JUDGES, JOURNALS AND EXEGESIS: JUDICIAL LEADERSHIP AND ACADEMIC SCHOLARSHIP

Peter McCormick*

Children, according to the old saying, should be seen and not heard. Until rather recently, much the same was true about Canadian judges. However extensive and unchallengeable their authority was within the courtroom, outside of it they were silent – virtually muzzled by the traditional conceptions of the judicial role, without a legitimate forum in which to express themselves or a public *persona* with which to speak. When Justice Berger of British Columbia tested the boundaries of these expectations by speaking out on behalf of Native peoples and women against the 1981 *Constitutional Agreement*, he discovered at the hands of the Canadian Judicial Council just how firm the boundaries were.[1] Until recently, the reigning tradition of judicial decision-making, emphasizing a mechanical process tightly bound to authoritative precedent, also severely constrained the way judges could communicate even within the courtroom.

Clearly, however, this concept of the judicial role no longer applies. As Ian Greene has noted, we now expect judges to exercise a degree of leadership in our society, and this leadership takes various forms which stretch traditional boundaries.[2] Inside the courtroom, they can make use of academic books, articles and commission reports to an extent that would have raised judicial eyebrows just a few decades ago, allowing them to deal with controversial issues in ways that transcend literal and mechanical legal analysis. Compared with the explanatory style of a few decades ago, many appeal courts seem to be writing their decisions in a way which genuinely attempts (not always successfully) to be more accessible to a broader public – less technical, less cryptic, and less jargon-ridden. Outside the courtroom, judges can comment on current issues in a way that not even Chief Justices would once have dared. The most recent and striking example of this is perhaps Justice Cory publicly countering the suggestions of the Reform Party of Canada about possible changes to the *Young Offenders Act*. These are important changes in the relationship between judges and the rest of society.

In these remarks, I want to discuss a third aspect of judicial leadership that falls somewhere between the writing of more accessible reasons for judgment and the making of public speeches on controversial topics. This is the phenomenon of judicial participation in legal scholarship, primarily through contributions to the

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*Of the Department of Political Science, University of Lethbridge.

[1]F.L. Morton, *Law, Politics and the Judicial Process in Canada*, 2d ed. (Calgary: University of Calgary Press, 1982) at 147-154. For Justice Berger's own comments on the denouement to this controversy, see The Hon. T. Berger, "Letter to Bora Laskin" (1991) 40 U.N.B.L.J. 234.

[2]I. Greene, "Judges as Leaders" in M. Mancuso, R.G. Price & R. Wagenberg, eds., *Leaders and Leadership in Canada* (Toronto: Oxford University Press, 1994) 211.

university and professional legal journals.[3] At first glance, this seems unobjectionable, a natural and logical outgrowth of the "mainstream" judicial role of expounding and explaining the law. To some extent, the logical and intellectual process is much the same whether it occurs within the context of the judicial resolution of a specific case or is couched in more general terms within the pages of an academic journal. It raises none of the questions of a public or semi-public speech on, for instance, a policy issue currently or potentially before Parliament. However, I would suggest that this practice raises some problematic questions in its own right.

To begin one requires some idea of the scope of the practice. Checking through the Canadian, English-language university and professional law reviews[4] over the last ten years,[5] I was able to identify a total of forty-three articles (including the texts of fifteen addresses) by Canadian judges, twenty-seven of these by sitting or recently-retired members of the Supreme Court of Canada.[6] This is far from an overwhelming presence – the average journal of the thirteen I surveyed would carry one article by a judge every three and a half years and one by a Supreme Court judge every five years – but neither is it negligible. By comparison, Australian judges loom far larger in the legal writing of that country. It is a rare issue of the *Australian Bar Review* that does not include at least one article by a sitting judge (usually Justice Kirby), and most of the state law journals typically include at least one article by a judge every year, although there are some (such as the *Melbourne Law Review* and the *Monash University Law Review*) where the practice is much less frequent.

To be sure, the articles by Canadian judges come in all shapes and sizes. Some (three examples) take the form of short pieces praising the contributions of recently retired members of the court or of distinguished law professors. Others

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[3]More exceptionally, judges publish academic books, such as The Hon. B.L. Strayer's long authoritative book on judicial review, now in its third edition, *The Canadian Constitution and the Courts: The Function and Scope of Judicial Review*, 3d ed. (Toronto: Butterworths, 1988).

