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The Column This week's column is on: ed hoc

New Columnists, ed hoc Simon Fodden May 1, 2010

In just over two weeks' time we'll be changing the design and layout of Slaw. It's been three years since our last makeover, so we're due to be visually refreshed up.

But more exciting is the fact that we'll be introducing many new columnists and giving them, well, a column of their own. We've sought out experts to write for you on a number of broad themes. You can expect a column a week on each of the following: the Practice of Law, Legal Technology, Outsourcing, Legal Marketing, Legal Information, Justice Issues, and Legal Publishing. As well, of course, our... [more]

READ: this column other columns on ed hoc past columns on all topics

Special Projects TOROG memos and precedents Documents from the Toronto Opinions Group on third-party opinions.

Mapping Canadian Lawyers A cooperative project to locate Canadian lawyers on a Google map.

Recent Comments Antonin I. Pribetic on When Is Email Received? Simon Chester on CALL/ACBD Awards

Connie Crosby on CALL Innovation Gallery JT McKay, PhD on 2010 World Summit and Symposium on Elder Mediation

John G on 2010 World Summit and Symposium on Elder Mediation mark on Huge Canadian Mortgage Fraud... John G on Bilingual Judges... Again

Ben H on New Google Results Page Ravi Singh on Bloggers and Tweeters Are Different From MSM Says the SCC

David Cheffetz on Zoom, Zoom, Zoom to Waiver of Tort Resolution Neil Campbell on 100 Years in the Navy

Neil Campbell on Bilingual Judges... Again Simon Chester on Bilingual Judges... Again

Connie Crosby on U.S. Supreme Court Selection to Be Announced Angela Swan on Zoom, Zoom, Zoom to Waiver of Tort Resolution

Slaw Linklog Off the Shelf - Canadian Journal of Criminology and Criminal Justice, v. 52, no. 3

Now Available Bridging Divides in Canadian Criminology: Some Thoughts on a Possible Future / Laura Huey, Paul-Philippe Paré

\* Rethinking Criminology(ies) through the Inclusion of Political Violence and Armed Conflict as Legitimate Objects of Inquiry / Maritza Felices-Luna

\* Academic Engagement of International Policing-Referral Assistance: Putting Foucauldian Genealogy to Practical Use / Michael Kempa

\* Shifting the Focus: Restorative Justice and Sex Work / Jacqueline Lewis \* Masculinity and Resistance in Adolescent Carceral Settings / Caris Casarone, Shahid Alvi

\* What Can Political Science Contribute to the Study of Criminal Justice in Canada? / Troy Q. Riddell

Archive Makes Over a Million Digital Books Available for Those Who Can't Use Print - Wired Campus - The Chronicle of Higher Education

With a service it started Thursday, the Internet Archive has more than doubled the number of books available to blind people and others who cannot read print books.

The nonprofit organization, based in San Francisco, has made more than a million digital books available free in a format that can be downloaded to a device that reads them aloud.

Library of Congress, Facing Privacy Concerns, Clarifies Twitter Archive Plan - Wired Campus - The Chronicle of Higher Education

Faced with privacy concerns, the Library of Congress is clarifying its plans to archive all public tweets posted since Twitter went live in March 2006. The database won't contain deleted tweets or private account information, according to a list of frequently asked questions recently posted on the library's blog.

And the Twitter database will only be made available to "qualified researchers," Martha Anderson, director of the library's National Digital Information Infrastructure and Preservation Program, tells The New York Times. The plan is to embargo messages for six months before making them available, but that period could be extended, she says.

Clearinghouse | Canadian Forum on Civil Justice Updated bibliography. Now with RSS.

Recent additions to CanLII databases Courts Martial (military courts) Trade-marks Opposition Board

Manual Fund Dealers' Association of Canada Manitoba Law Society Discipline Committee Ontario College of Pharmacists Discipline Committee

Quebec Conseil des services essentiels Commission de la santé et de la sécurité du travail Nova Scotia Workers' Compensation Appeals Tribunal

Building Effective Legal FAQ Collections how do you = Eryafajalajokull OK, how do You pronounce Eryafajalajokull?

