



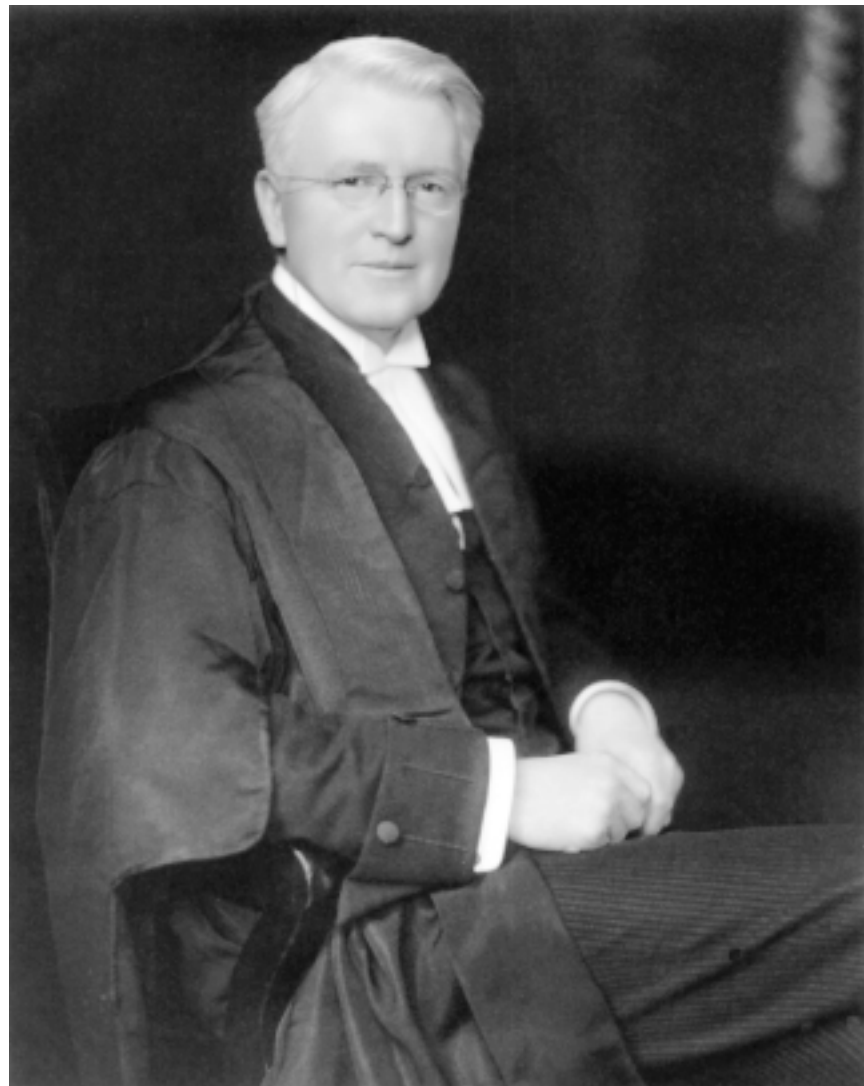
newsletter



A publication of the Canadian Bar Association, Alberta Branch and the Law Society of Alberta

A Century of Which to be Proud!

This has been a difficult newsletter to get out. Lindell Larson is ill and has been hospitalized. She is our "Page-Maker", advertising sales person, gentle cajoler of writers and otherwise responsible for all things related to this newsletter. We wish her a speedy recovery!



**Horace Harvey – Chief Justice of Alberta
(1910 - 1921, 1924 – 1949)**

*“He died in harness, in 1949, at the age of 86”
Justice J.W. McClung*

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JUDICIAL APPOINTMENTS

Court of Appeal

The Honourable Mr. Justice H.L. Irving of the Court of Appeal in Edmonton retired as a supernumerary judge, effective December 28, 1999.

Court of Queen's Bench

The Honourable Mr. Justice D.H. Medhurst of Calgary Court of Queen's Bench retired as a supernumerary judge, effective December 17, 1999.

The Honourable Madam Justice A.B. Moen was appointed to the Edmonton Court of Queen's Bench, effective January 1, 2000.

The Honourable Mr. Justice T.D. Clackson was appointed to the Edmonton Court of Queen's Bench, effective January 1, 2000.

Provincial Court

The Honourable Madam Judge D. Hansen was elevated to the Federal Court of Canada and vacates her Provincial Court appointment, effective December 8, 1999.

The Honourable Judge D.G. Rae was appointed to the Edmonton Rural Division effective January 4, 2000.

The Honourable Madam Judge P.E. Kvill was appointed to Edmonton Family & Youth Court, effective January 12, 2000.

The Honourable Judge K. Rostad was transferred to Wetaskiwin Provincial Court, effective January 15, 2000.

The Honourable Judge D.G. Ingram was appointed to Edmonton Civil Claims, effective January 17, 2000.

The Honourable Judge Allan H. Lefever was appointed to Edmonton Criminal, effective January 24, 2000.

QUEEN'S COUNSEL APPOINTMENTS

The following lawyers were appointed Queen's Counsel for the Province of Alberta December 31, 1999:

Ardrossan: John C. Campbell.

Camrose: Verlyn D. Olson.

Calgary: William J. Armstrong, Albrecht W. Bellstedt, Judy N. Boyes, Michael J. Bruni, Harry S. Campbell, Richard L. Dawson, Sean G. Dunnigan, President of the CBA

- Alberta Branch, Richard J. Gilborn, Douglas A. Graham, Dale F. Guenther, Judith B. Hanebury, Michael F. Hayduk, Gordon J. Hoffman, Alan S. Hollingworth, Brand R. Inlow, Peter S. Jull, Ross Alan Kaplan, Donald J. Kelly, Dora Yun-King Lam, Elaine L. Lenz, Lana G. Lien, Stephen H. Lockwood, William L. MacDonald, John R. MacInnes, Alan G. Maitland, Douglas A. McGillivray, Allan L. McLarty, Bruce A. Millar, John M. Moreau, Henry V. O'Connor, Brian K. O'Ferrall, Frederick B. Perry, Daniel D. Peterson, **Graham E. Price - CBA - Alberta Branch Newsletter Editor**, Orville A. Pyrcz, Jerome P. Selinger, Terence C. Semenuk, Stephen P. Sibold, Lawrence E. Smith, William Smith, Donald H. Watkins, Gregory L. Wells, and Brian A. Yaworski.

Edmonton: Robert S. Abells, Donald J. Andrews, **Lucille R. Birkett - Vice-President of the CBA - Alberta Branch**, Paul C. Bourque, Robert Curtis, Richard B. Drewry, Mona T. Duckett, Robert C. Dunseith, Ricky W. Ewasiuk, Morris D. Gates, Douglas W. Goss, John Grotski, F. Richard Haldane, Bruce D. Hirsche, Andrew

J. Hladyshevsky, David W. Hrycun, Harry J. Irwin, David J. Karvellas, F. Patrick Kirby, Methodius T. Koziak, Donald J. Kramer, **Kirk N. Lambrecht - Past President of the CBA - Alberta Branch**, Donald J. Manderscheid, Hugh J. McPhail, James W. Murphy, James R. Nesbitt, Robert A. Philp, Raymond C. Purdy, Christine G. Rapp, Simon M. Renouf, Gerald Robertson, David J. Rode, Barton D. Rosborough, Gordon W. Sharek, Daniel C. Stachnik, Nolan D. Steed, William A. Tilleman, Juliana E. Topolniski, Kimberley D. Wakefield, James K. Wheatley, Arthur A. Wilson, Franklin J. Work.

Fort McMurray: Terrence A. Cooper, Ray B. Hansen.

Innisfail: Montgomery Wild.

Lacombe: James L. Dixon.

Lethbridge: Robin N. Dann, Kendall H. Lewis, Derek G. Redman.

Medicine Hat: Ronald B. Baba.

Peace River: Dave R. Shynkar.

Ponoka: William J. Kidd.

Red Deer: Gordon E. Deck.

Sherwood Park: George R. Wright.

Stony Plain: Charles D. Gardner.

Wetaskiwin: Barry J. Hill.

Ottawa: Eugene Meehan, CBA National President



Sean Dunnigan, Q.C.
President
Canadian Bar Association
Alberta Branch



Alan Macleod, Q.C.
President
Law Society of Alberta

Last time I had a different smiling face to my immediate right. Let me congratulate Terry Clackson on his appointment to the Court of Queen's Bench of Alberta. Astute, capable, and a genuinely likeable character, Justice Clackson will be a tremendous addition to the strong Court of Queen's Bench we enjoy in this province. I also extend my warm congratulations to Alan Macleod, Q.C. Alan's leadership qualities, sense of humour and personal warmth will make working with the Law Society for the balance of my term a very enjoyable experience indeed.

Mid-Winter 2000 a Huge Success

If you were among the many registrants who joined us for the fine Mid-Winter program staged by co-chairs Kate Wood and Richard O'Gorman at the Westin Hotel in Calgary at the end of January, then you know what a tremendous response we received to the program. From the excellent CLE panels to the gala tribute to Chief Justice Moore on Friday night, the program was exciting, informative, and huge fun for all who attended. Let me say thank you to the Mid-Winter Committee and the staff of our Calgary and Edmonton offices for their tireless efforts in putting on a spectacular program for our members. See you January 25 and 26, 2001 in Edmonton!