[4]The journals canvassed were: Alberta Law Review, Dalhousie Law Journal, McGill Law Journal, Manitoba Law Journal, Osgoode Hall Law Journal, Ottawa Law Review, Queen's Law Journal, Saskatchewan Law Review, University of British Columbia Law Review, University of New Brunswick Law Journal, University of Toronto Faculty of Law Review, University of Toronto Law Journal and Canadian Bar Review.

[5]The constraints of this search mean articles that appeared in other journals, such as The Hon. J. Sopinka, "Intervention" (1988) 46 Advocate 883, or in the law journals of other countries, such as The Hon. B. McLachlin, "Southey Memorial Lecture: The Canadian *Charter* and the Democratic Process" (1991-92) 18 Melb. Univ. L. Rev. 350 and The Hon. G.V. LaForest, "The Use of American Precedents in Canadian Courts" (1994) 46 Maine L. Rev. 211, were omitted.

[6]See Appendix I. It is intriguing, although tangential to my present purpose, that the only three women judges ever to sit on the Supreme Court account for almost two-thirds (16 out of 27) of those publications.

(eight examples) are on what we might think of as "traditional" topics (like the *Schumiatcher Annual Lecture Series* on "Law as Literature", or comments on legal education). Some (six examples) deal with statistical or procedural matters. However, others (such as the eight articles on the implications of the *Charter*) are organized around more substantial and controversial themes of current interest to the court, and still others (eleven examples) are more directly focused on case-law. The purest examples of this latter category are Justice MacGuigan's discussion of a single specific case,[7] and Justice Sopinka's recent "case comment" on the *Nelles* case,[8] although several of the pieces by Justice Wilson and Justice McLachlin on women and the criminal law are equally relevant. Since these are the articles that raise my issues in the most pointed and immediate way, the rest of this discussion will treat them as if they were more typical than they are.

Perhaps I could make my general point clearer by organizing it around a specific issue and, to avoid making my comments unnecessarily pointed or provocative, I will use an Australian example. It is generally expected that trial judges will provide not just a decision but also a set of reasons explaining that decision by explicitly resolving the relevant points of fact and law. The critical questions, of course, are how extensive and complete those reasons have to be, and against what sort of yardstick the higher courts will measure them. In Canada, the Supreme Court has recently declared expectations in this regard that are quite generous to trial judges.[9] This decision would clearly have gone the other way in Australia, where the courts have always recognized a legal obligation for judges (especially when they are sitting without juries) to state clear and complete reasons for their decisions. Justice Michael Kirby, the President of the New South Wales Court of Appeal, has, on at least two occasions, written academic articles describing the Australian jurisprudence and expanding upon the principles and the conceptual logic that drive it.[10]

It seems to me that if I were a trial judge in Australia, particularly if I were a trial judge in New South Wales, I would have to take such articles very seriously.

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[7]The Hon. M.R. MacGuigan, "The *Jervis Crown* Case: A Jurisprudential Analysis" (1993) 25 Ottawa L. Rev. 61.

[8]The Hon. J. Sopinka, "Malicious Prosecution: Invasion of *Charter* Interests: Remedies: *Nelles* v. *Ontario*: *R.* v. *Jedynack*: *R.* v. *Simpson*" (1995) 74 Can. Bar Rev. 366.

[9]*R.* v. *Burns*, [1994] 1 S.C.R. 656 at 664 approved of trial judges "stat[ing] their conclusions in brief compass" and scolded the British Columbia Court of Appeal for being inordinately concerned about "the brevity of the trial judge's reasons." I wish to thank Justice Hetherington of the Alberta Court of Appeal for bringing this case to my attention.

[10]The Hon. M. Kirby, "*Ex Tempore* Reasons" (1992) 9 Aust. Bar Rev. 93 and The Hon. M. Kirby, "Reasons for Judgment: 'Always Permissible, Usually Desirable and Often Obligatory' " (1994) 12 Aust. Bar Rev. 121. We can probably think of him as the Australian equivalent to the Chief Justice of Ontario.

There may be a trial in which I would be inclined to write only the briefest of *ex tempore* reasons for judgment – perhaps because it presents such a complex balancing of the probative value of evidence and the credibility of witnesses that it would be enormously time-consuming to write anything but brief reasons, or because it is one of those hard cases that make bad law because highly unusual circumstances justify hedging on some meritorious general rule. In such a case, I would have to consider not only the decisions of the Australian High Court and the decisions of my own Court of Appeal, as is the usual practice, but also extra-judicial comments on the issue made by a member of my Court of Appeal.

