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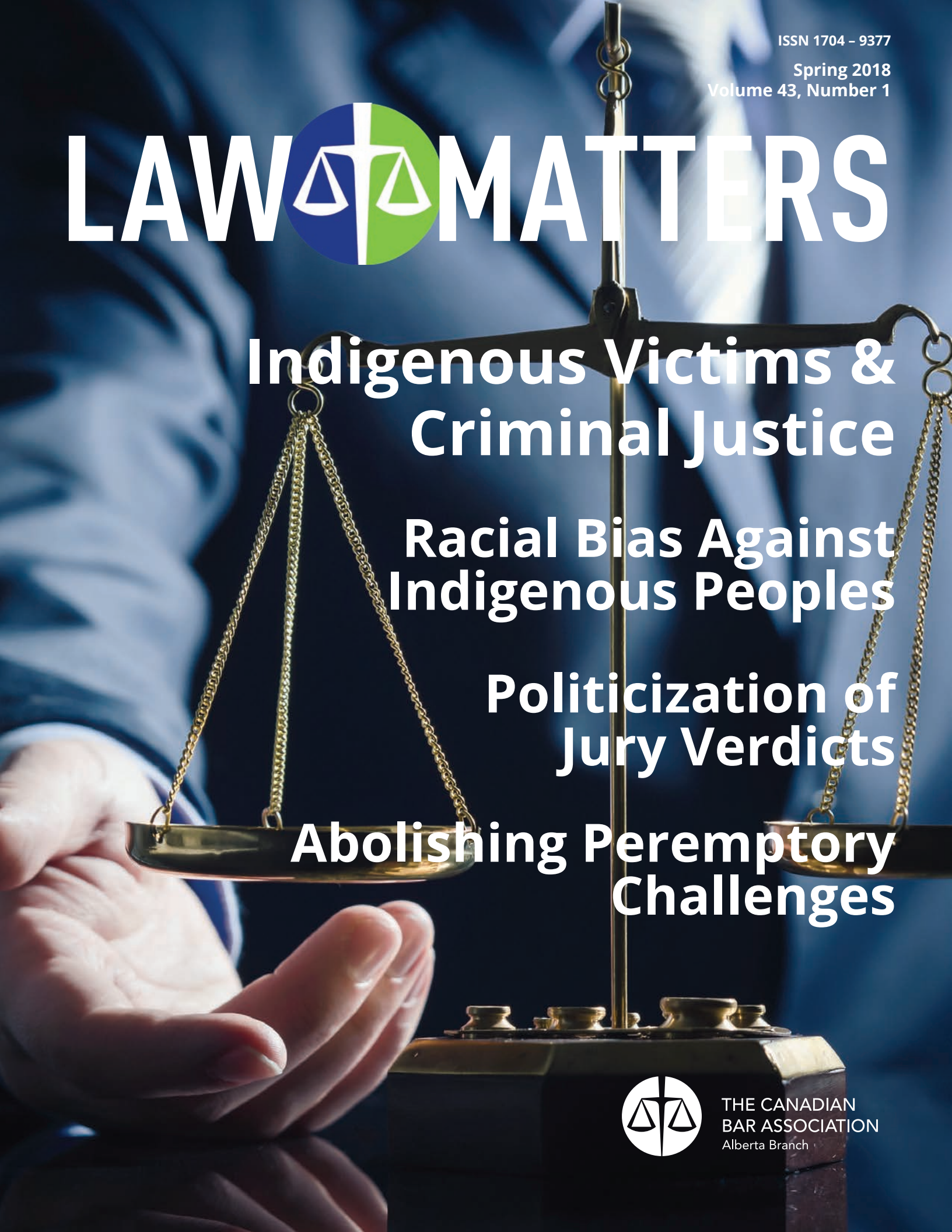

Indigenous Victims & Criminal Justice

Racial Bias Against Indigenous Peoples

Politicization of Jury Verdicts

Abolishing Peremptory Challenges

THE CANADIAN BAR ASSOCIATION
Alberta Branch

EDITOR'S **NOTE**

BY **JOSHUA SEALY-HARRINGTON**

As the incoming Chair of the Canadian Bar Association, Alberta Branch's Editorial Committee — and, consequently, as the new Head Editor of that Committee's Law Matters magazine — it is my privilege to introduce both the new direction we are taking with the magazine, and the first step in that direction: this spring 2018 edition focussing on Indigenous victims and criminal justice.

Law Matters has been an Albertan staple of the Canadian Bar Association's publishing efforts for many years. And with generous support from Rob Harvie, QC — the outgoing Chair of the Editorial Committee — we will be reorienting the magazine towards topical commentary on controversial legal issues. Rob did incredible work with Law Matters during his tenure as Chair and his significant investments in the magazine have left us with a solid foundation from which to develop a new vision for the magazine as a forum for constructive discourse on pressing legal issues; a forum where interested readers, no matter their political stripe, can come to find insightful and balanced commentary.

So, what will Law Matters look like in the coming years? We will strive to choose topics that are topical and controversial. Further, we will aim to attract authors who are experts and disagree. Lastly, both in terms of topics and authors, we will endeavour to capture the diversity of Alberta and Canada. Of course, there are limits to these goals. Our editorial judgment, author availability, and author autonomy, all circumscribe the extent to which we can simultaneously advance all of these objectives. But our overarching goal will persist nonetheless — being a "one stop shop" where Albertans, and Canadians, can come to read diverging and thoughtful views on important issues confronting the Canadian legal system. Modern social media often leaves many of us (myself included) in echo chambers that dilute the quality of discourse. We hope to counteract that trend and encourage exchange, reflection, and ultimately, progress — even if we can't all agree on its precise terms. As we navigate these complex waters, we will be assisted by Junior Editors from the student bodies of the Faculties of Law at the Universities of Calgary and Alberta, another new development for Law Matters! Sincere thanks to Bernadette McMechan (an impressive University of Alberta J.D. student) for her critical support with this edition, during exams no less.

The spring 2018 edition aspires to the lofty goals described above. We begin with introductory remarks from Jessica Robertshaw (pg. 7), providing an objective (a loaded word, I know) overview of the facts underlying the acquittals of Gerald Stanley and Raymond Cormier in the tragic deaths of Colten Boushie and Tina Fontaine. Next, Professor Harding discusses biased representations of Indigenous issues in the media (pg. 8). Indeed, as Professor Tanovich later argues, racial bias likely impacted the Stanley verdict (pg. 14). We then turn to an outstanding piece from Professor Metallic — one of multiple Indigenous contributors in this edition, in line with the diversity commitment noted above — where she passionately describes the visceral impact these verdicts had on many Indigenous people (pg. 10). And later, two further Indigenous scholars — Gina Starblanket and Dallas Hunt — explore how narratives surrounding the Stanley trial (namely, a knight protecting his "castle") frame our (mis)perception of the events that took place (pg. 12).

Lastly, and with a specific view to promoting our commitment to adversarial discussion described earlier, we have multiple authors who take opposing sides on some of the most controversial issues that have arisen in the aftermath of these verdicts. Kathy Hodgson-Smith supports the government's social media response to the verdicts, and reasons that this response maintained confidence in the administration of a justice system under harsh scrutiny for its treatment of Indigenous victims (pg. 16). In stark contrast, Professor Plaxton criticizes this politicization for the very opposite effect — compromising the integrity of the criminal justice system (pg. 17). Further, Professor Roach supports the government's abolition of peremptory challenges in the interest of promoting diverse juries (pg. 20), whereas Michael Spratt argues, in part, that such an abolition — without complementary reforms of the systemic barriers to jury service for Indigenous and racialized people — will, in fact, undermine diversity in juries (pg. 21).

As I noted at the outset, we have five goals for Law Matters in the coming years: relevance, controversy, expertise, disagreement, and diversity. I am, of course, biased. But I think that our Committee has put together a worthy publication that balances those interests superbly in this latest edition. We hope you enjoy reading this magazine, and more importantly, hope it leads to productive dialogue with those around you, particularly those across the notional aisle.

Cover Art: "Weight of scales of justice, lawyer in background": iStockPhoto.com/simpson333

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PRESIDENT'S **REPORT**

BY **JENNY MCMORDIE**

I am happy to report that spring has finally arrived in Alberta! After being driven inside by the endless snowstorms we endured this year, I look forward to seeing CBA members out and about at the final Section meetings and events before we wrap up our programming year at the end of June.

As you receive your copy of Law Matters, communities around Alberta, including Calgary, Edmonton, Lethbridge, Medicine Hat, St. Paul and Fort McMurray, will have just wrapped up their local Law Day events. Law Day is an important access to justice and public legal education event in our province, and on behalf of the CBA Alberta Executive Committee, I extend my sincere thanks to the organizers, volunteers, and sponsors of Law Day across Alberta. Law Day is one of the events that shows the best of our profession, and this year we had over 100 lawyers volunteer to make it possible (in addition to the countless clerks and court staff that also participate). I was privileged to attend the citizenship ceremonies at Law Day Calgary, where we welcomed 90 new Canadians in the ceremonial courtroom at the Calgary Courts Centre, and Law Day St. Paul, where 45 new Canadians were welcomed. Similar ceremonies were held at other Law Day events, and are a highlight of the day for many.

Our Law Day committees also organize the annual Dial-a-Lawyer event, which took place in conjunction with Law Day in Calgary and Edmonton. Dial-a-Lawyer provides free legal consultations to members of the public, and this year, our team of volunteers assisted over 100 callers. Dial-a-Lawyer is hosted with the cooperation of Legal Aid Alberta, which provides us with the space and phones, as well as Calgary Legal Guidance, the Edmonton Community Legal Centre, and Pro Bono Law Alberta. Please join me in thanking these organizations for their support of the event.

As the Section year comes to an end, the leaders of Alberta's Sections are beginning to look ahead to 2018-19. Many Sections are recruiting new members to sit on their Executive Committees and assist with meeting planning and speaker recruitment. Sections are the lifeblood of the CBA, and are the vehicle through which the majority of our professional development programming is delivered. I encourage any member who is interested in becoming more involved with the CBA to reach out to the Executive Committee of their Section of choice about leadership opportunities; it is an extremely rewarding way to volunteer your time and give back to the legal community. Members can also contact our indispensable Section Registrars for more information. Members in Calgary can contact Linda Chapman at sections@cba-alberta.org, and those in Edmonton can reach out to Heather Walsh at edmonton@cba-alberta.org.

Aside from Section involvement, there are many other volunteer opportunities available with CBA Alberta. Our committees are also currently recruiting new members for the 2018-19 year. Our committees do important work within our Branch, including legislative review, advocacy, organizing Law Day, and even publishing this magazine. If you would like to register your interest in participating in one of our committees, please visit www.cba-alberta.org/Volunteer.

This has been a dynamic year for CBA Alberta! We have continued with advocacy efforts related to vacancies on the bench, and worked hard to maintain strong relationships with all stakeholders participating in the legal profession, and the justice system. We have also enjoyed consulting with our members with respect to the governance and structure of this organization. We are doing our best to use this opportunity to strengthen your CBA, making it more effective at delivering everything our members value.

CBA members can expect to receive their membership renewal notices by mail or electronically in the coming weeks. When you renew your membership, do not forget to add a Portfolio or Portfolio Plus package to your membership! These packages are an excellent value for our members who participate in Sections, or regularly attend other CBA professional development activities. When you purchase a Portfolio or Portfolio Plus package, you receive up to three free materials-level memberships to Sections of your choice, education credits to use on your Section memberships, webinar registrations, or other approved CBA purchases, plus a rebate on all approved CBA purchases, which is applied to your national member fee the following year. As always, our staff in Calgary and Edmonton are available to assist should you have any questions about your membership. For more information, visit www.cba-alberta.org/Membership/Join-Renew.

Finally, on behalf of the CBA Executive Committee, membership and staff, please join me in congratulating Johanna Price, who was acclaimed incoming CBA Alberta Branch Secretary for the 2018-19 year. Johanna is a partner at Peacock, Linder, Halt & Mack LLP in Calgary, where she is a litigator. Our members will know Johanna from her extensive Section involvement, serving on the Executive Committees of the Alternative Dispute Resolution Section both in Alberta and at the national level. Johanna has also been an active volunteer on many conference planning committees, including the Alberta Law Conference, the national CBA Legal Conference, and most recently, the CBA West Conference that was held in Las Vegas in the fall of 2017. Johanna's term as Branch Secretary will begin on September 1, 2018, and she will be joined by President Frank Friesacher, Vice President Ola Malik, Treasurer David Hiebert, myself as Past President, and our Executive Director Maureen Armitage.

JOHANNA **PRICE**

of **PEACOCK, LINDER, HALT & MACK**

has been acclaimed

SECRETARY OF THE EXECUTIVE

of the Canadian Bar Association Alberta Branch for 2018 - 2019

WHAT'S HAPPENING

MAY

24: The Canadian Bar Association presents **THE CBA MILITARY LAW CONFERENCE.** Dow's Lake Court Conference Centre, Ottawa, ON. To register, visit www.cbapd.org/details_en.aspx?id=NA_MIL18.

