

FIRST
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SACRED
SITES
IN CANADA'S COURTS

MICHAEL LEE ROSS

First Nations Sacred Sites In Canadas Courts Law And Society

Andrew S. Thompson



First Nations Sacred Sites In Canadas Courts Law And Society:

Law and Society Series Dale Brawn, 2014-01-01 Using the judiciary of Manitoba as a model Paths to the Bench examines the political nature of Canada's judicial appointment process and suggests that ability alone seldom determined who went to the bench In fact many of Manitoba's early judges spent little time actually practising law since professional merit was not a criterion for judicial appointments Rather it was relationships with influential mentors and communities that ensured appointments and ultimately propelled careers Brawn offers an in depth analysis of how the paths to the bench of competent and connected and less competent and connected lawyers differed This book is one of the few studies to examine why many of the best and brightest members of the bar either did not want to go to the bench or if they did why they did not get there

Aboriginal Title and Indigenous Peoples Louis A. Knafla, Haijo Westra, 2011-01-01 Delgamuukw Mabo Ngati Apa Recent cases have created a framework for litigating Aboriginal title in Canada Australia and New Zealand This book brings together distinguished scholars who show that our understanding of where the concept of Aboriginal title came from and where it may be going can also be enhanced by exploring legal developments in these former British colonies in a comparative multidisciplinary framework Contributors trace the role that courts and legislatures played in the extinguishment and acquisition of Aboriginal title and land They then establish that although each country's development was distinctive common issues shaped and continue to inform indigenous peoples struggle for recognition This path breaking book offers a perspective on Aboriginal title that extends beyond national borders to consider similar developments in common law countries

Earth Matters Ciaran O'Faircheallaigh, Saleem Ali, 2017-09-08 Indigenous peoples have historically gained little from large scale resource development on their traditional lands and have suffered from its negative impacts on their cultures economies and societies During recent decades indigenous groups and their allies have fought hard to change this situation in some cases by opposing development entirely in many others by seeking a fundamental change in the distribution of benefits and costs from resource exploitation In doing so they have utilised a range of approaches including efforts to win greater recognition of indigenous rights in international fora pressure for passage of national and state or provincial legislation recognising indigenous land rights and protecting indigenous culture litigation in national and international courts and direct political action aimed at governments and developers often in alliance with non governmental organisations NGOs At the same time and partly in response to these initiatives many of the corporations that undertake large scale resource exploitation have sought to address concerns regarding the impact of their activities on indigenous peoples by adopting what are generally referred to as corporate social responsibility CSR policies This book focuses on such corporate initiatives It does not treat them in isolation recognising that their adoption and impact is contextual and is related both to the wider social and political framework in which they occur and to the activities and initiatives of indigenous peoples It does not treat them uncritically recognising that they may in some cases consist of little more than exercises in public

relations However neither does it approach them cynically recognising the possibility that even if CSR policies and activities reflect hard headed business decisions and indeed perhaps particularly if they do so they can generate significant benefits for indigenous peoples if appropriate accountability mechanisms are in place In undertaking an in depth analysis of CSR and indigenous peoples in the extractive industries the book seeks to answer the following questions What is the nature and extent of CSR initiatives in the extractive industries and how should they be understood What motivates companies to pursue CSR policies and activities How do specific political social and legal contexts shape corporate behaviour What is the relationship between indigenous political action and CSR How and to what extent can corporations be held accountable for their policies and actions Can CSR help bring about a fundamental change in the distribution of benefits and costs from large scale resource exploitation and if so under what conditions can this occur Earth Matters gathers key experts from around the world who discuss corporate initiatives in Alaska Ecuador Australia Canada Peru Papua New Guinea Indonesia and Russia The book explores the great diversity that characterises initiatives and policies under the name of corporate social responsibility the highly contingent and contextual nature of corporate responses to indigenous demands and the complex and evolving nature of indigenous corporate relations It also reveals much about the conditions under which CSR can contribute to a redistribution of benefits and costs from large scale resource development Earth Matters will be essential reading for those working in and studying the extractive industry worldwide as well as those readers looking for a state of the art description of how CSR is functioning in perhaps its most difficult setting

