

NOVA VOICE



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The Voice of the Legal Profession in Nova Scotia

Reading: An Autumn Avocation



Lest We Forget:
NS Lawyers Remember



PRESIDENT'S REPORT



By **DAVID CAMERON**

Burchells LLP

Change is the general theme of this column, starting with the two important reports released by the CBA in the last year, Reaching Equal Justice Report: An Invitation to Envision and Act and Futures: Transforming the Delivery of Legal Services in Canada. Both are seminal works.

Reaching Equal Justice identifies various forms of action that our Canadian justice system shareholders should take in pursuit of that goal, and work is well under way in Nova Scotia on a number of fronts in which our branch is an active participant, together with government, the judiciary, and the Bar Society. Through Nova Voce, we will report on these initiatives as they progress.

The Futures initiative directly addresses the challenges of an ever-changing legal marketplace, the value lawyers may continue to bring to the future of legal services within Canada, and the opportunities that will come to those of us who adapt to constant change. Although these are early days, already some of its thought-provoking recommendations are creating healthy discussion both within the CBA and our profession at large.

If you have not read either report – or at least an Executive Summary - I urge you to do so. Both can be found by visiting the branch or national websites.

Like our justice system and the legal profession, the CBA is not immune to change. To this end, the CBA has initiated a “Rethink” initiative that is to review and evaluate all services the Association provides to its members and otherwise. Here in Nova Scotia, we are pleased Branch Past President Jim Rossiter has been selected to serve on the Steering Committee that will guide the Rethink process.

Two final but positive comments about change. This past year, our Branch has experienced its highest membership, surpassing 1,300 members. Although many people, especially those involved since the “Great Recession”, have contributed to this success, it is appropriate to single out our current Membership Chair, Bill MacDonald, for his ongoing and diligent work and leadership in the past few years. Last, Branch Past President Dan McRury, QC, has opted for change rather than having it thrust upon him, foregoing an opportunity to serve as our CBA National President two years from now to assume a position as the newest member of our provincial court. We shall miss Dan’s good humour, but the Court will gain the benefit of it and his fine judgment.

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Remembrance Day and Nova Scotia Lawyers

By **MAJOR J. JASON SAMSON** Over the past century, Nova Scotia lawyers have contributed to Canadian military missions, both at home and abroad. Some lawyers have served in direct combat roles, some have assisted in peace keeping operations and others have acted as legal advisors in the management of violence or the provision of humanitarian assistance. Many have put their lives on the line in order to ensure the peace and stability of Canada and its citizens.

November 11th, Remembrance Day, is a day set aside each year to reflect and pay tribute to the contributions of the brave men and women that have made countless sacrifices for Canada and its citizens during military operations. Many Nova Scotia lawyers and their loved ones have and continue to make sacrifices in the name of Canada. This article will discuss some of their experiences and thoughts on what Remembrance Day means to them and to me personally.

Brigadier-General David Henley, a partner with Halifax law firm Stewart McKelvey, is one such lawyer who has contributed to the recent war effort in Afghanistan. After a career in the army as an artillery officer, he was admitted to the Nova Scotia Bar in 2001. He continues to serve in the Army Reserves and is currently the Deputy Commander for the 5th Canadian Division, essentially the Army's forces in Atlantic Canada. From March 2009 to January 2010, he was deployed to Afghanistan as a Senior Advisor for Afghan National Army Development, leading the senior advisors to the Afghan Ministry of Defence and General Staff. When not serving with the military, Brigadier-General Henley is an associate of the Marine Environmental Law Institute at the Schulich School of Law, where he teaches fisheries law. He is also a member of the Transportation Appeal Tribunal of Canada.

When asked his thoughts on Remembrance Day, Brigadier General Henley stated "Like most in the military, Remembrance Day is a time to see many whom I have served with and to recall those who are no longer with



Brigadier General David Henley

us. However, Remembrance Day is more than about remembering the past. It is important to honour those who have fallen in service to their country, but I think Remembrance Day is also a means of shaping the future". He goes on to say that "We remember those who have served, and the conflicts they serve in, so that all of us are reminded that there is a price to pay for conflict. Remembrance Day shapes the collective will of our citizens, our leaders and our foreign policy. Our concerted effort to remember acts as a constraint on the potential for, and scope of future conflict".

The potential for conflict is on the minds of the large number of members of the Office of the Judge Advocate General (OJAG) who belong to the Nova Scotia Barristers Society. The OJAG is responsible to provide legal advice to the Canadian Armed Forces across the full spectrum of military law. Their practice includes expertise in international, administrative, criminal and human rights law. Their work can involve accompanying an army brigade in Afghanistan, deploying to a targeting cell with the Royal Canadian Air Force, or deploying with a warship in counterdrug or piracy operations. After more than a century of providing legal services in various theatres of operations, Remembrance Day carries importance significance for OJAG members from Nova Scotia.

Colonel Ray Mitchell has been a reservist for 28 years. He has served with the Royal Newfoundland Regiment, the Royal New Brunswick Regiment and the First Battalion, Nova Scotia Highlanders as an Infantry officer. In 1995, he transferred to the Office of the Judge Advocate General, and has served

as a Reserve Legal officer since that time. He currently serves as Deputy Judge Advocate General – Reserves. In his civilian practice, he is a labour lawyer, representing trade unions in the construction industry. He also serves as a Nova Scotia Presiding Justice of the Peace.