28: The Ontario Bar Association presents **EFFECTIVE AND STRATEGIC COMMUNICATION SKILLS TO HELP YOU ACHIEVE YOUR GOALS.** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=ON_18OBA0528X.

27-JUNE 1: The Canadian Bar Association presents **THE CBA TAX LAW FOR LAWYERS CONFERENCE.** Queen's Landing Hotel, Niagara-on-the-Lake, ON. To register, visit www.cbapd.org/details_en.aspx?id=NA_TAX18.

31: The Canadian Bar Association presents **CBA IP DAY.** The Westin Ottawa, Ottawa, ON. To register, visit www.cbapd.org/details_en.aspx?id=NA_IPDAY18.

31: The Ontario Bar Association presents **ANNUAL UPDATE ON HUMAN RIGHTS.** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=ON_18CCL0531X.

31-JUNE 1: The Canadian Bar Association presents **THE CBA ENVIRONMENTAL, ENERGY & RESOURCES LAW SUMMIT.** Fairmont Winnipeg, WInnipeg, MB. To register, visit www.cbapd.org/details_en.aspx?id=NA_ENV18.

JUNE

2: The Alberta Lawyers' Assistance Society presents **DEVELOPING COACHING SKILLS.** Field LLP, Calgary, AB. For more information, visit http://albertalawyersassist.ca/event/assist-training-on-developing-coaching-skills/.

5: The Ontario Bar Association presents **VIDEO GAME LAW 2.0: ESSENTIAL AND EMERGING ISSUES.** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=ON_18TEC0605X.

5: The Ontario Bar Association presents **THE 16TH ANNUAL OSC, TSX AND IIROC UPDATE.** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=ON_18BUS0605X.

6: The Canadian Bar Association presents **COLLECTIVE RIGHTS UNDER CANADA'S CONSTITUTION.** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=NA_ONJUN118.

6: The Canadian Bar Association - BC Branch presents **INCREASED ACCESS TO JUSTICE: GETTING CREATIVE WITH FINANCING LITIGATION.** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=BC_FIN0618R.

6-8: The Canadian Bar Association presents **THE CBA ABORIGINAL LAW CONFERENCE.** Coast High Country Inn, Whitehorse, YT. To register, visit www.cbapd.org/details_en.aspx?id=NA_ABL18.

7: The Ontario Bar Association presents **MANAGING PARTNERS ROUNDTABLE: SOCIAL MEDIA - HOW MUCH AND WHAT TYPE IS JUST RIGHT?** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=ON_18LPM0607X.

7: The Ontario Bar Association presents **DRAFTING CONTRACTS IN A POST-*BHASIN* WORLD** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=ON_18CIV0607X.

12: The Canadian Bar Association - BC Branch presents **CROSSING THE BORDER: PROTECTING YOUR CLIENT'S CONFIDENTIALITY AND YOUR PRIVACY.** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=BC_CBT0618R.

14: The Ontario Bar Association presents **UPLOADING DIVERSITY AND INCLUSION RESPONSIBILITIES TO YOU MANAGEMENT TEAM.** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=ON_18OBA0614X.

18: The Ontario Bar Association presents **YOUR COMPREHENSIVE GUIDE TO BLOCKCHAIN.** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=ON_18OBA0618X.

21: The Canadian Bar Association presents **TRANSGENDER FEDERAL PRISONERS: CANADA'S LEGAL FRAMEWORK.** Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=NA_ONMAY318.

AUGUST

2: The Canadian Bar Association - BC Branch presents **PARENTING & PRACTICE: MAKING IT WORK!** Live Webinar. For more information, visit www.cbapd.org/details_en.aspx?id=BC_par0818r.

SO, WHAT'S THE DEAL WITH **SUMMARY JUDGMENT IN ALBERTA?**

BY **TAMARA PRINCE** AND **ALLISON KUNTZ**

For those of us who practiced under the "Old" *Alberta Rules of Court*[1] and applied the "genuine issue for trial" summary judgment test, the modern regime governing these applications in Alberta has opened up a whole new world of possibilities for summary disposition, and has simultaneously challenged us to embrace a fair and just process for disposition of claims that does not include a trial. In spite of knowing we all inhabit and must be governed by this modern legal framework, there are some (the writers at least) who suggest that some of us Alberta litigators seem to be having trouble letting go of our reverence for the trial as the ultimate and best means of adjudicating a dispute and in the process may be contributing to a "confusion of case law" on the modern test for summary judgment.

Many of us remember the old regime, when a bare evidentiary contest with controverted facts would raise a triable issue and thus defeat a summary judgment/dismissal application. It was, certainly in hindsight, a straightforward battleground and one that protected the sacred nature of the trial. While this test for summary judgment has long since ceased to exist in Alberta (since the new Rules,[2] and certainly since *Hryniak v Mauldin*, 2014 SCC 7 [***Hryniak***]), we litigators, particularly those of us old enough to have watched Seinfeld episodes when they first ran, seem to view the modern regime through the "trial is best" lens, and instinctively take opposing positions to summary judgment applications that hearken back to the old, abandoned battleground. Maybe we should ask ourselves: are we Alberta litigators old legal fogies when it comes to the modern approach to summary judgment?

To consider whether we are making summary judgment arguments and decisions with our Old Rules baggage, let us examine the modern test for summary judgment in Alberta. To fully apprehend this we must turn back to *Hryniak*, which instructs that there should be a "culture shift" in order to create an environment promoting timely and affordable access to the civil justice system. This includes simplifying pretrial procedures and moving the emphasis away from the conventional trial in favour of proportional procedures tailored to the needs of the particular case.[3] Building on this, our Court of Appeal in *Windsor v Canadian Pacific Railway Ltd.*, 2014 ABCA 108 [***Windsor***], confirmed that the new regime outlined in *Hryniak* applied in Alberta despite the differences in the Ontario and Alberta summary judgment rules. The Court in *Windsor* warned that "the myth of trial should no longer govern civil procedure", and that "[i]nterlocutory decisions that can resolve a dispute in whole or in part should be made when the record permits a fair and just adjudication."[4]

In 2015, the Alberta Court of Appeal in *776826 Alberta Ltd. v Ostrowercha*, 2015 ABCA 49 [***Ostrowercha***], further commented on the test for summary judgment, and confirmed that, from the process perspective, summary judgment should be granted if a "disposition that is fair and just to both parties can be made on the existing record"[5] and, from the substantive perspective, "can be granted if, in light of what that fair and just process reveals, there is no merit to the claim."[6] The Court further stated that "[n]o 'merit' means that, even assuming the accuracy of the position of the non-moving party as to any material and potentially decisive matters—matters which would usually require ordinary forensic testing through a trial procedure with *viva voce* evidence and which could not be resolved through the fair and just alternative—the non moving party's position viewed in the round has no merit in law or in fact."[7] What we should take away from this is that the Court of Appeal has clearly stated that summary disposition is available where a fair process allows a judge to determine that there is no merit to a claim.[8]

There have been a number of additional summary judgment cases in recent years, many focusing on issues such as whether the moving party's case is "unassailable",[9] or "whether there is any issue of merit that genuinely requires a trial or, conversely, whether the claim or defense is so compelling that the likelihood it will succeed is very high such that it should be determined summarily.[10] These cases commonly reference the record before the Court in considering a summary judgment application, and confirm that where a judge is able to make a fair and just determination on the merits without a trial there will be no genuine issue for trial found, because the summary judgment process allows for the making of necessary findings of fact, application of the law to those facts, and where such is the most proportionate, expeditious and just means to achieve a just result.[11] Notably, the Court has also stated that the "evidence led on summary judgment need not be equivalent to that at trial, but it must be such that a judge is confident that he can fairly resolve the matter.[12]

Given the post-*Hryniak* jurisprudence, we might be forgiven as litigators for finding the fluid edges of the modern summary judgment regime disquieting, resulting in a default to the simple days where trial is best, and it feels most just to viscerally resist a summary judgment application and ask for trial (unless it is your own).

Very recently, and perhaps providing a note of comfort for litigators, the Alberta Court of Appeal clearly reminded us that there is only one standard of proof in civil matters—proof on a balance of probabilities—and that it is this standard, and only this standard, that applies to summary judgment/dismissal applications in Alberta. In *Stefanyk v Sobeys Capital Incorporated*, 2018 ABCA 125 [***Sobeys***], the Court considered the reasons under appeal, which stated that the test for summary judgment is whether the moving party's position was "unassailable", and which further stated that the position would be unassailable if it were so compelling that the "likelihood of success" at trial was very high.[13] In rejecting this as an accurate reflection of the

1 *Alberta Rules of Court,* AR 390/68.

2 *Alberta Rules of Court,* AR 124/2010.

3 *Hryniak* at para 2.

4 *Windsor* at para 15.

5 *Ostrowercha* at para 9.

6 *Ibid* at para 10.

7 *Ibid* at para 10.

8 See *Pyrrha Design Inc. v Plum and Posey Inc.*, 2016 ABCA 12 at para 19.

9 See *Composite Technologies Inc. v Shawcor Ltd.*, 2017 ABCA 160.

10 *Condominium Corporation No. 0321365 v Cuthbert*, 2016 ABCA 46 at para 27.

11 *Stoney Tribal Council v Canadian Pactific Railway*, 2017 ABCA 432 at para 11.

12 *Ibid* at para 20, citing *Hryniak* at paras 56-58.

Continued from p.5

test for summary judgment, the Court stated that proof on a balance of probabilities is "the standard the summary judgment rule engages when it talks about "merit". ... "Unassailable" and "very high likelihood" are not recognized standards of proof."[14]

The Court in *Sobeys* went on to confirm that, under *Hryniak* and *Windsor*, summary judgment is "one procedure for deciding whether the moving party has proven its case on a balance of probabilities."[15] Summary judgment will be an appropriate procedure for making such a determination if the judge can make any required fact finding from the record in a fair and just manner.[16] The Court states as follows:

> A trial may be the preferred and proportional procedure where there is a reasonable expectation that a better evidentiary record will be created by a trial, for example because there are disputed issues of material fact, or issues of credibility, that cannot fairly be resolved summarily.[17]

The Court then goes on to say:

> It follows that a plaintiff cannot resist summary dismissal merely by raising a "doubt", although the plaintiff is not required at that stage to provide its case on a balance of probabilities: *McDonald v. Brookfield Asset Management Inc.*, 2016 ABCA 375 at para. 13. The plaintiff can obviously resist summary dismissal by showing that the applicant has not, at that state, proved its defence on a balance of probabilities. Summary dismissal can also be resisted when the record or the issues mean that summary dismissal is not a fair and just procedure for both parties: *Abbey Lane Homes v. Cheema*, 2015 ABCA 173 at para. 22. A dispute about material facts that cannot be resolved on the existing record, or that fairly and reasonably call for a trial, will be sufficient: *Ostrowercha* at para. 11.[18]

The *Sobeys* case may not brightly define the edges of the modern summary judgment test, but it may offer us some conceptual familiarity so that we can begin to conceive anew of what it means to achieve fairness and justice without a trial.

With special thanks to Devin Aman for her assistance with this article.

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13 *Sobeys* at para 13.

14 *Ibid* at para 14.

15 *Ibid* at para 15.

16 *Ibid* at para 15, emphasis in original.

17 *Ibid* at para 15.

18 *Ibid* at para 16.

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INTRO**DUCTION**

BY **JESSICA ROBERTSHAW**

On August 9, 2016, 22 year old Colten Boushie, was shot and killed by Gerald Stanley on Stanley's farm just outside Biggar, Saskatchewan. Boushie and his girlfriend, Kiora Wuttunee, Belinda Jackson, her boyfriend, Eric Meechance, and Cassidy Cross-Whitstone, all from the Cree Red Pheasant First Nation, drove an SUV onto Stanley's property while he and his son, Sheldon, were repairing a fence, with Stanley's wife mowing the lawn nearby.

The events that followed were the subject of a 2 week trial in which Stanley was tried for second-degree murder in the death of Colten Boushie. Both the Crown and Defence witnesses described a scene of chaos. Stanley testified that he kicked the tail light of the SUV because he thought the SUV was headed for Sheldon, while Sheldon admitted smashing the front windshield of the SUV with a hammer. The SUV then smashed into a parked vehicle, with Meechance testifying that the smashed windshield made it difficult for Cross-Whitstone to drive. Stanley then approached the SUV while 2 of its occupants fled. He testified that he grabbed his loaded gun, fired two warning shots in the air and kept pulling the trigger to make sure the gun was rid of bullets. He testified that he thought the gun was empty. Stanley then approached the front driver's side of the SUV, still holding the gun, while Boushie was seated in the passenger seat. He attempted to turn off the ignition of the SUV, when the gun discharged, killing Boushie. Stanley said it was a case of hang fire, a delay, from when he had fired the gun earlier.

The jury assembled for Stanley's trial apparently did not include any Indigenous people, in part due to peremptory challenges. On February 9, 2018, he was found not guilty of the second-degree murder of Colten Boushie, nor of any lesser included offences.

Two years earlier, almost to the day, on August 17, 2014, Tina Fontaine of the Sagkeeng First Nation, was found wrapped in plastic and a duvet cover and weighed down with rocks in the Red River. She was 15 years old. Fontaine had been in the care of Manitoba Child and Family Services at the time of her death.

