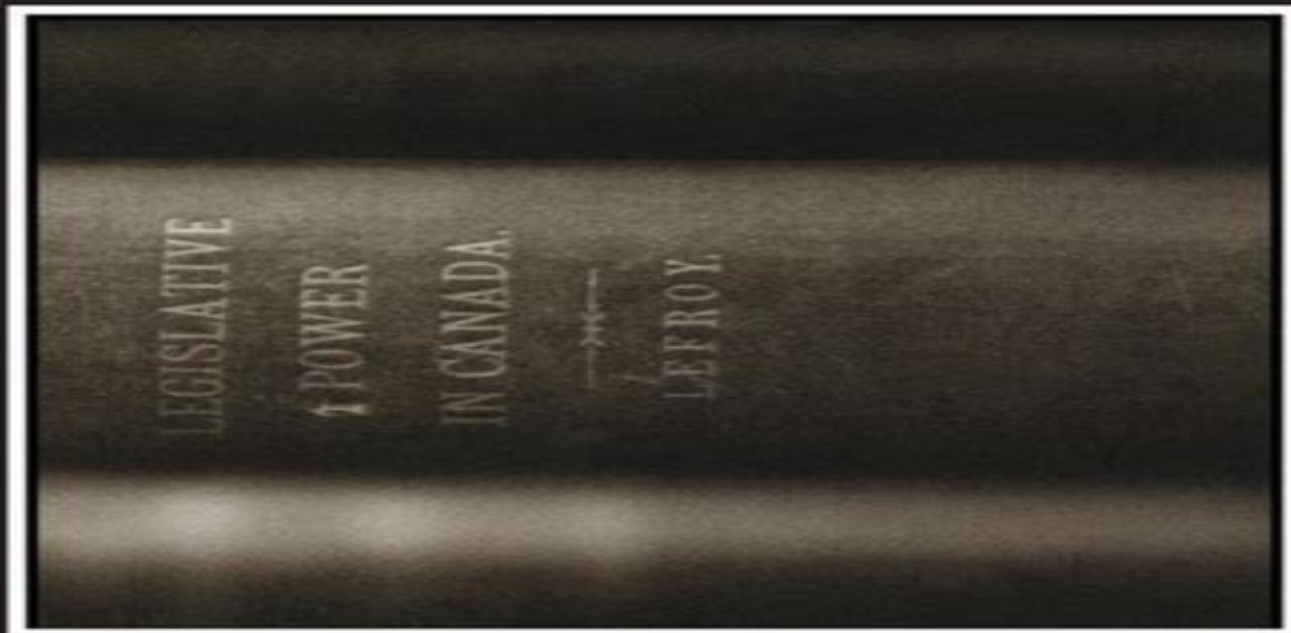




The Osgoode Society for Canadian Legal History

Essays in the History of Canadian Law

IN HONOUR OF R.C.B. RISK



EDITED BY

G. Blaine and Baker and Jim Phillips

Essays In The History Of Canadian Law In Honour Of R C B Risk

David Murray



Essays In The History Of Canadian Law In Honour Of R C B Risk:

Essays in the History of Canadian Law Christopher English, 2005-12-15 The study of Canadian legal history has seen a remarkable growth in the past decade nowhere more so than in Atlantic Canada Given its early settlement and some of the liberties taken with legal procedure there as well as some creative interpretations of English law the region is ripe for close study in the legal history field This new collection examines that history on two islands Newfoundland and Prince Edward Island The essays examine legal themes developments and disputes and offer a framework for comparing ways of administering justice through the courts in the eighteenth and nineteenth centuries The cases examined are particularly interesting for the light they throw on legal process and especially on the motives of the parties Unlike in contemporary England and Upper Canada the English precedents gave way to local needs as equitable regimes emerged that put family and community interests first and treated all members of the family in ways tailored to their personal needs and circumstances This volume which includes a number of essays examining women s legal status and access to the courts is a comprehensive and fascinating examination of legal history in two Canadian provinces *Essays in the History of Canadian Law* David H. Flaherty, 1981 *Essays in the History of Canadian Law, Volume X* David H. Flaherty, 1981 Covering a broad range of topics this volume examines developments over the last two hundred years in the legal profession and the judiciary nineteenth century prison history as well as the impact of the 1815 Treaty of Paris **A History of Law in Canada, Volume Two** Jim Phillips, Philip Girard, R. Blake Brown, 2022-11-01 This is the second of three volumes in an important collection that recounts the sweeping history of law in Canada The period covered in this volume witnessed both continuity and change in the relationships among law society Indigenous peoples and white settlers The authors explore how law was as important to the building of a new urban industrial nation as it had been to the establishment of colonies of agricultural settlement and resource exploitation The book addresses the most important developments in the seventeenth eighteenth and nineteenth centuries including legal pluralism and the co existence of European and Indigenous law It pays particular attention to the Métis and the Red River Resistance the Indian Act and the origins and expansion of residential schools in Canada The book is divided into four parts the law and legal institutions Indigenous peoples and Dominion law capital labour and criminal justice and those less favoured by the law *A History of Law in Canada* examines law as a dynamic process shaped by and affecting other histories over the long term *A History of Law in Canada, Volume One* Philip Girard, Jim Phillips, R. Blake Brown, 2018-12-21 *A History of Law in Canada* is an important three volume project Volume One begins at a time just prior to European contact and continues to the 1860s Volume Two covers the half century after Confederation and Volume Three covers the period from the beginning of the First World War to 1982 with a postscript taking the account to approximately 2000 The history of law includes substantive law legal institutions legal actors and legal culture The authors assume that since 1500 there have been three legal systems in Canada the Indigenous the French and the English At all