Losing Court Reporters

The Department of Justice recently announced it will terminate most court reporters in Calgary and Edmonton in favour of an automated digital recording system. The Department advises it plans to keep only a handful of reporters for "very complex cases". I have received numerous telephone calls and letters from our members, other lawyers in Alberta, court reporters and even the judiciary expressing deep concern about the extent and timing of the proposed changes. I have written to the Justice Minister communicating the concerns about the drastic nature of the cuts and have asked the proposal be reconsidered in light of the following:

1. Court reporters are able to monitor courtroom proceedings and caution witnesses if they are either inaudible or unintelligible.
2. Court reporters can distinguish between voices, prevent people from speaking over one another, deal with heavy accents, and, if problems arise, can stop the proceedings to ensure the transcript will be accurate.
3. Court reporters are accountable for the accuracy of the transcript and are able to produce them daily or on very short notice.

Our members believe real-time recording, which provides instantaneous computer-accessible testimony, is the future of court reporting. Digital technology is a key element to real-time reporting but must be supported by capable and accountable personnel. I have offered the Minister of Justice the CBA's assistance in developing a modernized recording and transcription system to ensure all citizens have access to an efficient single-tier system of justice in Alberta.

I will report on the Minister's response in my next column. Feel free to call me at (403) 260-8515 or e-mail me at sdunnigan@fielddaw.com.

My term as President of the Law Society of Alberta began early when President Clackson was appointed to the Alberta Court of Queen's Bench just before Christmas. He was an excellent President and we thank him for his sterling service to the Law Society. Terry will make a terrific judge and we wish him well.

As a result of the recent bench elections, we have a number of new benchers from the Edmonton area. Mona Duckett, Jean McBean and Juliana Topolniski are joining us for the first time as is Charlie Gardner of Stony Plain. We are also delighted Norm Picard will be bringing his irrepressible personality and experience back to the table. This is an outstanding group and we look forward to working with them.

As we enter the third millennium, we find ourselves caught up in an ever-quicken pace of change. The electronic age of information retrieval and communication contributes to the globalization of trade in legal services. This provides a number of challenges to provincial law societies including ours. Moreover, it is not just geographical boundaries but professional ones which are disappearing. Not only will we get increasing competition from outside Alberta, but also from legal service providers who may not be controlled by lawyers. The challenge for us is to ensure we continue effectively to govern in the public interest those delivering legal services in Alberta and the legal profession continues to be independent and self-governing.

Locally, we have reported to you elsewhere about our continuing negotiations with Alberta Justice with respect to legal aid, as well as the recent developments with respect to limited liability partnership in Alberta and changes to our contingency fee rules.

We have also undertaken a civility initiative. Our practice advisors observe there is an increase in aggressive and uncivil behaviour in our dealings with each other. We are not sure why this is so, but we are convinced this is counterproductive to our ability to practise law and effectively serve our clients. The benchers have formed a committee to look into ways in which we might promote civility in the profession.

I continue to be impressed by the enthusiasm and willingness on the part of your benchers to devote a great deal of time towards Law Society business. I also continue to be impressed by the quality of people who allow their names to stand at bench elections. Last fall's slate of bench candidates was among the strongest I have ever seen. As long as we continue to have that level of interest among our members, the future of this Law Society looks bright indeed.

Vignettes from the Legal Archives Society of Alberta

Norman M. Plummer Fonds 1928 - 1944

Administrative History/Biographical Sketch

Norman Montague Plummer, a Calgary lawyer, novelist, and ordained minister, was born on September 5, 1882 in Swingdon, England. He emigrated to Canada in 1907 and spent some time in Edmonton and in Grouard. A few years later he moved to Calgary where he was employed in the land titles office. During WWI, Plummer spent a brief time in active service, and was registered with the Law Society of Alberta as a student-at-law under articles to Louis M. Roberts in Calgary in November 1918. These articles were later taken over by Herbert F. Stow and Charles F. Adams, both Calgary lawyers. Plummer was admitted to the bar on May 2, 1922. He practiced law with Charles F. Adams until that firm was dissolved in 1923. In 1924, Plummer abandoned his law practice to be ordained as a minister of the Anglican church, and worked in the church for a period of time before resuming his lay practice in November 1926. He seems to have carried on his law practice from that time until his retirement in 1943, handing over his practice to Stuart J. Shaw, previously of Short, Ross, Shaw and Mayood. Shaw himself retired only a few months later, in March 1944, and handed over the practice to Hugh C. Farthing. Plummer spent his brief retirement at home in ill health and died on April 28, 1944. The surviving records of Plummer's practice reveal a small low-key operation of a sole legal practitioner who employed one stenographer. His 1941 tax return indicates a rather meager income from professional fees. Plummer's non-legal activities reveal primary personal interests outside the legal field, including religion, politics and writing. He published two novels, and was an unsuccessful candidate for the city council in 1939.

Custodial History

These records appear to have been removed from the office filing system for storage or disposal while in the custody of Hugh C. Farthing, who would have acquired them through Stuart Shaw when he took over the practice Shaw had acquired from Plummer. Most files are noted "dead" on the top document. They appear to have been discarded shortly after Farthing took over the practice in 1944, since they reflect no activity while under his care. Farthing's office must have abandoned the records in the Hollingsworth building, where his office was, and where they were found in 1981. Glenbow-Alberta Institute acquired the records, created file lists, refolded and microfilmed them, and added them to the Glenbow Archives collection. They were transferred from Glenbow Archives in LASA in 1992.

Scope and Content

Series consists of files maintained in a single sequential numbered system in the law office of Norman M. Plummer, including clients files, personal files regarding insurance, investments, professional interests and taxes, and employee files. The client files reflect an assortment of general legal matters, including divorce and custody issues, estates, land transfers, civil suits and the rare criminal matter. A major part of the files relate to collections activities which Plummer undertook on a 25% commission basis. These files reflect the difficulties of debtors and creditors during the depression and WWII years, and illustrate legal mechanisms established under the Debt Adjustment Act. Many of the collections were undertaken on behalf of grocers and other small retail merchants in Calgary and in various surrounding small towns. Plummer also handled collections on behalf of the Retail Merchants' Association and many on behalf of Calgary Associate Clinic, a group of medical practitioners. Included in this series is a group of files relating to prosecutions under the Wartime Prices and Trade regulations which Plummer carried out on behalf of the minister of justice during 1942 and 1943. These relate to retail commodity prices and residential rental rates. The files includes Wartime Prices and Trade Board files passed on to Plummer for information in carrying out the prosecutions.

The records illustrate life in Calgary and the various small Alberta Towns during the depression of the 1930's and during WWII, and provide a view of the process of debt collection and of a small, struggling, one-man law practice.

The records were appraised at LASA in 1998. A substantial portion of the records of the Plummer fonds, about 1.5 m, were not selected for permanent preservation due to their repetitive and inconsequential nature. Most of the records disposed of were collections files, which consisted mainly of correspondence to and from requesting payment or refusing payment and had negligible informational value. Samples of this type of file were kept, illustrating Plummer's dealings with various types of merchants and individuals. Also selected for disposal were an assortment of files reflecting other areas of Plummer's practice. The remaining files are representative of the different types of work Plummer did. Files were chosen on a subjective basis, where they included documents illustrative of Alberta life or were interesting in some other aspect, revealing something about Plummer's practice, or the legal process involved in collecting debts in the 1930s and 1940s.

Banff Grocery

This file relates to collections activities on behalf of client grocer against Frank Vaughan. Includes a handwritten rhyming poem written by debtor to Plummer explaining why the bills could not be paid - perhaps an attempt to appeal to the literary sympathies of Plummer who had published poetry in Calgary newspapers.

Dear Sir:

I really am ashamed to send
This paltry sum to you, my friend;
Just one lonesome, measley dollar
To such a gentleman and scholar!
And no doubt your client, too,
Won't know what to make of you.
If you do not fill his purse
With my coins, and not my verse!
But if I could explain to you
The various trials that we've been through.
Perhaps you'd not be so disgusted
With my alibi that we are "busted"!
But hubby's in the airforce now;
(At last we'll meet our bills somehow!)
So please be patient just awhile
(Now do I see a bitter smile!)
Bear with me a wee bit longer
'Til our bank account is stronger;
'Til we dine no more on rice,
But sink our teeth in "Steak au Nice!"
When I really may (nonchalantly)
Put two lumps in my cup of tea!
Oh! Happy day! Oh! Blissful hour
When ice cream on the pie doth tower
When I slap the butter thick on bread
And bring no wrath upon my head.
When I have to see no more
Collectors camping at my door!
Nor whisper in my sleep at night
"Sir the line forms at the right!"
When the cheques keep rolling in,
And there's naught to fear;
When on my accounts I get the "all-clear!"
Then down to your office I'll speedily go
And joyfully pay the bill that we owe!
I'll bake you a steak and "Kidney(!)" pie
For your long-suffering with such as !!

Yours truly,
Mrs. Frank Vaughan

Mrs. Frank Vaughan,
723 - 10th Avenue West,
Calgary, Alberta.

January 28th, 1941

Re: F.H. Kidney -vs- Yourself

Dear Madam,

Your dollar arrived by mail,
Your poetic effusion made words fail;
I am glad that the Future for you looks fair
And that all your worries are "up in the air";
I note when the pay comes you'll bring in the "bacon"
To go with the "Kidney", which you've undertaken.

Yours truly,
Norman M. Plummer

Editors Note: Mr. Kidney owned Banff Grocery.

Plan to attend!!
CBA - National Annual Meeting
August 20 - 23, 2000
Halifax, Nova Scotia



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EDITOR'S NOTES



Graham Price, Q.C.
Chair, Editorial Committee

Let a Lawyer's Reach Exceed His Grasp!

