

Editor's Preface

UNBLJ Forum:

The Promise of Equality -

Are We There Yet?

Each year the University of New Brunswick Law Journal publishes the written version of UNB's Viscount Bennett Memorial Lecture. This public lecture, usually given during the Fall semester of the academic year, affords students, faculty, and guests an opportunity to hear from a leading figure in the legal community. The Forum Topic is typically selected to thematically complement the Lecture's topic, which will hopefully generate submission interest from a diverse range of authors. While a substantial portion of the Journal is devoted to publishing submissions accepted related to the Forum discussion, the UNB Law Journal also seeks to publish articles of a general nature too, as well as any relevant case-comments. This year we are pleased to include one case-comment by Professor Andréa Ouellet, "Commentaire d'arrêt – Girouard c Druet – Peut-on Acheter un Condominium par Courriel?"

On November 7, 2012, Justice Robert J. Sharpe of the Ontario Court of Appeal delivered UNB's 34th Viscount Bennett Memorial Lecture. We are honoured to reproduce his talk in this year's Volume.

Justice Sharpe's paper, entitled "The Persons Case and the Living Tree Theory of Constitutional Interpretation", paints a contextualized picture of some of the most influential people and events surrounding the famous decision, *Edwards v Attorney General of Canada*. The "Persons Case", as it has come to be known, was monumental in Canada's legal and political history. The Judicial Committee of the Privy Council's decision that women are indeed eligible to be appointed to the Canadian Senate has been praised for both its progressive view of equality as well as its exemplary interpretative methodology for constitutional theory.

Justice Sharpe's paper persuasively reminds us that no matter how impractical conceptions of constitutional theory and equality appear, at times, depending on one's view of legal theory, practically useful and equitable consequences can result, sometimes even dramatically. However, Justice Sharpe's

paper also displays some of the ironies at play behind the Persons Case. Despite achieving noble and equitable results by challenging traditional interpretations of the Constitution, some of the women advocating most vigorously on behalf of women's equality held many controversial views. Such views, however controversial, must be recognized in order to fully appreciate the historical, biographical, political, and legal context surrounding the players involved in this most famous case.

This year's Forum Topic was adopted to raise questions about equality anew, and to further explore some of the themes and issues raised in Justice Sharpe's paper. Though we did not request specific responses to his article, the authors published in this Volume discuss topics related to equality from various perspectives, and identify areas where further advocacy is required. Some of these include: equality challenges facing First-Nations Peoples; challenges surrounding the recent *Bedford v Canada* case; economic inequalities based on gender; as well as perceived barriers to women participating in politics.

The editors of this year's UNB Law Journal would like to express our sincere gratitude to Justice Sharpe for joining us in New Brunswick and speaking to us about the Persons Case. We would also like to express thanks to each contributing author who has submitted an article to our Journal this year.

Thank you to all of our student-volunteers who helped in checking footnotes, tracking down sources, and finalizing this year's Volume. Your help is truly appreciated and without it this project could not have been completed.

We hope that Volume 64 of the UNB Law Journal will provide a valuable contribution to ongoing academic debates and stimulate further discussion. It has been a memorable experience preparing this year's Journal. On behalf of the Journal staff, I hope that you will enjoy this year's Volume as much as we enjoyed working on it. However, though we enjoyed an overwhelming response to this Volume's Forum Topic, one thing is made clear in the articles that follow: there remain many people within our society that cannot answer our Forum question affirmatively. "The Promise of Equality – Are We There Yet?" Well, are we?

Philip C. Whalen
Editor-in-Chief, Volume 64