What if my reading of the case-law differs subtly but significantly from the President's, or if I can accept some of his generalized rules on writing decisions but have serious doubts about others? I am in no position to argue my view of the matter as I cannot intervene before the appeal court. My brief decision will have to stand on its laconic lonesome as it would look more than a little strange if my trial judgment contained less in the way of "reasons" than it does "reasons for not giving reasons".

If the legal rules emerged literally from the pages of a High Court panel decision, then I would (in all but the most unusual of circumstances, and maybe even then) simply have to live with them whether I liked them or not – but rules derived from an article do not have that status. If I ignore them, I am possibly subjecting the winners of the case to the bother and the delay of an appeal, the result of which may be a new trial. Even if the end result is the same as that of the original trial, this is no small inconvenience. Worse, if the appeal is allowed, the Appeal Court will say that it is because the trial judge (who happens to be me) did not do the job properly, and this will be a major professional embarrassment to me, both in the eyes of my fellow judges and in terms of my own self-opinion. Perhaps I should respond by writing my own article for the *Australian Bar Review*, although such a public challenge to my own Chief Justice may appear more than a little cheeky, and this strategy would still do me no good at all in the immediate case.

This example involves a senior appeal court judge discussing decisions of the High Court. However, there are other aspects of the problem that would be better illustrated by assuming that the judge writing the articles himself is a member of the High Court, so, for the remainder of this article, I will award him this hypothetical elevation. Suppose that the decisions he is discussing are not only those of his own court, and not even only those of panels of which he was a member, but decisions that he had delivered himself on behalf of the Court. In this case, the journal article might take the form of a brief, more focused restatement of the decision – an edited version highlighting some aspects and leaving others aside, and perhaps fitting it into a logical, developing sequence with other cases. It might be thoughts along the line of "perhaps we did not make

ourselves completely clear" – providing further elaboration or clarification in response to academic analysis or subsequent lower court case-law. Finally, it might be something like "we never considered X, but if we had done so, we would have said such and such."

Each of these raises the same logical problem, although with escalating degrees of seriousness. Decisions, like statutes, do not apply or interpret themselves and even a light editing can give any serious writing quite a different spin. This is simply because different people reading the same paragraph can have quite different impressions of what is important and what is tangential, and of what is implied and what is excluded. Editing often involves making this choice explicit, making it for the reader rather than letting the reader make it for herself. Terrell has suggested that we should think of judicial decisions as having not just a location on some notional multi-dimensional grid, but also a direction, in the sense that they presume, and implicitly recommend to others, a particular line of development from the existing case-law.[11] Changing the "spin" by editing a decision can, therefore, be just as critical as changing its location – to edit is to amend, whether it is done by the same person or by another.

Where a decision has already been partially misunderstood, the revisions become more significant, and therefore more problematic.[12] *R.* v. *Askov* is probably the most vivid recent example of a case where the Supreme Court either made a mistake or was misunderstood.[13] Justice Cory took the unusual step of using an address to a professional meeting in Cambridge, England, to restate the Supreme Court's intentions. This restatement was essentially adopted by the Court in *R.* v. *Morin*.[14] For my purposes, assume that Justice Cory had written an article rather than having given a speech. What would the status of that article have been during the interval between *Askov* and *Morin*? Would a trial judge have been obliged to follow the Appeal Court's interpretation of the critical paragraph in *Askov* or would she have been justified in ignoring the most recent Court of Appeal decisions to follow Cory? To make the point differently, we have some idea to whom the Supreme Court is speaking and with what effect when it hands down its decision – but to whom is Cory speaking when he suggests in a speech or an article that he has been misunderstood, and what does he expect them to do about it?

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[11]T.P. Terrell, "Flatlaw: An Essay on the Dimensions of Legal Reasoning and the Development of Fundamental Normative Principles" (1984) 72 Calif. L. Rev. 288 at 295 note 34.

[12]C. Baar, "Criminal Court Delay and the *Charter*: The Use of and Misuse of Social Facts in Judicial Policy Making" (1993) 72 Can. Bar Rev. 305.

[13][1990] 2 S.C.R. 1199.

[14][1992] 1 S.C.R. 771.