Raymond Cormier, 56, was charged with the second-degree murder of Fontaine. The Crown's case relied heavily on secretly recorded statements made by Cormier dubbed Project Styxx, in which it appeared that Cormier had sexually exploited Fontaine. The Crown also relied on testimony from witnesses who said they saw Cormier and Fontaine together in the days before she disappeared on August 8, 2014. They further relied on the testimony of several witnesses who had seen Cormier with a duvet similar to the one that Fontaine's body had been wrapped in when she was found.

On February 22, 2018 — less than one month after a jury found Stanley not guilty of the second-degree murder of Colten Boushie — a different jury found Cormier not guilty of the second-degree murder of Tina Fontaine.

These two acquittals — and the broad public discourse they initiated — are the catalyst for the conversation that follows in this edition of Law Matters.

JESSICA ROBERTSHAW is a Calgary-based lawyer practicing civil litigation at Field Law. In her free time, she volunteers with the Court of Queen's Bench Amicus Project, and is on the Board of Directors of West Village Theatre. Jessica is also a member of the CBA Alberta Editorial Committee.

PROBLEMATIC REPRESENTATIONS OF **INDIGENOUS ISSUES IN THE MEDIA**

BY **ROBERT HARDING**

News representations of Indigenous issues in Canada have long been problematic and contested by Indigenous peoples themselves. Early colonial newspapers portrayed indigenous people as uncivilized and inherently warlike, routinely referring to them as "savages," and "heathens" (Harding, 2006), made no attempt to include Indigenous voices or perspectives, and promoted settler interests for their exclusively white audiences. In 1996, the Royal Commission on Aboriginal Peoples found evidence of persistent patterns of racism towards Indigenous peoples in all forms of public discourse. Contemporary news discourse is characterized by a sanitized ethnocentrism, a creed of "identical treatment," and a denial of the existence of racist practices, attitudes and outcomes. Indeed, the Truth and Reconciliation Commission (2015) and the Journalists for Human Rights organization (Pierro et al, 2013) found deeply troubling patterns of representation of Indigenous peoples in the media. These problems include *decontextualization* of issues that have long historical antecedents, stereotyping, conflation of diverse Indigenous identities into Native or Aboriginal, and binary coverage, sometimes framed in *us vs. them* terms.

In 1996, the Royal Commission on Aboriginal Peoples concluded that stereotypes of Indigenous people pervaded all forms of public discourse, including print media, the two most prominent stereotypes being "angry warriors" and "pathetic victims." In the new millennium, research has confirmed that these venerable stereotypes are alive and well. Furthermore, as Indigenous peoples exert their right to self-governance in areas such as child welfare, health care, and management of their resources and institutions, crippling new stereotypes have emerged, including *Indigenous people as incapable of self-governance*, and *Indigenous peoples as "taking advantage" of "special rights" and entitlements* (Harding, 2018, 2010). A potential consequence of these stereotypes is that Indigenous people may internalize them and begin to doubt their competence and potential in these areas. More importantly, at a time of reconciliation, entrenched stereotypes may dissuade non-Indigenous Canadians from supporting critical initiatives to redress past injustice, enhance public education and strengthen the ability of Indigenous peoples to govern themselves.

Editorials and opinion pieces about some Indigenous topics include highly limited and selective context, and foreground the concerns of settler society, while minimizing the harmful implications for Indigenous peoples. This is especially true of treaties, resource extraction activities, and "flashpoints" – emotionally-charged events that give rise to accusations of unfairness and racial bias of Canada's public institutions, such as the court system, as in the recent trials of Gerald Stanley and Raymond Cormier. In the face of such challenges to the legitimacy of Euro-Canadian interests and institutions, news commentators typically focus on the immediate threat posed by Indigenous rights and protests to our "interests," and forego any meaningful analysis of issues that have long historical antecedents that, in some cases, date back to before Confederation.

While context is especially important to include in coverage of court proceedings, journalists in the Cormier trial may not have reported all of the relevant details due to an incomplete understanding of what they are legally entitled to report. While the Criminal Code prohibits the publication of certain evidence that comes out during court cases, it does not preclude reporting on "explanatory background details that could illuminate the backdrop against which the trial is happening" (May, 2018, April 3). Indeed, the president of the Canadian Media Lawyers' Association, Ryder Gilliland, "says he was contacted by journalists seeking clarity on what they could report during Cormier's trial, and they may not have been as limited as they thought they were" (ibid.).

Decontextualized opinion writing may result in binary framing of complex issues, and commentary couched in threats and warnings about what *they* (Indigenous peoples) will do to, or take from, *us* (non-Indigenous Canadians). These black and white depictions leave out a wide range of other positions, dramatically narrow the interpretative choices available to audiences, and elicit intense emotional reactions, often fear or anger. Reactionary responses from news audiences to highly emotive news commentary may be gauged through an analysis of the "comments" sections attached to these editorials and opinion pieces. In 2015, the online arm of CBC decided to shut down all commentary on news articles covering Indigenous issues, in an attempt to control the virulence of readers' comments that were "clearly hateful and vitriolic … or hate disguised as ignorance" (Fenlon, 2015). On the other hand, the

National Post and other Postmedia newspapers seem to make little effort to "police" the comments sections attached to their commentaries and news stories about Indigenous issues as their comments sections regularly feature hateful, and overtly racist tirades against Indigenous peoples. Consider this reader's comment about Indigenous culture in a *National Post* column written in response to calls to change the jury selection process in the wake of the Gerald Stanley trial: "racist, hatefilled culture that spews out damaged young girls who choose the sex trade over staying with familial rape" (Blatchford, February 28, 2018).

There is no quick or easy way to improve how Indigenous peoples are represented in the news. Over the long haul, better education may be the answer. The Truth and Reconciliation Commission has called for improved education about Indigenous issues and Canada's history of colonialism for Canadians generally, and for journalists in particular. Duncan McCue, an *Anishinaabe* journalist teaches a course at the UBC School of Journalism on how to report in Indigenous communities, the only journalism course of its kind in the country. Perhaps the way forward for journalists covering intense Indigenous stories such as the Stanley and Cormier trials is to adopt a *trauma-informed* reporting style. Instead of focusing on the victimhood of Indigenous people affected by tragic events, reporters could report on "stories of conflict and of injustice" so that the "individual Indigenous people in those stories are people who are fighting back, rising up and challenging historical wrongs, not poor helpless victims who find themselves somehow at the mercy of a colonial system".

"Free newspaper boxes stock photo": freeimages.com/Frank Broicher

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I AM A MI'KMAQ LAWYER, **AND I DESPAIR OVER COLTEN BOUSHIE**

BY **NAIOMI METALLIC**

My law school recently organized a panel on Gerald Stanley's acquittal in the death of Colten Boushie. Timing was such that the talk occurred two days after the Saskatchewan Crown announced it would not be seeking an appeal of the verdict. I was reluctant to participate on the panel, not because I wasn't interested in the subject, but because the case affects me in a deeply emotional way that most other topics do not (and I frequently speak on complex and difficult Aboriginal law and policy topics). I decided the only way I could talk about this was by getting personal and emotional, even though that is usually not my style. In the end, I am glad that I did. Many in attendance told me my remarks helped them to appreciate this case in a new way. So I thought I would seek to publish my remarks, edited slightly, in the hopes it may do the same for others.

I find it painful to talk about this case. Many other Indigenous people, especially my friends who also work in law, have expressed the same sentiment. A lot of us feel this case viscerally.

There are several Indigenous people I know, none of whom knew Colten Boushie personally, who wept upon hearing the news of the verdict. I felt a heavy weight of sadness over me for many days and I still do. Friends of mine described the recent news that the Crown is not appealing the verdict as hitting them as though they were punched in the stomach.

Those of us who are Indigenous and work in law are no strangers to being disappointed or angry with court decisions. But usually the reaction is not felt so personally or by so many of us. Why is it different here?

I can't speak for everybody, but I might say that as Indigenous people (and maybe especially those of us in law), it has threatened something deep within us. You see, as much as we know the past injustices and the ongoing injustices faced by our people, and the role the law has played and continues to play in this injustice, deep down there is hope that change is possible and is slowly happening.

We work hard, sometimes against significant resistance and barriers, to play a role in that change.

I think that the Gerald Stanley verdict has made many of us seriously question this hope, if not lose it altogether. To many of us, the verdict sent the message that our lives are not as important, and that many Canadians saw this case as placing defence of property above a human life. As Sen. Murray Sinclair asked in a poem he wrote after the verdict: Why does a farmer need a handgun?

Many on the "property defence" side of the debate fail to see the bitter irony that the property in question here are lands from which Indigenous groups have been displaced through colonization that often involved state manoeuvres like coercion, starvation, disease and treaty promises that were subsequently ignored. Not to mention the fact that this displacement continues to result in many Indigenous peoples in Canada, and certainly in Saskatchewan, being marginalized and poor.

Increased anti-Indigenous vitriol that appeared in some media and online sources in the days that followed the verdict have further threatened to erode that hope I spoke of, as did the news two weeks later of the acquittal of Raymond Cormier in the death of Tina Fontaine and the recent news that neither Saskatchewan nor Manitoba is going to appeal either verdict.

I am not a criminal law expert. Many who are more knowledgeable than me in this area say that it's extremely difficult to appeal jury verdicts, unless there was a clear error in the charge to jurors. Maybe so, but there are so many problematic aspects of the Boushie case that it is hard to accept this is the end of the matter.

They include:

The jury's composition and the role of peremptory challenges

Much has already been said about the how the use of peremptory challenges to exclude Indigenous jury members without any explicit reasons is deeply troubling in a legal system that recognizes there is deep-seated racism in many corners of our society that can infect a jury pool.
Peremptory challenges have received most of the media attention in this case, but there are many more.

Jury rolls and obligations to ensure they're representative

There were strong recommendations on the need for juries to be representative of Indigenous peoples in the 2013 Iaccobucci Report, but the Supreme Court of Canada chose not to affirm them in its 2015 *R v Kokopenace* decision, dismissing the argument that the state has an obligation to ensure a proportionately representative jury. I have been wondering if Supreme Court justices have been regretting their decision since the Stanley verdict.

The conduct of the RCMP

The way in which the RCMP treated Colten Boushie's mother and family members when they broke the news is shocking. More than a dozen officers, many with guns brandished, searched the family's trailer as if Colten was the suspect, telling his mother who was in a heap crying to "get yourself together" and asking her: "Have you been drinking?". There was no comfort. There was no empathy.

The length of time it took police to charge Stanley, and how they reported on the events, has been criticized as likely creating an impression in the minds of some community members (who would become jury members) that the police believed in Stanley's innocence.

There is also the fact that the RCMP lost track of the SUV Colten Boushie died in before the defence had a chance to have it independently analyzed. I don't understand how that could happen.

Other negligent investigative practices have been alleged, including the failure to protect the crime scene or to do a proper blood splatter analysis. And then there's the private

RCMP Facebook page where one officer wrote: "I'm sorry the kid died but he got what he deserved."

The background of the judge

The past history of the judge in the case, Martel Popescul, Chief Justice of Saskatchewan's Court of Queens Bench, has also raised questions. As a lawyer in 1992, Popescul was lead counsel for the RCMP in a 1992 case where an alleged RCMP informant, who was the leader of a white supremacist group, murdered a First Nations man. In a later public inquiry into the role racism played in the man's death, Popescul sought to prevent key witnesses from testifying at the inquiry, arguing that RCMP informants might be exposed. Given this history, some have questioned why Popescul didn't recuse himself from the Stanley case.

The role of the prosecution

I don't have all the details about how the prosecution handled this case, but the fact that Stanley was acquitted entirely, and the jury did not find guilt on any of the lesser but included offences of manslaughter or criminal negligence, leaves questions about how strongly the prosecution pursued conviction. Some Indigenous leaders have alleged the Crown bungled the case. The accused can and do make arguments of ineffective counsel, so why isn't there an equivalent for victims and their families in the case of the Crown?

It's also noteworthy that the provincial government declined the Boushie family's requests for an out-of-province lead investigator and Crown prosecutor.

Deep racism, stereotyping and victim-blaming

It's clear from the RCMP Facebook post and other social media commentary that many people blame Colten for his fate. We don't have the castle doctrine in Canada, and yet many people have argued that Stanley was justified in his actions because Colten or his friends were trespassers on the farmer's property, or possibly trying to steal an ATV (which is not clear).

It reminds me of how Nova Scotia's Donald Marshall Jr., even after the Mi'kmaq man was completely exonerated, was blamed for his own wrongful conviction based on the questionable narrative that he had attempted to rob someone with a friend. This view was even shared by the Nova Scotia Court of Appeal, who commented that: "Any miscarriage [in the case was] more apparent than real."

Even if Colten's friend was attempting to take the ATV, it justifies nothing.

There was another case in 2011 where an Alberta man shot, but did not kill, another man trying to steal his ATV, and he was at least convicted of criminal negligence.

Much to question

From my perspective, there is much to question here.

I don't know what's going to happen next. Do we need a royal commission? How many royal commissions and inquiries have we already had that recommend solutions to problems that presented themselves once again in this case?