The Grand Experiment Hamar Foster, Benjamin L. Berger, A.R. Buck, 2009-07-01 The essays in this volume reflect the exciting new directions in which legal history in the settler colonies of the British Empire has developed The contributors show how local life and culture in selected settlements influenced and was influenced by the ideology of the rule of law that accompanied the British colonial project Exploring themes of legal translation local understandings judicial biography and law at the boundaries they examine the legal cultures of dominions in Canada Australia and New Zealand to provide a contextual and comparative account of the incomplete implementation of the British constitution in these colonies

Westward Bound Lesley Erickson, 2011-08-01 In the late nineteenth century European expansionism found one of its last homes in North America While the American West was renowned for its lawlessness the Canadian Prairies enjoyed a tamer reputation symbolized by the Mounties legendary triumph over chaos Westward Bound debunks the myth of Canada's peaceful West and the masculine conceptions of law and violence upon which it rests by shifting the focus from Mounties and whisky traders to criminal cases involving women between 1886 and 1940 Lesley Erickson reveals that judges and juries responses to the most intimate or violent acts reflected a desire to shore up the liberal order by maintaining boundaries between men and women Native peoples and newcomers and capital and labour Victims and accused could only hope to harness entrenched ideas about masculinity femininity race and class in their favour The results Erickson shows were predictable but never certain This fascinating

exploration of hegemony and resistance in key contact zones draws prairie Canada into larger debates about law colonialism and nation building **Criminal Artefacts** Dawn Moore, 2007 Annotation Attitudes towards crime criminals and rehabilitation have shifted considerably yet the idea that there is a causal link between drug addiction and crime prevails *The Environmental Rights Revolution* David R. Boyd, 2011-11-29 The right to a healthy environment is the subject of extensive philosophical debates that revolve around a key question Should rights to clean air water and soil be entrenched in law This pioneering book answers this by moving beyond theoretical debate to measure the practical effects of enshrining the right in constitutions David Boyd analyzes 193 constitutions and the laws and court decisions of more than 100 nations in Europe Latin America Asia and Africa He reveals that nations with constitutional protections have stronger environmental laws enhanced enforcement greater government accountability and better access to justice information and public participation in decision making than nations without such provisions As a result they demonstrate superior environmental performance and have smaller ecological footprints Boyd not only demonstrates that constitutionalizing environmental protection has the power to make sustainability a priority he tells inspiring stories about the difference the right to a healthy environment is making in people's lives **In Defence of Principles** Andrew S. Thompson, 2010-09-09 Since 9 11 and the onset of the war on terror the principal challenge confronting liberal democracies has been to balance freedom with security and individual with collective rights In Defence of Principles sheds new light on the evolution of human rights norms in liberal democracies by charting the activism of four Canadian NGOs on issues of refugee rights hate speech and the death penalty including their use of difficult often controversial legal cases as platforms to assert human rights principles and shape judicial policy making Although human rights principles are often spoken of in absolute terms this book reminds us that they are never certain even in countries that have a vibrant civil society a long tradition of rule of law and a judiciary that possesses the constitutional authority to engage in judicial review The struggles of these NGOs reveal not only the fragility but also the resilience of ideas about rights in liberal democracies **The Freedom of Security** Colleen Bell, 2011-04-20 From Guantanamo Bay to the war in Iraq post 9 11 security measures have sparked fears that the West is violating the very civil rights and freedoms it claims to protect This debate is focused on the United States but how have the politics of security influenced the commitment to freedom in other liberal democracies Colleen Bell argues that Canada's counter terrorism practices should not be framed as a departure from liberal governance in which freedom is traded for security but rather as a restructuring of modalities of governance through the framework of security Addressing issues such as security certificates the war in Afghanistan and the detainment and torture of Abdullah Almalki in Syria Bell demonstrates that security measures are not simply eroding civil liberties they are also fundamentally reshaping ideas and practices of freedom This trenchant examination of Canada's War on Terror exposes how the logic and practices of security are increasingly coming to define our rights and freedoms *The Strategic Constitution* Irvin Studin, 2014-03-01 Historically Canada's Constitution has been principally viewed as a federal