Extrapolating the meaning of an actual decision into new territory is the most critical of the three examples. In one sense, it is useful for those interpreting the decision to have access to the organized and systematic second thoughts of the person who wrote the decision. In another sense, however, that judge's opinion on such future extension is no more valuable than anybody else's. As academics often suggest without apology, it is indeed possible that were Shakespeare to hop on a time machine and visit our century, he would flunk a course on Shakespearian literature. The case for denying our writing justice a privileged position is much stronger than the case for marking Shakespeare down for his lack of expository and analytical imagination because even the writing judge on the panel does not "own" the decision. The process of appellate decision-making is collegial and deliberative.[15] Having heard the arguments of counsel, the panel goes into a conference room to discuss how the case should be handled. On the basis of a straw vote, people begin drafting the majority decision and reasons (and sometimes dissenting opinions as well) to which other judges respond by suggesting alternate wording or reasoning, with the revised draft again being circulated. The result can be additional conferences in which the initial voting blocs firm up, grow or fragment, sometimes turning the initial dissent into the majority opinion and vice versa.[16] If the panel had indeed been considering "X" then the discussions, the drafting, and the suggested revisions would have been different, and there is no way of telling to what extent (or even whether) any particular judge's initial reaction would have prevailed without this issue actually having been discussed. All the writing judge can tell us in an article discussing "X" is what a first draft might have looked like, but this is quite different from suggesting what the final result would have been.

As we move away from the judge who wrote all or some of the decisions being discussed, the problems become more serious. Judges are individuals, even on unanimous panels or within the bloc that has joined to support a majority decision, and it is often the case that they have accepted appellate appointment precisely because it offers the chance to contribute to the development of the law.[17] It frequently makes a good deal of difference which judge writes the decision because no two judges will follow exactly the same logical track, use exactly the same examples or metaphors, or cite exactly the same set of antecedent cases – even when the outcome is already agreed upon, the other members of the panel can suggest changes to make the reasons more comfortable to them, and the final draft is to some extent a collaborative product. This is why studies of the U.S.

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[15]See e.g. H.W. Jones, "Multitude of Counsellors: Appellate Adjudication as Group Decision-Making" (1980) 54 Tul. L. Rev. 541.

[16]For the best description of the process used by the Supreme Court of Canada, see The Hon. B. Wilson, "Decision-making in the Supreme Court" (1986) 36 U.T.L.J. 227.

[17]This comment is based on research in progress involving interviews with the members of every appeal court in Canada.

Supreme Court suggest that there are frequent hard fought battles over the assignment of opinions and track the ebb and flow of voting coalitions and individual reputations in these terms;[18] indeed, recent studies suggest that the same maneuvering and calculations even enter the decision of who will write the dissent when there is more than one judge in opposition.[19]

I would suggest that this problem is just as acute for concurring as it is for dissenting or separately concurring judges. This is because the decision to join or to write does not simply measure initial (or even final) disagreement on outcome or reasons – a wide range of additional factors can go into the decision not to write separately as well.[20] A judge may want the Court to speak with a united voice, or the decision to be made by a majority rather than a plurality, or she may support an individual or a bloc of colleagues in the hope that this bread cast upon the waters will return manifold.[21] If I were a judge writing about the decision of another judge on a case which included me on the panel, I suspect that even with the best of intentions my analysis of how she wrote the decision and what she meant by it would evolve into suggesting how I would have written the decision had the task fallen to me. These differences may not be massive, but it is unlikely that they will always be negligible, especially as the difference may be part of the reason why she was selected to write in the first place.

In this context, it is striking that the three judges who are the most prolific article writers rank among the judges who are least often called upon to deliver decisions for the Court.[22] Seniority is undoubtedly part of the explanation for this, but the statement remains true even if we correct for seniority. That is, for the first five years, and again for the second five years, of their service on the Court, these individuals deliver the majority decision less frequently than the other judges in their first five and second five years of service. One logical consequence of this is a higher than average frequency of dissents and separate concurrences.

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[18]See e.g. H.J. Spaeth, "Distributive Justice: Majority Opinion Assignments in the Burger Court" (1983-84) 67 Jud. 299.

[19]B.B. Cook, "Justice Brennan and the Institutionalization of Dissent Assignment" (1995) 79 Jud. 17.

[20]There have been several studies of U.S. appeal courts to determine how genuine the outward appearance of unanimity really is. See e.g. B.M. Atkins & J.J. Green, "Consensus on the United States Courts of Appeals: Illusion or Reality?" (1976) 20 American Journal of Political Science 735; and P.L. Dubois, "The Illusion of Judicial Consensus Revisited: Partisan Conflict on an Intermediate State Court of Appeals" (1988) 32 American Journal of Political Science 946.

[21]B. Woodward & S. Armstrong, *The Brethren: Inside the Supreme Court* (New York: Simon & Schuster, 1979) suggest just how blatant and even explicit these choices can be. I doubt that this is true to the same extent of the Supreme Court of Canada, but it seems unrealistic to suggest that there is not something of the sort occurring on every appeal court.