Perhaps there are factors here that reveal new problems that must be probed. But there's also clearly a failure to implement many previous recommendations that have already been made. This includes recommendations from the Manitoba Justice Inquiry, the Royal Commission on Aboriginal Peoples, First Nation Representation on Ontario Juries, the Commission of Inquiry into the death of Dudley George, the Commission of Inquiry into the death of Neil Stonechild and the Royal Commission on the Wrongful Conviction of Donald Marshall Jr., to name a few.

Currently, there is a team of scholars that have taken it upon themselves to research a number of points raised by this case. It's called Project Fact(a). They are hoping to release their first set of findings in April 2018. I hope they are listened to.

I wish I could end on a more hopeful note. But I don't really have it in me.

This article was first published by The Conversation (https://theconversation.com/i-am-a-mikmaq-lawyer-and-i-despair-over-colten-boushie-93229).

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STORYING VIOLENCE: **THE UNSPOKEN HISTORIES OF THE CASTLE DEFENCE**

BY **GINA STARBLANKET & DALLAS HUNT**

During his opening statements in the trial of Gerald Stanley, the Saskatchewan farmer who on Friday was found not guilty in the murder of young Cree man Colten Boushie, defence lawyer Scott Spencer told the jury that, "For farm people, your yard is your castle. That's part of the story here." In the days that followed, some of the media coverage of the trial focused on the question of whether the notion of "defending one's castle" justifies the use of force resulting in injury or death to those who enter spaces they are seen as not belonging to.

Yet missing from the coverage, and absent in much of the discussion surrounding the trial, are the ways in which this sequence of events is intimately tied to the histories and present-day settlement of the country currently called Canada.

As the story goes, the Crown negotiated peaceful and consensual treaties with Indigenous populations that allowed for the settlement of the Prairies in exchange for the promise of civilization and protection. Early immigration posters and handbooks described the region as a vast, unoccupied, fertile hinterland, with little, if any, mention of Indigenous peoples. Colonial settlements offered newcomers property, independence, industry and, most of all, opportunities for wealth and bounty that would vastly exceed those available in their countries of origin.

The imagery shown on these advertisements and immigration materials, geared toward encouraging rapid settlement in the Prairies, idealized a patriarchal, nuclear family and an agrarian lifestyle. The central figure was typically an able-bodied, middle-aged farmer, often with his beautiful young wife by his side and a child cradled in his arms. In the background was often an image of the wide-open Prairies upon which his property — his "castle" — lies.

These images help illustrate the intent behind the process of settler colonialism — not just its foundations, but the norms, values, expectations and aspirations that were held by individual settlers and inherited by many descendants. These images are noteworthy for the highly gendered, whitewashed, capitalist ideologies that they signify; namely, normative ideas of the family, home and domestic life.

They simultaneously appeal to, and uphold, the institution of masculinity: the ability to build a home, provide for and protect one's family, and — most importantly — to exercise control over one's private domain. This domain purportedly exists and is bound within a lawless land, with the farmer serving as king of this realm — and of his castle — whose responsibility it then becomes to protect against intrusions or disruptions of this narrative.

However, as with any story, this isn't the only version. For even more telling than the stories that are represented in these images are the stories that aren't shown at all. When we show these depictions in our classrooms, the immediate response from most of our students, when asked to reflect upon what is absent from these images, is the clear erasure of Indigenous presence. Colonial settlement narratives either absented Indigenous peoples entirely from their portrayals of Prairie life, or when they did appear, they were described as occupying a role that would not interfere with the agrarian settler lifestyle. These images help to historicize the contemporary hyper-racialization and gendering of space in the Prairies. For it is not only Indigenous peoples' physical bodies that are under assault in processes of colonial dispossession, but also our long-standing relationships to our ancestral lands. These images speak not only to the absence of Indigenous bodies from colonial spaces as a past phenomenon, but also to the ongoing violence and dispossession that is necessary to create, maintain and "secure" these idealized colonial settlements. After all, Indigenous removal and erasure aren't just historical events; rather, our attempted eradication has to be actively carried out in perpetuity.

The dispossession and assault on continuing Indigenous presence has assumed a variety of forms over the years: from one-sided and false interpretations of treaties as land transactions, to forced removal and imprisonment on reserves, to the residential-school system, to the legislated removal of Indigenous identity through policies of enfranchisement, among many other things. The drive to eliminate Indigenous peoples is — quite literally — part of the foundational structure of this country. Of course, this eliminatory logic targets Indigenous bodies not just because of their physical presence, but because of their difference.

Under the Indian Act, for many years it was illegal for Indigenous peoples to even protest the conditions of our oppression, as raising money to fund court cases in the interest of protecting our basic human rights rendered us as criminals in our own homelands. In other words, when we attempted to address colonial intrusions, our efforts were criminalized. As was our very presence outside of reserve lands.

For its part, Canada sought to achieve this by presenting Indigenous lands as lawless spaces absent legal order and continually crafting and revising the judicial narratives that gave settler legality to these spaces, as critics such as Anishinaabe scholar Heidi Stark have argued. The colonial formation of Canada's legal and political institutions is also reflected in the enduring relationships between Indigenous and non-Indigenous peoples in these geographies. Thus, we should not lose sight of the ongoing link between trading forts and individual farmers' "castles" and the fraught histories of these spaces on the Prairies. Indeed, after the North-West Rebellion in the area of Fort Battleford in 1885, and the subsequent hanging of those who took part, Prime Minister John A. Macdonald remarked in a letter to Indian Commissioner Edgar Dewdney that "the executions ... ought to convince the Red Man that the White Man governs."

Given this history, it should come as no surprise, then, that Gerald Stanley's defence lawyer Scott Spencer argued that for farmers, "your yard is your castle."

What should not be lost here is how castles (and now farms) have served as sites of capitalist accumulation and protectionism, as romanticized spaces wherein white knights protect against incursion from hostile outside forces. Like a modern-day Lancelot, the castle narrative draws on the need for a farmer not only to protect his kingdom, but also the

need to save his "maiden" from the inevitable threat posed by racialized outsiders. (It should be noted that Mr. Stanley claimed one of the reasons he approached the SUV in which Mr. Boushie was sitting was because "I thought the car had run over my wife.")

Indeed, media coverage of this trial — and discussion in the days after the verdict — was rife with outspoken farmers in the Saskatchewan farming community advocating for violence, having viewed themselves historically, and in the present day, as heroic frontiersmen taming the wild and cultivating their little outposts of empire. But here we ask the following question: How is it that the death of a young Cree man becomes recast as the story of a knight protecting his castle? What of the untold stories of those whose lives and homelands are continually subjugated in order for this imagery of "the castle" to be sustained? Castles evoke mental portraits of fortresses besieged, of hordes of enemies attempting to crash the gates of the wealthy, aristocratic and armed gentry defending themselves against the blood-thirsty intruders outside their walls and beyond their moats. These, no doubt, are the images and representations that the castle narrative intends to cultivate in the minds of those sympathetic to or willing to entertain the idea that the use of deadly force is justified to defend colonial settlements.

But what if we invert the intruder narrative? What if we bear in mind that the continuity of settler presence on Indigenous lands is itself premised on intrusion, a constant structure of intrusion dependent upon Indigenous disappearance? How can we reconcile the inhospitable notion of "intrusion" that then rationalizes settler violence with the nearly inconceivable acts of generosity that Indigenous peoples have extended and continue to extend in agreeing to share the land through treaty? Viewed from this perspective, the settler imagery of a constant threat of Indigenous violence appears as a perverse reversal of the actual colonial reality: that Indigenous existence itself is understood by settlers as a threat that always already rationalizes the use of violence. The outpouring of extreme racism following the jury's decision is only further evidence of the ways in which the legal entrenchment of the "castle" narrative functions to enhance settler entitlement to enact violence to protect their claims to land and property.

Erica Violet Lee, an Indigenous community organizer from Saskatchewan, spoke out about the violence perpetrated against Colten Boushie and what she saw during the pretrial for Gerald Stanley. She remarked that regardless of the story the defence provided, "The reality is that Gerald Stanley left that farm alive, and Colten Boushie did not." The journalist who interviewed her provided the following description of Lee's presence at the pretrial: "[Lee] sat on a small uncomfortable chair in the chamber, the size and structure of which made it difficult for people in the courtroom to physically comfort one another. The court proceeding took place under a looming portrait of Queen Elizabeth II, whose royal officers were positioned outside the courtroom, monitoring the crowd outside who had come to grieve." The castle and its attendant imagery is alive and well even in the spaces that absolved Gerald Stanley of being responsible for the death of Mr. Boushie, in a site that was supposed to deliver justice. Yet this narrative is intimately linked to Indigenous peoples' common stories as well — that is, the historical and contemporary forms of sexism, racism, violence and oppression upon which colonial castles are built.

An abridged version of this article was first published by the Globe and Mail (https://www.theglobeandmail.com/opinion/how-the-death-of-colten-boushie-became-recast-as-the-story-of-a-knight-protecting-his-castle/article37958746/).

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Mark Dicey – *Abstraction 2397, 2015*
Acrylic, conte, pencil crayon on paper. 49.75 in. x 38.50 in.
Provenance: Jarvis Hall Gallery

HOW RACIAL BIAS LIKELY **IMPACTED THE STANLEY VERDICT**

BY **DAVID TANOVICH**

The acquittal of Gerald Stanley was shocking. There's no dispute that Stanley shot Colten Boushie, a 22-year-old Cree man from Red Pheasant First Nation, in the head at close range. By any reasonable account it was a wrongful killing that was either intentionally or negligently caused. However, the jury was not satisfied of either beyond a reasonable doubt.

Reasonable concerns have been expressed over whether overt or implicit racial bias played some role in the jury's verdict. The very suggestion of a verdict tainted by racism has garnered a hostile reaction even from advocates who acknowledge the existence of systemic racism.

A prominent concern seems to be that it is unfair to talk about racism and this verdict in the absence of direct evidence of bias, and because of the inability of the jurors to defend themselves. We will never know for certain, of course, how this jury came to its verdict. Unlike judges, a jury does not give reasons for its decisions, and we have strict jury secrecy rules that prohibit questioning them about their deliberations.

Nevertheless, public confidence in the administration of justice and justice itself requires us to examine the role of racism in the trial.

In my opinion, when we examine the case as a whole, it justifies the conclusion that racial bias likely played a role in the jury's deliberative process. Proving that something probably happened is the standard of proof we use in our civil system of fact determination. It is a standard that can be met even if there is no direct evidence.

Not about shaming but understanding

While it's true jurors cannot respond, the same is true for judges accused on appeal of bias or of erring. We do not refuse, however, to assess those claims simply because there is no opportunity to directly respond. The point is not to shame the 12 individuals who gave up their time to fulfil their civic duty, but to identify the problems with the trial process, one that was beyond their control.

This is a conversation that we must have if we are going to constructively address the problem of racism.

Systemic racism impacts juries

Our courts have recognized the existence of systemic racism towards Indigenous peoples and its effect on jury decision-making.

In *R v Williams*, a unanimous Supreme Court of Canada acknowledged in 1998 that "racism against Aboriginals includes stereotypes that relate to credibility, worthiness and criminal propensity" and that "this widespread racism has translated into systemic discrimination in the criminal justice system."

The Supreme Court also recognized that systemic racism can "predispose the juror [to the party] perceived as representative of the 'white' majority against the minority-member … inclining the juror, for example, to resolve doubts about aspects of the … case more readily." While *Williams* concerned bias against an Indigenous accused, the same displacement of the presumption of juror impartiality logically applies in cases involving an Indigenous victim and a white accused.

Indeed, in *R v Rogers*, the trial judge stated that "racism will be at work on the jury panel as soon as the victim is described as an Aboriginal." The judge ruled that a race-based "challenge for cause" (a screening of the jurors) was therefore necessary to "prevent that bias from destroying the impartiality of the jury's deliberations."

In that case each prospective juror was asked whether their ability to judge the case impartially would be "affected by the fact that the deceased victim is an Aboriginal person and the person charged with the crime is a white person?"

In the Stanley case, there were a number of triggers and process failures that enabled racial bias to impact the jury in the ways recognized by both *Williams* and *Rogers*.

A racially charged case

Colten Boushie was killed on August 9, 2016. Almost immediately, racist narratives framed the public's construction of the shooting and of Indigenous communities. As the Assembly of First Nations noted "to see racist, derogatory comments about this young man and about First Nations people … in response to this tragedy is profoundly disturbing."

The online hate prompted a response by Saskatchewan Premier Brad Wall and RCMP hate crime investigations. Ben Kautz, a farmer and rural councillor, resigned after it was revealed that he had stated that Stanley's "only mistake was leaving witnesses."

In the absence of trial safeguards, this very public and racially charged battle between white farmers and residents and Indigenous communities could have predisposed some jurors to engage in jury nullification despite the judge's instructions that they must not use their "own ideas about what the law is or should be."

Jury nullification, according to the Supreme Court of Canada, refers to "that rare situation where a jury knowingly chooses not to apply the law and acquits a defendant regardless of the strength of the evidence against him." It has characterized "the jury's power to nullify as 'the citizen's ultimate protection against oppressive laws and the oppressive enforcement of the law.'"