times these systems have co existed and interacted with the relative power and influence of each being more or less dominant in different periods The history of law cannot be treated in isolation and this book examines law as a dynamic process shaped by and affecting other histories over the long term The law guided and was guided by economic developments was influenced and moulded by the nature and trajectory of political ideas and institutions and variously exacerbated or mediated intercultural exchange and conflict These themes are apparent in this examination and through most areas of law including land settlement and tenure and family commercial constitutional and criminal law

The Supreme Court of Nova Scotia, 1754-2004 Barry Cahill, Philip Girard, Jim Phillips, 2004-12-15 Prepared to coincide with the 250th anniversary of the establishment of Nova Scotia's Supreme Court this important new volume provides a comprehensive history of the institution Canada's oldest common law court The thirteen essays include an account of the first meeting in 1754 of the court in Michaelmas Term surveys of jurisprudence the court's early federalism cases its use of American law attitudes to the administrative state and chapters on the courts of Westminster Hall on which the Supreme Court was modelled and the various courthouses it has occupied Anchoring the volume are two longer chapters one on the pre confederation period and one on the modern period Editors Philip Girard Jim Phillips and Barry Cahill have put together the first complete history of any Canadian provincial superior court All of the essays are original and many offer new interpretations of familiar themes in Canadian legal history They take the reader through the establishment of the one judge court to the present day a unique contribution to our understanding of superior courts

Colonial Justice David Murray, 2002-01-01 This new study of early Canadian law delves into the court records of the Niagara District one of the richest sets of records surviving from Upper Canada to analyze the criminal justice system in the district during the first half of the 19th century

Arming and Disarming R. Blake Brown, 2012-10-23 From the Cole Polytechnique shootings of 1989 to the political controversy surrounding the elimination of the federal long gun registry the issue of gun control has been a subject of fierce debate in Canada But in fact firearm regulation has been a sharply contested issue in the country since Confederation *Arming and Disarming* offers the first comprehensive history of gun control in Canada from the colonial period to the present In this sweeping immersive book R Blake Brown outlines efforts to regulate the use of guns by young people punish the misuse of arms impose licensing regimes and create firearm registries Brown also challenges many popular assumptions about Canadian history suggesting that gun ownership was far from universal during much of the colonial period and that many nineteenth century lawyers including John A Macdonald believed in a limited right to bear arms *Arming and Disarming* provides a careful exploration of how social economic cultural legal and constitutional concerns shaped gun legislation and its implementation as well as how these factors defined Canada's historical and contemporary gun culture

Memoirs and Reflections Roy McMurtry, 2013-01-01 From the Kid on the Varsity Blues football team to the Chief at Osgoode Hall R Roy McMurtry has had a remarkably varied and influential career As reformist attorney general of Ontario

