



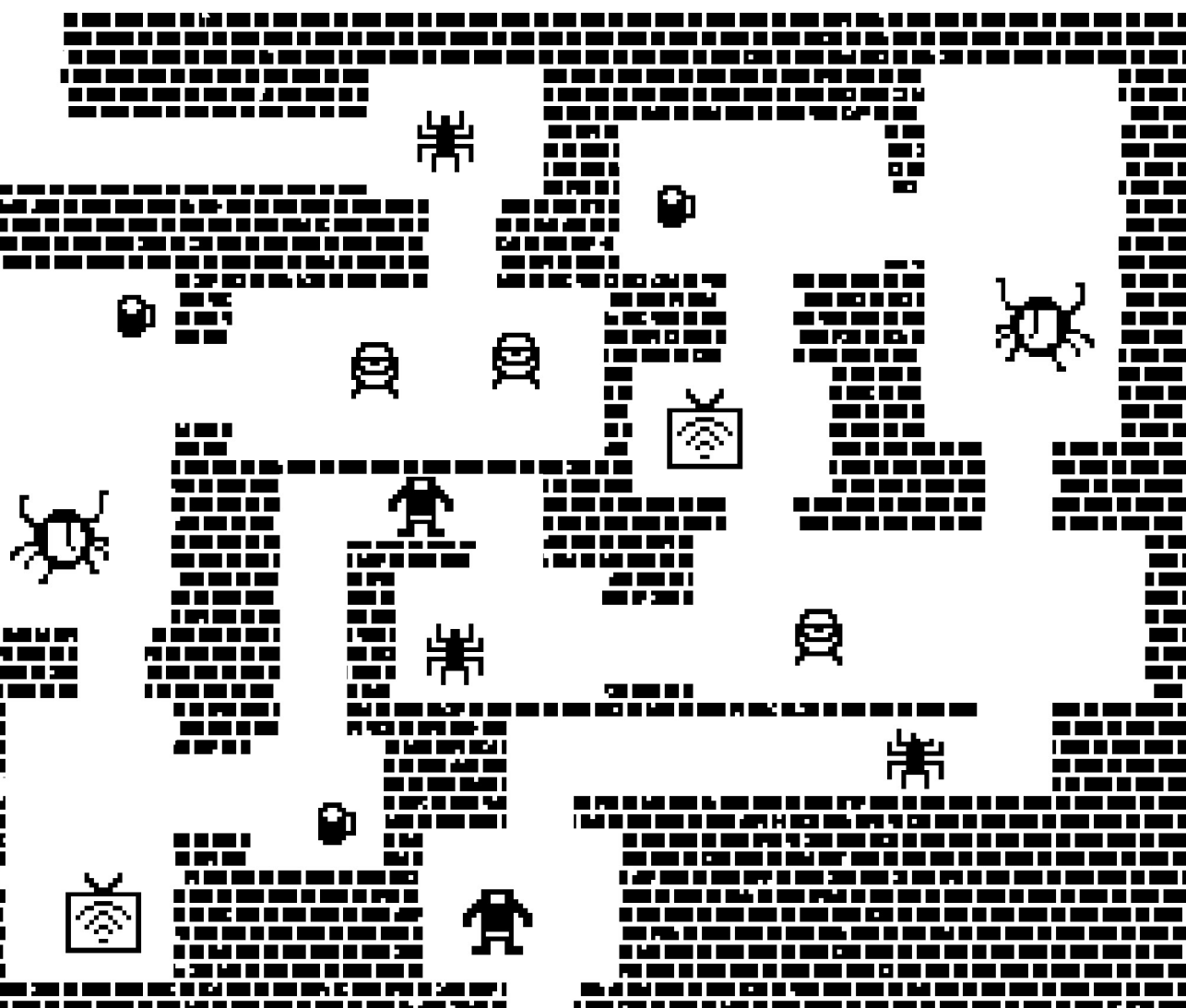
CANADIAN LAW LIBRARY REVIEW

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BIBLIOTHÈQUES DE DROIT



VOLUME/TOME 48 (2023)
No. 2

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IIII CONTENTS / SOMMAIRE

Liability for Transboundary Pollution at the Intersection of Public and Private International Law

Reviewed by Laura Lemmens

The Special Collections Handbook

Reviewed by Dominique Garingan

Troubling Truth and Reconciliation in Canadian Education: Critical Perspectives

Reviewed by Ann Marie Melvie

Voicing Identity: Cultural Appropriation and Indigenous Voices

Reviewed by Peter Aadoson

By Kate McCandless

By Mi Yoon

By Erin Clupp

*Edited by Dominique Garingan, Julie Lavigne,
and Leanne Notenboom*

*Banning Transgender Conversion Practices: A
Legal and Policy Analysis*

Reviewed by Alexandra Kwan

*Building a Second Brain: A Proven Method to
Organise Your Digital Life and Unlock Your
Creative Potential*

Reviewed by Leslie Taylor

*Canadian Justice, Indigenous Injustice: The
Gerald Stanley and Colten Boushie Case*

Reviewed by F. Tim Knight

Every Cyclist's Guide to Canadian Law

Reviewed by Yolanda Koscielski

*Guide to the Law and Practice of Anti-SLAPP
Proceedings*

Reviewed by Emily Landriault

*Legal Data and Information in Practice: How
Data and the Law Interact*

Reviewed by Sharon Wang

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III From the Editor / De la rédactrice

I hope everyone enjoyed this year's CALL/ACBD conference, which marked the installation of Yemisi Dina, chief law librarian at York University's Osgoode Hall Law School Library, as our new association president. Congratulations, Yemisi! I know we're in good hands.

Congratulations also to this year's recipients of the *CLLR* Article Awards, which Julie Lavigne presented during the conference's awards lunch on my behalf. If you missed it, Ilana N. Hernandez received the Feature Article Award for "Research Guides Beyond Canadian Law: A Question of Justice," and Bradley Budden received the Student Article Award for "On the Intersection of Artificial Intelligence and Copyright Law."

This issue is a bit different from our usual fare. It's focused on legal writing, an idea sparked by lawyer and author C.J. Shaw, who reached out to me a few months ago about publishing a "tick list" he'd written on the topic. As legal information professionals, we are experts on the research side of things, but how many of us—excluding those with JDs, of course—are well versed in legal *writing*? While the tick list won't enable us to teach the writing portion of LRW or start drafting memos for court, it's a great primer on the fundamentals. As a companion piece, Associate Editor Susan Barker has written an annotated bibliography on authoritative legal writing and communication resources. I hope you find both pieces as informative as I already have.

Finally, I'm happy to announce that Kim Clarke is returning to the masthead after a few years' absence to edit a new column called "Perspectives." "Perspectives" will contain short articles between 1000–2500 words on any topic

of potential interest to *CLLR* readers. These articles can take a variety of forms, including practical or experiential papers, editorial opinion pieces, case comments, or statute analyses. For more on what we're looking for, see page 9. We are excited to provide another avenue for you to share your research and look forward to hearing from you.

EDITOR
NIKKI TANNER

J'espère que vous avez aimé le congrès de l'ACBD/CALL de cette année, au cours duquel Yemisi Dina, bibliothécaire juridique en chef de la bibliothèque de la faculté de droit Osgoode Hall de l'Université York, a été nommée présidente de notre association. Toutes nos félicitations Yemisi! Je sais que nous sommes entre bonnes mains.

Je tiens aussi à féliciter les lauréats des Prix des meilleurs articles de la *RCBD* de cette année, qui ont été remis en mon nom par Julie Lavigne lors du dîner de remise des prix au congrès. Au cas où vous auriez manqué cette remise, Ilana N. Hernandez a reçu le Prix du meilleur article de fond pour « Research Guides Beyond Canadian Law: A Question of Justice », et Bradley Budden s'est vu décerner le Prix du meilleur article étudiant pour « On the Intersection of Artificial Intelligence and Copyright Law ».

Ce numéro est un peu différent de nos parutions habituelles. Il est consacré à la rédaction juridique à la suite d'une idée lancée par l'avocat et auteur C.J. Shaw, qui m'a contactée il y a quelques mois pour me proposer de publier une liste de vérification à effectuer (tick list) qu'il avait rédigée sur le sujet. En tant que professionnels de l'information juridique,

nous sommes des spécialistes en matière de recherche, mais combien d'entre nous — à l'exception bien sûr des titulaires d'un doctorat en droit — connaissent très bien la rédaction juridique? Bien que cette liste ne nous permette pas d'enseigner la partie rédactionnelle d'un cours en recherche et rédaction juridiques ni de rédiger des avis juridiques préliminaires, elle constitue une excellente introduction aux principes fondamentaux. En complément, la rédactrice en chef adjointe Susan Barker a rédigé une bibliographie annotée sur les ressources qui font autorité en matière de rédaction et de communication juridiques. J'espère que vous trouverez ces deux articles aussi intéressants que je les ai trouvés.

Enfin, j'ai le plaisir de vous annoncer que Kim Clarke dirigera une nouvelle rubrique intitulée « Perspectives » après quelques années d'absence au sein de l'équipe de rédaction. Cette rubrique présentera de courts articles de 1 000 à 2 500 mots sur tout sujet susceptible d'intéresser les lectrices et lecteurs de la *RCBD*. Ces articles peuvent prendre diverses formes; par exemple, des articles d'intérêt pratique ou expérientiel, des articles d'opinion, des commentaires sur des causes ou des analyses de lois. Pour en savoir plus sur ce que nous recherchons, consultez la page 9. Nous sommes ravis de vous offrir un autre moyen de partager vos recherches et nous avons hâte d'avoir de vos nouvelles!

**RÉDACTRICE
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CORRECTION

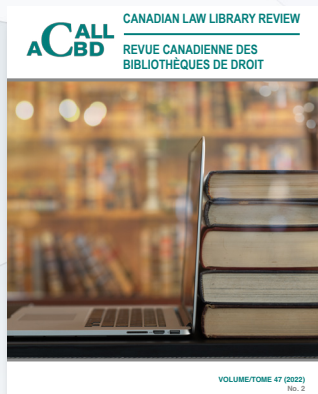
Dear Editor of the *Canadian Law Library Review*,

Volume 48, No 1, 2023, pp. 22–23 of the *Canadian Law Library Review* included a review of *Law, Life and the Teaching of Legal History: Essays in Honour of G. Blaine Baker*, edited by Ian Pilarczyk, Angela Fernandez, and Brian Young. The review contains the following statement: “the editors’ decision to reference ‘negative aspects’ of Professor Baker’s personal and professional life led to the Osgoode Society for Canadian Legal History pulling their funding for the book.” This is inaccurate, in two senses. First, the Osgoode Society for Canadian Legal History did not “pull its funding for the book” for the simple reason that it was never a funder of the book. The Osgoode Society for Canadian Legal History, which since 1981 has been a co-publisher of over 110 books on Canadian legal history, does not fund books, it co-publishes books with university presses. Second, the Osgoode Society decided not to include this book as part of its series because it considered that, on the whole, it was not sufficiently scholarly, not because of “the editors’ decision to reference ‘negative aspects’ of Professor Baker’s personal and professional life.”

I do not blame the book reviewer for this misstatement. On examination of the book, I found that it derives from one of the essays in the book. However, the misstatement is there in the pages of the *Canadian Law Library Review* and needs to be corrected. Thank you for allowing me to do so.

Yours sincerely,

Professor Jim Philips
Editor-in-Chief, Osgoode Society for Canadian Legal History
Faculty of Law and Department of History
University of Toronto



Volume 30 (2005)
Volume 31 (2006)
Volume 32 (2007)

Volume 33 (2008)
Volume 34 (2009)
Volume 35 (2010)

Volume 36 (2011)
Volume 37 (2012)
Volume 38 (2013)

Volume 39 (2014)
Volume 40 (2015)
Volume 41 (2016)

Volume 42 (2017)
Volume 43 (2018)
Volume 44 (2019)

Volume 45 (2020)
Volume 46 (2021)
Volume 47 (2022)



III President's Message / Le mot de la présidente

This is my first message as president of CALL/ACBD, and it also marks my 17th year as a member of our esteemed association. I am grateful to be able to serve as president, an opportunity that I cherish and value very much. I am looking forward to an impactful tenure, as we have so much to accomplish.

We all continue to reflect on the continuing effects of the COVID-19 pandemic and make every effort to embrace the new normal. I was delighted to see the enthusiasm of the attendees in Hamilton at the recently concluded annual conference. The atmosphere during the conference gives me the reassurance that in the coming years, we will accomplish numerous goals together. Coming back together for an in-person conference was truly significant and has taught me not to take anything for granted in life. I would like to acknowledge the efforts of all members of the 2023 Conference Planning Committee with their board liaison, Vice President Two Mary-Jo Petsche, as well as our speakers, generous sponsors, volunteers, and the Redstone Agency staff members who put together an incredible conference with so much to take away.

I encourage you all to continue the conversations about your takeaways from the programs that were offered. We learned so much from our speakers, all of whom provided lessons and action items. It was quite remarkable to note how artificial intelligence has become a topical aspect in all the programs. Some lessons learned include the transformative nature of AI and how we must continue to adapt to its many influences in our professional and personal lives. We also learned about the various challenges and ethical considerations of AI and how it will impact our lives as it continues to evolve.

I challenge us all to find a way to embrace innovation while continuing to uphold the ethics and standards that are the foundation of librarianship.

Early in the spring, the national office sent out information about changes to the association's listserv. This new model will allow members to interact with each other by using some of the features in the Basecamp software. There will be opportunities to learn more about how the listserv will operate to ensure a smooth transition to the new platform.

**PRESIDENT
YEMISI DINA**

Ce message est mon premier en qualité de présidente de l'ACBD/CALL, et il marque également ma 17^e année comme membre de notre honorable association. Je suis reconnaissante de pouvoir assumer le rôle de présidente, qui constitue une occasion qui me tient énormément à cœur. J'espère que mon mandat aura un impact important, car nous avons beaucoup à accomplir.

Nous continuons à nous interroger sur les effets persistants de la pandémie de COVID-19 et nous nous efforçons de nous adapter à la nouvelle normalité. J'ai été ravie de constater l'enthousiasme des congressistes à notre récent congrès annuel tenu à Hamilton. L'ambiance qui y régnait me rassure quant à l'idée de pouvoir atteindre ensemble de nombreux objectifs au cours des prochaines années. Le fait de se rassembler en personne pour un congrès revêt une véritable importance et m'a appris qu'il ne faut rien tenir pour acquis dans la vie. Je tiens à saluer les efforts de tous les membres du comité de planification du congrès

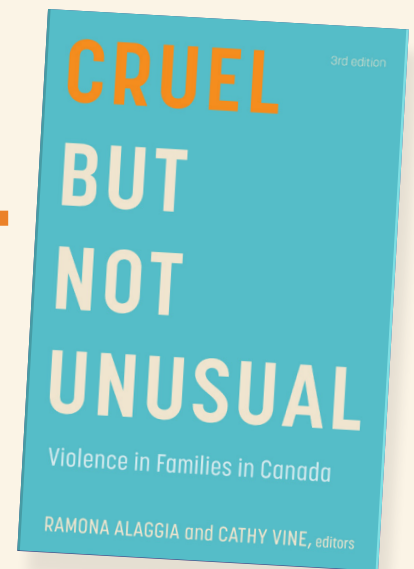
2023 et la représentante du conseil exécutif au sein de ce comité, la vice-présidente no. 2 Mary-Jo Petsche, ainsi que nos conférencières et conférenciers, nos généreux commanditaires et les membres du personnel de Redstone Agency, qui ont organisé un formidable congrès riche en enseignements.

Je vous invite à poursuivre les conversations sur ce que vous avez retenu des programmes proposés. L'ensemble des intervenants nous ont beaucoup appris, en nous livrant des leçons et des pistes d'action. Il est particulièrement étonnant de constater à quel point l'intelligence artificielle est devenue un sujet d'actualité dans tous les programmes. Parmi les leçons tirées, citons la nature transformatrice de l'IA et la manière dont nous devons continuer à nous adapter à ses multiples influences aussi bien dans la vie professionnelle que la vie personnelle. Nous avons également pris connaissance des divers défis et enjeux d'ordre éthique liés à l'IA et de l'incidence qu'elle aura sur notre vie à mesure qu'elle continuera à évoluer. Je mets tous les membres au défi de trouver une façon de se tourner vers l'innovation, tout en continuant à respecter l'éthique et les normes qui sont le fondement de la bibliothéconomie.

Au début du printemps, le bureau national avait informé les membres sur les changements apportés à la liste de diffusion (listserv) de l'association. Le nouveau modèle permettra aux membres d'interagir en utilisant des fonctionnalités du logiciel Basecamp. Vous aurez l'occasion d'en apprendre davantage sur le fonctionnement de ce forum afin d'assurer une transition en douceur vers la nouvelle plateforme.

**LE PRÉSIDENT
YEMISI DINA**

CRUEL BUT NOT UNUSUAL



Violence in Families in Canada, 3rd Edition

RAMONA ALAGGIA and CATHY VINE, editors

978-1-77112-535-2 | Paperback 640 pp. | \$59.99
Ebook available

Violence takes many forms inside relationships and families, and the systems charged with responding and helping can actually add to the harm, further isolating and endangering victims. Nowhere is this more evident than in intentionally marginalized communities, such as Indigenous, Black, people of colour, LGBTQI2S+, people with disabilities, and immigrant, refugee, and non-status women.

From recommendations on resisting anti-Black state-sanctioned violence, to a call to action on partner abuse within LGBTQI2S+ communities, the book offers bold ideas for moving forward, highlighting the work of researchers and activists from these communities.

Written for students, instructors, practitioners, and advocates in all related fields, this expanded and updated third edition of *Cruel But Not Unusual: Violence in Families in Canada* offers the latest research, thinking, and strategies to address this hard reality in Canada today.



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III Perspectives

Introducing CLLR's New Column: "Perspectives"

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

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

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

We look forward to hearing your ideas!

La *Revue canadienne des bibliothèques de droit* accepte les propositions d'articles pour sa nouvelle rubrique intitulée « Perspectives ». Nous recherchons de courts articles sur

tout sujet susceptible d'intéresser les lectrices et lecteurs de la *RCBD*; par exemple, la recherche juridique, le rôle des bibliothécaires et du personnel des bibliothèques, la gestion et le leadership, la technologie, l'utilisation des médias sociaux, le développement des collections, le service à la clientèle et la gestion du savoir.

Les articles doivent compter entre 1 000 et 2 500 mots et peuvent prendre les diverses formes suivantes :

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

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

Nous attendons avec impatience vos idées!



III Legal Writing Tick List for Beginners and Upward

By C.J. Shaw*

ABSTRACT

*A tick list is a type of checklist. My published legal writing aims to inspire others to create publishable legal writing. I want this piece to be a valued teaching and learning experience. It ends with a reflection activity for readers to assess this article. Doing a legal writing project is a worthwhile activity, and it is doable without taking oneself too seriously. This article is an example of informal legal writing when compared to formal legal writing (i.e., legal drafting of documents and legislation). It includes quirky (unexpected) literary content. Various entries contain a reminiscence by American author and sportswriter Roger Kahn, an excerpt from the script for the classic film *The Thomas Crown Affair* (1968), advice from a parent of A.A. Milne, and a bit of modern common sense about knowledge and ideas attributable to 17th-century philosopher John Locke. I also give feedback on two general legal writing rules.*

SOMMAIRE

Une liste de vérification à effectuer est un type de liste de contrôle. Les écrits juridiques que j'ai publiés ont pour but d'inspirer d'autres personnes à créer des écrits juridiques prêts à être publiés. Je souhaite que cet article soit une expérience d'enseignement et d'apprentissage appréciée.

*Il se termine par une activité de réflexion permettant aux lecteurs d'évaluer cet article. La réalisation d'un projet de rédaction juridique est une activité qui en vaut la peine, et il est possible de le faire sans se prendre trop au sérieux. Cet article est un exemple de rédaction juridique informelle par rapport à la rédaction juridique formelle (c'est-à-dire la rédaction juridique de documents et de lois). Il comprend un contenu littéraire excentrique (inattendu). Plusieurs entrées contiennent une reminiscence de l'auteur et chroniqueur sportif américain Roger Kahn, un extrait du scénario du film classique *L'affaire Thomas Crown* (1968), un conseil d'un parent de A.A. Milne, et un peu de bon sens moderne sur la connaissance et les idées attribuables au philosophe du XVII^e siècle John Locke. Je donne également mon avis sur deux règles générales de rédaction juridique.*

Motivation

A need to make a good impression and to communicate accurately and efficiently are motivation to improve one's legal writing skill set.