Nullification would have occurred here if the jury acquitted because of a belief that Stanley was entitled to defend his property as he did, even though the law did not give him that right.

Indigenous jurors excluded

During jury selection, defence counsel used their peremptory challenges to remove every juror who appeared to be

Indigenous, without objection from either the Crown or judge, to create what appeared to be an all-white jury.

This would have sent a powerful message to the jurors who witnessed this and who were selected to serve that Indigenous perspectives were irrelevant or could not be trusted. The "us" versus "them" racial dynamics of the case and any other pre-existing racial bias would have been reinforced by this exclusionary process. This made nullification even more likely.

No procedures to minimize racial bias

The Stanley jurors were not challenged for cause, that is, they were not screened for racial bias. There was not even a challenge based on exposure to pre-trial publicity, which would have included the racially charged nature of the case.

Moreover, in his instructions to the jury, the trial judge gave the Stanley jurors the standard instruction about the need to be impartial. He did not specifically address bias against Indigenous peoples and how that could contaminate their assessment of the evidence.

In *Williams*, the Supreme Court held that "the potential for prejudice is increased by the failure of the trial judge to instruct the jury to set aside any racial prejudices that they might have against Aboriginals." Similarly, in *R v Barton*, a case involving a white accused and an Indigenous victim, the Alberta Court of Appeal stated:

> Nor is there any reasonable chance for jurors to discharge their duties impartially if trial judges fail to warn them about relying on improper myths and stereotypes when jurors have been implicitly or explicitly invited to do just that. ... [T]here still remains an undeniable need for judges to ensure that the criminal law is not tainted by pernicious and unfair assumptions ... about ... Aboriginal people ... Failing to meet that need can undermine the jurors' ability to apply the law objectively and correctly.

In *Stanley*, such an invitation came from the racial dynamics of the case and jury selection. In addition, two Indigenous witnesses were cross-examined on their criminal record and the jury was instructed that they could take that into account in assessing their credibility.

Flawed evidence becomes believable

Outside of nullification, the only explanation for the acquittal for murder and manslaughter was that the jury had a doubt based on Stanley's testimony. He testified that his finger was not on the trigger when his gun went off as it was facing Boushie's head (that is, he claimed it to be an accident and not an intentional act) and that he reasonably believed the gun was empty (i.e. no negligence).

In support of his testimony, Stanley relied on a phenomenon known as "hang fire" – a delay between the pulling of the trigger and the gun firing. In this case, there was a significant delay between when Stanley said he last pulled the trigger as part of a series of warning shots and when the gun fired the fatal shot. That period of time included him taking out the magazine, getting to the car, reaching in to move a metal object and then across the steering wheel to turn off the ignition.

There was no expert evidence to corroborate that this length of delay was possible. Both the Crown and defence experts testified that the gun was functioning properly, not prone to misfires and that hang fires are exceptionally rare. According to the Crown expert, any delay is usually less than half a second. Instead, the defence relied on two lay witnesses who testified about their experience with similar delays with different guns. One of them, who approached the defence to offer his story during the trial, testified about his experience 40 years ago while gopher hunting. Despite serious questions surrounding the admissibility of this evidence, the Crown did not object.

So how could this flawed evidence and spectacularly problematic hang fire accident defence become believable or raise a reasonable doubt? The most reasonable answer lies in the failure of the trial process to safeguard against racial bias. That failure likely opened the door to a dulling of the jurors' critical thinking skills.

As the late law professor Andrew Taslitz noted in his work on racism and decision-making, "racial features trigger an unconscious process of stereotyping and selective inattention" that can lead fact-finders to "more likely conclude that such flawed evidence is in fact credible."

Moving forward

Moving forward, there is much work to be done. I am part of a group of academics who have come together to examine the trial and better understand and explain to the public what likely happened. We plan to make recommendations for change. It is imperative that other justice officials including the RCMP, Crown prosecutors and the judiciary do the same.

Meaningful reform to address the process failures in this case and to ensure that they don't happen again requires all of these actors to confront the questions raised here in a constructive manner.

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OUGHT THE PRIME MINISTER AND JUSTICE MINISTER TO HAVE BEEN SILENT **IN THE WAKE OF THE JURY VERDICT AND PUBLIC PROTESTS IN THE GERALD STANLEY MURDER TRIAL?**

BY **KATHY HOGDSON-SMITH**

The death of Colten Boushie, a 22 year old Indigenous man, unquestionably resulted from a gunshot wound inflicted by a gun held by Gerald Stanley, a non-Indigenous farmer. The subsequent acquittal of Gerald Stanley of any wrongdoing in causing the death, has arisen in many Canadians, a questioning of the justice system and its ability to render justice for Indigenous victims as it is currently designed. To acquit of manslaughter, one must find, as the jury did, on the consideration of all the evidence, that the gun fired by accident. The jury, unlike myself, heard all the evidence and in wading through the myriad of problems that evidence always holds, rendered its decision. The Crown has since determined that an appeal of the process would not render a difference in the evidence such that a different outcome could be achieved. The system aimed at rendering justice and finding truth had played out as designed and rendered an acquittal for Gerald Stanley, a verdict we must now accept. And, yet, for thousands of others, questions remain about the administration of justice for the victim in this case.

Almost immediately upon the announcement of the verdict, and in the days that followed it, thousands of Canadians took to the streets and the airwaves raising questions of race and concern for the system that had rendered, in their view, an unjust result. The administration of justice was, as a result, under scrutiny. Many of those Canadians were Indigenous. First Nations Governments took to the podium. The placards that called for "Justice for Colten" were clear statements in this regard. The public protests suggest at minimum a perception that an injustice had resulted and that in some way race relations may have played a part. It is trite to say that racism against Indigenous peoples exists in Canada and that it has structural roots, roots which show themselves in the criminal justice system. The issue of overincarceration of Indigenous offenders is at the core of this debate and the Supreme Court of Canada has often stated that biases are presumed in cases involving Indigenous victims and non-Indigenous accused. The question is, what role, if any, it played in this case. The media covered the race issue throughout the trial and emotions were high on both sides of the debate when the verdict was finally rendered.

The extensive public outcry, on both sides of the courtroom, the public interest and protests which required extra security at the courthouse and additional seating to be arranged by court officials during the trial, the extensive national media coverage that informed the Canadian public of the days' outcomes, the trial issues raised by the family in relation to the jury selection process and the police investigation and the ultimate acquittal, were part of the context for the comments made by Prime Minister Justin Trudeau and Federal Justice Minister Wilson-Raybould when they tweeted and made appearances before the media after the verdict was in. The propriety of their comments has been the subject of ongoing discussion.

Some suggest that the Prime Minister and Minister of Justice should have stood silent, refused to acknowledge the division and remained indifferent to the outcome of the trial. Some suggest that the Prime Minister and Justice Minister should not have suggested that any responsibility for this divisive debate rested with the state, or from the operation of the criminal justice system and to have done so has put the administration of the justice system and its players into disrepute. In my respectful view, not responding would have been simply wrong. One is left to question whether the constitution and the division of powers between parliament and the judiciary require them to stand silently by, and if so, what would have been the outcome if they had been silent in this racially charged environment? What have we learned about racial tension and the path to calm and change? Surely a comment from the Prime Minister and Minister Wilson-Raybould is a minimum requirement. And if a comment was required, surely an acknowledgement of the grief and loss of the victim's family, followed by a commitment to do better for all Canadians is a reasonable minimal intervention.

Jonathan Chait of the New York Magazine that covered the Rodney King matter in the United States where a young black man was the victim of gratuitous police brutality, caught on video, a video shared with the public, wrote: "Racism has less force than the reaction to it." President George Bush on the acquittal of the police officers for the beating, the racially charged trial overseen by what was alleged to be a prominently white jury, acknowledged that many American citizens felt betrayed by the verdict, that he himself was "sickened". In response to the immediate rioting and racial violence which followed, he stated that it was a fundamental tenet of the justice system that every American, whether accused or accuser, was entitled to protection of their rights and that the state owed to all Americans who put their faith in the law to see that justice is served.

The comments of the Prime Minister and Minister Wilson-Raybould were required to ensure calm and confidence that such concerns would be taken seriously and the actions which followed, that is, in listening to the family's concerns, seems like a reasoned and responsible approach to maintain confidence in the administration of a justice system that was clearly under question in the eyes of the public. The confidence in the system was, in this incident, also a race relations matter. Minister Wilson-Raybould stated: "As a country we can and must do better – I am committed to working everyday to ensure justice for all Canadians." The Prime Minister in his public comment to the media stated that we have been at this place too many times before and we have to do better. In order to judge these comments and their propriety, one must also look at the broader Canadian context on February 9, 2018.

Most recently, Canada has been witness to the national Idle-No-More protests, the national settlement agreement with First Nations and Inuit for the atrocities perpetuated upon them and their communities as a result of the Indian

THE DANGERS OF **POLITICIZING JURY VERDICTS**

BY **MICHAEL PLAXTON**

Within hours of the verdict in the Gerald Stanley trial, Minister of Justice Jody Wilson-Raybould sent a tweet in which she stated: "As a country we can and must do better – I am committed to working everyday to ensure justice for all Canadians." Remarks by the Prime Minister were also understood by many to have taken issue with the verdict.

Both were widely criticized. The Canadian Council of Criminal Defence Lawyers sent a letter expressing "shock" at the comments, describing them as "unprecedented, inappropriate and quite frankly dangerous". Other lawyers also condemned them. Former Justice Minister Peter MacKay described them as "inappropriate", and several Conservative Members of Parliament have warned against "political interference" with the criminal process. John Ibbitson, writing in the Globe and Mail, found the remarks "disturbing". An Angus Reid poll also suggests that a significant number of Canadians regarded the conduct of the Prime Minister and Minister of Justice as inappropriate, even if they agreed with the broad sentiments expressed.

One could, of course, argue that neither the Minister of Justice nor the Prime Minister was actually attacking the Stanley verdict. They themselves explained away the comments by suggesting that they were really talking about broader systemic issues in the criminal justice system. Without passing judgment on their sincerity, though, the very fact that they thought it necessary to 'clarify' their remarks is telling. It suggests some acceptance on their part that the government should not publicly criticize jury verdicts.

There are good reasons to take this view. At a fundamental level, it strikes me as deeply problematic for our elected representatives to take pot-shots at jury verdicts — wafting accusations of racism (at worst) or incompetence (at best) — when it is impossible for the jurors themselves to respond. It is a criminal offence for jurors to discuss the reasoning in which they engaged in the course of arriving at a verdict. (There are narrow exceptions, but none that apply here.) For government ministers to score political points by attacking the judgment of its own citizens, when they are prohibited by law from explaining themselves, strikes me as a par excellence example of 'punching down'.

But there are deeper issues. Any suggestion that jurors should apply something other than their *own* judgment on the factual issues at trial, in light of the evidence and the trial judge's instructions, compromises the integrity of the criminal justice system. *They* have heard the evidence — not politicians, academics and pundits — and (unsurprisingly) they may have a better appreciation of the actual dispute that they are responsible for resolving. The idea that jurors should defer in any way to the opinions of onlookers who had no opportunity to assess the witnesses, and who may assume that the trial will turn on altogether different legal or factual claims, makes nonsense of the entire process.

That is, to a large extent, precisely what happened in the Gerald Stanley case. From the very beginning, it was assumed that the case would turn on claims that the defendant shot the victim in defence of his property. That, however, did not turn out to be the dispute that the jury was ultimately called upon to resolve. Instead, it was asked to decide whether the fatal shot was the result of a 'hangfire' that occurred after the defendant checked his gun to ensure it was unloaded. Had the jury based its verdict on opinions circulating through the Twitterverse, it would effectively have decided a factual question that was not in issue at trial.

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Residential School process, the apologies and the resulting Truth and Reconciliation Report and Calls to Action, the protests related to the investigation of Missing and Murdered Indigenous women and the subsequent establishment of the national inquiry, the unfortunate mistreatment of families where family members are reported missing, the findings of discrimination in various sections of the *Indian Act* and the multitude of national issues arising from environmental impact analysis and resource management matters. These are but a few of the Indigenous-based disputes and concerns raised by Indigenous peoples and non-Indigenous Canadians that are before the Government of Canada and the provinces and territories at this time. This Government has committed to moving some of these historic matters through to resolution and there are several negotiation tables actively working to build relationships and address structural racism and other barriers to full involvement of Indigenous peoples in Canadian society. This is the context in which the Boushie family added yet another experience of alienation. Silence was just not an option.

We pride ourselves, as Canadians, for advancing human rights, for protecting civil liberties and celebrating diversity and when it comes to our treatment of and relationship to Indigenous peoples, all reasonable people recognize there is much work yet to be done. The rates of victimization for Indigenous women, reported in a 2006 study commissioned by Justice Canada, are reported in the area of 80-90% and rates of under-reporting range from 40-75%. Explanations for the high rates of victimization and alienation suggest the close link to colonization and the resultant collective and individual trauma. The path to improved relationships with Indigenous peoples is arduous and long but it must have its leaders. Prime Minister Justin Trudeau and Minister Jody Wilson-Raybould must be commended for their calming words and for taking action and for steering us clear of the types of violent eruption that we have seen elsewhere around the globe on racial matters. Might they have used other words? Perhaps, but the outcome has been instructive and productive. The alienation felt and articulated by the Boushie family in this matter rang in echo to a chorus of Indigenous voices seeking justice and truth. We all share in the hope of change.