"Maybe at this early stage in your career you see yourself in the future as an eminent barrister or highly regarded solicitor."¹ Or maybe a publisher of novels², or maybe a solicitor who toils away and creates great legal structures.³

Or maybe even a mathematician. Pierre le Fermat (1601 - 1665) was a lawyer and amateur mathematician. He is famous for Fermat's Last Theorem. It follows: "There are no positive integers such that $X^n + y^n = Z^n$ for $n > 2$."

Fermat enigmatically left a note: "I've found a remarkable proof of this fact, but there is not enough space in the margin (of the book) to write it."⁴ He then died without publishing a proof. Only in the late 1990's did a Princeton Professor of Mathematics, Andre Wiles, prove the theory. Trust a lawyer to create that little mind teaser!!

¹ *Master Hyndman*

² *Norman Plummer*

³ *Trevor Anderson*

⁴ *See website for scientific American.*
www.sciam.com/askexpert/math

Limericks and Letters

Re: A Somewhat Unusual Message . . . - See page 16

During a recent (year-, decade-, century-, and millennium-end) bout of office cleaning, I came across the enclosed that, as you will see, is a message the late Master Hyndman - surely once one of the fixtures of the Edmonton, if not the Alberta, bar - used to circulate to articling students and newly admitted lawyers. While he wrote of written diaries and scrap-books, and not of computer discs, "scanners" and "e-mail", the essential message might, nonetheless, be of interest - and still relevant - to more recent admittees, even if they do not know who he was....

Charles B. Davison

Re: Lawscape 2000

Dear Kate Wood, Richard O'Gorman, rest of the Mid-Winter Committee & the CBA staff:

I wanted to send a short note indicating how wonderful the Friday night tribute to the Chief was. I heard nothing but positive feedback from members of the bar on the rest of the conference which I unfortunately was unable to attend as we had our own education conference there too.

Having actually sat on a few Mid-Winter committees in my former life, I know the amount of work that goes into these events.

Some of our out of town judges had to leave Friday afternoon for other commitments. I have already told them what they missed. The tribute to the Chief on Friday night was outstanding! I know he was overwhelmed by it all and very pleased.

Thanks again for a wonderful weekend and especially to Richard and Kate who headed up the working group.

Justice Colleen Kenny

by Jack Watson

Horologists did quibble and cavil,
Some saying two grand would unravel,
Society's base,
Due to "fluence" from space,
But 2000 didn't bring down the gavel.

The Problem, Mathematic you see,
Was just how and when was "B.C.",
The Christ's birth was "one",
And was never a "none",
So they claimed there was nothing to flee.

Consequently a complex debate,
By the learned did soon start to grate,
Basically mummery
Over start of "C.E.",
That left most of us scratching our pate.

Nostradamus or somebody said,
That two thousand would find us all dead.
If we knew we'd get by,
There'd be good future rather than dread.

Thank goodness there's an old monk to blame,
That the world did not fall into flame.
When millennium came,
Everything all stayed the same
And our futures remain still to tame.

The answer, you see, is math tricks,
And confusion to old writing sticks.
Jesus came on,
Before Herod was gone.
And 2000 was in '96.

NOT QUITE CONTEMPT



by
Douglas R. Mah

Readers with comments
may contact the author at
douglas.mah@wcb.ab.ca.

Should I read the book or see the movie first?

This is an eternal dilemma for culture vultures and particularly troublesome for obsessive professionals who like to do things in the correct order. I'm hoping these observations will help you out.

The millennial holiday provided respite from the law reports, agenda material for the weekly management meeting and all the other stuff I have to read for work. There's nothing so distracting as a rattling good yarn loaded with mayhem. My task this issue was to review critically suspense novels from December's *Most Read* list in the *Globe and Mail* so you can decide whether to see the movie.

Sincere flattery. Before handing over eight bucks for the privilege of seeing the enormous head of miscast Matt Damon in the movie version, please read Patricia Highsmith's recently re-released classic 1955 crime novel *The Talented Mr. Ripley* (Random House). In the film treatment, Damon plays a sad underachieving schmuck much like he did in *Good Will Hunting*, this time without the steadying moral influence of Robin Williams or the good lovin' of Minnie Driver. For this go-round, his prodigious talent is not mathematical wizardry but the high art of flim-flam, namely, personation, forgery and false pretences. In Damon's hands, our Ripley is a sensitive, conflicted murderer. Fortunately, the victims in the movie are so annoyingly portrayed, you don't mind when they get offed.

This is a far cry from Highsmith's dark, ironic novel of a soulless anti-hero who thinks nothing of pushing a button on his friends to advance his interests. The first half of the book contains an idyllic portrayal of expatriate life in Italy in the 1950s. The characters sit around the Italian Riviera drinking like alcoholics. Ripley's been sponging off Dickie Greenleaf and when

Dickie decides enough's enough, Ripley coolly takes him for a final boat ride. It's obvious the totally amoral Ripley doesn't have both oars in the water, particularly since he's using one to pulp his buddy's head before assuming his identity. As he eludes his pursuers, Ripley shifts in and out of identities and Highsmith slyly asks, in the pursuit of aspiration, who the heck are we anyway? Ripley shows he's legally astute when he forges a holograph will and has the wherewithal to realize a beneficiary witnessing such a document could be problematic when it comes to proof in solemn form. Having inherited his victim's estate, Ripley is ready for more antics in four ensuing novels.

I told you boats are dangerous. Attention guys! Despite the syrupy title, this is not a chick book! *Snow Falling on Cedars* (Vintage Books, 1994) by David Guterson is an intriguing mystery and a truly compelling courtroom drama. Author Guterson painfully evokes a period in time bereft by war and racism and haunting echoes of innocence lost (see, I can say something nice). Death at sea, once again, is at the heart of this drama, but was it the deadly result of an act of vengeance (the prosecution theorizes that the deceased met his demise from being smacked on the side of the head with a big stick, martial-arts style), or a random boating accident? One-armed journalist Ishmael Chambers drags his sorrowful butt through nine-tenths of a novel, bemoaning love lost and forbidden, before stumbling upon incontrovertible exculpatory evidence that would free his long-ago girlfriend's husband from an unjust murder charge. Gee, what's a guy to do? In the end, love means never having to say you've suppressed evidence. Haven't seen the movie, reviews have been tepid, so you'll have to chance it on your own. Maybe wait for the video.

Eat, Drink, Man, Woman

Hannibal Lecter joke:

Lecter's mother: *Hannibal, I don't like your friends.*

Lecter: *Just eat your vegetables, Mom.*

Anthony Hopkins should be ashamed of himself, and not for shamelessly queue-jumping his way to expedited orthopedic surgery while in Calgary a couple of years ago. No, it's for agreeing to reprise the role of Hannibal Lecter in the upcoming movie version of Thomas Harris' *Hannibal* (1999, Delacourte Press). Societal values must truly be twisted when a sadistic serial

killer, albeit fictional, becomes a cultural icon. You'll recall Lecter as the rogue psychiatrist who treats his patients and then eats them, washed down with a nice Chianti (why the professional governing body never intervened is not explained). Now he's nibbling and gnawing his way through his third novel. This time our boy Hannibal is pursued by an equally malevolent maniac and when he narrowly escapes becoming fodder for carnivorous swine, we're supposed to cheer for him. Harris always averages two arch-fiends per book, just to hold our interest.

Author Harris pays homage to the legal profession in the closing pages. Hannibal and dinner date snack, lobe by lobe, on the sauteed brain of a corrupt but still living FBI lawyer. In a denouement that insults the reader, Lecter fades into a gentele retirement in South America with his sweetheart in tow (you'll never guess who). Jodie Foster was right to take a pass on this one. The ending is lame, lame, lame. No doubt the movie will make millions, another *paean* to the perversity of popular culture.

You won't want to put this book down, you'll want to fling it out the window. After cruelly ridiculing him a few years ago, you'll note I left John Grisham alone this time. Millions still swear by him, although my opinion of his entire *oeuvre* can be summed up in this story related to me by a well-respected lawyer in town. He was reading Grisham's latest while a passenger in a highway vehicle. The story became so preposterous that, in his disgust, he *threw the book out the window* of the moving car. It was hard cover too. Now that's what I call a bad review.

VOLUNTEER LAWYER SOUGHT FOR BOARD OF DIRECTORS

The Keeler Society for Independent Learning is a non-profit federally registered and provincially funded Agency. It provides day time community access support to approximately 50 adults/clients with severe mental and physical disabilities. This position would be of interest to an individual possessing a particular interest in furthering the Keeler Society's mission "to recognize and promote each person's individuality, personal growth and inclusion into the community as a contributing and valued member."

Call Wayne Orr (403) 255-7003 (work),
E-mail worr@agt.net.

VIEW FROM THE BENCH



by Judge Allan A.
Fradsham

As the year 2000 drew ever nearer, there was much discussion about the readiness of the world's computers to comprehend 2000 comes after 1999. Frankly, I should have thought a machine capable of calculating everything (including my personal nemeses – mortgage payments and metric conversions), might be able to grasp the concept if you have 1999 pennies and add one more you have 2000 pennies (or \$13.20 Canadian). However, all this concern got me to thinking no one seemed to worry whether the judges are Y2K compliant.

Now, let's start off with the disclaimer judges are not "compliant" at all. We Provincial Court Judges are a bit sensitive about that! Putting that aside, let us consider the matter whether judges are "Y2K Oblivious". We don't get so fussed about being accused of being "oblivious". I think we consider it a variation of "obvious". Or, we could be Y2K complacent. Complacency is a comfortable concept, which I suppose is somewhat redundant. But, I digress.