When reflecting on Remembrance Day, Colonel Mitchell states "I remember that as a child, Remembrance Day was an important part of community life". He ponders on his military duties throughout the world and his resulting renewed appreciation for the rights and freedoms experienced domestically by Canadians. He states "It is easy to take these things for granted if you haven't known life without them. But the truth is that this wonderful life we have here did not, and does not, come without a price. That price has been, and still is today, largely paid by members of the Canadian Armed Forces as they protect our interests at home and abroad." He goes on to say that "Military service has its rewards, but it is not an easy life. It is physically, mentally and emotionally challenging. It demands sacrifices from not only those in uniform, but also their family and friends." Colonel Mitchell concludes that he remembers and honours these sacrifices each Remembrance Day.

Lieutenant-Colonel David Sinclair joined the Canadian Forces in 2000. He has served as a legal advisor in Petawawa, ON, Gagetown, NB, and Halifax, NS, as well as serving at headquarters in Ottawa, ON. He deployed to Kabul, Afghanistan in 2003 and to Kandahar, Afghanistan in 2007. He states that "my service has added a new dimension to my perspective on what Remembrance Day means to me. I have had the honour of serving alongside many great Canadians, some of whom have been killed on deployed operations and others who have died while training here at home".

According to Sinclair, "Remembrance Day is one of the most important days of the year. It is a day of personal reflection; but also a time to teach the next generation about our military heritage. Making poppies, learning and reciting poems like 'In Flanders Fields', and telling young people stories about wars

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Municipal Solvency and Dissolution



By **THERESA M. GRAHAM**

Weldon McInnis

a Municipal Advisor at Service Nova Scotia and Municipal Relations, discussed municipal borrowing practices.

Aside from our local municipalities, many of us have also been reading about municipal bankruptcies south of the border. In the United States, Detroit, Michigan; San Bernardino, California; Stockton, California; and several other cities have filed for bankruptcy since 2010. However, Dennis James cautioned that we should not equate the American municipal bankruptcies with the Canadian experience. He cited two interesting articles on the topic: “Detroit and the lost history of Canadian municipal insolvencies” by Marc Joffe, a consultant at Public Sector Credit Solution (available online: <http://www.macleans.ca/economy/business/detroit-and-the-lost-history-of-canadian-municipal-insolvencies>) and “Canada’s Cities: Struggling Financially But Still Solvent” by Mario Lefebvre, Director, Conference Board of Canada Centre for Municipal Studies (available online: http://www.conferenceboard.ca/economics/hot_eco_topics/default/12-08-30/canada_s_cities_struggling_financially_but_still_solvent.aspx).

The Joffe article reveals that municipal insolvency was common in Canada during the Great Depression in the 1930s. Although the depression was the catalyst for municipal default, the cause was simply that municipalities had taken on too much debt. As Joffe puts it “(b)etween 1919 and 1932, municipal debt outstanding rose by 90 per cent reaching a stunning 36 per cent of Canadian Gross National Product”. However, by the end of the 1930s, the municipal debt crisis was seeing resolution, and by the end of World War II it was almost unheard of. What followed in the wake of the crisis was the enactment of statutory regimes to provide for more provincial control over municipal borrowing practices. Similar measures do not appear to have been taken in the United States, which is why we hear about bankruptcies south of the border in juxtaposition to municipal dissolution or amalgamation here in Canada.

Dennis James provided an overview of the statutory regime in Nova Scotia. The relevant portions of the *Municipal Government Act*, 1998 R.S.N.S. c. 18 are:

1. Subsection 72(7), which permits the municipal council to set the tax rate at an amount sufficient to meet its expected requirements. The municipality is not expected to run operating deficits.

2. Sections 84 – 100, which set out municipal borrowing limits and restrictions; require Ministerial approval of municipal borrowing, guarantees, and leases; require municipalities to maintain proper budgets and to submit their budgets to the Minister of Service Nova Scotia and Municipal Relations; and which set out the requirements for maintaining a capital reserve fund. These mechanisms provide a “series of controls” as Mr. James puts it, which permit municipalities to manage themselves and avoid “extreme situations”. However, Mr. James also points to a number of factors which are not controllable. Those include contractual debt, collective agreements and pension liabilities.
3. Sections 358, 362, 372, 394, 398 and 448 provide mechanisms for dissolution, amalgamation, and regional governance which provide an alternative to bankruptcy for municipalities.

Mark Peck spoke to the sections with respect to the municipal borrowing process through Service Nova Scotia and Municipal Relations (SNSMS). Municipalities request borrowing (for capital purposes only). SNSMS then prepares a draft Temporary Borrowing Resolution. Municipal Advisors review the resolution to ensure it meets the purpose and requirements of the *Municipal Government Act* and the municipal counsel then considers the resolution for approval.