Learning Outcomes

1. Know how to do a legal writing project.
2. Want to do a legal writing project.

* C.J. Shaw, KC, LLM, is a valued legal educator in Calgary, Alberta, and the author of *Aspects of Banking and Financial Services Law* (Toronto: LexisNexis, 2021). He is also enthusiastic about garden literature and writing.

Development levels are good, better, best. Upgrading is achievable and encouraged.

Teachable¹ and Learnable² Skill Set

*Relax*³ is the author's first advice to everyone trying to learn (or improve) a legal skill set.

The tick list (checklist) is a glossary of 50 terms providing insight into the workings of legal writing. The terms covered and the *commentary*⁴ are mostly from the author's legal and literary *experience*⁵ rather than a research methodology or *dogma*.⁶ The tick list discusses aspects of researching and presenting legal content and contains examples prepared by the author. The advice offered is formative (constructive) to improve future performance in legal writing. It is to the point for brevity, clarity, and relevance. Nothing written here is condescending to anyone or about anything. The author's motivation is to inspire enthusiasm for legal writing projects.

Glossary

adverbs Resist the use of unnecessary adverbs (e.g., accordingly, duly, thus, utterly, very) to improve readability.⁷

analysis Interpret and apply the relevant law (research findings) to the situation (real case or realistic scenario). Keep focused on the research objective, issue, and situation. Analysis is more than restating the research findings: it refines them for the situation. Analysis considers both sides of an issue to achieve a *grounded*⁸ conclusion.

archaic words They are old-fashioned (e.g., aforesaid, herein, said, whereas, wherefore). Never use them. The entry for **citation** offers alternatives to the general legal writing rules requiring the use of the archaic Latin words *ibid*, *supra*, and *sub verbo* in footnotes.

audience Keep mindful of the intended audience (readership) for the legal writing under construction (e.g., contract, court brief, legal education material, legal memorandum, opinion letter, an article for publication in

the *CLLR*) during the researching and writing processes. End users are often both legal and non-legal. Satisfying the legitimate needs of an audience is the top priority. Tell an audience what they *need* to know.

bibliography Create a hierarchy of subheadings. Primary sources take precedence over secondary sources, for example:

1. Legislation (statutes and regulations)
2. Jurisprudence (case law)
3. Secondary Sources (books, encyclopedic digests, articles)

bold typeface Resisting overuse of bold for emphasis improves readability.

case reporters Prefer national, general reporters, if available, over regional, provincial, or specialty (subject) reporters. Two sources (or one, if a court's own neutral citation is available) are sufficient to identify the case, make it accessible to a reader, and for an efficient presentation.

citation It provides a reader with the writer's source of the information. Prefer using a primary source over a secondary source in a citation. A citation method must be consistent, logical, and sensible. For assistance with citation (and legal researching and writing rules), use the leading Canadian legal citation guide: the *McGill Guide*.⁹ Avoid multiple pinpoint citations for information from the same source without being *careless*.¹⁰ For close sections in a piece of legislation, include the title of the legislation in the body of the writing (in text) with the citation in a footnote. Then include the section numbers from the same legislation in the nearby discussion without footnoting. This article does not endorse the entire *status quo*¹¹ for legal citation.¹² *Beautification*¹³ and the author's practice (not a personal whim) are grounds to revisit the general rules requiring the Latin words *ibid* (in the same place), *supra* (above), and *sub*

¹ This article depicts the author's teaching style, lesson plans for legal education, and literary personality.

² "[A]cquire knowledge of or skill in (something) through study or experience or by being taught". Catherine Soanes & Angus Stevenson, eds, *Concise Oxford English Dictionary*, 11th ed (Oxford: Oxford University Press, 2008) s.v. "learn".

³ "[M]ake or become less tense or anxious". *Concise Oxford English Dictionary*, 11th ed, s.v. "relax".

⁴ "[T]he expression of opinions or offering of explanations". *Concise Oxford English Dictionary*, 11th ed, s.v. "commentary".

⁵ "[K]nowledge or skill gained over time". *Concise Oxford English Dictionary*, 11th ed, s.v. "experience".

⁶ "[A] principle or set of principles laid down by an authority as incontrovertible". *Concise Oxford English Dictionary*, 11th ed, s.v. "dogma".

⁷ "[E]asy, or enjoyable to read". *Concise Oxford English Dictionary*, 11th ed, s.v. "readable".

⁸ "[W]ell balanced and sensible". *Concise Oxford English Dictionary*, 11th ed, s.v. "ground".

⁹ McGill Law Journal, *Canadian Guide to Uniform Legal Citation*, 9th ed (Toronto: Carswell, 2018). Prefer the latest edition. Quick reference guides for common types of citations based on the *McGill Guide* are available on the Internet, e.g. University of Calgary, "LAW Legal Citation (McGill Guide) Quick Reference" (last modified 30 December 2022), online: [Research Guides <libguides.ucalgary.ca/guides/mcgillguide>](https://researchguides.libguides.ucalgary.ca/guides/mcgillguide).

¹⁰ "[N]ot giving sufficient attention or thought to avoiding harm or mistakes". *Concise Oxford English Dictionary*, 11th ed, s.v. "careless".

¹¹ "[T]he existing state of affairs". *Concise Oxford English Dictionary*, 11th ed, s.v. "status quo".

¹² Hey, legal writing guidance needs a bit of heresy.

¹³ "[M]ake beautiful". *Concise Oxford English Dictionary*, 11th ed, s.v. "beautify".

verbo (under the word) in footnotes.¹⁴ The author prefers repeating the full citation in a subsequent footnote (e.g., in this article) in place of *ibid* and *supra* because it: (a) avoids an unattractive string of *ibid* and *supra*, (b) makes reading simpler for non-legal readers, and (c) no disrespect to the *McGill Guide*, but the Latin words *ibid* and *supra* are archaic. The author prefers using the streamlined abbreviation “s.v.” in a footnote when citing a dictionary definition over the unattractive and archaic *sub verbo*. WARNING: Although published in the *CLLR*, the author’s feedback on two well-worn legal citation rules does not justify a *hodgepodge*¹⁵ of citation styles in a piece of legal writing. Follow project instructions on what citation style to use. When no instruction is given, the *McGill Guide* is the default position.¹⁶

conclusion It should be easy to understand, confident, logical, and practical. Resist using unnecessary words like “fairly, likely, probably” without being careless. A conclusion may summarize the recommended next steps. Beware of unintended negative consequences arising from a conclusion.

contractions Although contractions (e.g., aren’t, can’t, don’t, won’t) make written work conversational, resist using them for most informal legal writing and all legal drafting.

dictionary Have and use an English language dictionary (prefer *Oxford*¹⁷ or *Merriam-Webster*¹⁸). A dictionary might include a mini guide to good grammar.¹⁹ For advice on word usage, see *Fowler’s Dictionary of Modern English Usage*.²⁰

dot points (bulleted list) Resisting overuse of dot points improves readability.

editing Edit and re-edit (and edit again) written work for brevity, clarity, and relevance. An illustrative quotation transcribed by the author of a baseball history book reads:²¹

“Getting a two-base hit in every inning.” In a needling little game we composed parodies of the hoary

[overused and trite] lead, “scoring in every inning.”

“Wordy,” [Dick] Young [sportswriter for the *Daily News*] said.

“Doubling in every inning.”

“Better.”

facts (and assumptions) A summary of the relevant facts (and any necessary and reasonable assumptions made) provides context for the research and analysis. Resisting unnecessary repetition of facts and assumptions improves readability.

fancy words “Avoid fancy words” is advice from the authors of *The Elements of Style*.²²

Examples include:

Fancy	Plain
albeit	although
chattels	goods
in perpetuity	forever
indicia	indications
omnipresent	widespread
paucity	scarcity
penultimate	second last
pertinent	relevant
salient	important
ubiquitous	everywhere

important word Any word used for an important purpose. In this article, some important words in text are italicized with a definition in a footnote. Most important words do not need italics and a definition.

in future or in the future This is a distinction with a difference and relevant knowledge for a beginner. In future means commencing now. In the future means later.

¹⁴ The author acknowledges the *CLLR* granted an exemption to its style guide for this article so that a reader may decide about the author’s preferred citation style discussed in this entry.

¹⁵ “[A] confused mixture”. *Concise Oxford English Dictionary*, 11th ed, s.v. “hotchpotch”.

¹⁶ Phillip W Whitehead & Anne Matthewman, *Legal Writing and Research Manual*, 8th ed (Toronto: LexisNexis Canada, 2019) at 143.

¹⁷ Angus Stevenson & Maurice Waite, eds, *Concise Oxford English Dictionary*, 12th ed (Oxford: Oxford University Press, 2011). An earlier edition of an *Oxford* dictionary is usable.

¹⁸ Frederick C Mish, ed, *Merriam-Webster’s Collegiate Dictionary*, 11th ed (Springfield, Mass: Merriam-Webster, 2019) [an American publication]. An earlier edition of a *Merriam-Webster* dictionary is usable.

¹⁹ e.g. “Guide to Good English” in *Concise Oxford English Dictionary*, 11th ed (Oxford: Oxford University Press, 2011) at 1701–1708 (not in the 12th ed); “A Handbook of Style” in *Merriam-Webster’s Collegiate Dictionary*, 10th ed (Springfield, Mass: Merriam-Webster, 1993) at 1535–1557 (there is less content in the 11th ed).

²⁰ Jeremy Butterfield, ed, *Fowler’s Dictionary of Modern English Usage*, 4th ed (Oxford: Oxford University Press, 2015). An earlier edition of *Fowler’s* is usable.

²¹ Roger Kahn, *The Boys of Summer*, 1st Perennial Library ed (New York: Perennial Library, 1987) at 107. This famous book is autobiographical in context of the major league baseball Brooklyn Dodgers, when no longer “dem bums” of the 1930s. It includes a narrative of number 42 Jackie Robinson’s courage in baseball and afterward.

²² William Strunk Jr & EB White, *The Elements of Style*, 4th ed (New York: Longman, 2000) at 76–77. It reads, “Avoid the elaborate, the pretentious, the coy, and the cute. Do not be tempted by a twenty-dollar word when there is a ten-center handy, ready and able.”

inspiration Recall these iconic words from President John F. Kennedy’s “moon shot” speech, “We choose to go to the Moon in this decade and do the other things, not because they are easy, but because they are hard, because that goal will serve to organize and measure the best of our energies and skills.”²³ President Kennedy’s words continue to inspire us to use best efforts to achieve our goals. Tackling a legal writing project is an opportunity and not to be labeled a *chore*.²⁴

Internet Legal content found on the Internet (e.g., commentary on government and law firm websites) is not suitable for a submission to a court. Although not recognized as a secondary source of law by the courts, an Internet search engine (e.g., Google, Microsoft Bing, Yahoo!) result may provide background information and be a source of ideas, including for a legal writing project. An Internet search may help determine the meaning or usage of a word or phrase and correct punctuation (the author does it a lot).

introduction Create a descriptive heading for an introduction section (e.g., Motivation in this article). Resist using a non-descriptive heading (e.g., Introduction or Overview). An introduction is not a summary. Be specific enough without being lengthy. An introduction may include a roadmap of the piece of legal writing.

italics Resist overuse of italics for emphasis to improve readability. In this article, some important words in text are italicized (with a definition in a footnote).

Latin terms Use them creatively and sparingly. Include a meaning or translation using parentheses, for example:

- Both parties acted bona fide (in good faith).
- Knowing the role of equity *vis-à-vis* (in relation to) law is important when asking oneself, “what can a court realistically be expected to do in this situation?”²⁵
- The court order took effect *nunc pro tunc* (retroactively).

Use a familiar Latin term in a title or subheading and to explain a legal principle, for example:

Bankruptcy Policy: Quid Pro Quo

The saying “quid pro quo” (something for something) applies to Canada’s bankruptcy system. A bankrupt must perform the duties required by the *Bankruptcy and Insolvency Act* (the “something”) to get the stay of proceedings, and for an individual to obtain a release

from debts (the other “something”).²⁶

The alternative is to not use Latin terms.

law reform A grounded recommendation for law reform should interest readers (e.g., a legal education audience).

legal drafting Hollywood legend Steve McQueen, “King of Cool,” spoke these lines in a film when insisting a complex commercial document be made understandable:²⁷

— Carol, have Legal simplify these mutual accounts, huh?

— I can’t even read them myself. Yes, sir.

Tackling a legal drafting assignment, including rewriting, is an opportunity to improve one’s legal writing skill set, and earn the respect of end users (often anonymously).

legislation A definitions section in a piece of legislation or a document is a handy starting point when doing research and legal writing. An *Interpretation Act* is often a useful resource concerning legislation.

needless words (surplus words) Prefer a word over a phrase. “Readers *prefer* lean text because it makes meaning easier to ascertain and ... makes reading faster.”²⁸

Examples:

Phrase	Word
in accordance with	under
in regard to	regarding
in relation to	concerning
in respect of	respecting
in the case of	for
pertaining to	about
prior to	before
pursuant to	under
so long as	provided
with respect to	respecting

organization Focus on organization (e.g., use headings and subheadings).

²³ John F Kennedy, “Address at Rice University on the Nation’s Space Effort” (Houston, Tex, 12 September 1962), online: *John F Kennedy Presidential Library and Museum* <www.jfklibrary.org/learn/about-jfk/historic-speeches/address-at-rice-university-on-the-nations-space-effort>.

²⁴ “A routine or tedious task”. *Concise Oxford English Dictionary*, 11th ed, s.v. “chore”.

²⁵ Adapted from CJ Shaw, *Aspects of Banking and Financial Services Law* (Toronto: LexisNexis Canada, 2021) at 5.

²⁶ Adapted from CJ Shaw, *Aspects of Banking and Financial Services Law* (Toronto: LexisNexis Canada, 2021) at 180–181.

²⁷ *The Thomas Crown Affair*, film (Los Angeles, Cal: Metro-Goldwyn-Mayer, 1968).

²⁸ Margaret McCallum, Deborah A Schmedemann & Christina L Kunz, *Synthesis: Legal Reading, Reasoning and Writing in Canada*, 4th ed (Toronto: LexisNexis Canada, 2017) at 431.

paragraphs Create *clear*²⁹ and *sensible*³⁰ paragraphs (i.e., no unnecessary sentences,³¹ not too long). Do a sound check (see the entry “sound check” below).

plan Planning allows time to enjoy doing a project and to *polish*³² the legal writing. Rushing an activity is seldom fun. An early start is a project already half-done and may prevent working under pressure. Feeling pressure when doing anything should be avoided if possible.

pragmatism³³ Be a pragmatist by preferring practical rather than theoretical considerations.

primary sources of law Legislation and case law are the primary sources when researching law. Prefer decisions of the Supreme Court of Canada and provincial and territorial appeal courts over those of lower courts.

professionalism³⁴ Be motivated by a commitment to professionalism, including enthusiasm, pride in work, productivity, scholarship, and objectivity (i.e., no biases or preconceptions, while being aware of the metaphorical *tabula rasa* (blank slate) of English philosopher John Locke’s doctrine of empiricism that “all our knowledge [ideas] ... is derived from experience. Our ideas are derived from two sources, (a) sensation, and (b) perception”³⁵). There are no grounds for a case against improving one’s professionalism, including one’s legal writing skill set.

proofreading Always proofread for a professional presentation, including careful formatting of a manuscript (e.g., for consistency of white space, and to prevent underlining that extends past the formatted word or phrase).

qualifier³⁶ “Avoid the use of qualifiers,” says *The Elements of Style*.³⁷ Resisting the use of unnecessary qualifiers (e.g., absolutely, definitely, fairly, incredibly, quite, really, totally, very) improves the effectiveness and efficiency of legal writing.

quality over quantity An American pioneer of the personal computer industry and a co-founder of Apple stated, “Quality is more important than quantity. One home

run is much better than two doubles.”³⁸ However, be attentive to the project instructions. For example, when the project instructions read, “the opinion letter should not exceed five pages,” then two and one-half pages is too short. Reread project instructions often.

quotations A famous 19th-century American philosopher and poet proclaimed, “I hate quotations. Tell me what you know.”³⁹ Resist using lengthy quotations from primary and secondary sources of law. Summarize the information for relevance and to show one’s knowledge about the subject.

red herring If a claim is for negligence only, do not explain principles of contract law, then conclude that contract law does not apply to the situation. Mention an irrelevant legal concept (if one cannot resist), then promptly dismiss it. For example:

The claim is for negligence. There is no contract.

repetition Resist unnecessary repetition of content to improve readability.

research findings This is the relevant law (e.g., legal principles obtained from primary and secondary sources of law) applicable to the issue and the situation. Focus on the research objective, issue, and situation rather than compiling a survey of the area of law.

rewards These include being *proud*⁴⁰ of one’s legal writing, earning the respect of an audience, contributing to a knowledge bank for law, supporting the rule of law, and promoting a positive public perception of lawyers, legal educators, and law librarianship. Become formidable by earning respect for one’s legal writing.

secondary sources of law A leading textbook, an encyclopedic digest (e.g., *Canadian Encyclopedic Digest* (CED), *Halsbury’s Laws of Canada*), an article in a peer-reviewed legal journal, a legal dictionary: these are examples of secondary sources when researching law. They offer a general understanding of an area of law.

sentences Create clear and sensible sentences (i.e., no

²⁹ “[E]asy to ... understand”. *Concise Oxford English Dictionary*, 11th ed, s.v. “clear.”

³⁰ “[P]ractical and functional rather than decorative”. *Concise Oxford English Dictionary*, 11th ed, s.v. “sensible”.

³¹ William Strunk Jr & EB White, *The Elements of Style*, 4th ed (New York: Longman, 2000) at 23.

³² “[I]mprove, refine, or add the finishing touches to”. *Concise Oxford English Dictionary*, 11th ed, s.v. “polish”.

³³ Pragmatism in philosophy means “an approach that evaluates theories or beliefs in terms of the success of their practical application”. *Concise Oxford English Dictionary*, 11th ed, s.v. “pragmatism”.

³⁴ “[T]he competence or skill expected of a professional”. *Concise Oxford English Dictionary*, 11th ed, s.v. “professionalism”.

³⁵ Bertrand Russell, *A History of Western Philosophy*, Touchstone ed (New York: Simon & Schuster, 2007) at 609–610.

³⁶ “[A] word ... that limits or modifies the meaning of another word”. *Merriam-Webster’s Collegiate Dictionary*, 10th ed, s.v. “qualifier”.

³⁷ William Strunk Jr & EB White, *The Elements of Style*, 4th ed (New York: Longman, 2000) at 73.

³⁸ Attributed to Steve Jobs, online: [Quotss <www.quotss.com>](http://www.quotss.com).

³⁹ Waldo Emerson Forbes & Edward Waldo Emerson, eds, *Journals of Ralph Waldo Emerson: With Annotations* (Boston: Houghton Mifflin, 1912) vol 8, online: [HathiTrust <babel.hathitrust.org/cgi/pt?id=hvd.hn3ubg&view=1up&seq=64>](http://babel.hathitrust.org/cgi/pt?id=hvd.hn3ubg&view=1up&seq=64).