The doubts and concerns I harbour do not relate to our collective ability to leap from the end of one century to the beginning of the next. Rather, my concern is (or perhaps more accurately, counsels' concerns ought to be) identifying exactly which centuries will be involved in this great leap. There is every danger we judges will gladly transfer to the next century, but are firmly of the view the next century starts in 1900. (Author's note: I know, I know. The century would start in 1901 because 1900 is the tenth year of the last century, but these articles are difficult enough to write without worrying about accuracy — not unlike written judgments!).

It was entirely possible on January 4, 2000 (being the first day we were open to serve you in the New Year), we all reverted to the Criminal Code of 1900, and its interesting provisions and punishments.

I suppose for some judges that would effect an improvement in their sentencing practices, and for some it would effect no appreciable change at all.

Perhaps sentences could now include whipping (I am sorry to be the one to break it to some in society. It was removed from the Code in 1972). In pre-Charter days whipping was reserved only for males. I gather the Dominion government was not sued by those pressing for equal punishment for crimes of equal value. Judges would again be authorized to issue search warrants so that "houses of ill-fame" could be searched for wives who were then to be returned to their "parents, husbands, masters or guardians". I'm thinking it would be good to be away on circuit the day one of those applications came to Chambers.

So is there a way to guard against the judge before whom you appear reverting to 1900 because of a bad case of Y2K oblivion (as distinct from the usual case of "oblivion")? Is there some way your local bench could ensure the wiring circuits of its judges accommodated the seamless transition from 1999 to 2000, and did not revert to 1900? I think there is. At the first sign of any inclination to revert to the time before Alberta became a province, when the word "gay" meant "happy", when the word "charter" most likely referred to the document creating the Hudson's Bay Company, just remind the judges it also means all their lawsuits with the government are still ahead and not behind them. I can almost guarantee immediate "compliance".

NOTICES TO THE PROFESSION

Re: Judgment Interest Act

The interest rate for pecuniary damages under the *Judgment Interest Act* has been set at 6.25% for the period January 1, 2000 to December 31, 2000.

Paul C. Bourque
Deputy Minister of Justice &
Deputy Attorney General of Alberta

Re: Miscellaneous Statutes Amendment Act, 1999

S.22.2 of the *Interpretation Act* was recently enacted by the Alberta legislature in the *Miscellaneous Statutes Amendment Act, 1999* (No. 2). It deals with the discontinuance of double registered mail, registered mail and certified mail by the Post Office.

Rod Wacowich, Q.C.
Assistant Deputy Minister of Alberta



LESA PROGRAM NEWS

by Ellen A. Smith
Program Co-ordinator

Spring 2000 is bursting with educational opportunities for successful lawyers and legal support staff...

A key component of any successful lawyer/legal support staff team is practice management. **Practice Management for Legal Support Staff**, Edmonton, March 22 and Calgary, March 29 will focus on what can be controlled, becoming indispensable, reducing stress, the impact of technology, and much more. A valuable seminar for firms or in-house law departments of any size.

On November 29, 1999 the new Canadian Venture Exchange (CDNX) opened for business! Learn all about the new policies, procedures, documents and requirements at LESA's half-day seminar **Canadian Venture Exchange for Support Staff**, Calgary only, April 11.

Pick up useful practice points and keep up with new developments in **Remedies in Insolvency & Bankruptcy**, Calgary, April 6 and Edmonton, April 13.

Legal assistants, support staff and secretaries who do civil enforcement will learn about enforcing PPSA security, tying up loose ends and the steps from commencing an action through judgment at **Civil Enforcement for Legal Support Staff**, Calgary, April 10 and Edmonton, April 17.

Lawyers advertising businesses, large or small, must be aware of criminal traps such as money laundering, bid rigging and dealings with foreign officials. Insure you are up to date by attending **Business Law: Criminal Traps**, Calgary, May 9 and Edmonton, May 10.

Sound practice management is the key element in a solo or small firm's quest for excellence. Attend Paul McLaughlin's very popular **Practice Management Series: Sharpening the Focus**, two fast-paced afternoon sessions, Calgary, May 10 & 17 and Edmonton, May 11 & 18.

LESA will offer its **18th Annual Intensive Trial Advocacy Workshop**, Calgary only, May 21 - 27. This course focuses on critical skills for civil and criminal advocacy and is credited with being one of Canada's best advocacy courses.

Many more programs are in the planning stages. Watch your mail or visit our home page for detailed brochures. Contact LESA for more details (780) 420-1987, 1 (800) 282-3900 toll free in Alberta or by E-mail, lesa@lesa.org or visit our WWW site at <http://www.lesa.org> to check regularly for new developments.

WHAT'S HAPPENING



Patricia (Patty) Johnston
of the
Alberta Securities Commission

MARCH:

13&20: Alberta Civil Trial Lawyers Association presents: **Justice at a Premium - Dealing with Insurers.** March 13: Hotel Macdonald, Edmonton. March 20: The Palliser Hotel, Calgary. Contact: ACTLA, #550, 10055 - 106 St., Edmonton, AB, T5J 2Y2. Ph: 1-800-665-7248 or (780) 429-1133; Fax: (780) 429-1199.

17: Calgary Bar Association **Y2Kurling Bonspiel.** The Glencoe Club. Contact: Dale Ellert or Quinn Kuefler. Ph: (403) 269-3315; Fax: (403) 269-3329; E-mail: ellertkuefler@home.com

21: Calgary Bar Association presents the **2000 Q.C. Dinner**, Westin Hotel, Calgary.

24-25: The CBA National Environmental Law Section and the Continuing Legal Education Committee present: **Energy & Environment.** The Palliser Hotel, Calgary. Contact: Carole Roussel, Ph: (613) 237-2925 or 1-800-267-8860; Fax: (613) 237-0185; E-mail: caroler@cba.org

APRIL:

5&6: **Developing Effective Petroleum Facilities Agreements-The New CO&O and Beyond.** Telus Convention Centre, Calgary. Contact: Insight 1-888-777-1707 or (416) 777-2020; Fax: (416) 777-1292; E-mail: order@insightinfo.com

6&7: **Western Forum on Mergers and Acquisitions in Canada - Strategies for Creating Value and Growth.** Telus Convention Centre, Calgary. Contact: See Apr. 5&6.

10&11: The **Canadian Corporate Counsel Association** presents its **National Spring Conference.** Quebec City, QC. Contact: CCCA, #300, 20 Toronto St., Toronto, ON, M5C 2B8. Ph: (416) 869-0522; Fax: (416) 869-0946; E-mail: ccca@cbao.org

10-12: **Achieving Best Practice - Corporate Governance and Accountability in the Public Sector.** Delta Hotel & Suites, Ottawa. **E-Commerce Law - Understanding the Legal Implications of Conducting Business in Cyberspace.** Toronto Board of Trade, Toronto. Contact: The Institute for International Research 1-800-941-9403; Fax: 1-800-284-4305 or Online: www.iir-canada.com. **Managing Securities Compliance in a Stricter Regulatory Environment.** Marriott Hotel, Toronto. Contact: Federated Press 1-800-363-0722 or (416) 665-6868; Fax: (416) 665-7733

Please send your notices to Patty Johnston c/o Alberta Securities Commission, 4th Floor, 300 - 5 Avenue S.W., Calgary, AB T2P 3C4. Phone: (403) 297-2074, Fax: (403) 297-6156, E-mail: patty.johnston@seccom.ab.ca.



Senior Lawyers meeting in Calgary in January. Justice R. Fraser (2nd from right) spoke on the life of Justice (Bill) W.A. McGillivray.



l to r - Scott Chen, Ahlam Balazs, Simon Yu, Shirish Chotalia, Michael Tilleard, Wendy Danson, Rob Simpson, Bill Cheung, Tanya Knobloch, Wendy Bowman.



The South PLE Committee is once again active and enthusiastic and co-chaired by Beth Hughes and Maurice Quinn.



Media Panel members with (l - r) Justice Roger Kerans, Peter Kent, Justice Marina Paperny, Ian Hanomansing, and Catherine Ford took part in a lively discussion at Mid-Winter. Catherine Ford had earlier received the 1999 CBA Media Award.



CBA Citizenship & Immigration Law Section for Northern Alberta to the Case Processing Centre, Vegreville, Alberta. This is one of only three Regional Processing Centres operated by the Department of Citizenship & Immigration across Canada. The members headed out on a windy and rainy October day to tour the centre.



Richard O'Gorman, Co-Chair of Mid-Winter, addresses an assembly. He, along with talented co-chair Kate Wood, did a superb job of coordinating the meeting!

President's & Pizza at the U of C Law School in January. Eugene Meehan, Q.C. (r) and Sean Dunnigan, Q.C. (second from right) at Mid-Winter.

MDP'S with Carman Overholt, Doug Black, and Simon Potter (l - r). Spirited and thought provoking comments at Mid-Winter Council meeting.

Wonderful entertainment at the Exhibitors Reception (Mid-Winter) was provided by The Wild Colonial Boys. Do you recognize John Martland?



Coffee breaks provide brief respite from intensive CLE meetings.

The CLE Panels program (along with the papers) remain one of the most valuable aspects of this annual (Mid-Winter) meeting.