Municipal Advisors then assess the debt ratios of the municipalities. The maximum debt ratio is 30%. However, a debt ratio of 15% raises concern and requires further review. The Advisors then make the recommendation whether to approve or deny the request. The documentation is reviewed by the Executive Director and Associate Deputy Minister and the recommendation is sent to Minister and, once approved, is sent back to the municipality.

If the funding term is greater than ten years, the municipality must borrow from the Municipal Finance Corporation. The borrowing term cannot exceed the useful life of the asset.

Both speakers also referred to Municipal Indicators, a tool used by Service Nova Scotia and Municipal Relations to compare municipalities across Nova Scotia and to compare a single municipality from one year to the next. The financial reports prepared by each municipality are one source of information used to feed the indicators, which are grouped together to create two reports; the Financial Condition Index and the Municipal Profile. Information on Municipal Indicators and reports can be found online at: <http://novascotia.ca/dma/finance/indicators.asp>.

Both the rigorous municipal borrowing process and the statutory framework of the *Municipal Government Act* ensure that our Nova Scotian municipalities will not be filing for bankruptcies in the same way as our American neighbours.

Sections Spotlight is a recurring feature focusing on a recent meeting or initiative of a CBA-NS section.

2014/2015 EXECUTIVE COMMITTEE



DAVID A. CAMERON, PRESIDENT

David is a graduate of Saint Francis Xavier University (BA, 1984) and the University of New Brunswick

(LLB, 1987). Called to the bar in 1988, David is a partner at Burchells LLP in Halifax, Nova Scotia. David is a past President and Commissioner of the Nova Scotia Law Reform Commission, a past Secretary and Board member of the Legal Information Society of Nova Scotia, a past President and Board member of The Scots: The North British Society, and a past lecturer on constitutional law and government at St. Mary's University. For 10 years, he served on the Board of the Spencer House Seniors' Centre located on Morris Street in Halifax, Nova Scotia. David resides in Halifax with his wife and two daughters.



AMY SAKALAUSKAS, VICE PRESIDENT

Amy has been volunteering with the CBA-NS since 2008, when she was SOGIC Vice-Chair.

After Chairing our SOGIC Branch, she chaired the CBA National SOGIC, sat on the Legal Aid Liaison Committee, and was our Branch Equity Officer. In addition to being our Vice President, Amy currently sits on the CBA National Board of Directors, Finance Committee, and Nominating Committee, as Chair of Conferences. She also remains active with SOGIC. In her day job, Amy is a Child Protection lawyer with the NS Department of Justice. In her most important job, Amy co-parents her two children with Dorianne Mullin (also a lawyer at the NS Department of Justice).



DENNIS JAMES, TREASURER

Dennis is a litigation lawyer with Patterson Law and recently finished as managing partner of the firm after

almost ten years. He is a proud Dad to two really neat daughters: a 17 year old hockey/soccer/lacrosse player and a 9 year old dancer and bon vivant. His wife, Angela, is a talented musician who teaches privately out of what used to be the living room. Dennis compensates for his dearth of creative genes by running and by being involved for the last decade in the establishment of an arts and cultural facility in Truro known as the Marigold.



ROBYN L. ELLIOTT, QC, PAST PRESIDENT

Robyn practices family law at Elliott Law Inc. in Halifax. A CBA member since 1988, Robyn has held numerous

CBA positions –both nationally and provincially. Among her favourite CBA roles have been - Chair of the National Family Law Section and National PD Committee member. Robyn has served on CBA's National Sections Council Executive for 5 years and will Chair National Sections from 2015 – 2017.



GAIL GATCHALIAN, EQUITY COMMITTEE CHAIR

Gail is a labour and employment lawyer with Pink Larkin in Halifax.

She also provides dispute resolution and workplace investigation services. Gail is currently the Secretary-Treasurer of the CBA National Labour & Employment Law Section, and Chair of the CBA-NS Equity Committee. While an undergrad student at Dalhousie, Gail volunteered for Canadian Crossroads International in Costa Rica. She was able to use her Spanish skills during law school at U of T to volunteer as a legal caseworker at the Centre for Spanish-Speaking People. Her Cape Breton roots drew her back to Halifax. Gail and her husband have two girls, 10 and 2, who keep them on their toes.



AMANDA DILLMAN, YOUNG LAWYERS SECTION CHAIR

Amanda is the CBA-NS Chair of the Young Lawyers Section having first joined the CBA in

law school and holding various roles since then including conference volunteer, law day committee member, and participant in the Family and Young Lawyers Sections. She enjoys spending her non-work hours with Henry (her human toddler) and Basia (her canine toddler), who keep her moving and smiling, and her husband, Eli, who keeps them all fed and watered.



BILL MACDONALD, MEMBERSHIP COMMITTEE CHAIR

I am with the Workers' Advisers Program which provides legal

representation to injured workers in the WCB system. I have served for a number years on CBA-NS Council in the past and now as Chair of the Membership Committee. I enjoy running and skiing and I am a fan of all manner of college sports.



