) as president of the Supreme Court and Lord Reed will take over.

### Electronic Signatures are Valid

The Law Commission has [confirmed](#) that electronic signatures are a valid alternative to handwritten signatures. The commission notes that the common law is flexible in recognising a range of types of signature, including X, initials, a printed name, and a description of the signatory such as “Your loving mother.” The commission also points out that electronic signatures, including names typed at the bottom of an email or clicking “I accept,” have already been accepted by the courts.

Areas of concern remain, however. These include the increased likelihood of fraud, security issues, and the question of remote witnessing via video link. An industry working group should therefore be established to provide best practice guidance followed by legislative reform. A future review of the law of deeds was called for. To make the law on e-signatures more accessible, the government should consider codifying the law.

### The Lengths Some People Will Go to Avoid Brexit

In my case, Australia!

The political situation here remains totally up in the air but, on a lighter note, I thought I had devised a cunning plan to avoid (a no-deal) Brexit, which PM Johnson still maintains will occur on the 31st October. As it happens, I am attending the International Association of Law Libraries (IALL) conference in Sydney, Australia.

My partner and I are setting off from Gatwick Airport on 24th October and, after a holiday exploring Down Under, we are due to arrive home on 13th November. It will be by far our longest ever flight.

### Fun Fact: Another Johnson – Amy!

Croydon, now a London Borough and the place where I went to secondary school, has a strong claim to be the original home of international aviation. Croydon Airport’s stunning art deco Terminal Building was the first to have distinct Arrivals and Departure halls and, more importantly, it was the site of pilot [Amy Johnson’s](#) “world record-breaking flights.” In 1930, Johnson became the first female pilot to fly solo to Australia from England:

On the 5th May 1930 Amy departed London Airport, Croydon to beat the record. A virtual unknown, the flight was seen off by little more than a dozen people. By the time Amy had reached Karachi, Britain was entranced by the determination of Amy and she was front page news. Despite adverse weather and aircraft technical problems, Amy battled on and arrived at Darwin, Australia on the 24th May, 19 days and 11,000 miles from Croydon. Amy had set a world record as the fastest woman to Australia.

Sadly, although it is possible to visit some of the airport buildings on Purley Way near Croydon, we locals do not have the pride about it that I feel we should!

Nevertheless, there is a [Croydon Airport Visitor Centre](#), open on the first Sunday of the month. It is a volunteer-led micro-museum, which opened in 2000. Exhibition space includes displays located in the world’s oldest air traffic control tower in Airport House, with an “interactive display, exhibits and visual images charting the history of Croydon Airport from World War I airfield, London’s international airport, Battle of Britain airfield and closure in 1959.”

That’s all, folks! Until next time!

With very best wishes,

Jackie

### Letter from Australia

By Margaret Hutchison\*\*

It was a very quiet event, mostly unremarked by the media. Our latest prime minister, Scott Morrison, has survived one year in office. The Liberal Party elected him in the strange, panic-stricken coup in August last year. Mr Morrison’s 12-month prime ministership has included convincingly winning a federal election, so it’s most unlikely we’ll be going through the revolving door of prime ministers again for some time.

### Religious Discrimination Bill

One promise Scott Morrison made during his election campaign was the introduction of legislation prohibiting religious discrimination. This followed the inquiry into religious freedoms commissioned by former Prime Minister Malcolm Turnbull, with the former Liberal minister Philip Ruddock steering the review. The government has accepted about 15 of the 20 [recommendations](#) of the review. The attorney-general released the exposure draft of the proposed legislation during a [speech in Sydney](#) on 29 August 2019. The texts of the draft bills are available on the [attorney-general’s department website](#).

The bills, if passed in their current form, will prohibit discrimination on the ground of religious belief or activity in key areas of public life. A new office of the Freedom of Religion Commissioner in the Australian Human Rights Commission will also be created. The Religious Discrimination Bill will prohibit discrimination against religious belief and activity, both directly and indirectly. In addition, the bill places additional requirements on large businesses relating to standards of dress, appearance, or behaviour that limit religious expression.

The case of controversial rugby player Israel Folau and Rugby Australia thrust the issue of religious discrimination into the spotlight. The organisation [sacked](#) the former Wallaby and devout Christian after a [homophobic post](#) on Instagram. Israel Folau has [legal proceedings](#) with the Fair Work Commission

against Rugby Australia (RA) and NSW Rugby for breach of contract. The mediation proceedings in the Fair Work Commission broke down and proceedings have started in the [Federal Circuit Court](#). Mediation is set down for December and, if that fails, there will be a hearing in February.