THE HONOURABLE CHIEF JUSTICE W. KENNETH MOORE

Service to the Community, The Legal Profession & Legal Scholarship

Chief Justice W. Kenneth Moore has had an unparalleled impact on Alberta. Spanning more than four decades, his contributions have touched upon almost every aspect of life in our community and legal profession. His accomplishments have been achieved not by the sword of the law, but by the example of his personal integrity, his acumen and his compassion.

In recognition of his multifaceted contributions, a Distinguished Service Award for Distinguished Service to the Legal Profession, to the Community and to

Legal Scholarship is presented to The Honourable W. Kenneth Moore.

ROBERT E. SCHNELL, Q.C.

Service to the Community

Robert E. Schnell, Q.C. has provided exceptional, dedicated public service and civic leadership to the citizens of Red Deer for more than three decades. A pillar of the Red Deer community, he gives freely of his time, energy and resources to support community endeavours.

Through his substantial contributions to civic affairs, the public school system, and community organizations, Mr. Schnell has assisted the greater community

while enhancing the reputation of the legal profession.

GORDON J. HOFFMAN, Q.C.

Service to the Community

For more than 25 years Gordon J. Hoffman, Q.C., has dedicated tremendous energy, commitment and expertise to numerous community organizations and associations working to improve our community. His efforts cover the spectrum of volunteer endeavours, and include improving the circumstances of underprivileged children, fostering increased cultural understanding and increasing support for our arts community.



SUSAN PAULETTE HENDRICKS, LL.B

Service to the Community

Susan Hendricks has devoted hundreds of hours to the community, serving as an advocate for justice and as a champion of the disadvantaged. Ms. Hendricks uses her legal expertise and knowledge of aboriginal conditions to ameliorate the conditions of women being processed through the Canadian justice and correctional systems. In addition to her role as a leading proponent and an activist for national change in sentencing and corrections, she is a front line advocate, working on behalf of her clients and the disadvantaged both

R. PHILIP M. NORTH, Q.C.

Service To The Legal Profession

Philip M. North, Q.C. is an inspirational role model to members of the legal profession and to other members of our community. Since being called to the Bar in June 1972, Mr. North has volunteered extensively within the legal profession and the community, demonstrating an immeasurable commitment and dedication, and distinguishing himself by doing a large number of remarkable tasks.

PROFESSOR RICHARD DUNLOP, B.A., LL.B., LL.M., M.A.

Legal Scholarship

Professor Richard Dunlop, LL.M., M.A., a leading national authority on creditor-debtor law, has made meritorious scholarly

contributions in the areas of creditors' remedies, creditor debtor law reform, labour law, and law and literature studies.

A professor of Law at the university of Alberta, Professor Dunlop has lectured nationally and internationally. His book *Creditor - Debtor Law in Canada* (1981; revised 1995) is considered to be the most authoritative text on this subject currently available. In addition, Professor Dunlop's research and scholarly reports have been published in numerous periodicals and publications. In 1989, he received the prestigious McCalla Award for research.

In addition, he has earned an international reputation as one of the founders of the fledgling interdisciplinary field of law and literature.

PEOPLE AND PLACES

Doris Bonora
of
Reynolds, Mirth, Richards & Farmer



CALGARY

J. Richard McKee, John M. McDougall and **D. James Stewart** are pleased to announce their recent partnership of McKee McDougall & Stewart. **Sean O'Neil** and **Paul J. Dunn** have joined the firm of Moore Wittman Phillips. **Edward (Ted) Leew, Greg Waskiewich,** and **Tamara Bews** have joined Blain & Company. Fleming Kambeitz is pleased to announce that **Shaun Cody** has joined the firm as an associate. **Kristine Dow, Jo-Ann Riddell,** and **Joe Sair** have joined Evans Higa Burgess.

CLARESHOLM

Karen M. Horbay now practices under her married name, **Karen M. Linderman** at North & Company 403-625-4404.

EDMONTON

Jeanne Byron is now Acting Equity Ombudsperson of the Law Society of Alberta.

LLOYDMINSTER

Andrea J. Fox has returned to Lloydminster from Australia to join partnership with **B. Colleen Bennett** and **Peter T. Johnston, Q.C.** in the new partnership of Johnston Bennett Fox.

VANCOUVER

Lawson Lundell Lawson & McIntosh is pleased to announce **Lisa Peters, Cecilia Low, Reinhold Krahn** and **Jim Fraser** have become partners of the firm. Cecilia Low, admitted to both the B.C. and Alberta bars, practices in the Calgary office.

AWARDS

Dennis B. Denis, of Edmonton was awarded the "Deserving Trustees Award" at the Alberta Library Association's Annual General Meeting.

Please send your news to **Doris Bonora** c/o Reynolds, Mirth, Richards & Farmer, 3200, 10180 - 101 Street, Edmonton, AB T5J 3W8. Phone: (780) 497-3370, Fax: (780) 429-3044.

COUNCIL REPORT MID-WINTER 2000

by Tom Achtymichuk,
CBA-Alberta Branch Secretary

The CBA Alberta Branch Council held its meeting on January 27, 2000 as part of the Branch Mid-Winter Meeting in Calgary. In addition to the usual Council business, other highlights included:

1. Media Award

Catherine Ford, Calgary Herald columnist, was presented with the CBA Alberta Branch Media Award for her insightful and balanced writing on legal issues.

2. Racial Equality

Geoff Ho outlined and spoke in support of the recommendations made in the National CBA "Racial Equality in the Legal Profession" report. Geoff was our Alberta Branch representative on the Racial Equality Working Group. These recommendations were later adopted by the National CBA Council during the National Mid-Winter Meeting on February 18 - 20, 2000.

3. Multi-Disciplinary Practices (MDP's)

There was a panel discussion on the issue of MDP's in Canada. Panelists included **Carman Overholt** of the CBA B.C. Branch Executive and **Doug Black** of the firm Donahue & Partners in Calgary. The third panelist, **Simon Potter**, is a member of the CBA International Practice of Law Committee. It issued an August 1999 Report for the CBA on the issue of MDP's.

Doug Black outlined the opportunities and challenges his law firm is experiencing, operating as a "Captive Law Firm" as opposed to a fully integrated MDP partnership. Simon Potter outlined the recommendations in his Committee's report: MDP's be recognized; regulation continue of individual lawyers and not MDP's; no distinction should be drawn between Captive Law Firms and fully integrated MDP partnerships; no restrictions on the kinds of services MDP's provide; and, no requirement lawyers control MDP's.

The debate was important, lively, and ongoing. We saw this in the discussions at Council and in the CBA Report itself where recommendations were not always unanimous. The Report, "Striking a Balance", can be found on the *cba.org* website.

**The Canadian Bar Association
- Alberta Branch wishes to
thank the following sponsors
of the Mid-Winter 2000 events
for their generous financial
support of the Meeting.**

**The Document Exchange
(TDX)**

Canadian Airlines

**Canadian Bar Insurance
Association**

Garrett Agencies Ltd.

Canadian Mountain Holidays

Counsel Network

Economica Ltd.

A. D. Williams Engineering Inc.

Canspec Group Inc.

Deloitte & Touche

ScotiaBank Group

Stampede Pontiac Buick

(1988) Ltd.

Foster Wise & Walden

Morgex Insurance Smear Campaign

by Sean Dunnigan, Q.C., CBA Alberta Branch President

Based on the number of telephone calls and letters I have received, it is clear many of you have had the misfortune to hear one or more of the appalling and unprofessional anti-lawyer radio ads currently being run by Morgex Insurance designed to increase their business.

This is no ordinary case of lawyer-bashing. The text of one such tasteless and inappropriate ad goes as follows:

This is Jerry for Morgex Insurance. You ever ask yourself why your insurance rates keep going up? Here's an exercise. Open the yellow pages to "lawyers" — only about sixty-five pages. They're on every billboard, newspaper, bus bench. You can't even check TV listings without some lawyer named Snidely Whiplash trying to sell his sincere interest in your wellbeing, and guess who's paying for it? That's the biggest lawyer joke of all, and the joke's on you. At Morgex it's our job to protect you and your rates from the ambulance chasers of the world. So call us ...

The above, and other ads in a similar vein, have been broadcast in Edmonton, Red Deer and Calgary recently. On behalf of the Association, and members of the Bar generally, I have forwarded correspondence to the President of Morgex Insurance advising him the bald statements, the intimations and the accusations contained in their advertising are both untrue and offensive. Canadian Bar Association - Alberta Branch is proud of the services its members provide to the citizens of this province, particularly those injured as a consequence of a motor vehicle accident caused by the fault of another. The lawyers of Alberta in many instances take cases on a contingency basis, or even *pro bono*. In doing so, they ensure people who cannot

afford to hire a lawyer are able to do so without financial risk. The citizens of Alberta are blessed with better access to justice and better protection of their rights as a result of the commitment by practising lawyers in the province.

I have further asked Morgex Insurance to consider the soundness of a business decision that irresponsibly whips up public sentiment against lawyers. What of Morgex Insurance's own customers who are injured as a result of a motor vehicle accident and then presumably told by their broker not to hire "Snidely Whiplash" to obtain compensation for their injuries? It is this very type of irresponsible fear-mongering that can lead to the imposition of no-fault insurance in Canadian jurisdictions and that poses a threat to self-governance of our profession. While many might be amused at the prospect of Morgex Insurance becoming the equivalent of an ICBC outlet, the fact remains no-fault jurisdictions result in higher premiums to customers. Morgex Insurance is doing a potentially great disservice to its own customers.