AUGUSTUS (GUS) RICHARDSON, QC, LEGISLATION AND LAW REFORM COMMITTEE CHAIR

Gus is a member of the Nova Scotia and the Ontario

bars. In 2005, after almost twenty years practice as a civil litigator, he followed his growing interest in alternative dispute resolution ("ADR") by starting his own practice as a full time mediator and arbitrator. Gus is a frequent lecturer on matters involving various aspects of labour arbitration, civil litigation, mediation and the taxation and assessment of legal accounts. His website is at www.gusrichardson.com.



HEIDI SCHEDLER, COMMUNICATIONS COMMITTEE CHAIR

Heidi works for the Nova Scotia Securities Commission, which has her involved in both litigation

and corporate-commercial work. Heidi has been a CBA-NS Council Elected Representative since 2009, and more recently a member of the CBA-NS Communications Committee and the Vice-Chair of the National Women Lawyers Forum. In her spare time, Heidi enjoys walking her dog Regis, spending time at her camp in New Brunswick, staying fit with running, spinning and yoga, while balancing out the fitness by eating cheese and drinking wine.

The Joy of Reading



By HEIDI SCHEDLER

Nova Scotia Securities
Commission

A couple of years ago, I took the plunge and had laser-eye surgery. During my recovery, I was instructed to avoid reading anything, initially, and then to limit the amount of my reading for a few days after that. I found this hard. And no, I am not referring to reading emails on my Blackberry. I found it difficult, during a time when I was forced to relax and do nothing, not to reach for a book. I had always known that reading played a big role in my life, but it was after my eye surgery that I realized how big of a role it played in my non-lawyer life.

I love reading. And for me, the lighter the better. After a day of drudging my way through statutes, case law and briefs, I prefer to spend my “free

time” on things like *How to be a Woman* by Caitlin Moran, *Let’s Pretend this Never Happened*, by Jenny Lawson, and *Maze Runner* by James Dashner. Light. Easy. Breezy. So, while some of you might be reaching for Calgon to take you away, I find myself reaching for a book, and preferably an actual book. Sure ebooks are convenient, but there is just something about the weight of a book in my hands and the physical turning of the pages that gives me a sense of accomplishment and direction as I take this journey with my new-found literary friends. Really, any time of year is a great time to dive into a book, but for me, there is just something about the fall that makes me want to curl up, get cozy and read.



The Honourable Justice Jamie W.S. Saunders, Nova Scotia Court of Appeal:

To me, books are as essential as fresh air and vigorous exercise. They can be as uplifting and restorative as a fine meal or a quiet walk in the woods. I cannot imagine life without them. I think my passion for reading began with being held and read to by my parents as a young child, which surely must nourish the thrill of turning the pages and listening to the rhythm and power of words.

That early thirst for reading was heightened by many dedicated elementary school teachers where I grew up in Montreal. I still remember the Christmas-like feeling whenever the box of pre-ordered books from Scholastic Corporation arrived in our classroom twice a year.

My wife and I and our three children are all voracious readers, plowing through many books and magazines each month. My preferred genres seem to be: espionage; crime thrillers; short stories; essays; and historical biographies.

I will read anything by such favorite authors as: William Boyd, Michael Connelly, Ian McEwan, Peter Temple, John McGahern, George Pelecanos, Pete Dexter, Cormac McCarthy, Sadie Jones, Elizabeth Strout, Lee Child, and Daniel Silva. Two recent reads that get my highest recommendation are: *The Inconvenient Indian: A Curious Account of Native People in North America*, by Thomas King; and *Stoner*, by John Williams.

I much prefer the tactile feel of holding a book in my hands, to scrolling on an e-reader. I tend not to have any preferred “space” in which to read. It can be a beach, park bench, airplane, back deck, or our library at home. I usually have two or three books on the go at the same time.

Right now I am reading *Tenth of December*, by George Saunders, and *The Orenda*, by Joseph Boyden. Books to me are the very bedrock of learning. They inspire, teach, challenge and provoke. They offer mystery, engagement, laughter, sorrow and excitement. I truly believe that books are like “friends” which – if written well – provide lasting images of places and characters, and impart lessons which linger in the mind’s-eye long after the final page is turned. Serious reading fosters serious writing. We cannot do one without the other.



Christena McIsaac, Articled Clerk, Stewart McKelvey:

I am reading two books right now. The first is *Middlesex* by Jeffrey Eugenides; I am late to the game on that one but it is so good. I am also re-reading *Listen to the Squawking Chicken* in honour of Lainey Lui’s recent visit to the Word on the Street festival in Halifax. My preference is still to read books

in hard copy, except when I’m away on vacation. I recently took a Kindle away with me for the first time and it was really nice not to have to tote several books around for two weeks.

Katie Roebothan, Associate, McInnes Cooper:

I am looking forward to reading *A House in the Sky* by Amanda Lindhout and Sara Corbett. This book is a memoir by a Canadian reporter that describes her experiences as she is held hostage in Somalia for over a year. Although arising from tragic circumstances, it is a real life story which portrays the hope and strength of a young woman in the face of adversity. Ebooks are convenient for travel and often a cheaper way to obtain a book. However, I think I prefer hard copies. I like being able to fold down pages and easily flip back to previous chapters for reference.