[22]See P. McCormick, "Judicial Career Patterns and the Delivery of Reasons for Judgment in the Supreme Court of Canada, 1949-1993" (1994) 5 Supreme Court L. R. (2d) 499 at 509.

Another is, arguably, the seeking of an alternate outlet for those ideas that majorities could not be persuaded to share and to endorse, possibly in the form of contributions to the academic literature. To put it perhaps more bluntly than it is fair to do, those judges who are delivering the largest number of the Court's significant decisions are too busy to be writing articles for submission to academic journals, and they know that those decisions will have more impact than articles in any event.

Of course, the arguments that I have made here have to be qualified in significant ways. First, I am not suggesting that the conscious purpose of judges who publish in journals is to attempt end runs on their less academically inclined colleagues – although this effect can be significant even if the intent is lacking. Second, even now that the rules on citing academic books and articles have been significantly relaxed (cracked by William Lederman, shattered by Peter Hogg), judicial citations are still the preferred weapon in the explanatory arsenal of Canadian judges, so it is unlikely that journal articles are having a major impact or will do so in the foreseeable future. Third, the academic writing of Canadian judges is much more modest in volume, and much more inclined to report rather than to argue, than is the case in Australia or the United States.

Am I suggesting that judges should not submit writings to academic journals, or that the editors of those journals should as policy reject such submissions? Hardly – that would be a ten-ton solution to a one-pound problem and, in any event, my concern is less with the judges than with their audience. Since the swing in judicial appointments in recent years is toward more appeal court judges with academic backgrounds, these contributions can be expected to increase. My point is much more modest, namely, that both the judges who write and the scholars who read should remember that the gown is left behind in the table of contents. Even when writing about the doctrinal evolution of her own court, the judicial author has no automatic claim to any more insight or any more authority than anyone else venturing onto the territory, and wields no heavier a sword in the clash of opinions that follows. To be able to quote from Judge X's journal article when Judge X herself is on the panel may or may not be an advantage, depending how Judge X's colleagues feel on the issue and how the discussion in conference goes; in the end, it may not even get the vote of Judge X. Shorn of the undue weight that unreflective reaction might seem to assign it, the academic leadership of the judges of the Supreme Court of Canada and other courts is to be welcomed as part of the general shift from the invisible-outside-of-the-courtroom style that we are rapidly leaving behind us and as a useful element in the leadership which we expect from judges in the late twentieth century.

Appendix I: English-Language Publications by Canadian Judges, 1985-1995

Supreme Court Judges

The Rt. Hon. B. Dickson, "Has the *Charter* 'Americanized' Canada's Judiciary? A Summary and Analysis" (1992) 26 U.B.C. L. Rev. 195.
The Rt. Hon. B. Dickson, "Legal Education" (1986) 64 Can. Bar Rev. 374.
The Rt. Hon. B. Dickson, "Madame Justice Wilson: Trailblazer for Justice" (1992) 15 Dalhousie L.J. 1.
The Rt. Hon. B. Dickson, "W.R. Lederman: Scholar and Friend" (1993) 19 Queen's L.J. 1.
The Hon. C.D. Gonthier, "Préface" (1993) 38 McGill L.J. 513.
The Hon. C.D. Gonthier, "Remarks on the *Charter*: Rights, Duties and Responsibilities" (1991) 40 U.N.B.L.J. 193.
The Hon. F. Iacobucci, "The Evolution of Constitutional Rights and Corresponding Duties: The Leon Ladner Lecture" (1992) 26 U.B.C. L. Rev. 1.
The Hon. G.V. La Forest, "Rambling Recollections of the Law School" (1990) 39 U.N.B.L.J. 224.
The Hon. C. L'Heureux-Dubé, "By Reason of Authority or by Authority of Reason" (1993) 27 U.B.C. L. Rev. 1.
The Hon. C. L'Heureux-Dubé, "The Length and Plurality of Supreme Court of Canada Decisions" (1990) 28 Alta. L. Rev. 581.
The Hon. C. L'Heureux-Dubé, "Nomination of Supreme Court Judges: Some Issues for Canada" (1991) 20 Man. L.J. 600.
The Hon. C. L'Heureux-Dubé, "Re-Examining the Doctrine of Judicial Notice in the Family Law Context" (1994) 26 Ottawa L. Rev. 551.
The Hon. J.C. Major, "Lawyer's Obligation to Provide Legal Services" (1994-95) 33 Alta. L. Rev. 719.
The Hon. B.M. McLachlin, "The *Charter*: A New Role for the Judiciary" (1991) 29 Alta. L. Rev. 540.
The Hon. B.M. McLachlin, "*The Charter of Rights and Freedoms*: A Judicial Perspective" (1988-89) 23 U.B.C. L. Rev. 579.
The Hon. B.M. McLachlin, "Crime and Women – Feminine Equality and the Criminal Law" (1991) 25 U.B.C. L. Rev. 1.
The Hon. B.M. McLachlin, "The Role of the Courts in the Post-*Charter* Era: Policy-Maker or Adjudicator?" (1990) 39 U.N.B.L.J. 43.
The Hon. B.M. McLachlin, "Rules and Discretion in the Governance of Canada" (1992) 56 Sask. L. Rev. 167.
The Rt. Hon. I.C. Rand, "The Role of the Supreme Court in Society" (1991) 40 U.N.B.L.J. 173.
The Hon. J. Sopinka, "Malicious Prosecution: Invasion of *Charter* Interests: Remedies: *Nelles* v. *Ontario*: *R.* v. *Jedynack*: *R.* v. *Simpson*" (1995) 74 Can. Bar Rev. 366.