one of the architects of the agreement that brought about the patriation of the Canadian Constitution high commissioner to the United Kingdom and chief justice of Ontario he made a large and enduring contribution to Canadian law politics and life These memoirs cover all these facets of his remarkable career as well as his law practice his work on various commissions of inquiry and his reflections on family sport and art This volume is both an account of his life in public service and a portrait of a humane humorous still optimistic and always decent man The Thousandth Man Barry Cahill,2000-12-15 James McGregor Stewart 1889 1955 was perhaps the foremost Canadian corporate lawyer of his day He was also an appellate counsel venture capitalist Conservative Party fundraiser bibliographer of Rudyard Kipling and sometime university teacher of classics A leader of the bar in the inter war period he was the first Maritimer to serve as president of the Canadian Bar Association He distinguished himself mainly in constitutional cases before the Judicial Committee of the Privy Council During his career Stewart was also head of the leading law firm in eastern Canada now Stewart McKelvey Stirling Scales director and vice president of the Royal Bank of Canada and senior counsel to the Royal Commission on Dominion Provincial Relations Above all Stewart was committed to the idea of law as a truly learned profession and to the bar as the most important legal institution To this day no lawyer has held such prestige and power both within and outside Atlantic Canada in his time he was the only Maritime lawyer who gained full acceptance by every branch of the Canadian establishment Thematic rather than chronological in approach this fascinating legal biography provides both a history of a uniquely Canadian career and an interpretation of its significance for Stewart's time and ours **Law's Dream of a Common Knowledge** Mariana Valverde,2009-02-09 If knowledge is power then the power of law can be studied through the lens of knowledge This book opens up a substantive new area of legal research knowledge production and presents a series of case studies showing that the hybridity and eclecticism of legal knowledge processes make it unfruitful to ask questions such as Is law becoming more dominated by science Mariana Valverde argues that legal decision making cannot be understood if one counterposes science and technology on the one hand to common knowledge and common sense on the other The case studies of law's flexible collage of knowledges range from determinations of drunkenness made by liquor licensing inspectors and by police through police testimony in indecency cases to how judges define the truth of sexuality and the harm that obscenity poses to communities Valverde emphasizes that the types of knowledge that circulate in such legal arenas consist of facts values and codes from numerous incompatible sources that combine to produce interesting hybrids with wide ranging legal and social effects Drawing on Foucaultian and other analytical tools she cogently demonstrates that different modes of knowledge and hence various forms of power coexist happily Law's Dream of a Common Knowledge underlines the importance of analyzing dynamically how knowledge formation works And it helps us to better understand the workings of power and resistance in a variety of contemporary contexts It will interest scholars and students from disciplines including law sociology anthropology history and science and technology studies as well as those concerned with the particular issues raised by the case studies

Equality Deferred Dominique Clément, 2014-05-06 In *Equality Deferred* Dominique Clément traces the history of sex discrimination in Canadian law and the origins of human rights legislation. Focusing on British Columbia, the first jurisdiction to prohibit discrimination on the basis of sex, he documents a variety of absurd, almost unbelievable acts of discrimination. Drawing on previously undisclosed human rights commission records, Clément explores the rise and fall of what was once the country's most progressive human rights legal regime and reveals how political divisions and social movements shaped the human rights state. This book is not only a testament to the revolutionary impact of human rights on Canadian law but also a reminder that it takes more than laws to effect transformative social change.

Fish, Law, and Colonialism Douglas Colebrook Harris, 2001-01-01 An engrossing history, *Fish, Law, and Colonialism* recounts the human conflict over fish and fishing in British Columbia and of how that conflict was shaped by law. Pacific salmon fisheries, owned and managed by Aboriginal peoples, were transformed in the late nineteenth and early twentieth centuries by commercial and sport fisheries backed by the Canadian state and its law. Through detailed case studies of the conflicts over fish weirs on the Cowichan and Babine rivers, Douglas Harris describes the evolving legal apparatus that dispossessed Aboriginal peoples of their fisheries. Building upon themes developed in literatures on state law and local custom and law and colonialism, he examines the contested nature of the colonial encounter on the scale of a river. In doing so, Harris reveals the many divisions both within and between government departments, local settler societies, and Aboriginal communities. Drawing on government records, statute books, case reports, newspapers, missionary papers, and a secondary anthropological literature to explore the roots of the continuing conflict over the salmon fishery, Harris has produced a superb and timely legal and historical study of law as contested terrain in the legal capture of Aboriginal salmon fisheries in British Columbia.

Law, Debt, and Merchant Power James Muir, 2016-10-27 In the early history of Halifax, 1749-1766, debt litigation was extremely common. People from all classes frequently used litigation, and its use in private matters was higher than almost all places in the British Empire in the 18th century. In *Law, Debt, and Merchant Power*, James Muir offers an extensive analysis of the civil cases of the time as well as the reasons behind their frequency. Muir's lively and detailed account of the individuals involved in litigation reveals a paradoxical society where debtors were also debt collectors. *Law, Debt, and Merchant Power* demonstrates how important the law was for people in their business affairs and how they shaped it for their own ends.