Catherine Turcotte-Roy, Officer, Complaints & Investigations, Nova Scotia Barristers’ Society:

I’m really excited to read *I’ll Give You the Sun* by Jandy Nelson this fall. If you’re not a 15-year-old girl, you have probably never heard of this book or this author. While I am not a 15-year-old girl, I am in a Young Adult Book Club and I can’t wait to discuss it at our next book club meeting! [As for ebook vs. hard copy] I only do hard copy. I am old school!

Outside the Office is a recurring feature focusing on a lifestyle issue of interest to CBA members.

Making the Neighbours Pay: The Hidden Costs of Municipal Amalgamation

By HEIDI WALSH SAMPSON

Municipality of the
County of Kings

Nova Scotia is facing challenging demographic and economic trends which have placed some of our municipal units in financial distress. In the face of an aging population, outmigration, reduced labour pool and a shrinking tax base, dissolution of some of our smaller, rural municipal units may become an unavoidable fact of life. In the quest for dissolution of financially troubled municipal units, the focus has been to ask whether amalgamation can provide the 'absorbed' communities with adequate government service while avoiding 'bankruptcy'. Another question which may deserve more attention is what the financial impact of amalgamation is on the 'receiving' municipal unit is as well.

There is a cautionary note to sound when we approach amalgamation as a broad-scale solution to the demographic and economic challenges. Amalgamation has garnered some currency amongst citizen advocacy groups interested in streamlining local government and reducing what is perceived to be a disproportionate tax burden for the services received. As tempting as amalgamation may seem, it may fail to offer the benefits hoped for and may ultimately result in a less responsive local government with less representation and higher costs.

In theory, the argument for amalgamation of municipal units is compelling. However, a review of scholarly work reveals that substantial cost-savings cannot be obtained through the consolidation of municipalities.¹ The question then becomes, if the scholarly literature discredits the cost-effectiveness of amalgamation, why does it continue to hold such allure for its proponents. "It has been argued and shown that, the consolidation approach is underpinned by what can only be characterized as leap of faith assumptions. These assumptions pertain to the probability of creating more cost-effective structures of municipal governance."² An examination of these leap of faith assumptions bear further examination to determine whether amalgamation can, indeed, offer a more cost-effective, efficient and responsive local government for amalgamated municipal units.

The costs associated with municipal amalgamation are twofold: (i) the transitional costs; and (ii), the future operating costs. Proponents of amalgamation will often argue that the onetime upfront costs arising from amalgamation far outweigh the long term savings to be gained by amalgamation. Again, the reality indicates that these cost-savings are illusory as the transition costs almost always exceed projections.³ For example, the amalgamation that resulted in the creation of the Halifax Regional Municipality was projected to cost less than \$10 million but

resulted in actual costs exceeding \$40 million and the projected cost savings and economies of scale that were promised never materialized. More troubling was that taxes to residents as well as municipal debt increased significantly.⁴ Part of the problem lies in buried costs which may not be apparent when planning for amalgamation.

The second element of the cost savings debate is the anticipated savings to be gained by eliminating duplicate administrative branches. The Canadian experience has been, however, that the projected savings from municipal amalgamations do not materialize. "When municipalities amalgamate, some duplication is obviously eliminated. In particular, the number of politicians and bureaucrats may be reduced. On the other hand, when municipalities with different service levels and different wage scales merge, expenditures may increase."⁵ It has also been observed that "(s)alaries and benefits tend to equalize up to the level of the former municipality with the highest expenditures. This upward harmonization of wages and salaries generally outweighs any cost savings."⁶ Therefore, in smaller municipal units, those employees who survive the cut will want to demand wage parity with their counterparts at the larger municipal unit and this will result in higher operating costs for the amalgamated unit.

The empirical evidence indicates that the 'economies of scale' argument fails as well. It has been observed that "(r)esearchers seem broadly to agree that roughly 80% of municipal services enjoy no economies of scale. The evidence says pretty unambiguously that the lowest observable level of per unit costs for most services are compatible with very small municipal units.[...] Moreover, there are significant diseconomies of scale beyond relatively small populations numbers."⁷ This should be of concern for amalgamating municipalities as it has been "found that service delivery and administrative efficiencies are achieved with high-density developments, but are compromised with spreadout, low-density developments that are more costly to serve." Accordingly, amalgamation may not achieve the economies of scale hoped for rather it merely avoids insolvency for the dissolving unit by spreading the operating costs of the dissolving unit over a wider tax base.

Even if we accept that amalgamation does not offer improved efficiency, access or cost savings, amalgamation of municipal units may be unavoidable in Nova Scotia as a result of the specific demographic and economic trends that we are facing. It has been observed that the risk for bankruptcy of municipal units in Nova Scotia is actually quite low in comparison to other more notable municipal failures such as the

Continued on page 11

¹ Sharma, A, *The Paradox of Amalgamation: An Analysis of Municipal Restructuring in Ontario*, School of Graduate Studies, McMaster University, June 2004 at page 3

² Sharma at page 16

³ Slack, E, 'Does Municipal Amalgamation Strengthen the Financial

Viability of Local Government? A Canadian Example', International Center for Public Policy Working Paper 13-05 March 2013 at page 14

⁴ Cowley, Brian Lee, 'Surviving and Thriving in an Irrational World', Presentation of AIMS, April 30, 2009 at Page 7.