framework or a rights bulwark This book offers a new interpretation The Strategic Constitution as proposed by Irvin Studin is a framework for understanding the capacity of Canada to project strategic power in the world First Studin provides a wide ranging audit of the Constitution in terms of its treatment of factors of strategic power He then applies the Strategic Constitution framework to four policy case studies Provocative and well argued this book makes the case for the Constitution being a flexible national framework that quietly harbours seeds of national strategic potency **City of Order** Michael Boudreau,2012-05-15 Interwar Halifax was a city in flux a place where citizens debated adopting new ideas and technologies but agreed on one thing modernity was corrupting public morality and unleashing untold social problems on their fair city To create a bulwark against further social dislocation citizens policy makers and officials modernized the city s machinery of order courts prisons and the police force and placed greater emphasis on crime control These tough on crime measures Boudreau argues did not resolve problems but rather singled out ethnic minorities working class men and female and juvenile offenders as problem figures in the eternal quest for order Multi-Party Litigation Wayne V. McIntosh,Cynthia L. Cates,2010-01-01 Drawing upon insights from law and politics Multi Party Litigation outlines the historical development political design and regulatory desirability of multi party litigation strategies in cross national perspective and describes a battle being fought on multiple fronts by competing interests By addressing the potential and constraints of litigation this book offers a comprehensive account of an international issue that will interest students and practitioners of law politics and public policy **Sanctuary, Sovereignty, Sacrifice** Randy Lippert,2011-11-01 Facing immediate deportation a lone Guatemalan migrant entered sanctuary in a Montreal church in December 1983 Thus began the practice of sanctuary in Canada By 2003 thirty six incidents involving 261 migrants had occurred nationwide Sanctuary Sovereignty Sacrifice closely examines sanctuary practice in Canada Randy Lippert suggests that far from being a coherent social movement sanctuary practice is a localized and isolated phenomenon and often not primarily religious in orientation It is also remarkably successful in every documented incident state authorities were kept at bay and providers avoided arrest In most cases migrants also ultimately received legal status Drawing on theories of governmentality Lippert traces the emergence of this practice to a shift in responsibility for refugees and immigrants from the state to churches and communities Here sanctuary practices and spaces are shaped by a form of pastoral power that targets needs and operates through sacrifice and by a sovereign power that is exceptional territorial and spectacular Correspondingly law plays a complex role in sanctuary appearing variously as a form of oppression a game and a source of majestic authority that overshadows the state A thorough and original account of contemporary sanctuary practice this book tackles theoretical and methodological questions in governmentality and socio legal studies concerning methodology nonliberal power the role of legal narratives and the nature of resistance Sanctuary Sovereignty Sacrifice will be of interest to scholars and students in socio legal studies criminology sociology political science social history anthropology and religious studies and will appeal to anyone interested in

immigration and refugee law and policy Negotiating Responsibility Kimberley White, 2007-11-02 The meaning of criminal responsibility emerged in early to mid twentieth century Canadian capital murder cases through a complex synthesis of socio cultural medical and legal processes Kimberley White places the negotiable concept of responsibility at the centre of her interdisciplinary inquiry rather than the more fixed legal concepts of insanity or guilt In doing so she brings subtlety to more general arguments about the historical relationship between law and psychiatry the insanity defence and the role of psychiatric expertise in criminal law cases Through capital murder case files White examines how the idea of criminal responsibility was produced organized and legitimized in and through institutional structures such as remissions trial and post trial procedures identity politics of race character citizenship and gender and overlapping narratives of mind state and capacity In particular she points to the subtle but deeply influential ways in which common sense about crime punishment criminality and human nature shaped the boundaries of expert knowledge at every stage of the judicial process Negotiating Responsibility fills a void in Western socio legal history scholarship and provides an essential point of reference from which to evaluate current criminal law practices and law reform initiatives in Canada 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 demonstrating how governments inhibit the application of their own laws and how it falls to social movements to create promote and enforce these laws Focusing on British Columbia the first jurisdiction to prohibit discrimination on the basis of sex Clément documents a variety of absurd almost unbelievable acts of discrimination The province was at the forefront of the women's movement which produced the country's first rape crisis centres first feminist newspaper and first battered women's shelters And yet nowhere else in the country was human rights law more contested For an entire generation the province's two dominant political parties fought to impose their respective vision of the human rights state This history of human rights law based on previously undisclosed records of British Columbia's human rights commission begins with the province's first equal pay legislation in 1953 and ends with the collapse of the country's most progressive human rights legal regime in 1984 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 **Law and Religious Pluralism in Canada** Richard J. Moon, 2009-05-01 **Law and Religious Pluralism in Canada** seeks to elucidate the complex and often uneasy relationship between law and religion in democracies committed both to equal citizenship and religious pluralism Leading socio legal scholars consider the role of religious values in public decision making government support for religious practices and the restriction and accommodation by government of minority religious practices They examine such current issues as the legal recognition of sharia arbitration the re definition of civil marriage and the accommodation of religious practice in the public sphere **The Last Word** Florian Sauvageau, David Schneiderman, David Taras, 2006 Media coverage of the Supreme Court of Canada has emerged as a crucial factor not only for judges and