KATHY HODGSON-SMITH is an Indigenous rights and criminal defence lawyer from Saskatoon, Saskatchewan.

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In making these observations, my point certainly isn't that the Stanley jury decided the case properly. The hangfire evidence was weak. One could take issue with aspects of the jury charge. Indeed, there may have been legal errors warranting an appeal. But a jury has to decide the case it heard, and not the case that the rest of us might wish it heard. To do their job properly, jurors must deliberate without fear that they will be pilloried by public figures if they reach the 'wrong' conclusion.

Naturally, people will talk, and we cannot expect jury verdicts to be free from any and all public criticism. But ministers of government are expected to respect the separation of powers; to respect the fact that it falls to courts, and not elected officials, to adjudicate disputes. Sending a message to prospective jurors that, in the future, their verdicts will be assessed against an official view of what happened — depending on which party is in power and how much attention the case in question receives — meddles in the trial process. As Aaron Paquette wisely observed, "judicial, legislative and executive powers … are parallel systems that should, as far as possible, stay in their lanes."

To some extent, separation-of-power concerns were articulated by those who expressed fears that the Minister of Justice's comments would affect what the Court of Appeal would do in the event of an appeal. That was an overblown concern under the circumstances. The decision to launch an appeal fell to the Saskatchewan Attorney General, and nothing that the federal Minister of Justice said was so egregious that it would have necessitated a remedy for the defendant. My point is not that the remarks by the Prime Minister or Minister of Justice prejudiced Gerald Stanley's case, but that it has a more diffuse and corrosive impact on jury trials generally — that, if tolerated, it would produce a kind of "constitutional rot".

None of this precludes politicians from expressing support for grieving families, or vigorously arguing for procedural or substantive reforms to the criminal law. They may even point to particular cases by way of illustrating why a proposed reform is urgently needed. It only means that, when they speak in the aftermath of a verdict in a criminal trial, they must speak with a measure of care.

One could, for example, say that the Stanley trial (arguably) illustrates the need to abolish peremptory challenges, given the effect that their use had upon the public's *perception* of the trial. Making such a claim in no way suggests that the jury that was actually empanelled acted on the basis of racist motives, caprice, or incompetence. Likewise, one could argue that the Stanley case illustrates the need for special rules governing the admissibility of hangfire evidence, without claiming that the jury acted inappropriately by relying on the evidence before it. I am not arguing for either reform here; only observing that referencing the Stanley case by way of making specific suggestions for procedural reforms does not imply that the jury deserves criticism for doing its duty as best it could, given the evidence it did hear and the procedure that was followed.

The Stanley case has inspired a great deal of reflection on the failings of the criminal justice system. That is all to the good. But juries, no less than judges, require a degree of independence from the political arena, to ensure that they can carry out their role as fact-finders. The remarks by the Minister of Justice and the Prime Minister were unusual. They should remain so.

MICHAEL PLAXTON is a Professor of Law at the University of Saskatchewan. He is the author of *Implied Consent and Sexual Assault* (McGill-Queen's, 2015) and *Sovereignty, Restraint, and Guidance: Canadian Criminal Law in the 21st Century* (Irwin, forthcoming). Follow him on Twitter: @MichaelPlaxton

JUDICIAL **UPDATES**

COURT OF APPEAL

The Honourable Madam Justice Sheila Greckol (Edmonton) has elected to hold office as a supernumeray judge effective January 1, 2018.

The Honourable Madam Justice Ritu Khullar has been appointed a judge of the Court of Appeal of Alberta in Edmonton, effective March 15, 2018.

COURT OF QUEEN'S BENCH

Marta E. Burns has been appointed as a Justice of the Court of Queen's Bench of Alberta in Edmonton, effective February 21, 2018.

The Honourable Mr. Justice G.A. Verville (Edmonton) retired as a supernumerary justice, effective March 1, 2018.

L. Bernette Ho has been appointed as a Justice of the Court of Queen's Bench of Alberta in Calgary, effective April 4, 2018.

The Honourable Mr. Justice E.F. Macklin (Edmonton) has elected to hold office as a supernumery judge effective April 6, 2018.

The Honourable Madam Justice J. Topolniski (Edmonton) has elected to hold office as a supernumery judge effective April 9, 2018.

Gaylene D. Bobb has been appointed as a Justice of the Court of Queen's Bench of Alberta in Edmonton, effective April 12, 2018.

PROVINCIAL COURT OF ALBERTA

The Honourable Judge D.G. Rae (Fort Saskatchewan) retired effective February 28, 2018.

The Honourable Judge D.J. Buchanan (Edmonton) retired as a supernumerary judge effective April 17, 2018.

The Honourable Judge J.J. McIntosh (Peace River) has elected to hold office as a supernumery judge effective April 30, 2018.

JESSICA **BUFFALO**

BY **ALEXANDRA RUSSELL**

We are pleased to introduce our Law Matters readers to the Spring Issue's Unsung Hero: Jessica Buffalo. Jessica is a relatively new member of the Alberta bar, called in 2017, and has already set herself apart in both her professional and volunteer efforts in our community through her passion and commitment to working with Indigenous and marginalized people.

JESSICA **BUFFALO**

Jessica is a member of the Samson Cree Nation and grew up in both Edmonton, Alberta and Nanaimo, British Columbia. She developed a keen interest in social justice and Indigenous issues from her father, a survivor of the residential school system. She decided to go to law school while completing a radio documentary project related to Indigenous peoples and issues, with a particular episode on missing and murdered Indigenous women, while attending Simon Fraser University. She went on to complete her law degree at the University of British Columbia, with a special focus on Aboriginal law related courses.

The **Unsung Hero** column is intended to introduce a member of our profession who has demonstrated extraordinary leadership, innovation, commitment, or made significant contributions to social justice and community affairs.

Jessica was hired into the unique position reserved for an Indigenous articling student at Calgary Legal Guidance. During her time with CLG, Jessica completed rotations in various areas of law focused on helping marginalized and low-income populations. Most notably, Jessica developed a workshop to teach incoming students and lawyers how to complete Gladue Reports (a key tool in fairly assessing sentencing of Indigenous offenders), so that more offenders have access to this important and underfunded resource. She continues to teach this workshop since completing her articles.

While articling at CLG, Jessica felt that her time practicing in the area of criminal defence was the most direct way to assist Indigenous, low-income, and other marginalized populations. Therefore, after completing her articles at CLG, she chose to practice exclusively as a criminal defence lawyer, currently with the law firm of Kahane Law Office. Jessica represents people charged with a variety of offences and those requiring legal aid funding for her services. Jessica finds particular satisfaction in providing her clients with relief, both in result and emotional support, while representing their interests in criminal proceedings. Her background and educational focus in Indigenous peoples and issues have provided her with a unique perspective and skill set for working with vulnerable and marginalized accused persons.

Alongside her busy criminal defence practice, Jessica serves Indigenous communities in and around Calgary through her volunteer efforts. Along with the CLG workshops she teaches, she volunteers with CLG's Know Your Rights Program, travelling to reserves to educate Indigenous peoples about their Charter rights. Jessica also volunteers her time at the Aboriginal Friendship Centre offering free legal clinics during regularly scheduled residential school survivors' feasts. During these clinics, Jessica provides brief legal consultations for attendees in need of advice on a range of legal topics.

In her spare time, Jessica spends time with her partner, Jenna, and their three cats (Henri, Murphy, and Jude). Jessica and Jenna are avid musicians, with Jessica on the guitar and vocals and Jenna on the drums. These days, Jessica and Jenna can be found busily preparing for the arrival of a one and half year-old child, who they are welcoming into their home as kinship caregivers.

We are privileged to count her among us as a member of the bar in Alberta and look forward to her continued growth and contributions as a lawyer and community leader.

Do you know an Unsung Hero? Tell us about them.
If you know a lawyer who deserves to be recognized, please send us an email to communications@cba-alberta.org with the lawyer's name and the reasons why you believe they are an "unsung hero". The only formal requirements for nomination are that our "unsung hero" be an Alberta Lawyer and a CBA member.

ALEXANDRA RUSSEL is an associate at Lawson Lundell LLP in Calgary, where she practices in the areas of civil litigation and dispute resolution. In addition to her practice, she is also a member of the CBA Alberta Editorial and Agenda for Justice & Advocacy Committees.

A GOOD FIRST STEP **TOWARDS DIVERSE, IMPARTIAL CANADIAN JURIES**

BY **KENT ROACH**

The proposal to abolish what are known as "peremptory challenges" in Bill C-75, the Canadian government's new criminal justice bill, should be welcomed.

Peremptory challenges allow both the accused and the prosecutor to challenge and dismiss a potential juror basically because they do not like how that juror looks. They're an invitation to discrimination.

Nevertheless, some defence lawyers have argued that abolition will make juries less diverse.

This ignores the inconvenient fact that the defence team's use of peremptory challenges produced an all-white jury in the Gerald Stanley-Colten Boushie case.

Some argue that abolition is a knee-jerk and quick-fix response to Stanley's acquittal, and even an attempt to stack the jury.

This ignores that England, the birthplace of peremptory challenges, abolished them in 1988. After much research and deliberation, the Manitoba Aboriginal Justice Inquiry also recommended in 1991 that they be abolished.

Finally, arguments against doing away with peremptory challenges also ignore that retired Supreme Court Justice Frank Iacobucci concluded in a well-researched 2013 report that no attempt to address the dramatic under-representation of Indigenous people on juries will work as long as both prosecutors and defence lawyers can use peremptory challenges in a discriminatory manner.

Despite the fact that equality rights under Canada's Charter of Rights and Freedoms have been in force since 1985, defence lawyers and prosecutors have failed to challenge the discriminatory use of peremptory challenges.

The U.S. has developed such jurisprudence, but it slows down trials, the opposite of what Bill C-75 was aiming to do in its response to the Supreme Court of Canada's speedy trial ruling.

Bogus reasons to exclude jurors

What's more, it doesn't work to address concerns about discrimination.

In the U.S., the prosecutor and the defence are allowed to invent seemingly neutral reasons for keeping minorities off the jury. For example, saying: "I am excluding this potential juror because she works for a tribal council" could be just another way of saying: "I am excluding her because she is Indigenous." Employing the American approach in Canada would therefore only result in complex and ineffective litigation.

Those claiming that the abolition of peremptory challenges could lead to biased jurors ignore what's known as the "challenge for cause" process in Canada's Criminal Code that allows both sides to question jurors about whether they would be impartial.

Bill C-75, in fact, improves "challenges for cause" by mandating that judges, rather than the last two jurors selected for a trial, decide whether a prospective juror is impartial.

The use of two jurors to decide whether other jurors are partial has caused delays and problems in jury selection in the past, and resulted in Criminal Code amendments in both 2008 and 2011.

Transparent and open

The challenge for cause process is transparent and open. It should have been used in the Stanley/Boushie case to ensure that no juror, Indigenous or non-Indigenous, had already made up his or her mind and was unprepared to fairly decide the case on the evidence.

The challenge for cause process could be improved even further — beyond provisions in Bill C-75 — without going to the extreme of the American process that allows prospective jurors to be asked questions that violate their privacy, including how they vote.

The fact that challenge for cause was not used, and that the defence employed peremptory challenges to remove five visibly Indigenous potential jurors, has rightly undermined public confidence in Stanley's acquittal.

Bill C-75 would also allow judges to set aside some prospective jurors, not only on a hardship basis, but to maintain public confidence in the administration of justice. This is in response to findings that Indigenous people are under-represented on juries and the concerns that many Canadians had about the fairness of the jury selection process in the Stanley/Boushie case.

This expansion of judges' power could result in more diverse and representative juries, depending on how they exercise that discretion.

But more work is needed to ensure that juries represent the diversity of our communities. Bill C-75 retains the citizenship requirement for jurors even though many permanent residents, often from racialized groups, might otherwise be competent and impartial jurors.

Bill C-75 does not follow up Justice Iacobucci's recommendation

PLUS ÇA CHANGE: BROKEN PROMISES ON EVIDENCE-BASED CRIMINAL JUSTICE REFORM

BY **MICHAEL SPRATT**

Things were supposed to be different.

During the lead-up to the 2015 federal election the then third-party Liberals made lots of promises. This is, after all, what third parties tend to do. But to those who work in the criminal justice system they were the right kinds of promises. Our soon to be Prime Minister, Justin Trudeau, promised to reform the criminal justice system. He promised to repeal the glut of mandatory minimum sentences enacted by the previous Conservative government. He promised to address the overrepresentation of marginalized, racialized, and Indigenous peoples in our courts and in our jails. He promised to embrace evidence-based justice policy.