⁵ Slack and Bird at Page 7

⁶ Slack at Page 21.

⁷ Cowley at page 5.

⁸ Slack and Bird at Page 6.



By JENNIFER TAYLOR

Stewart McKelvey

Thinking of doing an LLM? Here are some questions to ask

At any stage of your legal career, the decision to pursue a Master's degree in law ("LLM") is not one to be made lightly. Grad school was on my mind during law school and articling, but it still took lots of soul-searching before I finally

set off for the LLM program at the University of Cambridge, a few short months after getting called to the Bar (and exactly one month after getting married). If you're toying with the idea, you might want to ask yourself the following questions:

• *Why do I really want to do an LLM?*

There is no right or wrong reason to do an LLM, but it is still important to keep your expectations in check. Having a graduate degree is not an automatic route to a pay increase, a teaching position, or even respect from your peers. For me, it was just something I had to do for myself, to satisfy my own love for and curiosity about the law; call me crazy, but three years of law school just wasn't enough.

Michelle Rogers of McGinty Doucet Walker takes a similar view. She is currently doing her LLM in family law through Osgoode's part-time program, and says: "I don't necessarily think the LLM will have some immediate effect on my career. It's not going to mean my hourly rate goes up, or that clients flock to me more readily. But in the long run, it is honing my speciality. Over my career I would like to research, write and publish (when I have the time), and I would like to teach a class. I also simply like learning."

• *Can I afford it?*

Two points here. First, can your career afford a year off? As Michelle demonstrates, part-time options might be worth considering if you plan to practice at the same time – although she admits it can be a juggle to handle course assignments as well as practicing, plus parenting. Some firms may also offer a temporary leave of absence.

Whether the LLM is financially feasible is the second factor. These programs can get very expensive, and may add an extra (and unwanted) layer of debt on top of what you still owe from law school. That said, scholarship opportunities are out there, including the CBA's Viscount Bennett Fellowship. Whilst researching, applying, and interviewing for scholarships can take an incredible amount of time, the payoff can be worth it. I was lucky enough to receive the J William E Mingo Memorial Scholarship for overseas study from the Schulich School of Law, and I could not have afforded my Cambridge dream otherwise.

• *Where will I study?*

The "where" of the LLM offers so many possibilities, from a program at

your own law school, to a school outside Canada, to a "virtual classroom." Michelle is currently experiencing the latter, taking some of her courses online (the others are intensive long weekends in Toronto). "The technology is amazing," she says, with specialized cameras that allow you to see your colleagues—her cat makes the occasional cameo—and tech help at the ready.

The lure of living abroad was one of the main reasons I picked a school in England. Superficial as it may sound, the gorgeous photos of Cambridge's Colleges—plus the possibility of weekend trips to London and cheap flights to Europe—were enough to draw me away from home. (Let's be serious: So did the promise of wearing a gown to formal dinners.)

Scott Campbell, an Associate at Stewart McKelvey, also travelled across the pond for his Bachelor of Civil Law or "BCL" – Oxford's equivalent to the LLM, which he describes as "neither a Bachelor's degree nor a degree in civil law." Living in England was a draw for him as well: "it has to be said – Oxford is a tremendous place to live for a year. You will meet the most interesting and wonderful people from around the world, some of whom might actually want to discuss the nuances of our own Supreme Court of Canada decisions. Plus, the pubs are great, and it's only a cheap one-hour train ride from London's Paddington Station." (He mentions BBC iPlayer as another positive.)

• *What do I want to put into the LLM?*

As with locations, program options abound. The biggest decision may be whether to go the course-based or thesis-based route (schools usually recommend doing a thesis if you plan to apply for doctoral programs). The course route made more sense for me, although it was hard to narrow my courses down to just four given the variety of subjects on offer.

Then, you will have to decide how much work you want to put in. At the LLM level, professors don't 'hold your hand' and tell you exactly how much reading you have to do to prepare. My reading lists were often 5-10 pages long – for each seminar. For the most part, it was up to me to (a) figure out if I was interested in the topic; (b) if so, track down the materials myself; (c) decide how much I wanted to read and when; and (d) take the risk that it may not be enough come exam time. (At least I didn't have to gown for exams, as Scott did at Oxford.)

Hopefully this Q&A shows that at least two clichés are true when it comes to the LLM: An LLM is not "one size fits all," and you can "make it your own," no matter what your particular graduate goals might be. And going into a graduate program fully informed will make for a more enjoyable experience. After spending nine months studying law in a town so beautiful I literally had to pinch myself, my only regret is that I couldn't stay longer.

Career Compass is a recurring feature focusing on a lifestyle issue of interest to CBA members.

Mental Health: Innovations in Wellness

By **JENNIFER GLENNIE**

Department of Justice

As the Chair of the Lawyers Assistance Program in Nova Scotia, I had the benefit of attending the Canadian Bar Association's Legal Professional Assistance Conference in Calgary in September. The conference was called "From Helping Hands to Tech Tools: Innovations in Wellness." It was a great opportunity to be with colleagues from across the country who are involved in lawyer assistance programs, to hear what they are doing and to share valuable information.