⁴⁰ “[F]eeling pride or satisfaction in one’s own ... achievements”. *Concise Oxford English Dictionary*, 11th ed, s.v. “proud”.

unnecessary words,⁴¹ not too long). Do a sound check (see the entry “sound check” below).

sound check A legal writer may develop a satisfactory and identifiable writing style (one’s literary personality)—“the sound [one’s] words make on paper,”⁴² according to *The Elements of Style*. The Irish writer James Joyce reportedly stated, “*When you write you must listen for sounds. And there is a sound that one word makes and there is the sound that one word makes upon another and there is the sound of silences between words.*”⁴³ And “one’s ear must be one’s guide,” according to *The Elements of Style*.⁴⁴ Listen for the appropriate sounds to ensure the sentences and paragraphs under construction are clear and sensible.

spellcheck It is not a failsafe device to prevent misuse of words: look for homonyms (e.g., its and it’s, to and too, verses and versus) and near-homonyms (e.g., affect and effect, allusion and illusion, criterion and criterium, eminent and imminent), or a typographical mix-up (e.g., the instead of there, and vice versa (the other way around)).

study and practice There have been few reported sightings of a legal writing prodigy. John Vine Milne, educator, school administrator, and a parent of A.A. Milne, creator of Winnie-the-Pooh, supposedly stated, “The ability to think consecutively, and to write clearly and to the point is only attained by study and practice”⁴⁵ (a type of experiential learning).

style guides Develop and maintain practical knowledge of a general writing and editing manual.⁴⁶ “Practical” meaning knowledge obtained using a style guide while doing legal writing (a type of experiential learning).

that Resist overuse of the word “that” to improve readability. Do a sound check (see the term “sound check” above).

very The word “very” as adjective, adverb, or qualifier is seldom necessary.

when or where When refers to circumstances or a point in time. Where is for location.

work style Keep organized, detail-orientated, and pace oneself—take frequent breaks.

Contrast

An author’s *somnum exterreri* (nightmare) when writing to promote doing legal writing includes using poor grammar or an incorrect citation. A writer’s cheerful literary personality should reduce the odds a piece of legal writing will *tick* someone *off*.

Reflection

Think of feedback to provide to the author of this article. More than a thumb up or a thumb down—although a thumb up *emoji*⁴⁷ is a supportive gesture. Feedback is constructive when specific enough to enable a recipient to improve future performance.

Questions:

1. What in this article is helpful and why?
2. What in this article could be changed (i.e., improved or removed) and why?

Things to consider include:

1. “Tick List” in the title;
2. The literary content;
3. The author’s examples, including the introductory heading “Motivation”;
4. The author’s feedback regarding *ibid*, *supra*, and *sub verbo*;
5. The use of italics and definitions for some important words (e.g., “dogma” and “pragmatism”);
6. The bit about Locke’s doctrine of empiricism;
7. The advice to “take frequent breaks”;
8. The use of Latin (e.g., *Quid Pro Quo* (something for something), *somnum exterreri* (nightmare));
9. The ratio of “about” writing (theory) and “doing” writing (practical application).

Thinking of a question to ask (or a useful suggestion to make) is active learning.

⁴¹ William Strunk Jr & EB White, *The Elements of Style*, 4th ed (New York: Longman, 2000) at 23.

⁴² William Strunk Jr & EB White, *The Elements of Style*, 4th ed (New York: Longman, 2000) at 67.

⁴³ Roger Kahn, *The Boys of Summer*, 1st Perennial Library ed (New York: Perennial Library, 1987) at 79–80.

⁴⁴ William Strunk Jr & EB White, *The Elements of Style*, 4th ed (New York: Longman, 2000) at 77.

⁴⁵ Ann Thwaite, *A.A. Milne: The Man Behind Winnie-the-Pooh* (Toronto: Random House, 1990) at 65.

⁴⁶ e.g. James McCarten, ed, *The Canadian Press Stylebook*, 19th ed (Toronto: The Canadian Press, 2021); Ann Waddingham, ed, *New Hart’s Rules: The Oxford Style Guide*, 2d ed (Oxford: Oxford University Press, 2014); William Strunk Jr & EB White, *The Elements of Style*, 4th ed (New York: Longman, 2000); *The Chicago Manual of Style*, 17th ed (Chicago: University of Chicago Press, 2017). An earlier edition of a general writing style guide is usable.

⁴⁷ “[A] small digital image used to express an idea or emotion on social media, on the internet, in emails, etc.” *Oxford Advanced Learner’s Dictionary*, s.v. “emoji”, online: <www.oxfordlearnersdictionaries.com/definition/english/emoji>.



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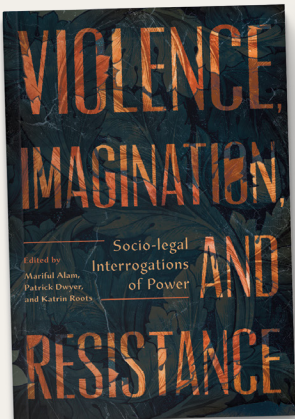
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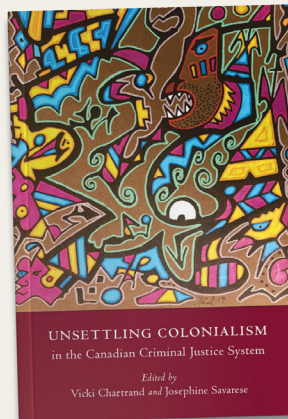
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III Legal Writing and Communication: A Bibliography

By Susan Barker*

ABSTRACT

The purpose of this bibliography is to provide a selective, annotated list of practical and theoretical resources on legal writing and other forms of legal communication. The bibliography includes resources on legal writing generally, as well as on specific subjects of interest: academic writing, advice for law students, artificial intelligence, cognitive science, factums and memoranda, inclusive language, judicial writing, plain language, style guides, visual legal communication, writing about Indigenous peoples, and social media.

Most of the items listed are Canadian resources published since 2000, although non-Canadian materials in subject areas where there is little Canadian research have also been included. The criteria for inclusion were highly subjective and based on practical utility, quality of writing, subject matter, and the credibility of the authors. The criteria for exclusion were equally subjective: items that are poorly written, tedious, anodyne, or difficult to locate were all excluded.

SOMMAIRE

L'objectif de cette bibliographie est de fournir une liste sélective et annotée de ressources pratiques et théoriques sur la rédaction juridique et d'autres formes de communication juridique. La bibliographie comprend des ressources sur la rédaction juridique en général, ainsi que sur des sujets d'intérêt spécifiques : la rédaction universitaire, les conseils aux étudiants en droit, l'intelligence artificielle, les sciences cognitives, les mémoires, le langage inclusif, la rédaction judiciaire, le langage clair, les guides de style, la communication juridique visuelle, des publications sur les peuples autochtones et les médias sociaux.

La plupart des articles répertoriés sont des ressources canadiennes publiées depuis 2000, bien que des documents non canadiens dans des domaines où il y a peu de recherches canadiennes aient également été inclus. Les critères d'inclusion étaient très subjectifs et reposaient sur l'utilité pratique, la qualité de l'écriture, le sujet et la crédibilité des auteurs. Les critères d'exclusion étaient tout aussi subjectifs : les articles mal rédigés, fastidieux, anodins ou difficiles à trouver ont tous été exclus.

* Susan Barker is a retired law librarian and an associate editor for the *Canadian Law Library Review*. Thanks to Angela Gibson of the Bora Laskin Law Library and *CLLR* editor-in-chief Nikki Tanner for their assistance with locating some of these resources.

General Guides to Grammar and Punctuation

Government of Canada, *Language Navigator*, online: <www.noslangues-ourlangues.gc.ca/en/navigateur-navigateur>. ¹

“Language Navigator simultaneously searches all of the writing tools, quizzes and blog posts on the Language Portal of Canada. It gives you access to everything you need to write well in English and French: articles on language difficulties, linguistic recommendations, conjugation tables, translation suggestions and much more.”

This site is perhaps too comprehensive—a simple search for “hyphen” yielded pages and pages of links. If you are looking for a specific answer, you would be better off narrowing your search using the options in the “Writing tools” drop down menu, such as “HyperGrammar 2.”

Government of Canada, *Writing Tips Plus*, online: <www.noslangues-ourlangues.gc.ca/en/writing-tips-plus/index-eng>. ²

This online resource is also from the Government of Canada’s Language Portal of Canada and is the successor to the familiar *Canadian Style*. “It covers such topics as the decimal point, abbreviations, capital letters, punctuation marks, hyphenation, spelling, frequently misused or confused words and Canadian geographical names. It also includes useful advice for drafting letters, memos, reports, indexes and bibliographies.”³

Grammarly, online: <www.grammarly.com>.

This site is useful for quick answers to general questions on grammar. In fact, if you Google a grammar question, Grammarly is often the first hit that shows up below the ads. The website offers a variety of services, from free online grammar checks to premium, full-scale document reviews. The website seems quite determined that you should register to use it, but registration is not necessary if you are only trying to find the answer to a quick grammar question. If a web search does not lead you directly to the answer, you can select any of the guides to writing, grammar, or punctuation from the “Tools and Guides” tab on Grammarly’s homepage. You will need to scroll down to the bottom of the page to find the browsable links, but once you get there, the answers to your questions will be clear and succinct. Grammarly is well reviewed and has a [4.6 rating on TrustPilot](#).

Hacker, Diana & Nancy I Sommers, *A Canadian Writer’s Reference*, 7th ed (Boston: Bedford/St Martin’s, 2022).

While the target audience for this handbook is undergraduate students, it is still useful as a reference source for any writer. Along with providing general writing guidance, the text includes detailed chapters specifically on “Punctuation and Mechanics” and “Basic Grammar.”

This guide was recommended by the University of Toronto Writing Centre.

The book’s current author, Nancy Sommers, teaches at Harvard’s Graduate School of Education.

General Guides to Legal Writing

Guthrie, Neil, *Guthrie’s Guide to Better Legal Writing*, 2nd ed (Toronto: Irwin Law, 2021).

Reading this book is like having a fun conversation with a friendly uncle who is full of good advice and encouragement. Guthrie focuses on inspiring his readers to write, especially for an external audience. He argues that good professional writing, in the form of letters, memos, and blog and social media posts, is an effective means of developing one’s professional reputation. To that end, he advocates in favour of brevity, plain language, point-first, and reader-centric writing. The text includes tips on grammar and punctuation and how to avoid legalese, as well as an eclectic selection of advice that answers questions like “Is it ‘OK’ or ‘okay’?” OK, good to know!

The author is a practising lawyer who taught advanced legal research and writing at the University of Toronto Faculty of Law and developed the curriculum in legal research and writing for the Law Practice Program at Ryerson (now Toronto Metropolitan) University.

Legal Writing: The Journal of the Legal Writing Institute, online: <www.legalwritingjournal.org/about>.

Legal Writing is a U.S.-based, peer reviewed, academic journal devoted to “the theory, substance, and pedagogy of legal writing.” The journal includes analytical articles on a broad range of subjects authored by academics who focus on legal writing and communication.

O’Mara, Ashlyn, *Communication and Writing for Paralegals*, 2nd ed (Toronto: Emond, 2023).

Similar to *Communications for Legal Professionals* (below) but specifically for paralegals, this is another practical handbook. The text includes general advice on writing well, as well as guidance on preparing legal memos, factums, and other legal documents. The text stresses the expectations for and responsibilities of paralegals that have been established by the Law Society of Ontario. A sample chapter is available online: <emond.ca/Store/Books/Communication-and-Writing-for-Paralegals-2nd>.

O’Mara, Ashlyn, John Roberts & Helen Wilkie, *Communications for Legal Professionals*, 2nd ed (Toronto: Emond, 2020).

This practical handbook is aimed at law clerks and

¹ Also available in French: <www.noslangues-ourlangues.gc.ca/fr/navigateur-navigateur>.

² Also available in French: <www.noslangues-ourlangues.gc.ca/fr/writing-tips-plus/index-fra>.

³ Government of Canada Translation Bureau, *The Canadian Style*, online: <btb.termiumplus.gc.ca/tpv2guides/guides/tcdnstyl/index-eng.html>.

legal assistants and focuses on written and verbal communication. The text includes sections on grammar; how to write for different types of media, including social media and email; and how to create and deliver a presentation. The written text is embellished with graphics and examples and includes exercises and review questions. A sample chapter is available online: emond.ca/clp02sbr.

Sankoff, Peter, *Professor Sankoff's Guide to Persuasive Legal Writing* (Edmonton: CDE, 2022).

Professor Sankoff's Guide to Persuasive Legal Writing is easy to read, conversational, humorous, and engaging. This short text begins with advice on how to choose and structure an argument for maximum effectiveness. This is followed by chapters offering general and specific writing tips. The text concludes with a chapter on advocacy. As with many other texts identified in this list, Sankoff focuses on reader-centric writing, providing tips on how to engage the reader and, equally importantly, how not to bore or alienate them.

The author has had a long career as a teacher and researcher. In 2020, he was recognized by *Canadian Lawyer Magazine* as one of the country's 25 Most Influential Lawyers. A sample chapter is available online: www.petersankoff.com/guide-to-legal-writing.

Writing Consultants, *Write This Way! Effective Writing for Legal Professionals* (Toronto: Law Society of Upper Canada, Continuing Legal Education, 2007), online: www.infolocate.ca/permalink/f/i2ds79/digitool8705.

This presentation focuses on explaining some of the more advanced aspects of grammar generally, such as avoiding dangling modifiers, understanding collective nouns, and punctuating conjunctive adverbs. Each section includes exercises with answers provided.

Writing Consultants is headed up by Jane Griesdorf, who has taught communication and writing courses at Toronto Metropolitan University and the University of Toronto, as well as a writing course specifically for lawyers at the Law Society of Ontario and the Advocates' Society.

Specific Subjects in Legal Writing and Communication

Academic Writing

Haag, Pamela, *Revise: The Scholar-Writer's Essential Guide to Tweaking, Editing, and Perfecting Your Manuscript* (New Haven: Yale University Press, 2021).

This text focuses on what to do after a manuscript is completed and being prepared for publication. This text provides good advice on language, structure, and readability. In addition to giving practical advice and extensive before-and-after examples of edited material,

the author also provides encouragement to the writer and guidance on how to cope with criticism productively. The author also stresses the need to be aware of the "psycho-editorial" aspect of writing, or what the writer's style reveals about their relationship to their argument (using equivocation if they are not confident in their argument, for example). The text concludes with a style audit that effectively works as a checklist for avoiding writing pitfalls.

The author holds a PhD in history and is a developmental editor who has worked with many writers to produce successful published manuscripts.

Lammasniemi, Laura, *Law Dissertations: A Step-by-Step Guide*, 2nd ed (London: Routledge, 2022).

While most of this text addresses taking a dissertation from an idea to a proposal and then to planning and research, Chapter 12, "Writing the Dissertation," specifically focuses on writing skills. Using clearly stated learning objects, graphics, and exercises, the author provides advice on how to communicate clearly and effectively, how to respond to feedback, how to incorporate evidence, and generally how to make an effective argument.

The author is an assistant professor at Warwick School of Law and teaches courses on dissertation writing and on criminal law.

Advice for Law Students

Crowne-Mohammed, Emir Aly, Mohamed R Hashim & Shelley Kierstead, *The Essential Guide to Mooting: A Handbook for Law Students* (Toronto: Irwin Law, 2010).

While the bulk of this book is not relevant to legal writing, Appendix D, "Tips for Drafting a Motion," provides a template and guidance for exactly that.

The author of the appendix, Shelley Kierstead, is an assistant professor and director of the Legal Research and Writing program at Osgoode Hall Law School.

Hutchinson, Allan C, *The Law School Book: Succeeding at Law School*, 3rd ed (Toronto: Irwin Law, 2009).

Chapter 6, "the write stuff: putting on the style,"⁴ introduces law students to the concept of legal writing, provides examples of both good and bad legal writing, and includes a primer on good writing techniques. The author includes specific advice on writing case briefs, a legal memorandum, case comments, and factums. The text also includes appendices with sample short and long legal memoranda, a model factum, and a model exam answer. The text also includes a useful chapter on exam writing.

⁴ Note: in the text, the headings are lowercase.

The author is a professor at Osgoode Hall Law School and a prolific writer.

Artificial Intelligence and Legal Writing

Campbell, John, “Ex Machina: Technological Disruption and the Future of Artificial Intelligence in Persuasive Legal Writing” (2020) 5:2 U Bologna L Rev 294.

In this article, the author describes a recent study designed to measure the readability of legal briefs that have been presented to several courts in the U.S., including the Supreme Court. Using readability analysis software to compare readability measures with outcomes in the various courts, the study shows that simpler briefs correlate with winning outcomes. From this, the author concludes that in the future, legal writing will become “more science, and less art,” with software and readability data being used to ensure that persuasive legal writing becomes “more precise, more powerful, and more predictive.”

The author is an associate professor of the Practice of Law at the University of Denver Sturm College of Law.

Phelps, Teresa & Kevin Ashley, “Alexa, Write a Memo’: The Promise and Challenges of AI and Legal Writing” (2022) 26:2 Leg Writing 329, online: <www.legalwritingjournal.org/article/36142-alexa-write-a-memo-the-promise-and-challenges-of-ai-and-legal-writing>.

This article identifies the various steps that are traditionally followed in legal memo preparation and then looks at how AI can or cannot assist in each of those areas. In the final step, “Writing the office memorandum,” the authors look at the possibility and limitations of ChatGPT and other proprietary software in memo writing. The authors conclude by recommending teaching a hybrid model of memo preparation, which incorporates AI only where appropriate.

Theresa Phelps is a professor emerita at American University, Washington College of Law. Kevin Ashley is a professor of law and intelligent systems at the University of Pittsburgh.

Cognitive Science and Legal Writing

Baker, Julie A, “And the Winner Is: How Principles of Cognitive Science Resolve the Plain Language Debate” (2011) 80:2 UMKC L Rev 287.

This article discusses the idea of cognitive fluency: how easy it feels when the brain is processing information. Cognitive fluency is influenced by design and language factors, including font, spacing, vocabulary, and grammar. Studies show that how readers measure their perception of the truth of a statement depends on cognitive fluency. Given those findings, it is not surprising that proponents of plain language seem to be winning the debate. The author, however, urges caution

and notes that recent studies have shown that the use of plain language is less stimulating to the reader, as complexity requires the brain to be more attentive. The author concludes that legalese can still be a useful tool in legal writing.

Julie A. Baker is a professor of law at the University of Massachusetts School of Law.

Kiang, Michael, Lauralee Bielert & John I Laskin, “Know Your Reader’s Brain: What Cognitive Science Teaches Us About Writing Appellate Factums” (Spring 2023) 42:1 Adv J 6.

In this article, the authors discuss the importance of “knowing your reader’s brain.” After first describing the cognitive science that underlies judges’ decision making, including the role of first impressions, cognitive bias, and negative emotions, the article goes on to provide some research-based tips for writing more persuasive factums. Tips include starting with context to help with comprehension, avoiding working memory overload by making connections between ideas, and using typography, bullets, indents, and lists to attract attention to what is most important. Finally, the authors provide some hints for accommodating different types of readers, as on-screen readers and print readers comprehend information differently.

Michael Kiang is an associate professor in the Department of Psychiatry at the University of Toronto, where he researches the cognitive neuroscience of language. He is also a psychiatrist at the Centre for Addiction and Mental Health. Lauralee Bielert is a judicial research lawyer at the Ontario Court of Appeal. Justice Laskin was a judge at the Ontario Court of Appeal for many years; during that time, he also was involved in teaching and writing about legal writing for judges and lawyers.

Factums, Memoranda, and Other Professional Writing

Appleby-Ostroff, Shelley, “Writing Effective Legal Memos with Neil Guthrie” (14 April 2021), online (podcast): *XL Legal* <exellegal.com/writing-effective-legal-memos-with-neil-guthrie>.

Neil Guthrie, interviewed by Shelley Appleby-Ostroff, talks about a variety of issues relating to legal memo writing. He provides his definition of a great memo: what it should look like, how it should be structured, and what it should contain. In some ways, this podcast is like a survival guide for new lawyers. Guthrie also provides helpful advice on what to do if you have very little time, your instructions are not clear, or you do not have all the facts.

Shelley Appleby-Ostroff is a legal talent development consultant, writing coach, former practicing lawyer, and host of the *XL Legal Podcast*.

Other relevant *XL Legal* episodes on legal writing include:

- “[Writing Emails Worth Reading](#)” with Stephanie C.

Mitchell (2022)

- “[Writing Engaging Law Firm E-Newsletters](#)” with Michelle Troutman (2022)
- “[Boosting your Grammar](#)” with Jane Griesdorf (2022)
- “[Thinking Like a Writer](#)” with Steve Armstrong (2020)
- “[Writing Effective Court Submissions](#)” with Justice James O’Reilly (2020)

Bueckert, Melanie R et al, *The Canadian Legal Research and Writing Guide* (2018), online: [CanLII <canlii.ca/t/2bm3>](#).

In Chapter 12, “Preparing a Legal Memorandum,” the authors describe and explain the structure and conventions of a legal memo. Appendix 1 provides a sample memorandum.