### Cardinal Pell Update

On 21 August 2019, the Victorian Court of Appeal delivered its [judgment](#) in the appeal of Cardinal George Pell against his conviction on 11 December 2018 in the County Court in relation to five charges of sexual offending. The bench was split 2–1. According to media reports, Cardinal Pell’s lawyers are of the opinion that the dissenting opinion of Victorian Supreme Court Justice Mark Weinberg provided reasonable grounds to have his convictions overturned. There is a 21-day time frame to lodge an application for special leave to the High Court. It’s expected that an appeal will be lodged but if leave to appeal is granted, the hearing won’t be until sometime next year.

### AFP vs ABC

The fallout from the Australian Federal Police (AFP) raids on a News Corporation journalist and the Australian Broadcasting Corporation Sydney headquarters continues to rumble on. The AFP recently raided the Canberra property of a former senior defence adviser to Coalition government ministers who is understood to have worked for the Australian Signals Directorate, one of our more secretive defence agencies. It appears that the homeowner is suspected of leaking material to the News Corporation journalist. The parliamentary enquiries into press freedom are continuing and are expected to report by the end of the year.

### Ashes to Ashes...

On a cheerier note, and to prove that life in Australia is back to normal, the big news is that Australia has retained the Ashes. For further clarification, it’s not related to funerals (except in its origin), but cricket!

The Ashes is a series of Test matches played between Australia and England (the auld enemy) every two years. This series has been played in England this year and will be back in Australia in the summer of 2021–22. The Ashes “trophy” is not an official trophy; rather, it was a personal gift to the English captain, Ivo Bligh, during the 1882–83 tour of Australia. The contents of the urn are reputed to be the ashes of a wooden bail (one of the two crossbars that form the top of a wicket used in cricket—the bowler aims at the wicket and the batsman defends the wicket).

The term originated in a satirical obituary published in a British newspaper, *The Sporting Times*, immediately after Australia’s 1882 victory at The Oval, its first Test win on English soil. The obituary [stated](#) that English cricket had died, and “the body will be cremated and the ashes taken to Australia.” The mythical ashes immediately became associated with the 1882–83 series played in Australia, before which the English captain Ivo Bligh had vowed to “regain those ashes.” The English media dubbed this tour the quest to regain the Ashes.



The Ashes “trophy.”

After England had won two of the three Tests on the tour, a group of Melbourne women presented the small urn to Bligh. Irrespective of which side holds the tournament, the urn remains in the Marylebone Cricket Club Museum at Lord’s Cricket Ground. It has, however, been taken to Australia twice, once as part of the Australian Bicentenary celebrations in 1988, and to accompany the Ashes series in 2006–07, and it will be lent to the State Library of Victoria this summer as part of an exhibition. I can feel a trip to Melbourne sometime in December coming on.

### The Case of the Cheating Cricketers

You may remember I was horrified last year when three Australian players were caught cheating during a Test match in South Africa by rubbing the side of a cricket ball with sandpaper to make it swing during bowling. The Australian captain, Steve Smith, was banned for 12 months from all international and domestic matches, while the so-called instigator, David Warner, was also banned for 12 months, and the new team member, Cameron Bancroft—who actually did the deed—was banned for 9 months as he was acting under directions. Steve Smith was actually playing cricket in Canada somewhere during his enforced break. Now all three are back in the Australian cricket squad in England. Steve Smith has survived being hit by a cricket ball and missing a match through the concussion rule, but he had recovered to hit a double century (200+ runs) in the next Test match. David Warner is not playing so well—he’s been out for no score in his past three innings.

It’s amazing how I can fill a page with one topic, cricket. One of the best explanations of cricket I’ve heard was while watching a match in the grounds of Rideau Hall in Ottawa!



## A Canadian Bar in Australia

Now finally, Canberra is getting a piece of Canada! Caribou, a [Canadian bar](#), is opening in the suburb of Kingston. It's not open yet, but I'll send an agent to report on it and tell you all about it in my next letter.



Springtime!



Floriade, Australia's biggest celebration of spring.

Until next time, when we'll have started a long, hot summer. The pictures above are spring last year and Floriade this year (a bit early for the tulips, though).