It was a bold promise given that over the preceding decade criminal justice policy had become a partisan political dumping ground — raw meat the Harper government could throw to its base. You see, Harper had reduced criminal justice policy to a simple flow chart. Step one: Promise 'tough on crime' legislation in reaction to a high profile but rare incident. Step two: Table a bill while ignoring the advice of experts. Step three: Cling like grim death to the talking points, at least until step four — when the Supreme Court strikes the law down.

And then Trudeau actually won the election and for a time it seemed like he would follow through on his promises. He gave Jody Wilson-Raybould, Canada's first Indigenous Minister of Justice, explicit instructions to "review the changes in our criminal justice system and sentencing reforms over the past decade" and to "reduce the rate of incarceration amongst Indigenous Canadians" and to "modernize the court system." Wilson-Raybould went on to double down on these promises

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about allowing, in cases where it's appropriate, people who speak Indigenous languages to serve on juries with translation assistance.

The government should also revisit a 2015 Supreme Court of Canada decision that accepts dramatic under-representation of Indigenous people on panels of prospective jurors. Two judges dissented in this case, stressing the importance of justice being seen to be done.

We also need a more modern standard based on equality that ensures a fair and random sample of the community. Such a change would push provinces to develop better ways to ensure more representative jury panels, including outreach and support of Indigenous and other groups such as African-Canadians who are under-represented both on jury panels and actual juries.

Jury trials, especially in the North, held in smaller communities and not simply the largest city in the region could also ease the barriers and hardships that some Indigenous people face when they serve on juries.

Better pay for jurors would also respond to the under-representation of Indigenous and other racialized and disadvantaged groups on jurors.

Saskatchewan has experimented with deliberately diverse coroner's juries.

In Ontario, there is interest in volunteer jurors from Indigenous communities. With co-operation from the Nishnawbe Aski Nation, more than 500 members of First Nations volunteered to serve on the coroner's juries that deliberated about and made important recommendations about preventing the death of Indigenous youth in Thunder Bay.

Iacobucci's 2013 report supported the use of volunteers to increase Indigenous representation on juries.

Some may fear that volunteer jurors or jurors appointed from the group affected by the case, or jurors from a small community where a crime is alleged to have taken place, may be biased and have no place in criminal trials.

But such arguments forget about the critical "challenge for cause" process for ensuring that all jurors are impartial. Nobody wants biased jurors who have already made up their minds. We should all want diverse juries who reflect the relevant life experience in the case.

More could and should be done, but Bill C-75 is a necessary first step that will correctly remove peremptory challenges that allow prosecutors and defence lawyers to keep people off juries whose looks they do not like.

This article was first published by The Conversation (see: https://theconversation.com/a-good-first-step-towards-diverse-impartial-canadian-juries-94257).

KENT ROACH is a Professor of Law and Prichard Wilson Chair in Law and Public Policy at the University of Toronto Faculty of Law. He acted for Aboriginal Legal Services in the jury selection case of *R v Williams* and for the David Asper Centre in *R v Kokepenace* in the Ontario Court of Appeal.

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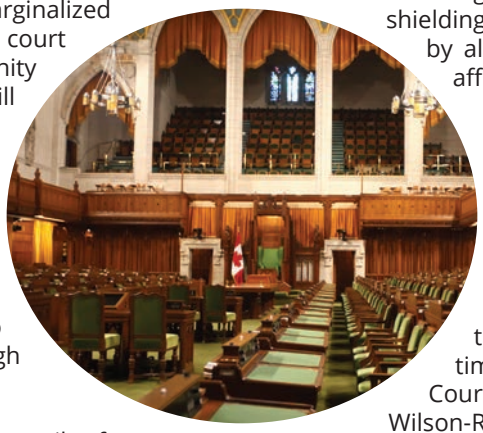
in a 2016 speech to the Criminal Lawyers' Association.

And then nothing happened.

The evidence didn't change. Mandatory minimum sentences continued to disproportionately impact marginalized and Indigenous Canadians, exacerbate court delays, and fail to produce community safety benefits. Our courts are still overburdened with minor offences driven by poverty, mental health, and addiction. And Indigenous Canadians still disproportionately fill our court dockets and our jails.



But then Step 1 happened. And Trudeau decided to follow the Harper flow chart so there was legislation in reaction to a high profile case.

In February, Gerald Stanley was found not guilty for his role in the death of Colten Boushie. And then Raymond Cormier was acquitted of the murder of Tina Fontaine. Both victims were young Indigenous kids. The circumstances of both cases were tragic and marked by the all too common systemic failures that has become emblematic of Canada's relationship with Indigenous people. Both verdicts resulted in a national outcry. And so, the Liberal government finally acted.

Wilson-Raybould introduced her self-described and long-promised "bold" criminal justice reform. The legislation, Bill C-75, was billed as a silver bullet to unclog our courts and bring about a "cultural shift" in the justice system. The changes may be bold, but they will do little to address the overrepresentation of Indigenous people in the criminal justice system, and will likely result in more court delays and more unfair trials.

But perhaps it should not have come as a surprise that the government's cynical legislation missed the mark. After all, it took the recent public outcry about two high profile Indigenous *victims* of crime for the government to purport to address the fact that the justice system has always acted disproportionately against Indigenous accused.

And so on to Step 2 — ignoring the advice of experts.

Wilson-Raybould's bold legislation was met with an immediate, loud and visceral condemnation by many criminal law experts. But again, this should come as no surprise. For a government which seems to pride itself on overly lengthy consultations it seems that no criminal lawyers were actually consulted on Bill C-75.

If the Justice Minister had consulted the defence bar (or even cared to look up the statistics), she would know that eliminating preliminary hearings won't speed up court cases. If she had asked, she would have been reminded that in his 2007 report on the wrongful conviction of James Driskell, who spent 13 years behind bars for a crime he did not commit, Justice Patrick Lesage noted that preliminary hearings are an important safeguard for trial fairness.

If the Minister had listened to defense counsel, she would understand that until the systemic barriers to jury service for Indigenous and racialized people are addressed, scrapping peremptory challenges is a counterproductive way to ensure a representative jury.

And there has been no support for the one provision in the bill that the government refuses to talk about — the shielding of police officers from cross-examination by allowing the boys in blue to simply file an affidavit instead of testifying.

Currently we are on step 4 of the Harper flow chart with Wilson-Raybould and her parliamentary secretaries Marco Mendicino and Bill Blair sticking to their talking points about the "bold" legislation.

The sad reality is that it will take years for the cycle to be completed. It takes a long time for legal challenges to reach the Supreme Court. In the meantime, the damning impacts of Wilson-Raybould's unfair and likely unconstitutional legislation will be felt by the disproportionate number of poor, marginalized, and racialized individuals that will continue to be targeted by the police and prosecuted in our courts.

Breaking this 4-step criminal justice cycle would have been so easy. All Wilson-Raybould had to do was keep the promises the Liberals made in 2015.

But Wilson-Raybould chose to betray the promise to reform Harper's punitive, time-consuming, and counterproductive justice policy. Instead, she has introduced regressive legislation that will negatively impact the very communities she has promised to help while eroding important mechanisms to ensure trial fairness.

The Harper government embraced its 4-step system and passed law after law that removed judicial discretion from sentencing and embraced harsher and more vindictive punishments. But at least the Conservative measures did not imperil due process. And that is exactly what Wilson-Raybould has done — something worse than Steven Harper ever did.

"House of Commons Canada": iStockPhoto.com/bukharova

MICHAEL SPRATT is a Partner at Abergel Goldstein & Partners in Ottawa. He regularly appears as an expert witness before the House of Commons and Senate on criminal law policy and legislation. Michael is also a blogger and host of the podcast "The Docket."

BY YOUR LEAVE: **THE ETHICS OF LAWYERS TRANSFERRING BETWEEN FIRMS**

BY **ELIZABETH ASPINALL**

They parted at last with mutual civility, and possibly a mutual desire of never meeting again.

- Jane Austen, Pride and Prejudice

The number of calls which Practice Advisors receive when a lawyer leaves one firm to join another is rising. Lawyers' ethical obligations to put client interests first collide with firms' business interests, prompting calls to us. In those calls, emotions run high, lawyers and firms expend valuable resources fighting to keep clients, and client interests slip between the cracks of the dispute. Firms claim they own client files, and no notice should be sent to clients, or they delay in providing notice to clients rendering it irrelevant. They require the departing lawyer (who often no longer has access to firm resources) to provide the client list. They pare down the client list, sometimes even to single digits. They require clients who elect to leave to provide authorization in person and with identification. For their part, departing lawyers contact clients to secure the clients' commitment to go with the lawyer without telling clients they have a choice, and before the lawyer gives notice to the firm. Lawyers also copy and then delete electronic file information from the firm's system. Some also do a "midnight run", taking client files and firm materials. Adhering to ethical principles can reduce problems, reduce the stress of the change, and, critically, ensure client interests are maintained during the transition.

The core principle is the client's right to choose their own lawyer. The rules are not (as more than one lawyer has said to me) unclear or open to interpretation. The Code of Conduct ("Code") and case law (court and law society decisions) are clear: when a lawyer leaves a firm, client interests prevail. Prejudice to the client must be avoided, and the client should be free to decide whom to retain as counsel without undue influence or pressure.

Rule 3.7-9 of the Code and the Commentary to that Rule govern what lawyers should do when a lawyer leaves. Reasonableness governs the process:

a) Notice must be given by the departing lawyer to the firm before notice is given to clients;

b) The firm and lawyer should cooperate. Prompt, joint and neutral notice must be given on all client files with which the departing lawyer has substantial involvement. This obligation is not limited to the files on which the lawyer is the responsible lawyer, and applies whether the departing lawyer is a senior partner or junior associate;

c) Notice should stipulate clients' options: stay with the firm, go with the lawyer, or retain new counsel;

d) When clients go with the departing lawyer, the firm is entitled to compensation for work done prior to the lawyer's departure; and,

e) When the departing lawyer and firm cannot agree on the form of notice, either of them may provide the notice, ensuring that it remains neutral.

Breaching these obligations can result in the Law Society finding professional misconduct.

Courts also uphold the priority of clients' interests. Non-solicitation clauses in a lawyer's employment contract have limited impact on the Code-mandated obligation to advise clients of a lawyer's departure. Because lawyers have a personal relationship with clients and provide personal service to clients, on a lawyer's departure, the lawyer and firm have an over-riding fiduciary duty to clients. Public interest (i.e. client interest) is not served by restricting lawyers' rights to engage in their profession. The result is that, unlike corporations, firms do not have proprietary or exclusive rights to clients or contact lists.

Courts have also found that departing lawyers' obligations to serve the firm faithfully and diligently continue through and after departure. A departing lawyer must protect the firm's solicitor's lien over client files. Removing files without notice to the firm, without providing security for fees and disbursements, and without providing clients' executed letters of authorization to the firm may breach these duties resulting in the lawyer being liable to the firm for the value of the lien (i.e. the amounts owed by clients to obtain delivery of their files).

Finally, the firm's remaining lawyers must also conduct themselves ethically. Often the firm has the advantages of possessing client lists and files, and controlling the process of sending letters to clients. A firm's history of making lawyer departures difficult or onerous may justify a departing lawyer's conduct in not providing notice to the firm. It is inappropriate to threaten to complain about the departing lawyer to the Law Society if that lawyer will not agree to onerous terms when negotiating file transfers. It is also inappropriate to criticize the departing lawyer to clients, or to emphasize qualifications of the lawyer at the firm who would assume conduct of the file.

A lawyer's departure admittedly creates stress for the lawyer and firm. Compliance with the Code can increase the likelihood that the departure is civil which in turn minimizes prejudice to clients and decreases the stress for all.

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1 This provision was added to the Code in September 2017 to codify ethical principles recognized in case law and professional responsibility.

2 *LSBC v J*, [1996] LSDD No 111 (LSBC); *LSA v W*, [1997] LSDD No 154 (LSA).

3 *Loreto v Little*, 2010 ONSC 755 at paras 28-31.

4 *MacMillan Tucker MacKay v Pyper*, 2009 BCSC 694 .

5 *Vertlieb Anderson v Nelford*, [1992] BCJ No 1229 (BCCA). The lower Court had ordered the departing lawyer to pay damages ([1989] BCJ No 2085). That finding was overturned on appeal.

6 *LSA v K*, [1996] LSDD No 294 (LSA).

ELIZABETH ASPINALL is a Practice Advisor and the Equity Ombudsperson at the Law Society of Alberta. Prior to joining the Law Society, she practiced at JSS Barristers in Calgary. Elizabeth is a member of the CBA Alberta Editorial and Equality, Diversity & Inclusion Committees.

CELEBRATING 100 YEARS OF THE **UNIFORM LAW CONFERENCE OF CANADA**

BY **SANDRA PETERSSON**

In 1918 the Canadian Bar Association noted that the diversity of legislation among the provinces raised obstacles in many areas of the law. Differences across provincial laws were problematic both for private citizens and inter-provincial commerce, as well as for international commerce. The CBA advocated for greater uniformity in provincial laws and recommended that each province appoint commissioners who would collaborate to develop uniform law proposals, draft corresponding legislation and work for the adoption of uniform laws within their jurisdictions. The first meeting of the provincial commissioners was held in Montreal in 1918 and the work of the Uniform Law Conference of Canada [ULCC] has been continued to this day.