The authors, Melanie Bueckert, André Clair, Maryvon Côté, Yasmin Khan, and Mandy Ostick, are well-known legal researchers and law librarians from academic, government, and private institutions.

Fitzgerald, Maureen F, *Legal Problem Solving: Reasoning, Research and Writing*, 8th ed (Toronto: LexisNexis, 2019).

This text focuses on the five-step FILAC model of legal research. The first four steps look at the facts, issues, law, and analysis, while the fifth step is all about communication. Chapter 10 includes a sample case brief. Chapter 12 is specifically about legal writing and includes guidance on how to write a legal memorandum and opinion letter. It is accompanied by samples of these, as well as a useful legal writing checklist.

The author is a prolific writer and former lawyer who has taught legal research and writing at the University of British Columbia and the University of Victoria. Full disclosure: the author of this bibliography is a contributor to this title.

Hollander, John, *Legal Writing: Mastering Clarity and Persuasion* (Toronto: Irwin Law, 2013).

The target audiences for this book are lawyers who are early in their careers, articling students, and law students. Although not a lengthy text, it highlights all the elements required to plan and craft a persuasive legal argument, including tone, audience, reader-centric and point-first writing, structure, and spin. The exercises are creative and twig the reader into thinking carefully about the best way to formulate their argument. The author also includes a helpful chapter on stylistic and writing errors to avoid.

The author practiced law from 1978 to 2021, founded the Advocacy Club, and teaches trial advocacy at the University of Ottawa. He also started the [Chat with Lawyers](#) podcast.

Kleefeld, John C, “Write Me a Memo” (2010) 4 CLEAR 217, online: [SSRN <ssrn.com/abstract=1934380>](#).

This article provides a clear and concise description of how to write a legal memo, focusing on its purpose, structure, and content. The author identifies and explains the use of IRAC (issue, rule, application, conclusion) and FILAC (facts, issues, law, analysis, conclusion/communication) as rubrics to aid in building the structure of the memo. Scenarios, examples, and an overview of the key modes of legal reasoning are used to illustrate how to formulate and analyze the facts and concomitant legal issues.

The author is a professor and former dean of the University of New Brunswick Faculty of Law.

Laskin, John I, “Forget the Wind Up and Make the Pitch: Some Suggestions for Writing More Persuasive Factums” (Summer 1999) 18 *Advocates’ Society J* 3, online (pdf): [Supreme Court Advocacy Institute <www.scai-ipc.ca/pdf/Laskin-MakethePitch.pdf>](#).

This is the one of the most influential Canadian articles on legal writing. Many of the items included in this bibliography quote or refer to this article, especially when they are discussing point-first legal writing. The author advocates for reader-centric, point-first writing and provides further advice in building a clear and readable factum. As Justice Laskin notes, a good factum will give the lawyer and their argument credibility.

Justice Laskin was a judge at the Ontario Court of Appeal for many years. During that time, he also was involved in teaching and writing about legal writing for judges and lawyers.

— — —, “Persuasive Paragraphs” (Spring 2020) 39:4 *Adv J* 30.

Another excellent article on legal writing by Justice Laskin, who notes that “paragraphs are our basic unit of thought” but very little has been written about how to write a good one. This article fills that gap by providing 10 suggestions for good paragraphs. This article is particularly useful as it comes from the point of view of a judge—ultimately the person you want to impress most with your arguments.

McCallum, Margaret E, Deborah A Schmedemann & Christina L Kunz, *Synthesis: Legal Reading, Reasoning and Writing in Canada*, 4th ed (Toronto: LexisNexis, 2017).

The writing portion of this text is divided into two parts: advisory writing (the legal memo and the opinion letter) and advocacy writing (the legal brief). The text provides detailed descriptions of the purpose and format of each section of the memo, letter, or brief, and gives examples for the writer to follow.

Margaret E. McCallum is a retired law professor from the University of New Brunswick Faculty of Law. Deborah A.

Schmedemann and Christina L. Kunz are both emerita professors of law at Mitchell Hamline School of Law.

Appeal and has been an adjunct professor at Queen's University Faculty of Law since 1994.

McCarney, Moira, et al, *The Comprehensive Guide to Legal Research, Writing & Analysis*, 3rd ed (Toronto: Emond, 2019).

Tjaden, Ted, *Legal Research and Writing*, 4th ed (Toronto: Irwin Law, 2016).

This is indeed a comprehensive guide, coming in at over 1,000 pages. While covering much of the same ground as many of the legal writing texts mentioned in this bibliography, Part IV: Communication: Legal Writing uniquely discusses the emotional impact of legal writing in the *Therapeutic Considerations of Audience, Purpose and Tone* section, in which the authors discuss how to humanize legal writing and take a client's psychological well-being into consideration.

Although primarily focusing on legal research, this text provides two chapters on legal writing. Chapter 11, section D provides an object lesson on the pitfalls of careless drafting. The author highlights a series of Canadian and American cases where poor drafting has led to the loss of a case, professional embarrassment, and chastisement by the courts. Chapter 12, "Legal Writing," provides advice on writing case comments, research memos, factums, agreements, and court documents, along with a comprehensive bibliography. The author has also created a companion website at www.legalresearchandwriting.ca/writing.htm.

The contributors are well-known law librarians and legal research experts.

Ted Tjaden is a Canadian lawyer and law librarian and the recipient of the 2010 Denis Marshall Memorial Award for Excellence in Law Librarianship.

McCormack, Nancy, John Papadopoulos & Catherine Cotter, *The Practical Guide to Canadian Legal Research*, 4th ed (Toronto: Carswell, 2015).

In Chapter 22, "Guidelines for Writing: Legal Essays, Case Comments, and Legal Memoranda," the authors provide a succinct set of guidelines for producing essays and case comments. The bulk of this section focuses on the form and contents of legal memoranda. Included is a sample memorandum and a list of texts on legal writing.

Inclusive Language

British Columbia Law Institute, *Gender Diversity in Legal Writing: Pronouns, Honorifics, and Gender-Inclusive Techniques* (Vancouver: British Columbia Law Institute, 2022), online: [CanLII <canlii.ca/t/7lch5>](http://CanLII.ca/t/7lch5).

The authors are well-respected Canadian law librarians who teach legal research and writing. Nancy McCormack was a prolific writer and winner of the Denis Marshall Memorial Award for Excellence in Law Librarianship.

This is a helpful guide to avoiding gender-exclusive language and incorporating inclusive language in all forms of communication. The guide includes numerous practical examples, a glossary of terms, a section on writing techniques, and an extensive list of additional resources to consult.

McLachlin, Beverley, "Legal Writing: Some Tools" (2001) 39:3 *Alta Law Rev* 695, online: canlii.ca/t/2dd9.

Government of Canada, "Inclusive Writing – Guidelines and Resources" (last modified 6 Dec 2022), online: *Language Portal of Canada* www.noslangues-ourlangues.gc.ca/en/writing-tips-plus/inclusive-writing-guidelines-resources.

This light-hearted speech from the former Chief Justice of the Supreme Court of Canada provides some advice on good legal writing. Echoing many of the authors on this list, she advocates for clarity, plain language, and point-first writing.

"The Guidelines for Inclusive Writing are designed to help the federal public service and any other organization produce writing that is free of discrimination based on sex, gender, sexual orientation, race, ethnicity, disability or any other identity factor."

Stratas, David, *Factum Precedents/Instructional Materials for Legal Writing* (Faculty of Law, Queen's University, 2009), online: www.davidstratas.com/queensu2009/10.html.

This is another extensive government site that might provide too much information. The [Inclusive Writing: Quick Reference Sheet](#) is more helpful if you are looking for a quick answer. Another helpful resource hidden in all this information is the [Guide on Equity, Diversity and Inclusion Terminology](#). This guide provides helpful definitions and notes that provide context for terms that are unfamiliar or potentially contentious. It never hurts to check for the correct usage.

These are instructional materials for a course at Queen's University. Tab 19, "Some Factum Writing Suggestions," specifically looks at the practical aspects of writing a factum. The author provides some general principles and then goes on to describe each section of a factum and what it should contain. Uniquely, the appendices to the section include information on incorporating graphic elements—illustrations, diagrams, and charts—into a factum.

Judicial Writing

Berry, Edward, *Writing Reasons: A Handbook for Judges*, 5th ed (Markham: LexisNexis Canada, 2020).

The author is currently a judge at the Federal Court of

In this well-written and practical text, the author provides a roadmap for writing readable and accessible judgments. The author starts by establishing, in a humorous way, the importance of beginning a judgment with the context of the case rather than the details. The subsequent chapters offer guidance on structuring and writing effective reasons and include exercises and suggested answers.

The author is a retired English professor at the University of Victoria with a special interest in judicial writing.

Mandell, Caroline, *In All Fairness* (2020–present), online (podcast): *Canadian Institute for the Administration of Justice* <ciaj-icaj.ca/en/podcasts>.

The following are a series of podcasts on writing judgments featuring distinguished expert guests. Host Caroline Mandell is an expert on legal communication who has taught Legal Research and Writing at the University of Toronto Faculty of Law and is a subject matter expert in Legal Research and Writing at Toronto Metropolitan University.

- “[Welcome to Judgment Writing School!](#)” with Justice John I. Laskin, Edward Berry, and Steve Armstrong (2020). On “why judges need to learn how to write judgments, even though they have spent a career reading them.”
- “[Who’s Afraid of Plain Language?](#)” with Iva Cheung and Cheryl Stephens (2020). On using plain language in legal writing.
- “[Easy Reading is Damn Hard Writing](#)” with Justice Peter D. Lauwers, Justice Shaun Nakatsuru, and Jennifer Khurana (2020). On issue-driven structure and the challenges of writing for self-represented litigants.
- “[Rethinking Reasons \(and Everything Else\)](#)” with Kate Campbell and Shelley Lopez (2020). On how the Civil Resolution Tribunal’s commitment to access to justice carries through to its written decisions.
- “[New Judges on the Block](#)” with Justices Sheilah Martin, Mahmud Jamal, and Alice Woolley (2020). On developing a judicial voice, comparing the specifics of writing as a judge versus as an academic or as a litigator, and using editing software and AI tools in judgment drafting.

Plain Language

Appleby-Ostroff, Shelley, “Plain Language Practice with Laura J Genovich” (29 March 2023), online (podcast): *XL Legal* <exellegal.com/plain-language-practice-with-laura-j-genovich>.

Laura Genovich teaches legal writing as an adjunct professor at WMU Cooley Law School and is the author of *The Plain Language Practice: A Pocket Guide*

for Lawyers. Genovich asserts that the use of plain language is an ethical matter: lawyers have a duty to communicate clearly and effectively so their clients know and understand the information they are receiving. This podcast was surprisingly enjoyable to listen to. The lively, wide-ranging conversation covered all aspects of plain language communication: the use of document design, some words that should be banished, the idea that plain-language writing requires critical reading and thinking, and much more.

Shelley Appleby-Ostroff is a legal talent development consultant, writing coach, former practicing lawyer, and host of the *XL Legal Podcast*.

Mowat, Christine, *A Plain-Language Handbook for Legal Writers*, 2nd ed (Toronto: Carswell, 2015).

This two-volume handbook begins with a discussion of the definition of plain language and an explanation of its use in various areas of law and types of legal documents. Moving beyond the theoretical, Volume 2 provides a toolbox that includes guidelines for clear writing, many before-and-after samples of plain language writing, and self-tests with answers.

The author is a long-time advocate for and teacher of plain language legal writing.

Stephens, Cheryl M, “Plain Language Legal Writing” (2014) *CBA National Magazine*, online: <nationalmagazine.ca/en-ca/contributors/cheryls>.

A three-part article adapted from Cheryl M. Stephens’s *Plain Language Legal Writing* (Vancouver: ASAP Legal, 1999). Part I provides a general introduction to plain language in legal writing and an overview of the writing process. In Part II, the author shows how to use plain language to be clear and concise. Stephens also suggests the use of word pictures, analogies, scenarios, and metaphors to enhance communication, as well as actual pictures: photos, graphs, charts, diagrams, and maps. This section includes examples and exercises. The final part of this series focuses on the structure, tone, and language of an effective business letter and includes a section on how to present good or bad news.

Style Guides

Beaulac, Stéphane, François Roch & Maude Pagé-Arpin, *Guide de style juridique / Legal Style Guide* (Markham: LexisNexis, 2006).

This is a bilingual guide to legal style from *Revue québécoise de droit international / Quebec Journal of International Law*.

Queen’s Law Journal, *Canadian Guide to Legal Style*, 2nd ed (Toronto: Carswell, 2019).

Originally an in-house guide for the *Queen’s Law*

Journal, this little text is an invaluable resource for legal writers. It covers all aspects of legal style: capitalization, abbreviations, avoiding biased language, design elements like headings and subheadings, and much more. It also includes a section on writing about Indigenous nations, communities, and individuals.

Visual Legal Communication

Brevorka, Jennifer, “Visuals Matter” (2021) 40:1 Adv J 23.

After presenting arguments in favour of using visuals in legal submissions, the author goes on to explain how to use visuals for the best results. Examples of the three categories of visuals—organizational, interpretive, and representative—show just how effective they can be in communicating and making information memorable.

The author is a partner at Henein Hutchison Robitaille LLP who has written and presented on the use of visuals in legal writing.

Butterick, Matthew, *Typography for Lawyers*, 2nd ed (Houston: O’Connor’s, 2015), online: <typographyforlawyers.com>.

One aspect of visual legal communication is typography. As the author states, “good typography can help your reader devote less attention to the mechanics of reading and more attention to your message.” This website and book provide a detailed look at how typography works and how to use it to create clear and readable legal documents.

The author is a member of the California Bar who also has a degree in design and typography from Harvard University.

Larsen, John H, “Using Visuals to Better Communicate Logic in Legal Reasoning” (2021) 25 Leg Writing 285, online: <www.legalwritingjournal.org/article/24787>.

The author argues in favour of using visuals to enhance communication and understanding. This article begins with a description of the scientific rationale behind how visuals help the reader think more clearly and then goes on to give examples of how legal logic and complex fact situations can be visualized with diagrams and charts.

John H. Larsen is an administrative law judge at the California Public Utilities Commission.

Margolis, Ellie, “Visual Legal Writing: A Bibliography” (2021) 18 Leg Communication & Rhetoric 195, online: *Association of Legal Writing Directors* <www.alwd.org/lcr-archives/fall-2021-volume-18/612-visual-legal-writing-a-bibliography>.

This is an extensive—but not annotated—bibliography of resources that discuss incorporating visual elements into legal documents. The headings used give a good idea of

the articles’ content: Document Design and Typography, Images, Legal Analysis (Sentence Diagramming and Flow Charts), Rhetoric and Persuasion (How Visual Rhetoric Affects Thinking), Appellate Practice (Typography, Rhetoric, and Ethics), and Transactional and Other Non-litigation Writing.

The author is a professor of law at Temple University Beasley School of Law.

Writing about Indigenous Peoples

Journalists for Human Rights, *Style Guide for Reporting on Indigenous Peoples* (2017), online (pdf): <jhr.ca/wp-content/uploads/2017/12/JHR2017-Style-Book-Indigenous-People.pdf>.

Prepared by Indigenous journalists, this guide is a quick reference for writing about and describing Indigenous peoples. But the authors provide the caveat that this guide is not definitive. As they note in the preface, “[a] recurring theme in all the discussions is that self-identification is crucial to respectful and accurate cover of Indigenous people and communities.” Do not make any assumptions: ask!

University of British Columbia, *Indigenous Peoples: Language Guidelines* (Vancouver: UBC, 2021) online: <assets.brand.ubc.ca/downloads/ubc_indigenous_peoples_language_guide.pdf>.

This resource provides guidelines for referring to Indigenous peoples in a respectful and accurate manner. It highlights appropriate terminology as well as terminology to avoid. It also includes guidelines for acknowledging Indigenous images, artwork, and logos.

Vowel, Chelsea, *Indigenous Writes: A Guide to First Nations, Métis, and Inuit Issues in Canada* (Winnipeg: Portage & Main Press, 2016).

While this text is not about legal writing specifically, it is still a useful resource for legal writers. In addition to providing a useful primer on the terminology of relationships, the author also addresses the stereotypes, myths, and misconceptions about Indigenous culture and identity that a careful writer should avoid.

Chelsea Vowel is a Métis writer and legal scholar from manitow-sâkahikan (Lac Ste. Anne), Alberta.

Younging, Gregory, *Elements of Indigenous Style: A Guide for Writing by and About Indigenous Peoples* (Edmonton: Brush Education, 2018).

The author sets out 22 principles that act as guidelines for writing and publishing in a manner that respects Indigenous knowledge and culture and Indigenous peoples’ perspectives about themselves.

Gregory Younging, a member of the Opaskwayak Cree Nation, held several distinguished roles throughout his career, including managing editor of Theytus Books, assistant director of research for the Truth and Reconciliation Commission of Canada, and professor of Indigenous Studies at UBC Okanagan.

Writing for Social Media

Appleby-Ostroff, Shelley, “Podcasting for Lawyers with Gordon Firemark” (9 March 2022), online (podcast): *XL Legal* <exellegal.com/podcasting-for-lawyers-with-gordon-firemark>.

Gordon Firemark is a media, entertainment, and business lawyer, as well as a podcaster and author. In this episode, Firemark talks about the value of podcasting as a marketing tool but emphasizes that its primary goal should be information rather than advertising. He also discusses what equipment to use, the importance of marketing the podcast, best practices for producing a quality podcast, staying current, and keeping the audience interested.

Shelley Appleby-Ostroff is a legal talent development consultant, writing coach, former practicing lawyer, and host of the *XL Legal Podcast*.

Romig, Jennifer Murphy, “Legal Blogging and the Rhetorical Genre of Public Legal Writing” (2015) 12 *Leg Communication & Rhetoric* 29, online: *Association of Legal Writing Directors* <www.alwd.org/lcr-archives/fall-2015-volume-12/52-legal-blogging-and-the-rhetorical-genre-of-public-legal-writing>.

This is a lengthy academic article that highlights the differences and connections between traditional legal writing and public legal writing (i.e., writing to generally disseminate information rather than writing for a specific client). The author frequently references two useful texts for the potential blogger: Christopher Johnson’s *Microstyle: The Art of Writing Little*⁵ and Roy Peter Clark’s *How to Write Short: Word Craft for Fast Times*,⁶ but as the article itself is observational rather than practical, there is little specific guidance how to produce a successful blog. The value of this article lies in its reflection on and evaluation of how to adapt to the differences between traditional and public legal writing using new media formats like blogging.

Whelan, David, “The Practical and Ethical Use of Social Media” and Pribetic, Antonin, “Using Social Media Tools in a Practical and Ethical Way” (2012), online (pdf): <ihrp.law.utoronto.ca/page/research-resources-and-bibliographies>.

It is important for lawyers to not only think about what to write but to also be aware of the ramifications of what they write. These two presentations from the Law Society of Upper Canada’s 7th Annual Solo and Small Firm Conference and Expo describe the different types of social media available and their appropriate use, and they highlight some of the pitfalls that may be encountered when creating a social media presence. They look at issues like breaches of confidentiality, privacy considerations, whether a retweet constitutes an endorsement, what is considered advertising, and the Law Society of Ontario’s *Code of Professional Conduct*.

⁵ Christopher Johnson, *Microstyle: The Art of Writing Little* (WW Norton: New York, 2011).

⁶ Roy Peter Clark, *How to Write Short: Word Craft for Fast Times* (Little, Brown and Company: New York, 2013).



III Reviews / Recensions

Edited by Dominique Garingan, Julie Lavigne, and Leanne Notenboom

***Banning Transgender Conversion Practices: A Legal and Policy Analysis.* By Florence Ashley. Vancouver: UBC Press, 2022. xiii, 249 p. Includes glossary, bibliographic references, and index. ISBN 9780774866927 (hardcover) \$89.95; ISBN 9780774866934 (softcover) \$32.95; ISBN 9780774866941 (PDF) \$32.95; ISBN 9780774866958 (ePUB) \$32.95. <ubcpres.ca>.**

Conversion therapies encompass a wide range of interventions that aim to change or suppress a person's sexual orientation or gender identity. Described as degrading, inhumane, and cruel, these so-called therapies "create a significant risk of torture" by pathologizing and attempting to erase the identities of non-heterosexual and gender-diverse individuals.¹ Florence Ashley is a transfeminine jurist, bioethicist, activist, public speaker, and doctoral candidate at the University of Toronto Faculty of Law. *Banning Transgender Conversion Practices: A Legal and Policy Analysis* is one of their many contributions to advocating for the elimination of these practices, which target gender-diverse individuals. Ashley defines trans conversion practices as "sustained efforts to promote gender identities that are aligned with one's sex assigned at birth and/or to discourage behaviours associated with a gender other than the one assigned at birth" (p. 22). Survivors experience increased rates of planned and attempted suicide and severe psychological distress (p. 12).