Margaret Hutchison

## The U.S. Legal Landscape: News from Across the Border By Julieanne E. Grant\*\*\*

Time marches on. Hard to believe that only about a year remains (thankfully!) until the 2020 presidential election. It's difficult to say at this point who the Democratic nominee will be, but Joe Biden and Elizabeth Warren are looking more and more like the frontrunners. Regardless of whether Trump is voted out, he has already had a major impact on the country's judicial system for the long run. In just three years, the U.S. Senate has [confirmed more than 150 of his](#)

[nominees](#) for the federal judiciary. This stacking of judicial conservatives on the bench, however, could not have been accomplished without the collaboration of Senate Majority Leader Mitch McConnell. Whether Trump (and McConnell) will have an opportunity to choose yet another conservative for SCOTUS remains to be seen.

Below is another quarterly roundup of U.S. legal and law library news, this time covering the summer of 2019. As always, I hope readers will find something of interest.

### AALL & ALA News

AALL's annual meeting was held in Washington, D.C., in the heat of mid-July. Needless to say, I didn't make it, but [more than 1,500 people](#) sweated it out. Prior to the start of the conference, AALL sponsored a [Lobby Day](#) (July 12), which featured meetings between AALL members and members of Congress and their staffs. [Next year's AALL meeting](#) will take place in New Orleans with the theme "Unmasking Our Potential." The keynote speaker will be [Jim Kwik](#). AALL's 2021 gathering will be held in Cleveland.

[AALL announced](#) on July 15 that it is partnering with [LLMC Digital](#) to digitize and preserve the association's records. The AALL Archive is located at the University of Illinois Urbana-Champaign.

In August, AALL members voted in favor of a [set of amendments](#) to AALL's bylaws. AALL's Nominating Committee has presented a [slate of candidates](#) for the executive board election in October.

Meanwhile, across town at ALA, the association released the [Libraries' Guide to the 2020 Census](#), which includes information about the census procedure, FAQs, and a timeline of key dates. ALA also announced that it is [removing the name of Melvil Dewey](#) from its [annual medal award](#), referencing the famous librarian's antisemitism, racial prejudice, and record of sexual harassment. Last year, one of ALA's divisions voted to [remove the name of Laura Ingalls Wilder](#) from an annual award that recognizes a significant contribution to children's literature.

### Law Schools

Recent [data compiled](#) by the [Law School Admission Council](#) (LSAC) indicates that the number of applicants to U.S. law schools has increased for the second year in a row (about 3.2 percent), while the number of applications has decreased slightly (about 1.5 percent). The [LSAC data](#) also indicates that the rise in the overall number of applicants reflects an increase in diverse applicants, with the numbers of Asian and Hispanic law school hopefuls on the rise. According to the [LSAC data](#), the number of female applicants has also risen, while the number of male applicants has remained steady. Just as an FYI, the LSAC compiles [statistics on Canadian law school applicants](#) as well.

Law schools around the country have been involved in some interesting initiatives. Harvard, for example, has launched an [Animal Law and Policy Clinic](#). The [LawX Legal Design Lab](#) at the J. Reuben Clark Law School (Brigham Young),

the [Innovation for Justice program](#) at the James E. Rogers College of Law (University of Arizona), and [SixFifty](#) have jointly created [Hello Landlord](#), a tool to help tenants communicate more effectively with their landlords regarding matters that can lead to eviction. In the Midwest, the Northern Illinois University (NIU) College of Law [received a \\$2,500 grant](#) to continue its successful [Prisoners' Rights Program](#). The NIU law school also received a [\\$125,000 grant](#) to launch a program for college graduates representing minority groups to prepare for the LSAT and successfully navigate the law school admissions process.

Meanwhile, a little further east, the [University of Illinois Chicago John Marshall Law School](#) made its debut this fall. The school opened following a three-year transition that merged the private John Marshall Law School with the public University of Illinois at Chicago. The new UIC John Marshall Law School is Chicago's only public law school. Its dean is [Darby Dickson](#), who is the president-elect of the [Association of American Law Schools](#) (AALS). No enrollment figures yet: the school competes with five other law schools in Chicago for new students.

### Law Firms, Lawyers & the ABA

In July, *Law360* published a list of "Global 20" law firms for 2019.<sup>1</sup> At the top of the list of international legal powerhouses is Chicago-based [Baker McKenzie](#), which [announced on August 29](#) that its revenues for the past fiscal year reached \$2.92 billion. Number two on the list is another U.S.-based firm, [White & Case](#). Another list, the [Vault Law 100](#), indicates that [Cravath, Swaine & Moore](#) (based in New York City) is the most prestigious law firm, according to a survey of almost 20,000 law firm associates.

Weil, Gotshal & Manges [announced it is pairing up with the Columbia Business School](#) to offer its incoming and third-year associates training in business skills and financial literacy. According to the [firm's website](#), the training will include financial principles and valuation, basic accounting, effective communication strategies, and negotiation skills. The [ABA Journal](#) recently highlighted Kirkland & Ellis's Institute for Trial Advocacy, a mock trial program for junior associates, which includes professional actors as witnesses.