Many members of the legal community as well as the public believe the text of the ads to be offensive and potentially defamatory. I have asked Morgex Insurance to withdraw the ads and have registered a complaint with the Alberta Insurance Council. The Council has assigned an investigator to the complaint. I hope the Council will intercede and require Morgex Insurance to cease this cynical and damaging campaign if it is not prepared to pull the ads voluntarily. If you hear these ads on the radio, the addresses of Morgex Insurance and the Insurance Council Investigator are:

Terry Bradley, President
Morgex Insurance
100, 540 - 12th Avenue S.W.
Calgary, Alberta T2R 0H4
Fax: (403) 269-6750

Janice Dowhaniuk
Alberta Insurance Council
350, 734 - 7th Avenue SW
Calgary, Alberta T2P 3P8
Fax: (403) 233 2990
Case No.: 58726

TECHNO- MYSTERIES



Paul F. Wood
Director,
Publication &
Program Development
Legal Education
Society of Alberta
woodp@lesa.org

With thanks to Brett Leard, JBL Network Solutions Ltd., bleard@jblnetworks.com

Things That Go Bump in the Byte

Until recently, the average person on the street had never heard the phrase "denial of service" attack. Or if they had heard it, they quickly forgot about it. They figured it would never concern them. It's just propeller-head techno-jargon they rationalized to themselves. All that changed with every major newspaper in North America detailing the woes of some of the biggest e-commerce players on the internet.

The dangers of cyberspace are not restricted to the big players and their customers. While most people probably weren't directly affected by these incidents, they should be thinking seriously about the security of their systems at work and home.

In a sense, these high profile incidents are an excellent wakeup call for people and businesses to start taking appropriate precautions with their data and private information. Every single minute of every single day someone is lurking in cyberspace trying to find systems they can break into. We have both implemented firewalls on our home networks and LESA has appropriate security measures in place. The security logs on these systems show hacker attempts to access these systems every day. With so many businesses and homes signing up for internet access, there is a smorgasbord of targets.

How vulnerable can one be? We know of one instance involving a small network. Using the "find computer" function within Windows 98 and an internet address, one was able to view all of the folders and files on the system. A hacker could have copied, renamed or deleted them. Or a destructive Trojan horse program could have been planted on the system.

So what are some of the steps that can be taken to tighten security? There are dozens of ways to improve security and every little bit helps. Most businesses would benefit from assessing their current level of security and establishing written policies and procedures to protect their data. There are many precautions that should be taken even if a company has no internet access at all. Viruses can easily be introduced via floppy disk. Individuals will want to perform a similar risk assessment and then work from

a checklist of available options.

Some of the simplest steps are inexpensive yet highly effective. Configuring the built-in security functionality of your email software and web browser is a start. Installing a firewall to protect your network when connected to the internet should be near the top of the list of any company. Beefing up passwords and changing them regularly can make a difference against what are known as "brute force" attacks. Fingerprint scanners for biologic authentication are becoming readily available and reasonably priced.

As the old saying goes, an ounce of prevention beats a pound of cure...and a little attention makes your network secure.

For more information about internet security and firewalls try some of these links: Signal9 ConSeal (www.signal9.com); BlackIce (www.netice.com); Norton Internet Security 2000 (www.symantec.com); Shields UP! (grc.com); Internet Security Systems (www.iss.net); and Win2000Mag (www.winntmag.com/Articles) (formerly WinNTMag).

Hot Issues in Computer Security

Securing computers and the data on them is a major concern of corporations, institutions, governments and even individual users. There are a host of security options and products ranging from encryption to public key infrastructure to physical devices "tokens". This timely seminar, suitable for Information Technology managers as well as technical staff, provides an overview of computer security issues, the ways in which managers are dealing with them and the specialized legal aspects of this field.

Learn how to assess risks to computerized systems and to address them proactively through the following topics:

- Defenses such as encryption from both the technical and managerial perspectives.
- The role of audit, insurance and legal remedies in controlling and mitigating vulnerabilities and losses.
- The formation of an appropriate security plan and policies for your organization.
- The issues in computer security today - web page hijacking, spoofing and e-commerce fraud.

Instructor: Dr. Thomas P. Keenan, I.S.P., (member of the International Board of Referees, Computers and Security, Oxford, UK)

Senior consultants from Jaws Technologies Inc. Senior legal counsel specializing in this field

Where & When: 8:30 am - 4:30 pm, May 9 to 11/00. University of Calgary (Fac. of Cont. Ed.)

Course Fee: \$795 (includes lunch)

Note: Members of certain professional societies may be eligible for a discount. Please call 220-2866 to determine if your society qualifies.

OFFICE OF THE PRACTICE ADVISOR



Barry Vogel, Q.C.
Practice Advisor
#600, 919 - 11 Ave. S.W.
Calgary, AB T2R 1P3
(403) 229-4714
1-800-661-9003
Fax: (403) 228-1728



Paul McLaughlin, M.A., LL.B.
Practice Management Advisor
#1900 - 10104 - 103 Ave.,
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(780) 429-3343
1-800-272-8839
Fax: (780) 424-1620
pracman@lawsocietyalberta.com



Peg James
Risk Management Advisor
#600, 919 - 11 Ave. S.W.
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(403) 229-4771
1-800-661-9003
Fax: (403) 228-1728

Barry Vogel is available to discuss legal, ethical and practice concerns and personal matters. He will also mediate and arbitrate inter-lawyer disputes.

Paul McLaughlin provides assistance in management, automation and administration with his focus on the needs of sole practitioners and members practicing in smaller settings.

Peg James develops and delivers materials and programs to help Alberta lawyers practice in a way that reduces negligence claims under the Professional Liability Insurance Policy.

The members of the Practice Advisors Office will travel anywhere in Alberta for personal meetings with Law Society members where appropriate. All contacts are strictly confidential and services are free. Members are invited to call at any time.

CROSS-SECTION NORTH



Helen Ward of Duncan & Craig
and
Scott Watson of Ackroyd, Piasta, Roth & Day

Northern Section Co-ordinators



From the desk of Scott A. Watson

One of the countless tasks imposed on your section coordinators (the complete job description is accessible at www.pantsonfire.com) is to ensure members are kept apprised of what the various sections may be up to. Most sections already do a good job circulating to members the minutes of intriguing guest speakers. But what about the variety of sections available to those of us north of Bowden. Times are changing. Are there subject areas out there that warrant their own section?

We already have twenty-eight active sections covering all the expected subject areas from Administrative law to Young Lawyers. The other twenty-eight can be gleaned from the CBA's handbook, distributed each fall, or can be obtained from the CBA's website or from Eugene Meehan QC, personally. A quick look across the country shows pretty much the same shopworn list of sections, Business, Environmental, Health, Wills and Estates... There are a few which have come and gone from Alberta North like Corporate Counsel, International Law, Plain Language, Independent Practitioners and Young Offenders/Children's Issues. Some sections have, over time, evolved into others like Insolvency which merged with Creditor's Rights.

Alberta South has a few sections we don't, like Research Lawyers and Natural Resources. In B.C., they have some serious and weighty sounding sections like Air Law and Poverty Law, and a rather interesting sounding one called Women Rainmakers.

East of us they seem to have a veritable cornucopia of "E" sections, Equality Law, Education Law and Elder Law, to name a few.

Looking further afield, there is nothing new in Alaska, Chicago, Nassau County, New South Wales or Tasmania we haven't seen before. We are, however, missing out on seemingly hot areas of the law, such as New York's Cosmetic Law section and Beverly Hills' Entertainment section. Also in the US are sections established based on lawyer membership, as opposed to topic area, such as the Lawyer-Pilots section and the auspicious "Half Norwegian (on the mother's side)" section of the American Bar Association.

I think there is room for new northern sections in both emerging and existing areas of the law. On two occasions I have put a small note in this publication to solicit feedback whether there was any interest in starting up a Natural Resource section. One person responded. It was not meant to be (or perhaps the note was too small). But what about a Charity section, a Public Utility, Communication and Transportation section or a Science & Technology section. I think a Y2K Litigation Over Stuff That Didn't Happen section has merit. Or perhaps a Dental Near-Death Liability Claims section. I was going to suggest a Canuck Codger Retirement and Pensions section but then I realized its acronym may be confused with a political party. If you have an idea about a new section, give me call and I'll see what I can do about helping you get it off the ground.

Lives Lived

DECORE, Laurence George, Q.C.

June 28, 1940 - Nov. 6, 1999, Edmonton, Admitted Sept. 7, 1965

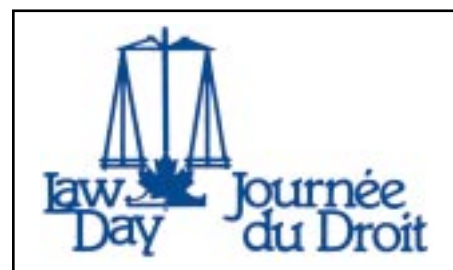
HEWITT, Adlynn Miskewm, Q.C.

Feb. 11, 1923 - Dec. 24, 1999, Edmonton, Admitted May 30, 1953

CLEMENT, Carlton Ward, K.C.

Jan. 7, 1907 - Dec. 27, 1999, Edmonton, Admitted April 12, 1932

Law Day 2000 Happens April 15!



Law Day is a Canadian Bar Association initiative to celebrate the repatriation of the Constitution.

If you are interested in organizing activities in your community, contact one of the Provincial Co-chairs: Jim Ming, in Red Deer at (403) 346-559; Cindee Nyrose in Lethbridge at (403) 328-1766; or Ken Lutes in Medicine Hat at (403) 527-3343. They can help you with mock trial kits, advertising material and useful information on organizing a great day!