Widely denounced by trans communities as well as

professional organizations listed in the book's appendix, trans conversion practices are currently banned in Canada by provincial legislation (in Ontario, Nova Scotia, and P.E.I.) and by more recent federal legislation. As legislation had to be in force by July 2020 for inclusion in Ashley's comparative analysis, *An Act to amend the Criminal Code (conversion therapy), SC 2021, c 24* (in force on January 7, 2022) is only briefly mentioned but not evaluated. Other Canadian and international jurisdictions have yet to legislate protections for trans people from these harmful practices.

The book begins with the 2015 closure of the Centre for Addiction and Mental Health's (CAMH) Gender Identity Clinic for Children and Youth after Ontario's *Affirming Sexual Orientation and Gender Identity Act, 2015, SO 2015, c 18* came into force. The recounting of the controversy surrounding the closure introduces the affected stakeholders: trans communities, health professionals and their organizations, courts, and lawmakers. This story sets the stage for Ashley's argument that care should be taken to define and eliminate conversion practices, especially interventions masquerading as therapeutic treatments in legislation and clinicians' professional practice. The story segues into Chapter 1, which provides definitions for gender terminology and trans conversion practices. From these definitions, Ashley explains how the CAMH Gender Identity Clinic's "corrective approach" is included under those harmful interventions. Additional definitions are included in a glossary at the end of the book.

¹ Victor Madrigal-Borloz, *Practices of So-Called "Conversion Therapy": Report of the Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity*, UNGAOR, 44th Sess, UN Doc A/HRC/44/53 (2020) at 4, 21, online: <digitallibrary.un.org/record/3870697>.

In Chapter 2, Ashley identifies the *Affirming Sexual Orientation and Gender Identity Act, 2015* as an exemplar ban and uses statutory interpretation to determine the extent of the law.

In Chapter 3, Ashley provides a comparative analysis of jurisdictions that have legislative bans on trans conversion practices, including the three Canadian provinces, some American states, some Spanish autonomous regions, and Malta. To highlight the bans' strengths and weaknesses, they analyze each group of bans in two ways: by textual lineages (i.e., the similarities and differences between legislative provisions and definitions) and by sanctions.

In Chapter 4, Ashley lays out and rebuts common arguments used by opponents of these bans, such as therapist's freedom of expression, overbreadth leading to constitutional challenges, and autonomy and religious freedom.

Chapter 5 analyzes the benefits and limitations of the bans while addressing the desirability of bans from the perspective of trans communities. Ashley discusses how enacting bans could spark change in the professional practices of health practitioners and how legislation could spur cultural changes that benefit the mental health of trans communities. They also identify eight considerations that policymakers must confront to eliminate trans conversion practices.

In Chapter 6, Ashley argues for a culture shift in licensed health professional communities to accompany a legislative ban on conversion practices. The proposed culture change entails collaboration with the trans community to develop clear professional guidelines. Ashley also proposes the creation of accountability structures and paths to educate new and existing professionals about gender-affirming care and the harms of conversion practices.

The seventh and final chapter contains Ashley's proposed model annotated legislation. The model legislation integrates the definitions and considerations described in prior chapters. Most importantly, Ashley eliminates the blank page problem by providing a template and detailed explanations for policymakers and legislators who wish to introduce or improve upon a ban.

Authored by an award-winning legal scholar, this book has an obvious home beyond academic law library collections. Ashley wrote this book for a wide audience, stating: "My goal in writing this book is to guide jurists, policymakers, healthcare professionals, scholars, and advocates in their thinking about how to best ban conversion practices" (p. 17). Transgender conversion practices can take a variety of forms, so solutions to eliminate them must be interdisciplinary. Thus, the book would be a helpful addition to health, government, parliamentary, and public libraries for those working to end conversion practices and move toward a more trans-affirmative future.

REVIEWED BY

ALEXANDRA KWAN

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Building a Second Brain: A Proven Method to Organise Your Digital Life and Unlock Your Creative Potential. By Tiago Forte. New York: Atria Books, 2022. viii, 260 p. Includes bibliographic notes and index. ISBN 9781982167387 (hardcover) \$37.00; ISBN 9781982167400 (ePUB) \$17.99. <simonandschuster.ca>.

Over ten years ago, Tiago Forte was beset by a debilitating chronic illness that no one could explain. To understand the cause of his suffering, he began to take extensive digital notes about his symptoms and digitize his medical records. The benefit of having this information all in one place became apparent: he saw patterns in his illness and, with the help of his doctor, was finally able to get to the root of his problem.

This experience left Forte with the profound realization that his notes, when combined with digital notetaking technology, had the power to help him see things from new perspectives and solve difficult problems. This became the starting point for Forte's ongoing fascination with the power of technology to channel information. Since then, Forte has made a career out of showing others how to manage the flow of information in their daily lives. *Building a Second Brain* is a distillation of his insights from several years of writing and teaching on this topic.

In Part 1, Forte defines the concept of a *second brain* as a "private knowledge collection designed to serve a lifetime of learning and growth" (p. 21). He explains how the practice of building a second brain is part of a long legacy of thinkers and creators who have adopted techniques over the centuries for capturing and keeping the ideas they found most interesting. One of these techniques, adopted by early modern artists and intellectuals, was to record excerpts from one's reading into a book called a *commonplace book*. The practice of keeping a commonplace book allowed those thinkers not only to remember ideas, but also to draw new connections between them.

In Forte's view, a second brain is like a commonplace book but with more power, flexibility, and versatility thanks to the digital notetaking technology upon which it is built. With a digital notetaking system such as Evernote or Microsoft OneNote, one can capture ideas not only from text-based sources, such as books and articles, but also from multimedia sources, including videos, podcasts, images, and recorded lectures. Moreover, unlike traditional paper notebooks, digital notetaking systems have unlimited storage capacity, a search function, and the ability to move chunks of content around and recombine them to create new and interesting connections.

While digital notetaking systems have their advantages, it is the habits and behaviours that one adopts in relation to them that turn the system into a second brain. These habits and behaviours are distilled into what Forte calls the CODE Method. The CODE Method, which is described in Part 2 of the book, contains four steps for building a second brain: Capture, Organize, Distill, and Express. Forte argues that when one adopts these steps as an ongoing practice, one will benefit from enhanced productivity and creativity. Throughout the book, he points to examples of famously prolific celebrities, like Taylor Swift and Jerry Seinfeld, who

have used such techniques to facilitate their productivity and creative processes. These examples serve as an excellent source of inspiration and motivation for the reader.

This book excels as a guide to building a second brain. It contains detailed advice on how to implement the CODE Method and maintain the practice of managing information with a digital notetaking system. Forte distills many of his recommendations into easy-to-follow checklists accompanied by helpful illustrations and screenshots from his own second brain. The tone of the book is encouraging and straightforward, which makes his ideas accessible and easy to digest.

A minor critique is Forte's use of the word "proven" in the book's subtitle. One might expect there to be rigorous research backing up such a claim. While Forte occasionally references empirical research to support his ideas, he does not provide evidence-based research demonstrating the effectiveness of the CODE Method for increasing one's personal productivity and creativity. What Forte does provide are anecdotal examples of successful implementations of the CODE Method by the students who have taken his courses. Despite the lack of evidence-based research, it is my opinion that he makes a good case with these examples for the effectiveness of his method.

This book would be of interest to anyone who wishes to gain a sense of control over the flow of digital information in their daily lives. Law students may find the CODE Method an effective system for keeping course notes organized, as well as for keeping track of the information pertaining to their extracurricular and personal commitments. Lawyers may find the CODE Method helpful for managing their legal research and case files. Finally, librarians and library workers may find his advice useful for managing the information that comes with the many projects and areas in which they are involved. For these reasons, I would recommend purchasing this book for law library collections.

REVIEWED BY
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***Canadian Justice, Indigenous Injustice: The Gerald Stanley and Colten Boushie Case.* By Kent Roach. Montreal & Kingston: McGill-Queen's University Press, 2022. xxii, 309 p. Includes bibliographic references and index. ISBN 9780228012122 (softcover) \$27.95. <mqup.ca>.**

On August 6, 2016, five young Indigenous people drove onto the Stanley family farm in a car with a flat tire. After seeing two of them attempt to start an ATV on his property, Gerald Stanley and his son ran toward the car, and the latter smashed the car's windshield with a hammer. Those in the car tried to flee but collided with one of the Stanleys' vehicles. Two of them then ran away on foot instead. In the meantime, Stanley retrieved an old pistol from a nearby shed and fired two warning shots into the air. He subsequently ran to the car and, while attempting to turn the vehicle off, his gun

discharged, killing Colten Boushie, who was in the driver's seat. Stanley later testified that he did not have his finger on the trigger and that the gun discharged accidentally. A jury acquitted him in 2018.

This 2022 paperback edition of Kent Roach's 2019 text *Canadian Justice, Indigenous Injustice: The Gerald Stanley and Colten Boushie Case* includes a new preface by the author that outlines some of the developments that occurred in the intervening years. It is a valuable investigation into the experiences of Indigenous peoples when engaging with the criminal trial process.

The original foreword by John Burrows remains an excellent summary of the challenges that Indigenous people continually face in the Canadian justice system, beginning with the very first sentence: "Justice has been illusive for Indigenous Peoples in Canada" (p. vii). Roach's examination of Boushie's death and Stanley's trial clearly demonstrates that the outcome and the ensuing resistance to publicly re-examine the proceedings were influenced by strongly held and polarized views steeped in prejudice toward Indigenous people, which are still found in Canadian society and its judicial system. As Roach says about wrongful convictions—or, as he calls this case on page 13, a possible "wrongful acquittal"—the adversarial approach to criminal justice proceedings relies on the best efforts of lawyers and may not always be the best way to discover the truth; that is to say, "the adversary system works until it doesn't" (pp. 233–34).

Roach covers a lot of ground in this well-researched and thoughtfully laid out book, writing in a way that both non-lawyers and those steeped in the law will understand. Throughout, Roach considers the importance of framing the case not only within the context of Indigenous law and treaty rights, but also within the historical context of the local area of Battleford, Saskatchewan, where relations between Indigenous and non-Indigenous peoples have long been troubled and often violent. He notes that the local justice system has been influenced by this history, and things that "took place more than a century ago can still be relevant to understanding a trial process that took place between 2016 and 2018" (p. 12).

Roach points to many instances during the investigation and trial where errors were made and apparently ignored. For example, the failure of the RCMP to properly secure the crime scene meant it was soon contaminated by rain that washed away key evidence. Another example is that a controversial jury selection process did not guard against negative stereotypes about Indigenous people and resulted in an all-white jury. These kinds of failures, combined with the then-ongoing politicization of rural crime and recent legislation that expanded citizens' rights to self-defence and defence of property, contributed, in Roach's view, to a culture that "encouraged the use of guns when other less violent and proportionate alternatives are available" (p. 220). The new preface shows that things have not improved. In particular, Roach discusses the Crown's refusal to appeal the verdict and the lack of any response to the ongoing calls for a public inquiry or coroner's inquest into Boushie's death, even after the RCMP's Civilian Review and Complaints Commission substantiated a number of the claims about errors that had

been made, prevented “a chance to learn from the pain of the case and [to] make recommendations to prevent similar Indigenous deaths in the future” (p. xvii).

Roach ends his book by considering how different the outcome might have been that evening in August 2016 if there had in fact been “respectful relations and better understanding between Indigenous and non-Indigenous communities” (p. 231), as contemplated by Treaty 6, a document signed between the Canadian government and the local First Nations peoples in 1876. Treaty 6 had concepts of Cree law known as “*miyo-wicehtowin* or getting along, having good relations” (p. 231). If this idea of good relations had been present when the five young Indigenous people drove onto the Stanley family farm with their flat tire, the Stanleys might have seen them as people who needed help rather than a threat, and the five young Indigenous people, in turn, might have been more respectful of the Stanleys’ property and seen Gerald Stanley as someone who could help with their car. Without these good relations, however, and without attempts to develop a better understanding between Indigenous and non-Indigenous peoples, the final two sentences in Roach’s new preface (p. xxi) will continue to ring true: “History continues to haunt us. History continues to repeat itself.”

REVIEWED BY
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***Every Cyclist’s Guide to Canadian Law.* By Christopher Waters. 2nd ed. Toronto: Irwin Law, 2022. xiv, 231 p. Includes table of legislation, table of abbreviations, endnotes, and index. ISBN 9781552216453 (softcover) \$35.00; ISBN 9781552216460 (PDF) \$35.00. <irwinlaw.com>.**

As a long-time recreational and occasional commuter cyclist, I was both keen and reluctant to review this book. Would learning the rights and responsibilities of cyclists and drivers simply increase my frustration with non-conforming road users, including our lack of shared knowledge about the law? Or would I feel more confident being able to recite with precision all the fine print in a time of need?

Rather than the prescriptive etiquette book I was anticipating, Waters’s text clearly outlines key issues and debates in cycling law while maintaining a charitable tone for all perspectives. In fact, the author encourages the reader to understand the law well enough to decide if and when to break it. He covers hot topics such as “mode rage”: human-powered cycles sharing the road with electric bikes and other hybrid devices (what is a bike?). He discusses the rule on hard stops at traffic lights and considers if the alternative bicycle-friendly “Idaho stop” (a rolling slow down) really makes the road safer for everyone. On the topic of safety, the author questions if legally required helmets act more as a barrier to participation, introducing over-policing and interfering with bodily autonomy.

This second edition builds upon the work of first edition

authors Craig Forcese and Nicole LaViolette. The guide is accessible to those without legal training but is also sufficiently rigorous and well-researched to provide support to readers with cycling responsibilities (e.g., cycling club directors). Waters provides a survey of the current state of cycling law in Canada, law that is derived from a patchwork of federal, provincial, territorial, and municipal sources. Notably, the book highlights the many discrepancies between provinces and territories. For instance, what is illegal in one province (e.g., passing cars on the right at a stop in British Columbia) may be encouraged in another (Nova Scotia).

Chapter 3 on bicycle crashes covers the scope of criminal law and tort law, municipal responsibilities, remedies, statutes of limitation, as well as driver and government negligence. Waters draws upon illustrative cases to animate the topic. In one example, he notes that forcing a bike off the road (even without contact) and leaving the scene may be considered a criminal offence. At the same time, he highlights the often-contrasting leniency of the law for drivers who inadvertently harm cyclists.

Chapter 4 explores safety standards, warranties, and liability. Practical tips are provided, such as “seek the advice of knowledgeable staff at reputable bike stores in making your purchase, both because that’s wise and to trigger implied warranties” (p. 109). Chapter 5 outlines options if a bike is stolen. In general, police place little priority on investigating bike thefts, owing to negligible bike registration, theft reporting, and recovery. One may make a citizen’s arrest in the middle of a theft, but a civilian sting operation to recover a stolen bike is out of bounds. The author provides useful information on when bikes are most often lost or stolen, empowering the reader to take a more preventative approach.

Chapters 6 and 7 shift from individual to group issues, covering bicycle clubs and races. In Chapter 6, Waters outlines the basics of incorporating a bicycle club, including initial filings, the duties and qualifications of directors, privacy and human rights issues, hiring coaches, as well as the nuances of waivers, negligence, and insurance. Waters acknowledges the onerous legal complexities facing prospective cycling organizations but hopes this will not deter their formation. Lastly, Chapter 7 covers the role of numerous international, national, and provincial bicycling associations in professional bicycle racing, particularly with respect to their influence in establishing bicycling regulations. One benefit of mostly privatized regulation is the centering of athletes/experts in decision-making roles.

Using humour and illustrative examples throughout, Waters’s guide makes a valuable contribution to the field of cycling law. The content is well-organized into discrete topics with ample use of headings, subheadings, and highlighted “chapter takeaways.” Each chapter is extensively footnoted, including many references to case law and legislation. This book is recommended for all academic libraries as well as law libraries that want a primer on bicycle law in their collection.

REVIEWED BY
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***Guide to the Law and Practice of Anti-SLAPP Proceedings.* David A. Potts & Erin Stoik. Toronto: Irwin Law, 2022. xxxi, 528 p. Includes annotated bibliography, table of cases, and index. ISBN 9781552216323 (softcover) \$75.00; ISBN 9781552216330 (PDF) \$75.00. <irwinlaw.com>.**

“Litigation can be a potent weapon in the hands of the rich and powerful” (p. 69). This quote, taken from a 2018 Ontario Court of Appeal case, helps illustrate the need for anti-SLAPP (Strategic Lawsuits Against Public Participation) legislation.

Since this legislation is relatively new in both Ontario and British Columbia, and there are few (if any) other guides of this kind, *Guide to the Law and Practice of Anti-SLAPP Proceedings* is an extremely valuable text. As the title indicates, this book is “intended as a manual and a guidebook, not a general introduction or an academic treatise” (p. xxxi).

Despite this statement, the book should not necessarily be discounted for use in an academic setting. Students and researchers seeking to learn more about aspects of anti-SLAPP proceedings can use this book as a reference to relevant legal decisions as well as for general contextual and background information. True to its mission as a guide, a very detailed table of contents helps direct the reader to the exact aspect or scenario related to anti-SLAPP or defamation law. Want to know what evidence is needed to show emotional harm, or how to find decisions specifically involving Google reviews? This book provides that.

The text relies heavily on lengthy passages pulled from pertinent legal decisions, with the authors providing framing and contextual paragraphs. Often, these passages feel like judges directly providing advice to the reader. Many of these passages are followed by lists of suggested decisions on the same legal point, which is useful for practitioners and academics alike. Certain sections of the passages are bolded for emphasis, allowing the reader to focus on the most important aspects of a decision as quickly as possible. In the introduction, the authors state that their mission is to make the reader’s job easier, and these details help to accomplish this task.

Introductory chapters provide basic background on defamation, the history and legislative intent behind anti-SLAPP legislation in Ontario and British Columbia, and detailed descriptions of the legislation in their current versions. Certain sections are set aside for discussion about the differences that occur when allegedly defamatory information is distributed online versus in the real world. The authors are not merely providing a guide for those working in defamation or cyber libel law, but also for lawyers who may not yet be familiar with these areas of law.

Another version of this book may have included more of the salacious details these sorts of proceedings can produce, such as who said what nasty thing about whom. However, this book stays on point and generally provides basic legal information about each proceeding, as a practical guide should. Given the scarcity of texts on anti-SLAPP

proceedings in Canada, as well as the comprehensive detail this book provides, it is recommended that both practitioners and law libraries acquire a copy of this text.

REVIEWED BY
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***Legal Data and Information in Practice: How Data and the Law Interact.* By Sarah A. Sutherland. New York: Routledge, 2022. xxi, 148 p. Includes illustrations, tables, bibliography, and index. ISBN 9780367649906 (hardcover) US\$170.00; ISBN 9780367649883 (softcover) US\$42.95; ISBN 9781003127307 (eBook) US\$42.95. <routledge.com>.**

With the accelerated adoption of technological innovations driven by advances in computing, data has become a crucial component in almost all industries. The legal sector has always been heavily dependent on information. As such, it is timely to have the discussion about what an important role data can play in improving legal services and enhancing the legal processes. Due to the nature of law as an integral part of citizens’ everyday life, data plays an increasingly special and unique role in the legal sector compared to other sectors. A book that specializes in legal data and information will be very valuable for those working in the industry who wish to expand their knowledge in this burgeoning application of data science to the law.

Author Sarah A. Sutherland is an expert on legal data in the Canadian legal community. She was president and CEO of the Canadian Legal Information Institute (CanLII) for many years before beginning her own legal consulting business.