The first piece of good news is that a national self-learning program is being developed called the Canadian Lawyers Mental Health Program which will provide lawyers, judges and law students education, supports and resources that will assist them in understanding mental health issues, how it impacts their lives and families, and how to address their specific issues. It is being developed as a result of a partnership among the CBA, the Mood Disorders Society of Canada and the Bell Let's Talk Program Advisory Panel. It will be an online resource which includes modules covering stigma, signs and symptoms, and treatment options. It will be launched in 2015 so stay tuned.

The other discussion at the conference was about peer volunteers.

Peer volunteers are not counsellors but are people who can listen and support. While professional resources are available through the LAP number (1-866-299-1299), people are also well-served by the support of a peer who understands. The Nova Scotia LAP has a roster of peer volunteers who have indicated their willingness to connect with other lawyers and offer peer support (<http://www.nslap.ca/peer-volunteers>). In Calgary we heard from a police sergeant who described the Calgary Police Service peer volunteer program and the value it provides to police officers. Everyone can benefit from peer support. And I think one thing to remember is that peer support does not have to be formal. I'm sure many of you provide peer support every day – by asking your colleague how they're doing, whether everything is going ok, or taking the time away from client matters to sit and chat over a coffee. So keep in mind the value of peer support, whether you are seeking it, have benefitted from it or are providing it. And if you have any ideas about how to improve LAP's peer support program, please let us know.

Trending is a recurring feature focusing on a new development in the law. Jennifer Glennie is a solicitor with the Nova Scotia Department of Justice.

GIVING BACK Continued from page 3

and battles will help ensure that the memories of those who have gone before us live on. Each year, I try to impart a bit from my personal experiences and knowledge to young people to ensure that sacrifices from Vimy to D-Day to Kandahar are not forgotten." When asked about what he will reflect upon on this Remembrance Day, Lieutenant-Colonel Sinclair states that this year "as I listen to the lone piper, I will remember all of our fallen, but in particular, I will remember a friend who died just this year serving his country".

I am also a legal officer working for the OJAG. I have served since 2002. Before joining as a regular force officer, I worked as an associate in a law firm in Port Hawkesbury and later as a lawyer with Nova Scotia Legal Aid, under the mentorship of the Honourable Lawrence O'Neil. I have served as a legal advisor to units in both Ottawa, ON and Halifax, NS. I have also worked as a Regional Military Prosecutor across the country and a staff lawyer with the Directorate of Military Personnel at OJAG Headquarters in Ottawa, ON. I deployed in 2010 and 2011 to Jerusalem, Israel, as Legal Advisor to the United States Security



Major J. Jason Samson during Remembrance Day Ceremony in Ramleh War Cemetery in Israel in 2010

Coordinator to further the Middle East Peace Process. I was also engaged in prosecuting serious cases that emanated from Afghanistan during the decade long conflict.

One of my fondest memories of a Remembrance Day service was in Ramleh War Cemetery in Israel in 2010. While deployed, our Canadian Contingent of approximately twenty regular force members, went to the Commonwealth Cemetery to pay homage to

and honour our Canadian and allied veterans buried there.

For me, Remembrance Day is a time to reflect on the sacrifices of our veterans and their families. I reflect not only on those veterans that have passed and paid the ultimate sacrifice for their country; but also on those who remain, some of whom continue to endure the scars of war or other military operations. I reflect on the mothers, fathers, sons, daughters, sisters, brothers, and friends that live each day without their fallen heroes or with the suffering of injured veterans. May they all find peace and be afforded the honour and respect that they deserve.

Remembrance Day carries important significance to many Nova Scotia lawyers. As we enter into a new combat mission in Iraq, I hope that on Remembrance Day 2014, all Nova Scotians have an opportunity to reflect, in their own way, in their own time, on the memories and sacrifices of past and present Canadian veterans and their families.

Giving Back is a recurring feature highlighting the community service of Nova Scotia Lawyers.

Lending a Hand to Young Lawyers

The Young Lawyer CBA Legal Conference Initiative is a membership recruitment and retention strategy aimed at young lawyers practicing five years or less. The stipend made available to ten selected lawyers to attend CLC St. John's – up to \$1,500.00 – could only be applied to full registration, travel and hotel. The Nominating Committee considered the following criteria to make its selections: attendance at section meetings; participation on branch or national committees; contributions to Nova Voce; and/or presentation at professional development conferences. The Committee also considered regional representation, and representation on the basis of gender, race, language, sexual orientation and disability.

These ten lawyers were required to register for the full conference and to fully participate in professional development and social events. They were also required to share their experiences through one of the following options: write a brief article for Nova Voce, make a five-minute presentation to CBA Nova Scotia Council or serve as a speaker at a Section meeting in his or her area of practice.

For those who chose to share their experience in Nova Voce, this is what they had to say...