In Edmonton the Chair is Dragana Sanchez-Glowicki at (780) 421-9900. In Calgary, contact Co-chairs Sandra Hildebrand at (403) 269-9808 or Jeff Wise (403) 623-6601. You can also call the CBA offices at (780) 428-1230 (North) or (403) 263-3707 (South).

The CBA is also interested in obtaining mock trial scripts. Please call us if you have scripts or know of any.

Volunteers are needed for these events across the province. Join the fun in your town!

**Alone?
Afraid?
Anxious?**

Emotions Anonymous®, a twelve-step program, is helping many people learn to live with unsolved problems. We offer this self-help opportunity in a warm, caring and non-judgmental atmosphere without any membership fee or obligation.

*Help yourself out of depression
Control your fears Leave panic behind
Enjoy life and start living again!*

For information on local meetings please call (403) 247-5381. For information on meetings held worldwide please contact: Emotions Anonymous® International, P.O. Box 4245, St. Paul, MN 55104-0245 (651) 647-9712.

CROSS-SECTION SOUTH



Tony Young of Tousignant Young
and
Don Higa of Evans Higa Burgess
Southern Section Co-ordinators



From the desk of Donald Higa

When I agreed to be a section co-ordinator, I was told that one of my duties was to contribute periodically to this newsletter. For many, writing comes easily; for me writing is a chore. Let me rephrase that. Letters to counsel and clients, briefs, factums and affidavits - no big deal. My problem comes in the form of thank you and birthday cards, personal letters, really anything that requires expression of personal feeling and thought. I think it is a guy thing to avoid expressing personal feelings. Anyway, I digress.

Part of the cause of my procrastination is my difficult time in determining what to write for this space. Although there are many items I could address relating to section activity, after some internal debate I feel compelled on this occasion to express my thoughts on the Canadian Bar Association in general.

In addition to my duties as Section Co-ordinator, I have for the past five years been a member of the CBA National Council and have a chair of the Insolvency Section (South). On a number of occasions throughout my involvement with the CBA, I have had discussions with colleagues questioning the value and role of the CBA. In most cases, these comments have been offered in the context of criticism of the CBA's role in advancing initiatives such as the Bertha Wilson report, seeking intervenor status in the Vriend case and most recently the report on Racial Equality in the Legal Profession. Yes, these reports and initiatives have been controversial and I personally do not agree with many of the recommendations contained in those reports. However, strong and relevant leadership requires sensitive and controversial issues be addressed and debated. Especially when discrimination in society and within the legal profession does exist, whether we like to admit it or not.

The CBA is one of the few organizations that can legitimately speak on behalf of lawyers about proposed legislation, government cutbacks to the justice system and the constant attacks by the public and media on the justice system. Through the credibility of representing 35,000 members, the legal profession is heard and our comments taken seriously.

The work done by the CBA is astonishing, but its efforts are generally unknown to most of our members. As a member of the National Council, I recently received a booklet containing approximately 150 pages summarizing the work over the past year of the CBA's legal and governmental affairs department. That work consists of monitoring three major committees and working groups, being the Special Committee on Systems of Civil Justice, the Working Group on the Future of Canada and the Working Group on Racial Equality in the Legal Profession. The booklet contains almost 40 pages detailing written and oral submissions made in the last year on behalf of the CBA and the profession to parliamentary committees, government departments and directorates and to provincial and federal ministers setting forth the CBA's position on numerous issues, policies, and legislation.

There are 29 national sections in place and at work, canvassing and discussing issues that affect the profession in those specific practice areas. A national legal aid research initiative will be undertaken and address issues in this area. The CBA in the past year intervened in two Supreme Court of Canada appeals.

The Legislation and Law Reform Directorate of the CBA continues to identify and address and initiate discussion on professional issues relating to the practice of law and to pursue CBA policy on those issues. These include such issues as the future of the legal profession, billing methods, the delivery of service to clients, multi-disciplinary practices, para-legals, legal aid, professional liability issues, globalization of legal practice and information technology.

This is the work of the CBA, this is the value of the CBA, this is why we should all support and be members of the Canadian Bar Association.

How's that for expressing personal feelings?



The Legal Archives Society of Alberta is looking for people to join its Advisory Committee.

If you have an interest in researching, recording or preserving Alberta's legal history and would like to support an institution that does all that and more, then we could use your help. For more details, please call Graham Price, President at 403-262-8618 or Kirsten Olson, Executive Director at 403-244-5510.

Make your Mark in History!

AWL NOTICE ASSOCIATION OF WOMEN LAWYERS

1. Italian Cooking

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Call: Virginia Engel @ (403) 296-2290

* *Space is Limited*

2. Annual Spring Tea

Thursday, June 8, 2000

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Further details TBA

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The New Practice Guide

Out with the old Loss Prevention Handbook, in with the new Practice Guide. We all have received the Practice Guide and resolved to read it. Do take the time to familiarize yourself with its format and content, and read some or all its chapters.

The Law Society created the Practice Guide to help us avoid claims and complaints. The first three chapters address practice management issues that frequently give rise to claims. The second chapter, "Choosing and Serving Clients"; identifies the most common client complaint as lawyers' failure to return clients' calls. This chapter contains practical, easy to implement ideas to establish and maintain good client communication. The third chapter, "Developing Personal and Professional Strengths" includes tips on overcoming pro-

crastination, building writing skills and dealing with stress.

The next seven chapters contain information and updated practice lists for seven practice areas: Corporate Commercial, Criminal Procedure, Insurance, Litigation and Collections, Matrimonial, Real Estate and Wills and Estates. The Insurance chapter identifies missed deadlines as the most frequent cause of claims against lawyers. This and the other substantive chapters identify relevant limitation periods. The Litigation and Collections chapter includes sample discovery questions for a motor vehicle accident claim.

The final two chapters contain sample forms and letters. Note the client satisfaction survey (page 11-28) and non-engagement

letters (pages 12-19-23 - read the Guide to learn what non-engagement is!)

Updates 4 And 4a To The Rules Of Court

The Rules of Court were amended in September 1999 (update 4) and November 1999 (update 4A). There are significant changes to:

- Discovery of records. Please read Rules 186-199 and 661 and Robert Graesser's paper and Affidavit of Records dated November 1999.
- Appeals from a master. Rule 500 changes the time for serving the notice of motion appealing a master's decision to 60 days from 14 days.
- Contents of appeal books. See Rule 530.
- Chamber's applications to the Court of Appeal. There must be at least 14 days between the service of the notice of motion and the hearing when certain relief is sought: Rule 516.
- The Family Law Practice Notes.

In addition, the Court of Appeal Practice Notes (including the amendments regarding electronic appeal books and factums) have been consolidated. The names of the panel assigned to hear appeals will be posted at the Registry counters in each city and on the Alberta Courts website (www.albertacourts.ab.ca) the Wednesday before the opening of the sittings.

A Somewhat Unusual Message to Young Lawyers and Articled Students in Edmonton

by L.D. Hyndman, Q.C., M., C.Q.B.A., December, 1985

For some years I have distributed a message like this and I have learned that most of the young lawyers and students glance at it and promptly consign it to the wastepaper basket. While this is disheartening, I am happy to know that some consider it more thoughtfully and decide to adopt these ideas. Unfortunately, many fail to carry through or do so inadequately. However, a very few others, perhaps six or seven do seriously embark upon the project and maybe three or four really do continue enthusiastically month by month and year by year. Once the habit is developed it will probably continue throughout your life.

So, even if the message is ignored by most of you I will be satisfied if it is followed by even two or three, for they will become the historians of future years. Unrecorded history is rapidly forgotten and lost forever. A good record is truly invaluable.

On your admission to the Bar, the presiding judge tells you that you have become a member of an ancient and honourable profession and as such, you are granted many privileges and are expected to conform to high standards of conduct, etc. etc. This is all very commendable and as it should be.

The articled students' principal will express the same sentiments and refer to all the wonderful things you did in University and maybe add a number of useful practical suggestions for success at the Bar.

But I have yet to hear a judge or principal offer a very simple idea and urge the students to adopt it - this I shall now discuss.

Immediately purchase for your personal use a substantial book, say 100 fixed pages or loose leaf, about letter size, or larger, and stoutly bound to withstand the wear of years. It must be your companion for a long, long time.

This should become Volume I of a journal, a record, a log, a diary or scrapbook - call it what you wish - to contain documents peculiar to your life and work, such as announcements, advertisements, press clippings, appointments, invitations, letterheads, related to your personal life or professional career or of companies or governments, clubs or organizations with which you are associated from time to time - indeed, over the years, a multitude of scraps of paper involving you and yours and the developing and changing world you live in.

Religiously keep up the record by inserting these scraps of paper with glue or clips, or how you wish - and dating them in chronological sequence. Do this from week to week and year to year and decade to decade. In time an index may become desirable. After 10 or 20 years these volumes (for by then there will be several if you have kept up the good work) will be a most cherished possession - after 40 years an irreplaceable record of your life - after 60

Continued on 17

Continued from 16

years a prize beyond price. Preserve every volume with great care.

If you feel so disposed write a few words or paragraphs from time to time of ideas that interest you - of random thoughts - of big or little events - of local, national or work developments, of births, marriages, divorces and deaths of relatives and friends. Insert the occasional photograph of the building you work in or have lived in - of relatives, of associates or partners, of significant places you visit - whether on business or vacation.