In this concise book, Sutherland provides a comprehensive review of the available tools that can be used in legal practice and the management of legal institutes, with the hope that they can be widely used to achieve higher efficiency for the legal industry. Many of these tools have been used in other disciplines but, as of this time, rarely in law. The book analyzes multiple sources of legal information and proceeds to review their limitations and restrictions. Subsequently, all these various sources are categorized into different types of data, for their types can determine how they may be best used.

For those new to data science and data analysis, Chapter 4, “Data Analysis Techniques,” discusses in detail the ways to approach data analysis, followed by how legal data should be interpreted while employing critical thinking skills. The next few chapters cover topics including artificial intelligence in law, the law and politics of legal data, and the future of legal data.

The focus of the book is on demonstrating how data can be better understood, collected, interpreted, and applied. Sutherland discusses the data issues within the social, cultural, and legal context and identifies that the management of data can be very different in legal traditions that vary from the Canadian system. It must be noted that this book has

very specific jurisdictional focuses, mainly Canada and other English-speaking common law systems.

Sutherland argues that one social advantage of promoting technological advancement in legal data processing is to reduce the inequality in access to justice so that the law can be implemented in society as intended. While much of the data generated in the legal process and system of a country is considered public information and is widely available, the concern of privacy should not be underestimated. As quoted in this book, “the law’s conception of openness is different” (p. xvi) when compared with scientific data. Sutherland cautions that the technological changes happening in the legal industry need to be watched closely, even though they have the potential to increase the efficiency and profitability of the sector.

As the author intended, the book is written for audiences in the legal industry and those with a strong technical background but very little knowledge of law. It provides a grounding for these two groups to meet in the middle so they can communicate and work with each other to create a system that allows information to play a bigger role in providing better and more accessible legal services. For this reason, the technical aspects of data are not discussed in great depth and can be practically understood by those with a limited technical background.

Legal Data and Information in Practice not only provides practical strategies but also looks to the future to show decision-makers how to prepare for a changing practice environment. The topics covered have a broad application for anyone with an interest in navigating the issues surrounding data and law. The book will be particularly useful for those working in law firms, governments, and academic institutions.

REVIEWED BY
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***Liability for Transboundary Pollution at the Intersection of Public and Private International Law.* By Guillaume Laganière. Hartford, UK: Hart, 2022. xlvii, 266 p. Includes bibliographic references and index. ISBN 9781509951154 (hardcover) \$159.95; ISBN 9781509951192 (softcover) \$72.85; ISBN 9781509951161 (ePub) \$115.16; ISBN 9781509951178 (PDF) \$115.16. <bloomsbury.com/ca>.**

Guillaume Laganière’s *Liability for Transboundary Pollution at the Intersection of Public and Private International Law* is a welcome and timely discussion of environmental laws and liabilities in international law. There are few works, if any, that focus on liability and expedient or timely access to equal compensation. This work analyzes liability related to international public and private laws using Canada as a focus along with references to other jurisdictions where relevant. Laganière demonstrates that while many international guidelines and principles have been agreed to, there has been very limited enforcement of these in international law. Domestic Canadian law, both public and private, may be used as a more effective enforcement mechanism.

Liability for Transboundary Pollution is part of Bloomsbury’s *Hart Monographs in Transnational and International Law* collection. After doing a deep dive into the topic for his graduate research at Cambridge, Laganière initially wrote this text as his PhD dissertation while at McGill University. This can be found in its entirety for free in McGill’s institutional repository. (While an initial scan to compare the two texts showed little to no differences, the ability to search the McGill version is limited.)

The text includes a preface, acknowledgements, list of abbreviations, international resources, introduction to context, scope, objectives, structure, and a brief overview of international law and governance. The book is well researched, with substantial footnotes, a lengthy bibliography, and a detailed index, all of which help to support the main analysis.

The author’s academic and professional interests and expertise in private international law and international environmental law are clearly observed. Laganière methodically and seamlessly presents the topic across three sections. After an introduction to the issue of liability, including an overview of the scope of the issues and initial analysis, Part 1 undertakes a discussion of liability related to public and private international law, and Part 2 undertakes an analysis of cross-border pollution under private international law in Canada and other jurisdictions.

Laganière lists several assumptions of civil liability administration structures: that they should directly assist victims of pollution, simplify environmental disputes, and direct liability toward the person responsible, and that civil liability may act as a deterrence. He looks at the International Law Commission’s (ILC) Principles on the Allocation of Loss, which set out the foundation for determining loss, liability, equal access, and compensation, and how these were formed. These principles are based on several earlier decisions in domestic and international law. The first of these, namely the Trail Smelter decision of 1941, involved an international dispute between Canada and the United States and set an early precedent for determining transboundary pollution issues. Later cases include the Corfu Channel and Pakootas decisions. The “Hull Formula,” which is foundational for determining compensation related to transboundary expropriation of foreign property, was later adopted as part of the Canadian and American models for compensation without delay.

After establishing an understanding of liability and loss, Laganière focuses on Canadian legislation and case law as an indicator of equal expedient access and appropriate adoption of international cross-border liability for pollution. Non-Canadian jurisprudence is also sprinkled throughout the analysis. He initially examines four documents, starting with the *Boundary Waters Treaty* (1909) and finishing with the *North American Agreement on Environmental Cooperation* (1994). Laganière discusses whether Canada meets the requirements and determines that Canada is generally in compliance with the ILC Principles on the Allocation of Loss. There are a handful of cases referenced prior to 1970. The bulk of legislation and jurisprudence stems from the environmental movement of the 1960s and subsequent

years, when discussion regarding the effects of human activities on the natural environment gained prominence.

The topic is very complex, and the author successfully lays out the various issues related to state jurisdiction and equal and timely access to compensation. The final part of the text discusses possible variations, such as location, loss or pollution result, where the injured party resides, where the pollution occurred, and the choices available to the injured party under environmental law, civil jurisdiction, and foreign jurisprudence, all using Canada as the basis for this analysis. Laganière makes a positive argument that state legislation can be used to enforce liability and expedient compensation using each jurisdiction's domestic laws.

Liability for Transboundary Pollution at the Intersection of Public and Private International Law is easy to read and provides an engaging, plain-language discussion of transboundary pollution in international and Canadian law, from historical to present concepts. Librarians and lawyers, both novice and experienced, will appreciate this text. It can be considered a must-have for any practice dealing with environmental law and transboundary pollution issues, a topic that will only become more important in the future.

REVIEWED BY
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***The Special Collections Handbook.* By Alison Cullingford. 3rd ed. London: Facet, 2022. 430 p. Includes bibliographic references, index, figures, tables, and appendices. ISBN 9781783305377 (softcover) £65.00. <facetpublishing.co.uk>.**

The third edition of *The Special Collections Handbook* is an integral and comprehensive resource for information professionals who develop, manage, and provide access to special collections in libraries, archives, and museums. Author Alison Cullingford serves as the head of Library and Collections at Durham Cathedral and is an active member of the U.K.'s Chartered Institute of Library and Information Professionals' Rare Books and Special Collections Group. As a practitioner and educator in heritage management, with extensive experience in leadership and working with special collections, Cullingford is skilled at summarizing fundamental concepts in the field, as well as exploring the nuances of new and emerging issues.

Law library professionals may understand special collections to be those materials that require special preservation, maintenance, handling, and user access/services, such as manuscripts, rare books, and other printed formats. However, special collections materials often exist in multiple formats, including analog and digital media, and many of the essential principles, skills, and knowledge bases needed for managing a special collection may also be applied to developing and managing special libraries, including many law libraries.

At over 400 pages, this is a dense source of information, and it is an undertaking to read it from cover to cover. However,

the organization of the content, accessibility of the writing, and extensive use of headings and subheadings make each of the 14 chapters clear and accessible. Each chapter can also be understood as a standalone section. For finding and research aids, Cullingford provides many bibliographical references at the conclusion of each chapter, along with appendices, a bibliography, and a further reading section. For those with limited time, much of the book's substantive content is found in parts 2 to 4: Collections Management; Managing Public Access; and Governance and Resources for Special Collections.

Cullingford illustrates how special collections are not impervious to experiencing dynamic shifts and changes like many other library collections. New or expanded topics in the third edition include decolonizing special collections, along with methods for acknowledging and remedying the unethical means by which some materials may have been acquired; the need for compliance with evolving transnational copyright and data protection legislation; suggestions for responding to demands to shift the development and facilitation of special collections from collection-centric to user-centric models; the provision of remote access, as driven by the COVID-19 pandemic; and the impacts of new and emerging technologies aimed at digitization, discovery, and research assistance.

For those working in law libraries who may not have direct or frequent interactions with special collections, Chapter 7, "Legal and Ethical Issues in Special Collections," will probably feel the most familiar, focusing on copyright, privacy, and freedom of information legislation, while also examining the ongoing decolonization of special collections. Given some of the overlap between special, archival, and museum collections, this offers a glimpse into some of the unique challenges of access and user experience.

The main drawback of this book concerns jurisdiction. References to case studies and institutions, as well as the legislation cited, are almost exclusively from the U.S. and U.K. Although this is not uncommon for a more specialized reference text like this one, the narrow jurisdictional focus means that readers from outside the U.S. and U.K. will have to do their own comparative research to locate the equivalent domestic laws and standards.

This book offers a timely discussion on how the relevance and materiality of special collections were recently tested, given the added barriers to physical access imposed during the COVID-19 pandemic. In chapters 11 ("Using Special Collections in Education") and 6 ("Digitization and Digital Libraries in Special Collections"), Cullingford makes strong arguments for continuing the development of virtual spaces for teaching and learning to maintain access to, and the relevance of, special collections. In addition, Cullingford argues that organizational resilience is stronger with continued user interest and accessibility, which in turn is formed in part by the digitization of special collections. As in prior editions, Cullingford champions the linking of digital resources within special collections to institutional open-access research repositories, which often have similar preservation and access requirements. Finally, with organizations seemingly moving away from

physical access as a requirement for examining special collections, Cullingford presents special collections as an area of librarianship which actively embraces innovation, making it able to respond to evolving user needs, community engagement, climate and environmental changes, political and economic uncertainties, and technological advances.

The Special Collections Handbook will be a valuable reference for those in academic law libraries, as well as courthouse, legislature, and government libraries that develop, manage, and provide access to special collections of any size. Both new and experienced professionals will find its detailed guidance and knowledge crucial to working with special collections in the face of contemporary issues and evolving environments. Finally, this book is an insightful resource for library school students seeking a more fulsome introduction to special collections.

REVIEWED BY
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***Troubling Truth and Reconciliation in Canadian Education: Critical Perspectives.* Edited by Sandra D. Styres & Arlo Kempf. Edmonton, Amiskwaciwâskahican, Treaty 6, Métis Territory: University of Alberta Press, 2022. xxv, 302 p. Includes biographical references. ISBN 9781772126006 (softcover) \$46.99; ISBN 9781772126181 (ePUB) \$46.99; ISBN 9781772126198 (PDF) \$46.99. <uap.ualberta.ca>.**

When I look at a non-fiction book I've read and see that I've highlighted sentences on almost every page, I know it resonated with me. Such is the case with *Troubling Truth and Reconciliation in Canadian Education*, a collection of writings by Indigenous and non-Indigenous scholars and teachers gathered by editors Sandra D. Styres and Arlo Kempf.

Since the Truth and Reconciliation Commission of Canada's (TRC) final report was released in 2015, and especially since the 2021 findings of unmarked graves at former residential schools, the concept of reconciliation has been on the minds of many Canadians, me included. I am a non-Indigenous, settler Canadian. Many writings in this collection were a revelation for me and have challenged the way I think about reconciliation.

The cover image is striking. It is a work by Kevin Pee-Ace called *From Residential Schools to Reconciliation*. The original is a part of the University of Alberta Museums Art Collection. It is a sketch of the face of an Indigenous woman. On one side of her face are the bricks of residential schools, with a teardrop coming from her eye, a graveyard near the corner of her eye, and a cross on the building above her eyebrow. On the other side of her face, the land is cracked, and there are no leaves on the trees. To me, it represents all the things that have stripped Indigenous peoples of their freedom.

The contributors to this collection represent educational institutions across Canada. As the title suggests, the book

looks critically at reconciliation by reviewing how it is being addressed in elementary and secondary institutions across the country. They trouble the concept, bother it, and make it feel uncomfortable. Many are hopeful that reconciliation can be achieved and discuss the challenges they have experienced. One contributor in particular wonders if reconciliation within the education system is even possible.

It makes sense that the education system plays a critical role in the reconciliation process. As the Honourable Murray Sinclair, former chair of the TRC, stated, "education got us into this mess ... and education is the key to reconciliation" (p. 141). Ironically, as contributor Dawn Zinga points out, the TRC also viewed educational institutions "as among the institutions most responsible for causing and perpetuating the harm that needs to be reconciled as we move into respectful relations" (p. 40).

The editors hope the collection "will deepen and extend the current literature and thinking regarding colonization and decolonization in Canadian education" (p. xviii). I believe it does. Part I focuses on "theoretical approaches to reconciliation," and Part II addresses "the more practical issues of reconciliation in education" (p. xix). The foreword by Dr. Jan Hare explains what is to come. Following this, the editors and two additional authors provide a thorough overview of the book in their introductory chapter "A Troubling Place to Start: Reconciliation in Collapse." While I recommend reading the book from cover to cover, a reader could refer to this chapter to get an idea of what they might like to read. I was impressed with the extensive footnotes and bibliographies that follow each chapter, which make it easy to delve into further research. I also appreciated the contributor biographies found at the end of the book.

I am not an academic, and I have not been in the world of academia for quite some time. As a result, some chapters, especially in Part I, were tough slogging for me. Those who work in academia will have an easier time of it, although, frankly, 20-year-old me who was in teacher training many years ago would have had difficulty with some of the more academic chapters. The chapters in Part II, however, were more practical and easier to digest.

Ideally, every Canadian should read this book. Realistically, everyone involved in the education system, be it elementary school, high school, or post-secondary education, should read this book. I especially recommend it to those in positions of influence within the education system. While I think that students in teacher training programs across Canada would benefit from it, professors may wish to select which chapters would be best.

Troubling Truth and Reconciliation in Canadian Education is a book I would recommend adding to our law libraries. Reconciliation depends on everyone understanding the history of those who were here first and how the colonial system brought by settlers affected and continues to affect the lives of Indigenous peoples. Many of us did not learn about this when we were in school. We need to learn it now. This book can help build our knowledge of this important subject and allow us to do our part as we move toward reconciliation.

REVIEWED BY
ANN MARIE MELVIE

*Law Librarian
Court of Appeal for Saskatchewan*

***Voicing Identity: Cultural Appropriation and Indigenous Voices.* Edited by John Borrows & Kent McNeil. Toronto: University of Toronto Press, 2022. vi, 328 p. Includes index. ISBN 9781487544683 (paperback) \$36.95; ISBN 9781487544690 (ePub) \$36.95; ISBN 9781487544706 (PDF) \$36.95. <utorontopress.com>.**

Voicing Identity: Cultural Appropriation and Indigenous Voices is a thought-provoking examination of Indigenous knowledge and who can, or should, share these teachings. As one might expect, there is no easy answer, here or elsewhere. Instead, this collection provides a range of perspectives on how the reader might engage with the question.

This book came out of a 2019 workshop organized by professors Kent McNeil and John Borrows and financed by the Law Foundation of Saskatchewan. The essays that comprise the collection come from Indigenous and non-Indigenous scholars and range from deeply personal to highly academic.

Cultural appropriation is the underlying theme, and the way that each of the 17 authors tackles this question is unique. Keith Thor Carlson shares the story of a family tragedy: the death of his adopted Indigenous brother. Sa'ke'j Henderson recounts the work that he and others did in the United States to fight against the appropriation of Indian names, costumes, and symbols for university mascots and sports teams. Emma Feltes explores the challenges she faced as a non-Indigenous anthropologist engaging in research on the Constitution Express. Finally, Joshua Ben David Nichols examines the meaning and implications of "Aboriginal perspective," as used by Canadian courts. Each of the 15 chapters contributes to the discussion and helps build the reader's awareness.

My reaction to one lesson shared by Karen Drake and A. Christian Airhart is emblematic of my reaction to the book as

a whole. In their discussion of Anishinaabe constitutionalism, these authors share the story of "Nanaboozhoo and the Maple Trees," as recounted by Lana Ray and Paul Nicholas Cormier. Briefly, Nanaboozhoo comes to a village where people are lying under maple trees, letting the thick syrup drip into their mouths. None work the fields, fish, or collect berries. Nanaboozhoo, concerned by this, adds water to the tree, thinning down the syrup. Now, the people need to do more than just receive the syrup: they need to gather and process large amounts of sap to get even a little syrup.

A central theme of that story is the importance of the lived experience and personal engagement with knowledge: the process of learning is as important as the product. This message is important, but what I found more important is how the lessons gathered in this book made me think about this story and my relation to it. What right do I have to further share it, either in this book review or elsewhere? If I do share the message, how can I respectfully frame it? Am I entitled to interpret it, and if so, how much of my own cultural bias will colour my reading?

My biggest fear is that I will take this teaching and file it away in my mind (and later share it) in the same way that I would a parable, myth, or folktale that I learned as a child: detaching it from its meaning and cultural importance. As I write this book review, I am still not certain that including this short summary is appropriate.

My hope is that this book will cause readers to engage in the same inner dialogues and question their own relationships to Indigenous law, culture, and art.

REVIEWED BY
PETER AADOSON
*Counsel, Judicial Education
National Judicial Institute*



III Bibliographic Notes / Chronique bibliographique

By Kate McCandless

Charlie Brampton, “Pause for Thought: Designing Video Content that Doesn’t Overwhelm Learners” (2023) 22 *Legal Information Management* 196, online: *Cambridge University Press* <doi.org/10.1017/S1472669622000391>.

As the COVID-19 pandemic forced libraries to rapidly adapt to a digital mode, instructors had to perfect their virtual training for users. Some of this training will continue to be employed, as it can be beneficial for on-demand and remote learning opportunities.

Brampton offers effective tips for creating expert video content that doesn’t overwhelm students and allows for effective learning. She argues that “when creating teaching materials we need to understand how we are going to ask our library users to learn” (p. 196) and build the training around this. Brampton grounds her recommendations in the science behind how we learn and how our memory stores information. When we watch videos, we receive information visually and aurally, and that information is transmitted to the brain. We selectively choose what information can be discarded and, “[s]ometimes, significant information can be ignored or discarded ... particularly if the viewer is overwhelmed or distracted” (p. 197). Therefore, when it comes to video instruction, we must build the opportunity to select, organize, and integrate the information the users are receiving, and we must actively encourage this.

Here are some tips to improve your virtual or video-based instruction:

- Minimize distractions: remove superfluous images or text, as these can distract from the substantive

information being presented. Repetition of information can be redundant and boring for the learner (text on the screen and being spoken), and “students who had been exposed to the ‘lean’ text [version of a video] recalled more details than those who had seen more verbose content” (p. 198). Use text and images only as necessary and where it adds to their learning.

- Consider segmenting lessons into smaller portions. Segmentation leads to a significant increase in recalling key information, and thus less information is required to be processed by working memory at one time (p. 198). Segmentation can also make it easier for users to locate information they may have missed, and it helps keep video content unique and decreases the amount of repetition for learners.
- “[C]reate content that makes learners feel like they are in a conversation with the video creator” (p. 198). Keep your speaking notes personal; for example, replace “all trainees should” with “you should” (p. 199). Consider building in moments to pause for notes or reflections, pose discussion questions (even if the user cannot respond), and/or include short quizzes for users to self-evaluate their level of understanding.
- Ensure you are meeting the accessibility requirements of your organization and local laws, as “groups of users can be excluded, unless content is ‘produced and delivered with universal design in mind’” (p. 199). Keep the videos as adaptive as

possible and consider employing captions on all videos. This can help users who are hard of hearing or may be learning in distracting environments.

Jas Breslin, “Global Perspectives: Thoughts on the Ever-changing Landscape of International Legal Research” (2023) 22:4 Legal Information Management 205, online: Cambridge University Press <doi.org/10.1017/S1472669622000421>.

As legal information becomes digital around the globe, members of the British and Irish Association of Law Libraries (BIALL) have noticed an increased need to reference international legal information. At the 2022 BIALL Conference, there was a panel discussion that centered on the changes to this area of legal research.