[Judy Perry Martinez](#) has been sworn in as the 143rd president of the [American Bar Association](#) (ABA). Martinez is of counsel at [Simon, Peragine, Smith & Redfearn](#) in New Orleans. In an address to the membership at the association's annual meeting in San Francisco, [Martinez said](#) that the ABA "will continue to stand up for an independent judiciary and bolster the integrity of our democratic institutions, especially those that depend on due process, equality, civility, respect, and fairness."

In other ABA news, the association's Media Relations and Strategic Communications Division released its inaugural [ABA Profile of the Legal Profession](#) report in August.

According to the document, there are 1,352,027 active lawyers in the United States, as of January 1, 2019 (p. 5). Of these, 64 percent are male (p. 7), and 85 percent are white (p. 8). The average salary for a U.S. lawyer in 2018 was \$144,230 (p. 15), and the median salary for first-year associates in private firms this year is \$155,000 (p. 21). The highest wages for attorneys can be found in Silicon Valley (\$207,950), San Francisco (\$183,070), and the D.C. metropolitan area (\$179,980) (p. 18). The largest concentrations of attorneys per state are found in New York (182,296), followed by California (170,117), Texas (91,244), Florida (78,448), and Illinois (62,720) (p. 6).

### SCOTUS News

SCOTUS completed its 2018–2019 term at the end of June by releasing some of its most impactful and anticipated decisions. [Dept of Commerce v New York](#) addressed whether a question about citizenship can be included on the 2020 U.S. Census; the Court said no. In an unusual move, SCOTUS recessed for the summer without resolving [Sharp v Murphy](#) (previously [Carpenter v Murphy](#)), a capital murder case out of Oklahoma. Oral arguments to rehear the case are yet to be scheduled. In [Iancu v Brunetti](#), the Court struck down part of the [Lanham Act](#), thereby allowing the petitioner to trademark his clothing line called "FUCTION." In [Kisor v Wilkie](#), SCOTUS addressed the continued validity of [Auer deference](#) (stemming from the [Chevron doctrine](#)). Chief Justice Roberts joined the liberal justices as the Court declined to overturn the *Auer* decision. In [Rucho v Common Cause](#), SCOTUS ruled that partisan gerrymandering should be addressed at the state level; Justice Elena Kagan wrote a blistering dissent, joined by Justices Ginsburg, Breyer, and Sotomayor.

SCOTUS heard [70 cases](#) during the 2018–2019 term. *Law360* published an interesting article about the Court's 57 dissenting opinions (an increase from the 2017–2018 term, when there were 48).<sup>2</sup> Justice Gorsuch penned the most dissents last term with 10, followed by Justices Breyer and Sotomayor with nine each. Another *Law360* article analyzed the justices' participation during oral arguments, with Justice Sotomayor dubbed the "most talkative," followed by Justice Breyer.<sup>3</sup> SCOTUS's own final ["Stat Pack"](#) for the 2018–2019 term indicates that the Ninth Circuit was the most frequently reviewed lower court, with 19 percent of SCOTUS's argued cases emanating from there; more than 80 percent of those cases were reversed. According to the Stat Pack, among the oral advocates the Court heard last year, 17 percent were female (at least that's better than 12 percent the previous year).

There has been a great deal of chatter in the press about some surprising SCOTUS crossovers this past term—conservative to liberal, and vice versa. Chief Justice Roberts, however, "remains the conservative most likely to end up on the same side as a liberal colleague."<sup>4</sup>

Coming up on the docket for the 2019–2020 term is an interesting case out of Georgia involving the state's

<sup>1</sup> Jacqueline Bell, "Law360 Reveals the Global 20 Firms of 2019," *Law360* (28 July 2019).

<sup>2</sup> Erin Coe, "The Sharpest Dissents of the Supreme Court Term," *Law360* (28 June 2019).

<sup>3</sup> Jimmy Hoover & Amanda James, "Sotomayor, Breyer Vie for Chattiest High Court Justice," *Law360* (28 June 2019).

<sup>4</sup> Brandon Lowrey, "Conservative Justices Cross Over to Create Unusual Lineups," *Law360* (28 June 2019).

annotated code. At issue is whether U.S. states may impose copyright protection on works that lack the force of law, such as the annotations in the *Official Code of Georgia Annotated* (OCGA). The case is [Georgia v Public.Resource.Org](#), scheduled for oral arguments on December 2, 2019. A [list of cases](#) SCOTUS will hear this fall is available on the [SCOTUSblog](#).

