



**CANADA'S LEGAL PASTS:
Looking Forward, Looking Back**
Edited by Lyndsay Campbell, Ted McCoy, and
Mélanie Méthot

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LYNDSAY CAMPBELL,
TED McCOY, AND
MÉLANIE MÉTHOT

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UNIVERSITY OF CALGARY
Press

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LYNDSAY CAMPBELL,
TED McCOY, AND
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For Louis A. Knafla, who inspires us all.

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A Student's Take on Canada's Legal Pasts

Nick Austin

In July 2017, I immersed myself in the Canada's Legal Past conference at the University of Calgary. This was my first introduction to Canadian legal history, a field that I came to see as central to my own interests, learning, and understanding as a law student. The pieces in this collection are a marker of what students in multiple fields can learn through attention to the legal histories of Canada's past.

Both at the conference and in reading the volume, I have been most taken with what one might call the “mythology building.” As a young nation, we are still searching for the moments and individuals that define our collective Canadian “mythos.” Where will Canadian legal historians find their totemic figures—their heroes and villains? Should we reject the totemic figures of previous generations—the John Beverley Robinsons and William Osgoodes—in favour of unknown figures? Could these be the mounted police recruits brought to life by Shelley Gavigan? The enterprising legal professionals examined by Alexandra Havrylyshyn, who challenges the myth that there were no lawyers in New France? Or perhaps, like me, one may be struck by the detail and charm of “The Last Voyage of the *Frederick Gerring, Jr.*,” by Christopher Shorey, an exploration of a possible Canadian *Pierson v. Post* analogue with enough narrative finesse to tap into the latent maritime nostalgia that I did not suspect I had. If I were unafraid of writing in hackneyed grade-school clichés, I might say

that it “makes history come alive.” Or, perhaps Albertans like myself will find it enlightening to peek behind our cultivated sense of identity and unravel the mythology with Louis A. Knafla’s examination of the writing of prairie history. Speaking of ingrained social praxis, Dominique Clément and Jean-Philippe Garneau’s explorations of gender may help readers better understand the unique place of women in our legal past and present: Clément examines the incremental and imperfect development of sex discrimination law in Canada, while Garneau analyses 250 civil cases of married women asking for a *séparation de biens* in Montreal judicial district between 1795–1827.

I am also struck by the great variety of methodological approaches (the “how” as opposed to the “what”). Eric Reiter looks to Quebec’s civil court archives (gleaning unpublished details, litigation strategies, and allegations from case files) in his writing on early defamation cases. Catharine MacMillan describes untapped archival resources about the Judicial Committee of the Privy Council in London, England, resources that may help enhance our understanding of how this body influenced the development of Canadian law beyond the constitutional sphere. Lyndsay Campbell discusses her use of newspaper accounts and pamphlets in her work on mid-nineteenth century libel cases and the controversies they reveal. Ted McCoy addresses historiographical concerns when approaching the vast Kingston Penitentiary archives, and by extension the lives of the workers and the women prisoners who resided there. Angela Fernandez examines the role of legal publishing in determining which text a judge had at hand. Regardless of the specific approaches taken by the authors, embedded in these pieces are countless moments of hard-fought discovery, understanding and, undoubtedly, gratification. Mélanie Méthot, for example, acknowledges the visceral thrill of leafing through time-worn paper ephemera in her work on bigamy cases. Most importantly, this collection is both inspired and inspiring, and I am excited to consider where the field may go next.