There is an increased need for information in Caribbean countries for use in legal matters, for example. Notably, Barbados relies on Australian law for family matters and Canadian law for “corporate, commercial, and insurance law” (p. 205). There is also more need for Latin American and African case law due to the increased trade between these regions. Law librarians should be cognizant that there may be continued growth in global interjurisdictional research requests.

Sarah Kennedy, Knowledge Manager at the U.K. firm Mishcon de Reya, commented that the “demand for access to more information has subsequently put pressure on publishers to find ways to make content [from other jurisdictions] more accessible” (p. 206). Data shows that Australian and Canadian courts are increasingly looking to international law, while the U.S. is still grounded in domestic case law. The U.K. continues to be the most cited jurisdiction, as it is “producing what are known as ‘super authorities’” (p. 206). When you next encounter a roadblock, consider taking a peek at another country’s case law.

Kate Faulkner & Wendy Lynwood, “Law Librarians as Copyright Specialists: The Perfect Match?” (2022) 22 Legal Information Management 211, online: Cambridge University Press <doi.org/10.1017/S1472669622000445>.

No one can escape copyright law, not even instructors in an academic institution. Professors teaching their own works may even fall under copyright constraints. Law librarians can be a vital resource for engaging with works subject to copyright. Faulkner and Lynwood note that their institutions (the University of Cambridge and the London School of Economics, respectively) centre librarians in copyright problems or questions for several reasons:

- Law librarians are knowledgeable on the legislative process, including how to verify legal information for our patrons. Our understanding of “the interplay between legislation and case law ... helps us understand how the law evolves” (p. 212) and how it may impact a copyrighted work. We can also monitor changes to the law and how it may affect our patrons.
- Law librarians understand that few copyright cases reach the courts and instead are settled. We can help make reasonable choices regarding how much of a

work to use and engage with “our own, our colleagues and our institution’s appetite for risk when assisting enquirers wishing to make material available under an exception” (p. 212).

- We are aware that countries have their own unique laws. The U.S. principle of fair use is distinct from the U.K. principle of fair dealing, for example. Users may be unaware of these distinctions.
- Law librarians are familiar with legal terminology and databases and can quickly confirm definitions and conflicts of laws as required.
- We have experience liaising with different people inside and outside of our organizations. We know who to turn to, or where to find out who to turn to, when answering copyright questions.
- Finally, law librarians are experts in knowledge translation through our experiences with teaching different levels of learners. This is especially true at universities when training new students, PhDs, and faculty members, as “copyright messages need to be tailored so that they are relevant” to specific user groups (p. 214).

Faulkner and Lynwood close their article by emphasizing the value of community. We should engage with our colleagues and associations, such as CALL/ACBD, when we need advice or confirmation. “The culture of legal information professionals supporting each other, means that we appreciate the importance of, and are attuned to, the idea of the copyright community ... and are happy to utilise” these resources to our advantage (p. 214).

Katharine Hanson, “Slow is Smooth, Smooth is Fast: How Slowing Down Can Make Us Better Researchers” (2023) 42:1 Legal Reference Services Quarterly 51, online: Taylor & Francis <https://doi.org/10.1080/0270319X.2023.2161290>.

Hanson encourages librarians to slow down when taking on a new reference request. There are some scenarios where a quick response is warranted (i.e., “can you retrieve X article for me?”), but more complex questions require us to be intentional with our research process. Hanson argues that “[s]lowing down and taking time—to think, to consider, and to allow ideas to emerge—is often a necessary and integral part of the research process” (p. 51) and will yield a better result for the requestor.

Quoting from Daniel Kahneman’s 2011 book *Thinking Fast and Slow*, Hanson explains how we think and interact with information: “‘*System 1* operates automatically and quickly, with little or no effort and sense of voluntary control’,” while “‘*System 2* allocates attention to the effortful mental activities that demand it, including complex computations” (p. 52). Hanson asks us to interrupt *System 1* and deliberately engage with the research requests presented to us using “effortful thinking” of *System 2* (p. 53). Do not blindly trust your *System 1*; instead, if time allows, give yourself the opportunity to reflect and truly think on the problem. Studies have pointed to the benefits of taking a break, especially a

physically active break, from a given task to give your mind time to ruminate on the problem. These active breaks can lead to innovative or unique solutions to problems.

Hanson closes the article with a call to action:

[Librarians] are also humans, and like everyone else we can be (initially) overconfident in our intuition or what we think we know. We also like to be efficient and fast in our responses. But it is vital that we learn the skill of slowing down and engaging in effortful thought, which, somewhat ironically, can come to us with the most ease when we allow our minds the time and space to slow down and wander—we must do less, better. (p. 54)

Jake Hearn, “A Library is a Growing Organism’: Redefining Artificial Intelligence and the Role of the Information Professional in the Corporate Legal World” (2022) 22 *Legal Information Management* 81, online: *Cambridge University Press* <doi.org/10.1017/S1472669622000159>.

AI is one of the hottest topics today. Librarians and information professionals are primed to engage with these tools, but there is some confusion regarding how to accomplish this. We already have the skills required to evaluate new tools and technologies, but we may have to pivot and develop skills on training “algorithmic literacy” (p. 84). We must have some understanding of these tools before we can recommend engagement and instruct others on how to do so. We have a duty to instruct our users on this technology, as they will undoubtedly use it with or without our advice.

There are questions regarding how AI works and “what level of understanding those using it should have with regards to how it achieves the results produced” (p. 84). Importantly, there are “concerns regarding the opacity surrounding the explainability and understanding of how certain results are achieved, and, more importantly, if those results are correct” (p. 84). These questions will likely be answered as the technology matures and we are more comfortable incorporating it into our practices.

It is also important to recognize that the legal industry is already employing AI. We can see AI present in document analysis tools that streamline transactions (M&A, transfer of estates), contract intelligence tools (AI can spot areas of high/low risk, check wording, check compliance with data transfer laws, etc.), clinical negligence analysis (compares prior outcomes to the current claim), legal databases leveraging natural language processing in their search engines, and case outcome prediction (which is particularly popular in the U.S.) (p. 82). Continuing to educate ourselves on this technology will benefit our users when it comes time to train them on the resources and tools available to them.

Jingwei Zhang, “User-Engaged Virtual Reference Service: A Survey of Chat Reference in Academic Law Libraries” (2022) 41:3–4 *Legal Reference Services Quarterly* 102, online: *Taylor & Francis* <doi.org/10.1080/0270319X.2023.2161188>.

Chat reference services continue to be employed throughout the library world in public and academic institutions. Zhang surveyed all ABA-accredited law school library websites to evaluate the use of chatbots, what kind of reference is provided, and the platforms used. Zhang found that “most academic libraries have adopted a variety of virtual reference services, such as phone reference, email reference, online questionnaire, or online chat” (p. 103) and that patrons tend to prefer “chat reference to other forms of reference because of its efficiency and immediacy” (p. 104).

There is a benefit to staffing chat services with librarians only. When this is done, there is opportunity for virtual information literacy instruction and relationship building. There are also opportunities to engage in walkthroughs of locating information and instruction on library resources. As such, professional librarians are needed for this kind of reference request. However, due to the cost of employing an all-librarian team on chat reference services, we are seeing these tools operated by non-librarians. Zhang suggests that “it is better to be staffed with a combination of student workers, library staff, and librarians” (p. 106) and for libraries to take advantage of consortium staff-sharing where available (e.g., Springshare, LibChat).



III Conference Report

2023 CALL/ACBD Annual Conference

By Mi Yoon*

The Canadian Association of Law Libraries/l'association canadienne des bibliothèques de droit held its annual conference from May 28–31, 2023, in Hamilton, Ontario. The theme of the conference was “#IRL: Innovation, Research, and Leadership.”

ChatGPT Panel

On May 29, there was a panel session on ChatGPT and the legal field. The panelists were Colin Lachance, Mark Doble, and Brenda Lauritzen, with Shaunna Mireau moderating.

The speakers agreed that ChatGPT is good at summarizing things. It is a language model and thus understands language well. ChatGPT is also a good marketing tool, and one speaker advised that law librarians can use it to create promotional materials or send emails. Although AI is useful for objective tasks, another panelist stressed that we need to prevent AI from doing *subjective* tasks, such as advocacy, providing advice, negotiations, or summarizing case law.

AI can also make certain tasks more efficient; for example, it is used in e-discovery, and CoCounsel, Casetext's new AI legal assistant, makes writing memos more efficient. However, at present, ChatGPT is not designed for the legal field. While legal professionals can use it to gain a basic understanding of an idea or legal concept, they should still consult authoritative texts for research.

AI can also improve access to justice by forcing legal professionals to rethink the billable hours model. The current billing model for law firms is low volume, high profit; however, AI can change this into a high volume, low profit model. As lawyers' fees go down, more people will be able to afford them, therefore improving access to justice. Additionally, since ChatGPT and sites like CanLII are publicly available, costs can be lowered further. One speaker mentioned that while it will be a net benefit for lay people, it will be a bumpy road to get there.

On the negative side, the speakers predicted that ChatGPT could lead to more lawsuits, as it can help self-represented litigants write statements of claim. Currently, ChatGPT has some restrictions, so users cannot create claims; however, it is not foolproof, and users can work around these restrictions. The speakers also stressed that public legal education organizations need to do more to help the public understand AI's influence on legal research.

Further, in addition to the potential copyright issues it can create, ChatGPT can also provide information that is either incorrect or does not exist. One panelist pointed out that ChatGPT is like an overconfident speaker who does not know what they are talking about.

Finally, the panel emphasized that legal librarians need to be champions of digital literacy. As one of the participants

* Mi Yoon is a recent graduate from the University of Toronto's Master of Information program. She is interested in all areas of librarianship and is currently working at McMaster University.

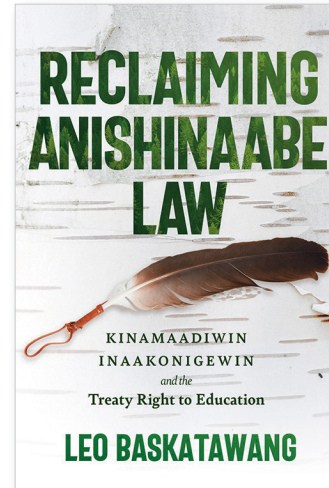
stated, as technology improves, information literacy goes down. Librarians need to teach legal professionals about the limitations of technology and stress the importance of verifying the facts and citations AI provides.

Lightning Talks

I also attended the Lightning Talks on May 30, during which seven presenters provided different insights into law librarianship:

- Mme. Michele LeBlanc explained jurisource.ca, a comprehensive, free website offering common law resources in French. It is the first of its kind in the world.
- Alexia Loumankis described a program at the University of Toronto's Faculty of Law where she hires student research assistants for professors for short-term projects. With this program, professors do not have to pay for a full-time RA if they do not need one, and students benefit from gaining valuable work experience.
- Dominique Garingan discussed using AI in advanced legal research. As generative AI can help summarize documents, it can be used to summarize cases, legal memos, and statements of analysis.
- Erica Smith and Bryony Livingston from the Ontario Legislative Assembly explained how their library developed a "gold standard" for writing reference answers. As a group, they agreed that, when composing a response, they clearly answer the client's question(s) and provide the necessary context about the information included in the response.
- Nicolas Lobraico discussed his work researching reference transactions during his practicum at the Davies Ward Phillips & Vineberg LLP library. He provided an overview of the project, some of the challenges he faced, and the insights he gained.
- Sandra Craig and Amy Tang, also from the Ontario Legislative Assembly, described how they indexed large-scale digitization projects, specifically the Ontario government press releases from 1962 to 2005 and the Estimates Briefing Books from 1967 to 2019.
- Zena Applebaum spoke of the seven leadership skills that librarians need to be effective leaders: critical thinking, synthesis, communication skills, executive presence, curiosity, creativity, and business acumen/savvy. She stated that successful law librarians need to develop these skills to keep librarianship valuable to legal professionals.

A manifesto for Indigenous education



“This book effectively weaves many sources to show how the revitalization of Anishinaabe law supports the resurgence of Anishinaabe education. It is nourishing food for thought.”

— John Borrows, Loveland Chair in Indigenous Law, University of Toronto Law School

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

By Erin Clupp

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

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

The last few months have been busy over at ABDM/MALL. Since September 2022, the association began to rethink how it offers its activities and, therefore, a mixture of in-person and online events has ensued. We started off the fall with a lunch meet and greet for all members of the association, which allowed many to finally put faces to the names we had been seeing in correspondence or on screens. The association was also represented by one of its executive members, Nadège Arsa, at a roundtable on the future of library associations during the Congrès des professionnel·le·s de l'information in November. We followed this up with a holiday supper in December, where all members were welcome. This lively event is always a highlight of the association's year.

The beginning of 2023 saw the association delve further into webinars. At the request of members, we were fortunate to have representatives from LexisNexis present the new Lexis+ platform for a Quebec-centred audience. Other points of interest within the association involve legal news and current awareness tools. In response, the association held a roundtable on the topic of legal information monitoring and alerts with various information professionals from the public and private sectors.

As summer is almost upon us, ABDM/MALL is looking forward to preparing activities for the upcoming year and continuing to represent the interest of law libraries in Montreal.

SUBMITTED BY
VANESSA QUIRING
Secrétaire/Secretary, ABDM/MALL

Courthouse Libraries B.C. (CLBC)

Hello from British Columbia!

As we cruise into the second half of 2023, CLBC is working harder than ever to support our public and legal clients with the information and assistance they need. We are working on a multitude of projects, large and small, to better engage with our clients and the broader community. Now 30 branches strong in locations across the province, we have lots on the go and are proud to report some highlights and updates.

In response to the TRC Calls to Action, we are working to decolonize our cataloging practices, including changes to subject headings in acknowledgement of the languages Indigenous groups use to self-identify. CLBC staff continually assess our print collection to acquire resources that relate to Indigenous law and the legacy and ongoing impact of colonialism on Indigenous legal issues in Canada.

We are very proud of [Clicklaw](#), our go-to online source for plain-language, reliable B.C. legal information for the public. We have just embarked on a grand re-envisioning of this resource and are very excited about making it even better than before. This will be a multi-year project that we hope to roll out in 2024.

[LawMatters](#) is a CLBC outreach program that supports public libraries with developing and maintaining legal collections and providing basic legal reference assistance. An important component of this program is the grants available to public libraries that help with selecting and purchasing legal materials. With funding from the Law Foundation of B.C., LawMatters offered grants to all 71 public library systems (with 249 service locations) in British Columbia this year.

Working with organizational partners and subject-matter experts, our Training and Outreach Program delivers ongoing free webinars for the legal community, most of which qualify for continuing professional development credit. Over 4,000 participants attended our training and outreach sessions in 2022.

After considerable assessment and review of the options, we retired our circa-1980 card readers for printing and copying services and replaced them with an honour system for self-serve printing and copying in all our locations.

And last, but not least, congratulations to CLBC librarian Fiona Chiu, who just became co-chair of the CALL/ACBD special interest group for Courthouse and Law Society Libraries!

**SUBMITTED BY
LISA WINKELAAR**

*Librarian, Kamloops Branch
Courthouse Libraries B.C.*

Ontario Courthouse Libraries Association (OCLA)

2023 has been a breath of fresh air for OCLA and its member libraries. There have been several innovative projects going on throughout the province, and I am excited to share a few here.

The Peel Law Association (PLA) has taken the leap into purchasing soundproof booths for their space. The booths have been a big hit with both members of the PLA as well as members of OCLA, some of whom are in the process of purchasing their own soundproof units after hearing about PLA's success.

The County of Carleton Law Association also had big success with their new endeavour: monthly drop-in sessions with the courthouse therapy dogs. This has proven to be a great way to make the space more welcoming and relaxing for their members during their time away from the courtroom.

On a more research-based level, the Hamilton Law Association (HLA) has introduced Library Research Tips & Tricks Roundtables to their list of opportunities for local area firms and practitioners. This online webinar is intended to be more of a discussion between the participants and the library

staff to identify and explain common research questions that can be easily accessed by the resources provided at the HLA.

The Durham Region Law Association (DRLA) has developed a new way of handling research requests. Their Research Services Request Form is a new and improved online form that members can fill out and submit to the library staff on-demand. Since being rebranded electronically, DRLA has seen an immediate increase in requests for research.

I wish I could speak about all the great things happening throughout the Ontario courthouse libraries—there are so many more to share! But I hope this highlight inspires law libraries across the country to start something new.

**SUBMITTED BY
NICOLE STRANDHOLM**
Secretary, OCLA Executive Committee

Toronto Association of Law Libraries (TALL)

The 2022/23 term has been very active for TALL! We were excited to get back to in-person events, starting with the TALL eXchange 2022: Pivot conference on September 29, 2022. Although we approached the event with an abundance of caution, it was encouraging to see information professionals from across Toronto gather in one space to catch up, learn, and, of course, indulge in some delicious goodies.

We didn't stop there! TALL also hosted virtual Lunch & Learns, which included a session on Quebec legislation by Jean-Sébastien Danis (Analyst, Legal Research, McCarthy Tétrault), and a library technician panel discussion with Helen Heerema (Library Technician, Thunder Bay Law Association), Kate Terech (Circulation Technician, Legislative Assembly of Ontario), and Eric Wang (Knowledge and Services Technician, Fasken). TALL members can look forward to one more session before we close out the term.

TALL and CALL/ACBD were finally able to re-form the Salary Survey Committee, which will develop this year's TALL–CALL/ACBD Salary Survey. The committee took on the new challenge of capturing the impact of COVID-19 in its survey. This was no small feat, but it was well worth the effort.

This year also marked the launch of TALL's new website, thanks to the tireless efforts of our IT Committee and administrative coordinator. Thanks to them, TALL now has a new, sleek place to call home on the interwebs!

This May, we opted for a combined Volunteer Appreciation Event and Spring Social to take advantage of some much-needed sunshine. Prizes were won, drinks were drunk, food was eaten, and there may or may not have been some raucous chatter and NHL-watching thrown into the mix!

To finish off the year, TALL is hosting a virtual AGM via Zoom on Thursday, June 29.

**SUBMITTED BY
DANIELLE CHIANG**
President, TALL

Vancouver Association of Law Libraries (VALL)

2023 continued to be a busy year for VALL! At the end of January, VALL members gathered on Zoom for our winter substantive law session “Heirs Property” with Kirsten Nelson, Senior Law Librarian and Executive Director of Diversity and Inclusion at the U.S. Department of Agriculture National Agricultural Library. It was a fascinating presentation on the topic of heirs’ property law: what it is, the historical context surrounding it, and how librarians can conduct research on it and help spread awareness.

In February, VALL’s president, Alex Everitt from Harris & Company LLP, hosted an in-person Networking Coffee Morning in the firm’s newly renovated office space. It was great to see so many familiar faces, meet new members, and have an excuse to eat a morning pastry or two!

VALL hosted another virtual substantive session over Zoom

in April. This time, we had communications consultant Cheryl Landes speak to us about usability concepts in indexing that can help us create elegant indexes in both print and electronic formats.

A good contingent of law librarians and legal professionals from British Columbia will be flying across the country and gathering in Hamilton for the 2023 CALL/ACBD conference in May. I know many of us are looking forward to connecting with our colleagues across Canada.

To close off our program year, VALL is hosting an in-person networking event at the Vancouver Art Gallery’s bistro in June. We will then break for the summer and resume programming in the fall.

SUBMITTED BY
ALEX EVERITT
President, VALL

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III News from Further Afield / Nouvelles de l'étranger

London Calling: Notes from the U.K.

By Jackie Fishleigh

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

Hi, folks! What a truly remarkable period it has been since I last wrote.

The Coronation of King Charles III

As the anointment of the former Prince of Wales draws ever closer, a BBC survey for the current affairs flagship *Panorama* has revealed that only [32 per cent of young Britons](#) (aged between 18–24) support the monarchy. This is a steep decline from the percentage in a similar 2013 poll conducted after the Queen's Diamond Jubilee.

Factors identified in this blow to the monarchy include perceptions that the royal family are out of touch, outdated, and even embarrassing. A caller to [Nicky Campbell's](#) live phone-in show on BBC Radio 5 spoke of them as a "privileged few," whose sources of wealth are often hidden and include profits from the slave trade.