The ULCC has as its primary object to promote uniformity of legislation among Canada's provinces and territories. While much of the ULCC's work is done at the annual meeting, considerable work is also done throughout the year by the executive, jurisdictional representatives and volunteers from the profession. Through comparative analysis, open discussion and reasoned innovation, Canadian jurisdictions have worked towards uniformity in many legislated areas including limitations, wills, apologies, and limited liability partnerships to name just a few.

Civil Law Section

At its initial meeting, Imperial legislation was viewed as one approach to increase uniformity. As different provinces had different dates for the reception of British law, newer provinces had the benefit of codifying legislation such as the Partnership Act 1890 and the Sale of Goods Act 1893 while older provinces had a mix of common law and older legislation. Uniformity could also be achieved by basing legislation on the law of a single jurisdiction. At other times, uniform legislation looked to consolidate different acts across jurisdictions to achieve a common approach.

The ULCC has also gone beyond areas covered by existing legislation to propose reform in areas where there was no legislation. The Uniform Human Tissue Donation Act and the Uniform Electronic Commerce Act are two examples of where the ULCC thought it was appropriate to encourage uniformity at an early stage in the law's development.

The work of the civil section typically leads to uniform acts which are recommended for enactment by jurisdictions across Canada. For example, ALRI is currently reviewing the Uniform Recognition of Substitute Decision-making Documents Act and the International Commercial Arbitration Act for implementation in Alberta. Less frequently, the ULCC will adopt a model act rather than a uniform act; model acts may not be suitable for implementation by all Canadian jurisdictions but are there for governments to adopt if appropriate.

Since 2000, the civil law section has been engaged in a series of initiatives to update commercial law across Canadian jurisdictions.

Criminal Law Section

The ULCC also plays a key role in criminal law reform. Again on the initiative of the CBA, the ULCC expanded in the 1940s to include commissioners whose work would focus on recommendations for amendments to the Criminal Code and related statutes.

Alberta Highlights

Alberta has been involved with the ULCC from the outset. In 1918, Frank Ford KC and Wilfrid Gariepy KC, the Commissioners for Alberta, would have travelled by steam train to attend the two-day meeting in Montreal. They were then asked to begin work on a Uniform Wills Act for review at the next annual meeting.

Alberta has also continued to take the lead on a variety of ULCC projects including the following uniform acts:

- Access to Digital Assets by Fiduciaries Act
- Disclosure of Cost of Consumer Credit
- Elder Financial Abuse in Powers of Attorney
- Franchises
- Missing Persons
- Transfer of Investment Securities
- Electronic Wills
- International Wills
- Trade Secrets

Several distinguished Alberta lawyers have served as ULCC President: HJ Wilson QC, Glen Acorn QC, Wilbur Bowker QC, Peter Lown QC and Joshua Hawkes QC (until his appointment to Provincial Court). Nine Albertans have also served as chair of the Criminal, Civil or Drafting Sections: Michael Allen QC, Marvin Bloos QC, Sarah Dafoe, Joshua Hawkes QC, Peter Lown QC, Peter Pagano QC, Alex Pringle QC, Bart Rosborough and Nolan Steed QC. Alberta has also been able to host the annual meeting of the ULCC eight times and looks forward to hosting again in a few years.

Centennial Conference

The ULCC will celebrate its centennial at this year's annual meeting in Quebec City, August 12 to 16. More information on the ULCC's history and on current projects such as record checks, costs awards in Charter litigation and electronic document rules can be found at www.ulcc.ca.

Website: www.alri.ualberta.ca
Email: reform@alri.ualberta.ca
Twitter: @ablawreform

SANDRA PETERSSON is the Executive Director of the Alberta Law Reform Institute. She joined ALRI in 2002, having previously held the positions of Counsel and Research Manager. Prior to ALRI, Sandra clerked for the Supreme Court of Canada and worked as Executive Legal Counsel to the Chief Justice of Alberta.

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The government considers bilingual proficiency and diversity in these positions. Are they looking for you? Check here for provincial and territorial opportunities (https://www.cba.org/Our-Work/cbainfluence/Provincial-and-territorial-opportunities).

BOARD MEETING MINUTES NOW AVAILABLE ONLINE

Want to know what goes on at Board meetings? In November, the National Board of the CBA resolved to provide greater transparency to member by publishing its minutes online (https://www.cba.org/Who-We-Are/Governance/Board-of-Directors/Meeting-Minutes), behind a member wall. Minutes of all Board meetings from November onward will be available. Minutes for the Governance and Equality Committee meetings are also now available on the Committee's web page (https://www.cba.org/Sections/Governance-and-Equality/About).

CBA ALBERTA VOLUNTEER OPPORTUNITIES

We are now recruiting CBA members to participate in volunteer opportunities during the 2018-19 membership year. Much of the work that the CBA does throughout the year is only possible with the assistance of a group of dedicated volunteers, and we encourage all members to find ways in which they can get involved.

There are a variety of committees that are always looking for new volunteer members, including Access to Justice, Editorial (Law Matters), Agenda for Justice & Advocacy, Equality, Law Day, Legislation & Law Reform, and Membership & Member Services. There are also opportunities to participate in Sections, either through Section leadership or as a speaker at one of our many Section meetings.

To indicate your interest in CBA Alberta volunteer opportunities, please visit www.cba-alberta.org/Volunteer.

LAW DAY 2018 IS A WRAP!

Law Day activities took place in Calgary, Edmonton, Medicine Hat, Lethbridge, St. Paul and Fort McMurray through the months of April and May. We saw approximately 8,000 members of the public visit courthouses around the province, and participate in fun-filled activities such as tours, mock trials, and citizenship ceremonies. They also had the opportunity to speak to our volunteer lawyers and discuss careers in law, and receive free legal consultations.

On April 21, we again partnered with Legal Aid Alberta, Calgary Legal Guidance, the Edmonton Community Legal Centre, and Pro Bono Law Alberta to hold the 6th annual Dial-a-Lawyer event, where members of the public unable to attend a local Law Day event were able to call our toll-free line and speak to a lawyer about their legal matters. Over 100 Albertans received a free legal consultation from our team of volunteer lawyers.

Law Day would not be possible without the support of law firms and legal organizations around the province, such as Calgary Law Day Platinum Sponsor JSS Barristers. Join us in thanking all of our event sponsors for their generosity!

CBA ALBERTA MEMBERS VOLUNTEER AT THE MUSTARD SEED

Each year, the Balbi & Company Legal Centre organizes a holiday volunteer event at the Mustard Seed in Calgary to give back to the community. Most recently, a group of lawyers, legal staff, friends and family came together to prepare and serve a hot meal for 370 guests at the Mustard Seed Shelter.

One of these lawyers was Carey Leishman, an associate at Kahane Law Office, and member of the CBA Alberta Family Law Section. "It was a really nice change of pace and a great way to give back. We have the privilege of sitting in a very fortunate position, and for that reason, I think it is important to give back," she says.

To read more about this volunteer event, visit https://theseed.ca/city-lawyers-cook-fabulous-meal-370-hungry-guests/.

2018-2019 CBA ALBERTA BRANCH SECRETARY

Please join us in congratulating Johanna C. Price, Partner at Peacock Linder Halt & Mack LLP, on being acclaimed as the incoming CBA Alberta Branch Secretary for the 2018-19 year.

Johanna is a long-time CBA member, first joining in her articling year. She is an experienced litigator, having appeared at all levels of Court in both Alberta and British Columbia. Johanna is an advocate of Alternative Dispute Resolution, and has been active in the CBA Alberta Alternative Dispute Resolution Section (South), Chairing or Co-Chairing the Section from 2012 to 2016. She has also been a committed organizer of CBA conferences, including co-chairing the 2016 Alberta Law Conference in Calgary, and sitting on the organizing committees of the 2015 national CBA Legal Conference and 2017 CBA West Conference in Las Vegas.

Johanna's term as Secretary will begin September 1, 2018, where she will be joined by President Frank Friesacher, Vice President Ola Malik, Treasurer David Hiebert, Past President Jenny McMordie, and Executive Director Maureen Armitage.

A VIEW **FROM THE BENCH**

BY **THE HONOURABLE JUDGE A.A. FRADSHAM**

In an odd way, I suppose it is a bit of a badge of honour to receive, at my advanced years, a "Dear John" letter. However, there it was, lurking as an attachment to an email that simply said, "please see attached letter". It was a bit like the feral cat following the food trail into the cage for ultimate removal.

The letter was very polite, but clear. The phrases were classic. This publication is going in "a new direction" and "will change its focus to cover more topical and controversial matters" (it's not you, it's us). "New direction"; for a moment, I thought I had mistakenly boarded the wrong bus. Then I read "in order to increase the space our contributors have to address these issues, the decision was made to discontinue a number of recurring columns", and I realized it was much more akin to being on an overbooked airplane.

I was invited to submit my "farewell column". In my line of work, that concept is covered by section 726 of the Criminal Code which allows the offender to address the Court before sentencing.

The bottom line is that this column is now surplus to requirements. Consequently, I bid those kind souls who have read my musings a fond farewell. I have been writing "A View from the Bench" for 21 years, and the encouraging comments I have received throughout that time continue to be cherished by me. If I have provided some light distraction from the cares of daily practice, then I may well have served a useful purpose. If I have caused some of you to re-examine an idea or two, then, as people much younger than I are wont to say: BONUS.

I have enjoyed nothing but cordial and supportive relationships with the CBA office staff who put together this publication. My most recent "boss" has been Ms. Wright, and she has been so very kind in giving me advance warning of looming deadlines. I happily and publicly express my appreciation.

Will I miss writing this column? The answer to that question would vary depending upon the time at which it is asked. If you asked me when the date for submissions was rapidly approaching and I was bereft of any ideas for a column, the answer would differ from that when the column is finished, and my wonderful and long-suffering wife, Gloria, has read it and smiled, or, absolutely best of all, laughed.

I readily confess that the legal profession, or a desire to join it, has been at the core of my being since I was in Grade 5. It is all I have ever wanted to do, and I continue to enjoy it to a degree that may well cause the Canada Revenue Agency to declare my contentment a taxable benefit. My simple but heartfelt wish for all of those at the bar is that they find pleasure and intellectual satisfaction in the practice of law; the rest will usually sort itself out.

So, after approximately 80 impositions on your time, I will now make way for those whose new direction is "controversial matters". Without doubt, the world around us provides daily and ample evidence that we are sorely in need of more of those.

THE HONOURABLE JUDGE A.A. FRADSHAM is a Provincial Court Judge with the Criminal Court in Calgary. His column "A View From the Bench" has been a highlight in the Canadian Bar Association newsletters for over 15 years.

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WILL SEARCH. Jean Lorraine Hood, also know as Jean Lorraine MacAuley or Jean Lorraine Funari, late of Calgary, died February 22, 2018. **Please contact kellymac.brett@gmail.com.**

WILL SEARCH. Bruce Malcom Larson, late of Edmonton, died October 30, 2017. **Contact Hamish Henderson at 780-451-2769 or hamish.henderson@shaw.ca.**

SEEKING THE LAST WILL & TESTAMENT of Balaratnarajah Ponnampalam, also known as Bala Ponnampalam, Balaratnaraj Ponnampalam and Balaratnarajh Ponnampalam, born September 18, 1955, who died on the 2nd day of January 2018 in the City of Calgary, in the Province of Alberta. The Last Will, if any, is believed to have been prepared in the City of Calgary, in the Province of Alberta. **Please contact the office of Mark F. Crossfield, Barrister & Solicitor, Suite 413, 133 - 8th Street SW, Calgary, AB T2R 1M6. Telephone: 403-228-1515, Fax: 403-228-1511 or Email: office@crossfieldlaw.com.**

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NON-PROFIT **ANNOUNCEMENTS**

STUDENT LEGAL ASSISTANCE CALGARY IS PLEASED TO ANNOUNCE A NEW FAMILY MEDIATION SERVICE FOR LOW-INCOME CLIENTS. The program will operate on a co-mediation model for the early intervention and resolution of family law problems, pairing upper year law students with mediators from the family bar. We are currently seeking volunteer lawyer-mediators who are interested in working with law students to improve access to justice. **Contact Michelle Christopher, SLA's Executive Director at mchristo@ucalgary.ca, or 403-220-6637 for further information or to apply.**

THE ALBERTA LAWYERS' ASSISTANCE SOCIETY PRESENTS ASSISTFIT: KNOCKOUT STRESS Muay Thai kickboxing classes in Calgary. Sessions take place on Wednesday, May 30 and Wednesday, June 27 from 12pm - 1:15pm at Champions Creed Martial Arts (119 - 42 Avenue SW, Calgary). Assist is currently looking for firms or organizations that are interested in sponsoring these events, so that they can continued to be provided to attendees at no charge to them. If your firm is interested in sponsoring a session, please contact Micah Chartrand at micah@sobyboydenlenz.com. **For more information about AssistFit, visit http://albertalawyersassist.ca/assistfit/.**

This text-only section is provided for non-profit organizations free of charge. To include your organization's announcement, please contact the CBA Alberta Branch at 403-218-4310, or by email at communications@cba-alberta.org

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