journalists but also for the public It s the media after all that decide which court rulings to cover and how They translate highly complex judgments into concise and meaningful news stories that will appeal to and be understood by the general public Thus judges lose control of the message once they hand down decisions and journalists have the last word To show how the Supreme Court has fared under the media spotlight Sauvageau Schneiderman and Taras examine a year in the life of the court and then focus on the media coverage of four high profile decisions the Marshall case about Aboriginal rights the Vriend case about gay rights the Quebec Secession Reference and the Sharpe child pornography case They explore the differences between television and newspaper coverage national and regional reporting and the French and English language media They also describe how judges and journalists understand and interact with one another amid often clashing legal and journalistic cultures offering a rich and detailed account of the relationship between two of the most important institutions in Canadian life

Conflict in Caledonia Laura DeVries, 2011-11-07 On 28 February 2006 the Six Nations of the Grand River blocked workers from entering a half built housing development in southern Ontario They renamed the land Kanohstaton the protected place The protest drew national and international attention to the issue of Aboriginal land rights and sparked a series of ongoing events known as the Caledonia Crisis Laura DeVries powerful account of the dispute links the actions of police governmental officials and locals to entrenched non Aboriginal discourses about law landscape and identity It encourages non Aboriginal Canadians to reconsider their assumptions to view facts such as the rule of law as culturally specific notions that prevent truly equitable dialogue DeVries not only reveals the conflicting visions of justice held by various parties to the dispute she also seeks out possible solutions in alternative conceptualizations of sovereignty over land and law embedded in the Constitution

Indigenous Sacred Natural Sites and Spiritual Governance John Studley, 2018-10-26 Since time immemorial indigenous people have engaged in legal relationships with other than human persons These relationships are exemplified in enspirited sacred natural sites which are owned and governed by numina spirits that can potentially place legal demands on humankind in return for protection and blessing Although conservationists recognise the biodiverse significance of most sacred natural sites the role of spiritual agency by other than human persons is not well understood Consequently sacred natural sites typically lack legal status and IUCN designated protection More recent ecocentric and posthuman worldviews and polycentric legal frameworks have allowed courts and legislatures to grant rights to nature and juristic personhood and standing to biophysical entities This book examines the indigenous literature and recent legal cases as a pretext for granting juristic personhood to enspirited sacred natural sites The author draws on two decades of his research among Tibetans in Kham southwest China to provide a detailed case study It is argued that juristic personhood is contingent upon the presence and agency of a resident numina and that recognition should be given to their role in spiritual governance over their jurisdiction The book concludes by recommending that advocacy organisations help indigenous people with test cases to secure standing for threatened sacred natural sites SNS and calls upon IUCN

UNESCO MAB and WHS ASEAN Heritage and EuroNatura to retrospectively re designate their properties reserves parks and initiatives so that SNS and spiritual governance are fully recognised and embraced It will be of great interest to advanced students and researchers in environmental law nature conservation religion and anthropology

Repatriation of Sacred Indigenous Cultural Heritage and the Law Vanessa Tünsmeier, 2022-01-25 This book examines the ways in which law can be used to structure the return of indigenous sacred cultural heritage to indigenous communities referred to as repatriation in this volume In particular it aims at developing legal structures that align repatriation with contemporary international human rights standards To do so it gathers the most valuable lessons learned from different repatriation laws and frameworks adopted in the United States and Canada In both countries very different ways of approaching repatriation have been used for several decades highlighting the context dependent nature of repatriation The volume is divided into four parts looking first at international law then at the national legal landscape in the United States followed by Canada before the different repatriation models are evaluated against the backdrop of human rights law standards Emphasis is placed not only on repatriation specific legislation but also on the legal context in which it was developed and operates In turn the fourth part develops various models on the basis of these experiences that can be aligned with contemporary indigenous and cultural rights The book ends by considering the models suitability for international repatriation and the lessons that can be learned from them The primary audience includes those addressing the legal hurdles to repatriation be they researchers policymakers communities or museums

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