The Hon. B. Wilson, "Constitutional Advocacy" (1992) 24 Ottawa L. Rev. 265.
The Hon. B. Wilson, "Decision-making in the Supreme Court" (1986) 36 U.T.L.J. 227.
The Hon. B. Wilson, "The Ideal Teacher" (1993) 19 Queen's L.J. 16.
The Hon. B. Wilson, "The Scottish Enlightenment: The Third Schumiatcher Lecture in 'The Law as Literature' " (1986-7) 51 Sask. L. Rev. 251.
The Hon. B. Wilson, "Will Women Judges Really Make A Difference?" (1990) 28 Osgoode Hall L.J. 507.
The Hon. B. Wilson, "Women, the Family and the Constitutional Protection of Privacy" (1991) 23 Ottawa L. Rev. 431.
The Hon. B. Wilson, "Women, the Family and the Constitutional Protection of Privacy" (1992) 17 Queen's L.J. 5.

Other judges:

Judge R.S. Abella, "Employment Equity" (1987) 16 Man. L.J. 185.
The Hon. R.S. Abella, "Equality, Human Rights, Women and the Justice System" (1994) 39 McGill L.J. 489.
The Hon. R.S. Abella, "The Law of the Family in the Year of the Family" (1994) 26 Ottawa L. Rev. 533.
R.S. Abella, "Public Policy and the Judicial Role" (1988-89) 34 McGill L.J. 1021.
The Hon. R.S. Abella, "Speech from Her Swearing In Ceremony at the Court of Appeal for Ontario" (1992) 24 Ottawa L. Rev. 301.
The Hon. W.G. Baker, "Structure of the Workplace or, Should We Continue to Knock the Corners off Square Pegs or Can We Change the Shape of the Holes?" (1994-95) 33 Alta. L. Rev. 821.
The Hon. S. Freedman, "The Law As Literature" (1984-85) 49 Sask. L. Rev. 319.
The Hon. F. Kaufman, "The Canadian *Charter*: A Time for Bold Spirits, Not Timorous Souls" (1985-86) 31 McGill L.J. 456.
The Hon. R.P. Kerans, "The Future of Section One of the *Charter*" (1988-89) 23 U.B.C. L. Rev. 567.
The Hon. A.M. Linden & P. Fitzgerald, "Recodifying Criminal Law" (1987) 66 Can. Bar Rev. 529.
The Hon. A.M. Linden, "Recodifying Criminal Law" (1989) 14 Queen's L.J. 3.
The Rt. Hon. A. McEachern, "*Viva Voce* Evidence in *Charter* Cases" (1988-89) 23 U.B.C. L. Rev. 591.
The Hon. M.R. MacGuigan, "The Public Dimension in Legal Education" (1989) 12 Dalhousie L.J. 85.
The Hon. M.R. MacGuigan, "The *Jervis Crown* Case: A Jurisprudential Analysis" (1993) 25 Ottawa L. Rev. 61.
The Hon. N.T. Nemetz, "The Concept of an Independent Judiciary" (1986) 20 U.B.C. L. Rev. 285.
The Hon. P.D. Seaton, "The Judicial Administration of the Honourable Nathan P. Nemetz, Chief Justice of British Columbia" (1988-89) 23 U.B.C. L. Rev. 1.