### SCOTUS Justices: Out & About

On August 23, [SCOTUS announced](#) that Justice Ruth Bader Ginsburg had received three weeks of radiation therapy for a cancerous tumor in her pancreas. Her prognosis is excellent, however, and she has not missed a beat. On August 31, RBG [discussed her 2016 book](#) *My Own Words* at the Library of Congress National Book Festival, and [she spoke](#) at the University of Chicago on September 9.

Justice Brett Kavanaugh ended his first term with SCOTUS after his controversial nomination hearings in the fall of 2018. As I write this, there is word of possible further trouble for Kavanaugh as a new book, [The Education of Brett Kavanaugh: An Investigation](#), is about to hit the shelves. The authors are two *New York Times* reporters.

Justice Neil Gorsuch has a new book out called *A Republic, If You Can Keep It*. According to the [publisher's description](#), the book "discusses the role of the judge in our constitutional order, and why [Justice Gorsuch] believes that originalism and textualism are the surest guides to interpreting our nation's founding documents and protecting our freedoms." For an interesting interview with Justice Gorsuch, see Ariane de Vogue's [September 10 post](#) on the CNN Politics page.

### Around the States

The State Bar of California [inadvertently leaked the topics](#) of the essay portion of the state's July 2019 exam before the official administration of the test. The topics were named in an email sent to the deans of several California law schools. Although there was apparently no evidence that test-takers had access to the email, the state bar sent the information about the essay topics to all registered examinees prior to the test.

The State Bar of California also made news with its [recent proposals](#) that non-lawyers be allowed to provide specified legal advice and to have a financial interest in law firms. The proposals would also allow legal services to be provided via approved technology. California is only one of a few U.S. states (the others being Vermont, Washington, and Virginia) that allow individuals who have completed a legal apprenticeship program (rather than law school) to sit for the bar. (Kim Kardashian was reportedly [taking the apprenticeship route](#) in California, although the status of this effort is unknown.) Former associate justice [Marilyn Skoglund](#), who recently retired from the Vermont Supreme Court, did not attend law school but completed an apprenticeship program instead.

More news coming out of California as the City of Berkeley [will no longer have](#) manholes, chairmen, manpower, or policemen. No, this is not the result of a budget crisis. Rather, the city's municipal code will be gender-neutral going forward.

Meanwhile, in New York, the [state now bans](#) the declawing of cats, a victory for animal rights activists. Fines of up to \$1,000 may be imposed for violations. New York is the first U.S. state to impose an outright prohibition on the procedure, which can be extremely painful for cats. Several countries in Europe, along with New Zealand and Australia, already have a similar law on the books.

### Legal Miscellany: Award Winners, the Return of Atticus Finch & Tasty Treats

The *Green Bag Almanac & Reader* released its [2018 list of Exemplary Legal Writing](#), which includes judicial opinions and books. Justice Elena Kagan was the only SCOTUS member to make the list for her dissent in [Janus v AFSCME, Council 31](#), 138 S.Ct. 2448 (2018).

The 2019 winner of the [Harper Lee Prize for Legal Fiction](#) was announced in July: [The Boat People](#) by first-time author [Sharon Bala](#).

Speaking of Harper Lee, according to an [article in the ABA Journal](#), a 1L at the University of Texas is named Atticus Finch, a name that the student apparently chose himself.

Vermont-based [Ben & Jerry's Ice Cream](#) has introduced a tasty new flavor called [Justice ReMix'd™](#). Part of the proceeds from its sales will go to the [Advanced Project National Office](#) to support its efforts at criminal justice reform.

And speaking of tasty, several U.S. and U.K. media outlets [reported on a cake purloiner](#) in New York City. An employee of [Lady M Confections](#), a high-end pastry shop, was accused of stealing \$90,000 worth of fancy cakes and selling them at discounted prices. The cake boutique has sued the former employee, who has already pleaded guilty to a charge of [petit larceny](#). The defendant was scheduled to be sentenced on September 24.

### Conclusion

That wraps it up for another three months. If any readers would like to comment on any of the above, or make suggestions for additional content, please feel free to contact me at [jgrant6@luc.edu](mailto:jgrant6@luc.edu).

Julienne E. Grant

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Please note that any and all opinions are those of the authors and do not reflect those of their employers or any professional body with which they are associated.

# Call for Submissions

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

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

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

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

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

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



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Compiled by/Compilé par Janet Macdonald

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

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