Although Charles has helped [over a million young people](#) through his charitable foundation, the Prince's Trust; is a long-time champion of the environment, [having warned of the dangers of plastic back in 1970](#); and has frequently spoken of the need for a "slimmed down" monarchy, he appears nevertheless to have an image problem. These perceptions may be partly based on his portrayal in Netflix's fictional drama *The Crown*, the sniping observations of Harry and Meghan, and the shocking misdeeds of his brother Andrew.

The cost-of-living crisis has hit the young particularly hard,

as they struggle to move on economically, finding it more difficult than previous generations to afford to buy a house or start a family.

A caller on the phone-in show summed up the situation by saying: "Honestly, I am supportive, but my heart is waning for [the Royal family]."

Graham Smith, head of Republic U.K., stated that the £1.24 per person that the monarchy costs each British citizen [would be better spent on food banks](#), which are currently being used by record numbers of people.

Bullying in the Workplace

Our Deputy Prime Minister and Minister of Justice, Dominic Raab, has just [resigned](#).

Following an investigation, a report by leading employment barrister Adam Tolley, KC, has upheld two complaints from civil servants that he had behaved toward them in an overly aggressive and inappropriate manner. This has unleashed a fiery debate as to what exactly constitutes "bullying" in the upper echelons of today's government, and in the wider workplace.

It has also led to allegations from Raab and others that some civil servants had deliberately obstructed him in carrying out necessary changes, such as to the parole system, on behalf of the British people. Civil servants have traditionally been neutral and duty-bound to provide impartial support to ministers of whatever political flavour.

Gambling White Paper Finally Published

Although [High Stakes: Gambling Reform for the Digital](#)

[Age](#) is the most comprehensive review of the industry in 15 years and includes new stake limits for online slot games, a new Ombudsman, and player protection checks, a ban on advertising has been left out. This omission is significant, as [more than half of the British public would like a ban](#), according to a survey carried out for the charity [Gambling with Lives](#).

Push for Tougher Minimum Sentences in Domestic Homicides

Campaigners Julie Devey and Carole Gould have been calling for a change to the minimum sentence for domestic murders since 2020. At present, a killer outside the home will face at least a decade longer in prison than a domestic killer. According to [The Guardian](#), “Under the plans, the law will be changed so a history of abusive, coercive or controlling behaviour against the victim, or the use of excessive violence, known as ‘overkill,’ must be considered as aggravating factors in sentencing decisions for murder.”

Along with nine other bereaved families, Devey and Gould co-founded a group called [Killed Women](#) to force change after [both their daughters](#) were brutally murdered in the most heinous manner by their ex-partners. The group is also seeking stricter rules around buying firearms and better education on domestic abuse.

“We don’t want any more sympathy. We don’t want promises. We actually want change, we want action,” [said Gould](#) when the pressure group was founded.

Determined family members who have suddenly lost their loved ones in appalling circumstances often channel their grief into fighting for measurable improvements to the law. I salute them.

The Race Is On!

On a lighter note, the third series of the BBC’s [Race Across the World](#) is currently being aired. The concept is for teams of two to compete against each other to arrive first in a sequence of destinations, using any means of transportation other than air travel. Contestants have fixed budgets but can earn more money by taking on low-skilled jobs. They cannot use mobile phones nor credit cards.

Well, guess what: this year they have been speeding across Canada! From Vancouver to St. John’s, we are viewing the awesome, diverse, and wild beauty of your enormous, welcoming, and splendid country.

Until next time, with very best wishes,

Jackie

Letter from Australia

By Margaret Hutchison

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

This is an early and abbreviated letter from Australia, as I’ll be cruising somewhere off Alaska when it is officially due.

It’s autumn now, and the trees are only starting to turn red and yellow. Canberra has many European and northern American trees such as oaks, maples, and ashes lining the streets in the older areas. When the trees interlock across the streets and go red, it’s a lovely sight.

Indigenous Voice to Parliament

The main thing going on at present is the [Indigenous Voice to Parliament referendum](#) manoeuvrings. The actual bill to amend the Constitution, the [Constitution Alteration \(Aboriginal and Torres Strait Islander Voice\) 2023](#), was introduced into the House of Representatives on 30 March 2023 and was referred to a Joint House and Senate Select Committee to inquire into and report on the provisions of the bill by 15 May 2023.

The [text of the referendum question](#) is:

A Proposed Law: to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice.

Do you approve this proposed alteration?

The text of the question will be taken from the long title of the bill amending the Constitution when it is finally passed by the Parliament, probably in June.

The actual referendum will be held on a Saturday from [October to December](#). I saw 14 October mentioned in a newspaper, as that doesn’t clash with school holidays or the grand finals of the various football codes—to interrupt those events has been proven over the years to be electoral suicide. Other times to avoid are leading up to Christmas and January summer holidays, Mother’s Day, and any long weekend.

The political parties are starting to outline their positions. The Labor government is leading the Yes campaign, while the Liberal opposition has come out [in favour of the No vote](#). The Liberals would push for legislated local and regional bodies but will support the referendum itself being held for a symbolic recognition. They argue that the government’s version will be a “Canberra voice,” and it would not deliver the outcomes on the ground that their local and regional voices would. Shadow opposition ministers are tied to this position, while backbenchers are not. This has led to the departure of two shadow Cabinet ministers to the back bench already. One, the former shadow Attorney-General, has already said he resigned on principle, as he has supported a Voice for many years. This decision also led to the [resignation of Ken Wyatt](#), the former Minister for Indigenous Affairs and a Noongar man, from the Liberal Party itself. The Noongar peoples’ land is in the south-western corner of Western Australia.

There is also opposition to the Voice referendum in the [First Nations community](#). Some leaders in the community oppose the Voice as being insufficient and that negotiations on a Treaty between First Nations peoples and the Australian government should take priority and should move faster. Others agree with the Liberal Party that local and regional bodies would achieve more.

Other groups oppose the Voice on the grounds that it will set one group of Australians apart, and some ask why there shouldn't be a Voice for other social and ethnic groups, such as LGBTQIA+ or the Asian community.

Makarrata Commission

The original [Uluru Statement from the Heart](#) calls for a Voice, and then a Makarrata Commission “to supervise a process of agreement-making between governments and First Nations and truth-telling about our history.” [Makarrata](#) is a word from the language of the Yolngu people in Arnhem Land. The Yolngu concept of Makarrata captures the idea of two parties coming together after a struggle, healing the divisions of the past. It means to come together after a struggle or dispute, to make peace, and is about acknowledging that something has been done wrong and seeking to make things right. “Makarrata” has often been used instead of the word “treaty.”

A Makarrata Commission would likely be tasked with seeking Makarrata agreements between Indigenous peoples and the federal government. Another function would be to supervise a process of “truth-telling,” which would allow the full extent of the past injustices experienced by Aboriginal and Torres Strait Islander peoples to be uncovered and revealed.

This will take some time. The referendum has not gone through yet. I can foresee much bitterness ahead.

Enlighten Festival and Balloon Spectacular



To end on a lighter note, these photos are of the National Library at the [Enlighten Festival](#) and the [Balloon Spectacular](#) in March this year.

Until next time,

Margaret Hutchison

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

By Sarah Reis

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

We made it through another academic year! This summer, I will be attending the American Library Association's annual conference, which is taking place in Chicago. I always find it refreshing to hear perspectives from outside of the law library community when it comes to librarianship and teaching, so I am looking forward to attending sessions featuring public librarians, school librarians, and other academic librarians, and spending some time in the fun exhibit hall.

At my law library, we will also be busy onboarding two new reference librarians who will be joining our team in June. I am glad the timing worked out so they can familiarize themselves with our library and the law school for a few months prior to the start of the next academic year.

Law Schools

After several weeks of delay, U.S. News & World Report released the [2023–24 top law schools rankings](#) on May 11. This year, the top 3 consist of Stanford, Yale, and the University of Chicago, while the T14 remained largely the same schools as in previous years but with some shifting around in the precise rankings for each school. This past year, most elite law schools opted to [boycott](#) the rankings and declined to provide internal data, so the publication relied heavily on ABA data instead. However, when the preview of the rankings was released on April 11, various schools expressed concerns about faulty data and requested further review, which contributed to the delay.

In May, the council of the ABA's Section of Legal Education and Admission to the Bar [paused](#) its plan to eliminate the LSAT requirement. Several law school deans [submitted](#) a letter in mid-April urging a revision to Standard 503 stating that law schools could admit no more than 25 percent of an entering class without an entrance exam rather than cutting the admissions test requirement completely. The pause means that the proposal to eliminate the entrance exam requirement will not go into effect in August. Instead, the council will take additional time to evaluate concerns expressed by law school deans and other stakeholders.

Bar Exam

The [pass rates](#) in most states for the February 2023 bar exam dropped compared to last year. For example, in [New York](#), 40 percent of candidates for the February 2023 bar exam passed, whereas 45 percent passed the February

2022 examination. Meanwhile, in [California](#), 32.5 percent of applicants passed the California General Bar Exam in February 2023, which was a decrease from the 33.9 percent pass rate in February 2022.

The National Conference of Bar Examiners (NCBE) [announced](#) that the MBE mean score was 131.1, a drop of 1.5 points compared to the February 2022 mean. The NCBE noted a decrease in performance across all examinees (including both repeat and first-time test takers) and stated, “Research in K-12 and undergraduate settings clearly shows that the global COVID-19 pandemic had a negative effect on learning, and surveys of law students similarly suggest that those students who began law school in 2019–2020 would have been significantly impacted by pandemic-related educational disruptions.”

Legal Employment

The ABA released its [2023 Employment Outcomes Table](#), which contains employment data for 2022 law school graduates and offers a side-by-side comparison with the data for 2021 law school graduates. According to the [ABA's press release](#), for the class of 2022, 84.6 percent were employed in full-time, long-term jobs where bar passage is required or where a JD gives an advantage ten months following graduation, which is an improvement from 83 percent at a similar time last year for the class of 2021.

Colorado has become the fifth state—joining Arizona, Minnesota, Oregon, and Utah—to permit licensed non-attorney paraprofessionals to perform limited legal work. The purpose of this [new rule](#), which was approved by the Colorado Supreme Court, is “to make legal representation more widely available and more affordable to people in certain domestic-relations matters.” According to the Colorado Judicial Branch’s [press release](#), these licensed legal paraprofessionals will be permitted to complete and file standard pleadings, represent clients in mediation, accompany clients to court, and answer factual questions posed by the court, but they will not be allowed to present oral arguments or examine witnesses in hearings.

Two federal appeals judges, James Ho of the 5th U.S. Circuit Court of Appeals and Elizabeth Branch of the 11th U.S. Circuit Court of Appeals, announced that they are [boycotting hiring clerks](#) from Yale Law School and Stanford Law School due to protests during events with conservative speakers at both institutions.

SCOTUS

We are approaching the end of the Supreme Court’s term, but very few opinions have been issued so far. The final arguments of the term occurred on April 26, but [as of May 1](#), the Court had issued decisions in only 15 cases, which means that 75 percent of the cases were still undecided, including most of the high profile cases. This is an especially slow rate of releasing opinions, as no other term in the past century has released fewer decisions by the same point in time.

Justice Thomas, and his complete disregard of ethics, has been in the [spotlight](#) because he did not report and disclose

two decades worth of luxury gifts and vacations from a close billionaire friend who is a GOP donor. In addition to these lavish gifts and vacations, that same GOP donor paid for two years of private school tuition for a child that Thomas raised and purchased a house that Thomas’s mother had been allowed to stay in without paying rent. Sadly, we lack any accountability measures for Supreme Court justices, even when faced with blatant corruption like this, so he probably will remain on the bench for the rest of his life with no consequences whatsoever. Justice Thomas clearly views himself as “above the law,” but the GOP will happily support his corruption because he consistently rules in a partisan manner for them.

Some of the key cases for which opinions will be issued over the next few weeks include the status of [student loan forgiveness](#) (which the Supreme Court seemed [inclined to rule against during oral arguments](#)), whether [affirmative action](#) in higher education will come to an end, and the [scope](#) of religious accommodations in the workplace.

It would be nice to time travel back to 2015 when we celebrated the Supreme Court declaring that same-sex couples had the right to marry in a late June opinion to close out that term instead of how we now experience dread each June about the awful rulings the Court will issue that day.

U.S. Legal Research

A few AALL chapters have released free publications on how to find the law in a particular state or area. The Greater Philadelphia Law Library Association recently launched [Pennsylvania Legal Research 101: About the Law and How to Find It](#), which provides an overview of the U.S. legal system and offers guidance on how to find the law at both the federal and state levels. State-specific research guides are particularly valuable when it comes to finding state case dockets and filings, as states vary widely in how much online access is available.

ALA and Libraries

The American Library Association released its [2023 State of America's Libraries Report](#). The report includes a list of the Top 13 Most Challenged Books of 2022 along with data on attempted book bans, noting, “In 2022, the American Library Association tracked the highest number of attempted book bans since ALA began compiling data about censorship in libraries more than 20 years ago; 2,571 unique titles were challenged last year, up from 1,858 in 2021.” The report also stated, “In 2022, legislators and elected officials in 12 states initiated legislation to amend state criminal obscenity statutes in order to permit criminal prosecution of librarians and educators for distributing materials falsely claimed to be illegal and inappropriate for minors.”

The [Prison Libraries Act \(H.R. 2825\)](#) was introduced on April 25 with the purpose of establishing a program to make grants for establishing prison libraries. ALA issued a [press release](#) declaring the organization’s support of this bill. ALA president Lessa Kanani’opua Pelayo-Lozada said, “By providing the freedom to learn and explore life beyond the confines of prison walls, the Prison Libraries Act gets to the

heart of libraries' mission: equitable access to information for everyone."

The Vermont State Colleges System is in the process of launching a newly merged Vermont State University in fall 2023 and announced earlier this year that Vermont State University will have a digital-only library. Due to significant backlash to this idea, they [revised the plan](#) a bit, though they still intend to launch a new digital academic library and eliminate full-time library positions related to circulation, acquisitions, cataloging, and interlibrary loan.

Missouri House Republicans [voted](#) to cut funding for all of the state's public libraries in its \$45.6 billion budget in April. This move to defund state public libraries was a gross retaliatory measure made by Rep. Cody Smith (Missouri House budget committee leader and a Republican, of course) in response to the [lawsuit](#) filed against the state by the ACLU of Missouri to declare [Senate Bill 775](#) unconstitutional. SB 775 criminalizes distribution of "explicit sexual material" to students but has resulted in removing numerous books—primarily books written by or featuring LGBTQ+ and non-white authors or characters—in Missouri school libraries and classrooms.

To counteract that depressing news, on a happier note, the Chicago Public Library (my public library system) was [awarded](#) a \$2 million grant by the Mellon Foundation to support the Renaissance Project, which facilitates access to Black history-related archives at library branches within the CPL system.

State Book Ban Legislation

Librarians who work at school and public libraries in many states have been facing scary attempts to censor books that address topics such as race, gender identity, and sexuality. Some of these bills and laws even go as far as holding librarians criminally responsible if they circulate materials to students that certain parents or community members find objectionable. Missouri's SB 775, mentioned above, is one such law, but they are unfortunately not alone.

Indiana enacted a book-banning law ([HB 1447](#)) that allows parents or community members to request certain books to be banned from school libraries if they deem those books to be "offensive" and "harmful to minors." As part of this law, librarians who circulate these books can be charged with a felony and sentenced to jail time.

Meanwhile, the Iowa House passed a bill ([SF 496](#)) that requires school districts to remove books containing "graphic descriptions or visual depictions of a sex act" and requires school districts to post a list of all books available in each school library on its website and provide parents with a process to request removal of material. This same bill also imposes a ban on discussing LGBTQ+ topics in schools.

Republican lawmakers in Texas ([HB 900](#)) and Tennessee ([SB 1059](#)) apparently don't want to be left out of this terrible book-banning party. Both states have passed similar laws. The disdain that Republican legislators hold toward libraries could not be clearer.

Fortunately, Illinois, the state where I live, [passed a law](#) that requires libraries to adopt an anti-book-banning policy to receive state funding. As part of the law, libraries must adopt the [ALA's Library Bill of Rights](#). While I wish it were possible to pass a law prohibiting individuals and groups from harassing and threatening libraries and schools into removing certain titles from their shelves, it is at least reassuring that my state is taking the opposite stance of states that have passed laws that have the effect of encouraging book bans.

Copyright

The court case that I have personally been watching most closely is [Hachette Book Group, Inc v Internet Archive](#), which involves controlled digital lending, because I am a strong supporter of the Internet Archive. The Wayback Machine is my all-time favorite research tool because it's pure magic. Major publishers generally set unrealistic prices for eBooks of their titles for libraries with overly restrictive licensing terms. Unfortunately, in late March, the U.S. District Court of the Southern District of New York issued an [opinion](#) and granted the publishers' motion for summary judgment. The Internet Archive plans to appeal the ruling, but I am very concerned about how the damages awarded in this lawsuit will affect the future of the Wayback Machine and access to other materials that have been preserved by the Internet Archive.

It seems like all anyone can talk about this year is AI and ChatGPT, which of course results in many novel copyright issues, especially with AI artwork starting to appear on book covers and people selling books containing text generated by AI. In mid-March, the U.S. Copyright Office issued [copyright registration guidance](#) about works containing material generated by artificial intelligence. This guidance states, "If a work's traditional elements of authorship were produced by a machine, the work lacks human authorship and the Office will not register it," but "work containing AI-generated material along with sufficient human authorship might be eligible for copyright protection." As a result, the guidance does not prohibit technological tools from being used as part of the creative process, but the human authorship requirement still must be met. The determination of whether a work that includes AI-generated material receives copyright protection depends on whether the "human had creative control over the work's expression and 'actually formed' the traditional elements of authorship." (Side note: no ChatGPT was used in the writing of this column!)

By the time I write my next column, I'll be starting the 2023/24 academic year. Every summer, I hope I can catch up on projects that have been placed on the backburner and get ahead for the following year, but September always arrives before I know it. I'll have to report back on whether I was able to knock out all (or even any) of those ambitious projects that I saved up for this summer.

Until next time!

Sarah

Call for Submissions

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

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

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

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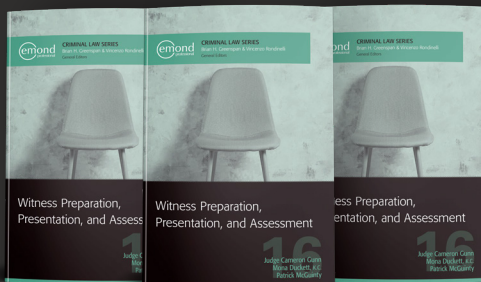
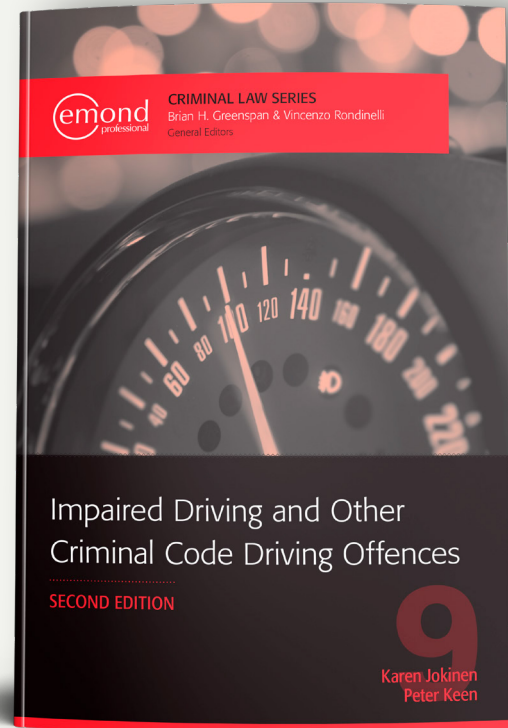
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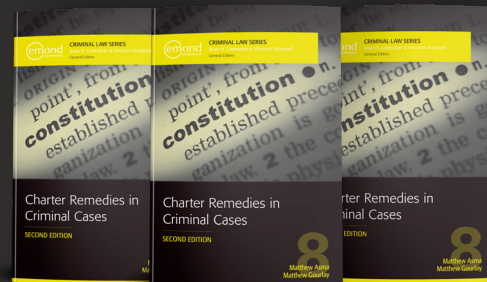
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