Maybe at this early stage in your career you see yourself in the future as an eminent barrister or highly regarded solicitor. Maybe in 20 or 30 years you will be prominent in The Law Society - or in Government - maybe a corporate director influencing great business decisions - or perhaps a respected and learned judge. But also maybe you will be a drunk or a thief in gaol - deserted perhaps by your family and friends and discarded by your associates in law. Or maybe just a mediocre little person, an unassuming, decent, and helpful small-time lawyer - or maybe the Mayor or an M.L.A. or even the P.M. - or perhaps a bombastic and conceited fool albeit probably rich and fat. Many years ago I knew of a disbarred lawyer who became an accomplished and courteous cab driver and a reliable bootlegger. The possibilities are infinite. Unless you are vaporized in a nuclear holocaust many doors lie ahead.

Today no man can foretell what may be his course or destination but, whatever those will be, an honest record of much that happened on the way will prove of intense interest, and perhaps of value, years down the road.

You will record becoming a full partner in your firm - even from bottom to top or election to the City Council or appointment as a judge - maybe chief justice in time - with several news pictures attached. You will sadly note an unwelcome defeat as candidate in the 1994 election and an obituary notice of a lawyer friend. You will include an embossed invitation to attend the opening of the Legislature in 1990 and the notice to the members of a local service club that you will be the guest speaker at, the first meeting in the new year. You will make unhappy mention of the dear pet poodle who died before her time. You will eagerly clip from the newspapers the account of your participation in a Royal Commission. You may regretfully note an item in the press when you were found guilty of driving while impaired after a Bar Association party!. But you must none the less honestly insert all these items even if you are disbarred and become a reliable cab driver, that might indeed prove interesting! All of these are the substance and trappings of your life - good or bad. And do not overlook a note about that case you won in the Court of Appeal but lost in the Supreme Court of Canada.

A word about letterheads. If you are in a large firm you will probably soon see your name at the bottom of a long list of seniors. In a few years your name will be about in the middle. In 40 years it may be at the top and the firm name may reflect that ascent. The careful collection of all these changing letterheads over the years is, of itself, quite fascinating and revealing about not only yourself but others of your associates. Some come, some go. There was a day, you know, when the names of H.R. Milner and S.W. Field and S.H. McCuaig and H.H. Parlee were at the position of low man on their totem poles!

Imagine this possible entry for one of you:

“Friday, Dec. 31, 1999, the last day of a tumultuous century- On Thursday the sixth day of the year 2000, I shall be sworn in as Chief Justice - there will be much to note of that ceremony. Incidentally, it’s about 20 years since the old Master persuaded me to keep

this book (now Volume 5) and I’m glad I followed his advice. These volumes record so much of my life and career. I believe the old man is still alive and if so must be 95 or more. Who would have thought he would make it into the 21st century! He never imagined that some day I’d be the C.J. because I fear he thought me rather dull in Chambers.”

Also, do keep a fairly complete account of your travels, be they on business or pleasure, and of the costs incurred. Also a more or less approximate statement of annual earnings and income taxes and of major property acquisitions, and of occasional comparative expenditures. Write up the fact that at long last you were able to afford that Mercedes Benz or that you finally learned to fly and are considering the purchase of an aircraft and that this year 1993 only produced a taxable income of a measly \$205,000 - but perhaps not so bad as your grandfather’s \$10,000 income in 1933.

Record also of course your months recovering from that frightening heart attack and the day your spouse threatened to leave you - unless?

You’ll be amazed how intriguing those assembled recordings will be years hence and the pastor will find them very helpful to pronounce the eulogy at your funeral! Some grandchild may develop an interest in genealogy and you will have left a gold mine to be assayed. There will be more about you than anyone else in the entire family tree! You may recall the reply of the professor of history to the remark by a student that “history is bunk”. The professor answered “young man, have you ever observed the tragic spectacle of a man who has lost his memory?”

Finally, don’t dismiss this idea out of hand - think it over and intelligently embark upon this course. You will not regret it.

I wish now I had had the foresight years ago to do so for I have had many interesting views of law and lawyers and judges. The little home where I was born on 104 Street in the Town of Edmonton, N.W.T. in 1904, was so cold I spent my first winter in the home in Ottawa of my grandfather, Sir Louis Davies of the Supreme Court of Canada. That first year of my life began my constant immersion in the world of law though I have no recollection of it. My father, a co-founder of Milner & Steer became a judge of the Supreme Court of Alberta in 1914 and through him I met all the early judges. In 1927 I was articled to a most prominent and talented counsel S.B. Woods, K.C. and for forty years thereafter the highly regarded S.W. Field, K.C. and I were partners and dear friends. One way or another I met nearly all the local lawyers and judges during these many years. I became a Master in Chambers in 1968 and since then have known and enjoyed innumerable young lawyers and students - probably more than any one else in the Law Courts. I must have heard at least 50,000 applications!

So you see my immersion in the legal world has been life-long and I am thoroughly convinced that good records should be kept.

In all honesty, I should conclude with one confession - while the immersion I speak of has been deep, I have but little learning and can only claim a few scattered bits of knowledge gleaned on the shores of the vast ocean that is the law. To be blunt, a Queen’s Counsel patent that states it is awarded because the patentee is “learned in the law” is, in most instances, a gross exaggeration - so don’t fool yourself when you are appointed a Q.C..

Do leave your story of the passing years and always remember *nihil sine labore* - “there is no free lunch”.

Good luck and Cheers!

P.S. As Voltaire one said “I regret this letter has been so long, but I lack the time to make it shorter”.

Why Bernadette Can't Go Back to Her Old Law Firm

by Bryan E. Mahoney, Q.C.

Just the other day I got an e-mail from an old friend. A colleague in a past life. Let's call her Bernadette. I'm so happy for her. It's been so long that she's been wanting a cottage and a backwoods trail. Apropos of nothing, on the same day, I read where Chief Justice Antonio Lamer announces his plans to retire. He says he has lost *le feu sacre*, "the holy fire," the necessary enthusiasm of spirit to carry on. *Le feu sacre* - do I have that? Anyway, by return e-mail, a date is set, a trip planned to visit Bernadette in the mountains.

You can drive it all or hike the trail. With the children and my new boots we opt for the trail. The sound of chopping wood echoes between the silent peaks. The streams are clear and icy cold. The moss is slippery though there has been no rain. Spring runoff has washed away the planks on the bridge. Shouldering our boots we wade the narrow stream. At sunset we reach Bernadette's grove in the stony mountain pass.

Greeted at the gate, soon we're exchanging stories, laughing with each other, enjoying our tea together. Once a barrister living in a briefcase she doesn't miss her busy law practice. It was successful, she stayed a long time. Recently she gave it up. Cleverly I say "you lost *le feu sacre*" and mention the Chief's announcement. "*Le feu sacre*, what is that Bernadette?"

She states "For some their life mission is propelled solely by an inner fire, a yearning or pull that is so powerful it drives a person to great heights. Picture a beautiful warm summer day. A group of people has decided to climb a nearby mountain. The going is easy, the sun warm, the day gentle. After several hours they reach a site with a rest station. Here they come upon a restaurant with a patio, umbrellas, comfortable chairs, rest rooms, telescopes, cold beer - all the conveniences. The vista is inspiring. The air is cool and clear compared to down below. A sense of well-being, of health and energy, animates the hikers body and soul. For many in the group this is enough. They return home refreshed and satisfied. They are Sunday climbers but low on *le feu sacre*.

Some of the group remain, having discovered another path. Or perhaps it is the same path that began in the valley earlier that day. Driven by the need to explore, they push on. After a while the air grows cooler still, the trees thin out and the sun dapples the ground ahead. The path keeps rising, getting steeper and steeper. They reach a second rest area, with no conveniences other than an outhouse and an outdoor grill. The camaraderie is now deeper.

Their eyes delight on a grander view. The town in which they set out from seems miniature and remote from this new distance. From a new perspective they momentarily consider the limits of their lives. Few people leave this station to travel higher. Most stay a while, ponder and go back down. *Le feu sacre* - they half believe it, half doubt it.

A few stay. They observe a secluded path vanishing above. They are questers. Willing to ascend the sheer wall of rock choked with scree and boulders, to creep along the narrow ledges, to explore crags high above, to scramble up to the snow line and higher. Despite detractors, off they go. Soon they feel fear and separation, some confusion, some emotional distance. Now they ask themselves why they left their friends and the easy-going of the last rest stop to tackle this strenuous, hazardous journey. Their physical hardships challenge their mental condition. The ramparts of sheer rock act as reminders of the soul barriers, the self-doubt, the turmoil and at times the sense of bleakness. In spite of that and propelled by an inner yearning they go for it all. They go for the top. *Le feu sacre* takes you to the top. But eventually you must come down, and I came down.

Coming down as Rene Daumal, spiritual teacher states in *Mount Analogue* is inevitable and for some a relief. Daumal writes:

"You cannot stay on the summit for ever, you have to come down again. So why bother in the first place? Just this: what is above knows what is below, but what is below does not know what is above. One climbs, one sees. One descends, one sees no longer but one has seen. There is an art in conducting oneself in the lower regions by the memory of what one saw higher up. When one can no longer see, one can at least still know."

As I prepare to leave Bernadette says "I like my quiet life here in the mountains. Ten thousand flowers in spring, the moon in autumn, these are my retainers and receivables. A

cool breeze in summer, snow in winter, these are my silk scarves and leather satchels." Quoting Mirabai, one of India's 16th Century poets and mystic, she says "Approve me or disapprove me...I have felt the swaying of the elephant's shoulders; now you want me to climb on a jackass? Try to be serious!"

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Calgary

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