Amanda Dillman, Young Lawyers Section Chair
Department of Justice, Truro
(Formerly with Sealy Cornish Coulthard)

I've heard a lot of lawyers say that you can't have your cake and eat it too, but that wasn't my experience at the CLC in St. John's, Newfoundland. For four days I had professional development, networking, St. John's hospitality and comfort food, and my family. That's right – my family! My husband, Eli, and my then 14 month old son, Henry, joined me in St. John's. While I was participating in sessions, they were climbing Signal Hill; while I was at the Young Lawyers AGM, they were exploring the Geo Centre; and while I was at dinner and a concert with the other Young Lawyers, they were checking out a local playground and snoozing in our hotel room.

It's easy for young lawyers with families to get swept up in our own busyness; the practice of law and parenting are both full-time jobs and it can be time and energy consuming to balance all of the roles. Conferences are a unique blend of out of the office, but not quite off the clock and certainly not off the radar. Typically, I would have travelled without my crew, but our sitter was on vacation that week and it would have meant scrambling to find someone to fill in the rest of the schedule. So we opted for a mixed vacation and hoped for the best.

We added a day to spend some time together at Cape Spear, enjoyed a few meals together, and avoided Eli from having to handle the stretch at home by himself. Henry soared through his first flight, loved the hotel pool, and got to experience his first bit



L to R: Jonathan Hooper; Nicole Slaunwhite; Jennifer Taylor; Colin Taylor; Robyn Elliott, QC (CBANS Past President); Laura Kanaan; Amanda Dillman; Jenny Kooren; Jennifer Reid; Fred Headon (CBA Past President); Theresa Graham; Michael Murphy

of travel; his dad got a change of scenery; and his young lawyer mom – if even for a minute - got to have her cake and eat it too.

Jonathan Hooper, Law Day Co-Chair, Coady Filliter

I really appreciated the opportunity to go to the CBA Converging Futures Conference in St. John's. It was a great experience to travel to another part of the country and attend seminars put on by the best legal practitioners in Canada. I attended a number of seminars that discussed issues relevant to my current practice, such as dealing with estate disputes and using social media in litigation. The information I received from these seminars and the conference as a whole has been an immediate benefit to my practice.

The conference was also a great time to network with other lawyers. I met a great number of lawyers from different parts of Canada who I have kept in contact with. It was also a great opportunity to spend time getting to know other lawyers from Nova Scotia. My favourite social event at the conference was a breakfast with guest speaker Rex Murphy, who was well worth getting up early near the end of the conference to hear. Overall, attending the Converging Futures conference in St. John's was an enjoyable and enriching experience and I greatly appreciated the CBA's assistance to attend.

Michael Murphy, McInnes Cooper

I was fortunate this summer to be part of a delegation of young lawyers sponsored by CBA Nova Scotia to attend this year's CLC in St. John's. From the opening ceremony to the end, it was clear

Continued on next page

Continued from previous page



L – R: Amanda Dillman; Jenny Kooren; Laura Kanaan

that this year’s conference was all about innovation and adapting to changing client needs.

In addition to meeting lawyers from across the country and catching up with fellow Dalhousie graduates at the Young Lawyers Late Night Bash (which is, to be clear, reason enough to attend the conference next year), I attended a number of interesting talks. Margaret Hagan and Monica Goyal provided an exciting discussion on the importance of design in the delivery of legal services. In our online world, it’s become clear that lawyers in Canada need to find more effective, streamlined ways to reach our clients – especially since, as the CBA’s Futures Report indicates, Canadians seek legal advice for only 11.7% of justiciable events.

Julia Shin Doi and Rubson Ho’s presentation on Legal Services Pricing was also very instructive. As the Futures Report suggests, rigid billing methodologies such as the billable hour are quickly being replaced by alternative fee arrangements. While in-house counsel may be the main drivers of this change, one can hope that such a change may also increase access to justice for people who do not qualify for Legal Aid, and may otherwise be in need of legal assistance.

From discussions on cyberbullying to presentations on crowdfunding, it’s clear that this year’s CLC was on the cutting edge of legal innovation and development, and I was happy to be a part of it.

CBA Legal Conference 2014 Young Lawyers Stipend Recipients: Amanda Dillman; Jenny Kooren; Jennifer Reid; Michael Murphy; Laura Kanaan; Colin Taylor; Jonathan Hooper; Alayna R. Kolodziechuk; Nicole Slaunwhite; Theresa Graham

NOVA VOICES Continued from page 7

City of Detroit. This is a function of the tight borrowing restrictions placed on municipal units in our municipal legislation. Although there may be limited risk of default on municipal debt that may not account for some other liabilities, including significant environmental liabilities, which arise from poorly managed or aging infrastructure in the dissolving municipal unit. Where a municipal unit has failed for years, and in some cases decades, to upgrade or maintain sewer systems, water utilities and roads systems, what was formerly considered an asset of a municipal unit may, in fact, be more properly considered now a liability. In instances such as these, unless the receiving unit receives financial support for other levels of government, amalgamation may result in the receiving municipal unit absorbing a sizeable infrastructure deficit formed by the dissolving unit over a considerable amount of time. For the dissolving municipal unit, it may simply be a way to make the neighbours pay for years of poor management and bad decisions.

Nova Voices features the viewpoints of lawyers around Nova Scotia.



Council Member Terry Kelly and family enjoying CLC St. John’s

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