Lawyers' Empire W. Wesley Pue, 2016-07-28 Approaching the legal profession through the lens of cultural history, Wes Pue explores the social roles lawyers imagined for themselves in England and its expanding empire from the late eighteenth to the mid twentieth century. Each chapter focuses on a critical moment when lawyers, whether leaders or rebels, sought to reshape their profession. In the process, they often fancied they were also shaping the culture and politics of both nation and empire as they struggled to develop or adapt professional structures, represent clients, or engage in advocacy. As an exploration of the relationship between legal professionals and liberalism at home or in the Empire, this work draws attention to recurrent disagreements as

to how lawyers have best assured their own economic well being while simultaneously advancing the causes of liberty cultural authority stability and continuity **Let Right Be Done** Hamar Foster, Heather Raven, Jeremy Webber, 2011-11-01 In the early 1970s many questioned whether Aboriginal title existed in Canada and rejected the notion that Aboriginal peoples should have rights different from those of other citizens But in 1973 the Supreme Court of Canada issued a landmark decision in the Calder case confirming that Aboriginal title constituted a right within Canadian law *Let Right Be Done* examines the doctrine of Aboriginal title thirty years later and puts the Calder case in its legal historical and political context both nationally and internationally With its innovative blend of scholarly analysis and input from many of those intimately involved in the case this book should be essential reading for anyone interested in Aboriginal law treaty negotiations and the history of the BC Indian land question *An Exceptional Law* Dennis G. Molinaro, 2017-05-08 During periods of intense conflict either at home or abroad governments enact emergency powers in order to exercise greater control over the society that they govern The expectation though is that once the conflict is over these emergency powers will be lifted *An Exceptional Law* showcases how the emergency law used to repress labour activism during the First World War became normalized with the creation of Section 98 of the Criminal Code following the Winnipeg General Strike Dennis G Molinaro argues that the institutionalization of emergency law became intricately tied to constructing a national identity Following a mass deportation campaign in the 1930s Section 98 was repealed in 1936 and contributed to the formation of Canada's first civil rights movement Portions of it were used during the October Crisis and recently in the Anti Terrorism Act of 2015 Building on the theoretical framework of Agamben Molinaro advances our understanding of security as ideology and reveals the intricate and codependent relationship between state formation the construction of liberal society and exclusionary practices **The Court of Appeal for Ontario** Christopher Moore, 2014-11-05 In Christopher Moore's lively and engaging history of the Court of Appeal for Ontario he traces the evolution of one of Canada's most influential courts from its origins as a branch of the lieutenant governor's executive council to the post Charter years of cutting edge jurisprudence and national influence Discussing the issues personalities and politics which have shaped Ontario's highest court The Court of Appeal for Ontario offers appreciations of key figures in Canada's legal and political history including John Beverly Robinson Oliver Mowat Bora Laskin and Bertha Wilson and a serious examination of what the right of appeal means and how it has been interpreted by Canadians over the last two hundred years The first comprehensive history of the Ontario Court of Appeal Moore's book is the definitive and eminently readable account of the court that has been called everything from a bulwark against tyranny to murderer's row **Tracings of Gerald Le Dain's Life in the Law** G. Blaine Baker, Richard Janda, 2019-05-30 Gerald Le Dain 1924-2007 was appointed to the Supreme Court of Canada in 1984 This collectively written biography traces fifty years of his steady creative and conciliatory involvement with military service the legal academy legislative reform university administration and judicial decision making This book assembles contributions from the in house

historian of the law firm where Le Dain first practised from students and colleagues in the law schools where he taught from a research associate in his Commission of Inquiry into the non medical use of drugs from two of his successors on the Federal Court of Appeal and from three judicial clerks to Le Dain at the Supreme Court of Canada Also reproduced here is a transcript of a recent CBC documentary about his 1988 forced resignation from the Supreme Court following a short term depressive illness with commentary from Le Dain s family and co workers Gerald Le Dain was a tireless worker and a highly respected judge In a series of essays that cover the different periods and dimensions of his career Tracings of Gerald Le Dain s Life in the Law is an important and compassionate account of one man s commitment to the law in Canada Contributors include Harry W Arthurs G Blaine Baker Bonnie Brown Rosemary Cairns Way John M Evans Melvyn Green Bernard J Hibbitts Peter W Hogg Richard A Janda C Ian Kyer Andree Lajoie Gerald E Le Dain Allen M Linden Roderick A Macdonald Louise Rolland and Stephen A Scott Shaping Nations Linda Cardinal,David John Headon,2002 As questions concerning nationhood and national identity continue to preoccupy both Canada and Australia Shaping Nations brings together the work of Australian and Canadian scholars around five core themes constitutionalism colonialism republicanism national identity and governance Published in English

The Enigmatic Realm of **Essays In The History Of Canadian Law In Honour Of R C B Risk**: Unleashing the Language is Inner Magic

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