Lawrence Lessig - "Getting our Values Around Copyright Right" [Educause, Nov. 2009] Slides and audio available here: http://www.educause.edu/Resources/Lessig2005

Study Finds Benefits in Modified Crops but Warns of Overuse - NYTimes.com Use of Roundup, or its generic equivalent, glyphosate, has skyrocketed to the point that weeds are rapidly becoming resistant to the chemical. That is rendering the technology less useful, requiring farmers to start using additional herbicides, some of them more toxic than glyphosate.

Simon Singh wins libel battle against chiropractors - New Scientist Science writer Simon Singh today triumphed in the key libel battle that began when he was sued for criticisms of chiropractors in a British newspaper two years ago.

Today, the British Chiropractic Association (BCA) dropped its case against Singh, effectively conceding defeat.

The outcome will have implications for freedom of speech in the UK, which has notoriously strict libel laws. It will free journalists and scientists to criticize medical claims as "bogus" or "unscientific without the risk of having to prove in court that their criticisms are factually correct.

Instead, thanks to a judgment on the Singh case by the UK Court of Appeal earlier this month, defendants will now only need to prove that criticisms amounted to "honest opinion" or "fair comment".

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Slaw NET Here's the title of the most recent post from each of the blogs of Slaw's regular contributors.

eLegal Canton Giving formal notices by email raises legal issues

Law is Cool Articling Positions are Cool Too

Library Boy Canadian Association of Law Libraries 2010 Awards

Connie Crosby CALL/ACBD/Michall 2010 Presentation: Legal Research Free and Fast! - Web 2.0 Sources

The Cross-Border Biotech Blog Grand Challenges Canada to Mobilize \$25 Million Over 5 Years For Global Health

Chaire en droit de la sécurité et des affaires électroniques Illégitimité de l'information financière : la technologie pour améliorer la transparence des marchés financiers

Preuve Électronique et Gestion de l'information - Le Pont entre le Droit et les TI - Conseils Ledit J. Jansonne annuaire téléphonique...

Canadian Privacy Law Blog TSA Employee Arrested for assault after being teased about what body scanner revealed

Vancouver Law Librarian Blog Roundup of CALL Annual Reports

Thoughtful Legal Management Huge Canadian Mortgage Fraud...

Law Firm Web Strategy LinkedIn for law firms

Connection | A Crosby Group Consulting Blog WHIR TV Interview with Connie Crosby

E-Discovery and Information Management Bridging the Gap Between IT and the Law - Ledit Consulting Model discovery plan, proportionality chart and e-trial guides released by Ontario's e-CJIC

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Resources on Elena Kagan by Simon Fodden on May 13th, 2010

As you might have expected, the Library of Congress has put together resources relevant to the nomination of Elena Kagan for the U.S. Supreme Court. There you'll find articles and books she's written, relevant congressional documents, a collection of material from the web, half a dozen transcripts of her oral arguments before the Supreme Court, and some videos of and about her.

For those unfamiliar with Ms Kagan, who is currently the Solicitor General of the United States, Wikipedia has a good posted biography.

Somewhat like baseball statistics -- you know: "the longest game ever played during rain in the twilight pitched by a left-hander from Cleveland"; that sort of thing -- stats about her are being developed. A sample (from Wikipedia):

If confirmed by the Senate, Kagan would be the first justice in nearly four decades without any prior experience as a judge.[50][51] The last justice confirmed without prior experience as a judge was William Rehnquist in 1972.[52] She would also become the fourth female justice in the Supreme Court's history, and the third on the current bench. She would also become the eighth Jewish justice in the Supreme Court's history, and the third on the current bench.

And I think I'm right in saying that she's the first unmarried woman nominee. Sadly, this has led to ridiculous and irrelevant speculation that she is a lesbian, something the White House hastily denied, as if it were a disqualification.

Respond: Make a comment Share: Email | Save as PDF | Print | LinkedIn, Facebook, Delicious, other More: on Miscellaneous | by Simon Fodden

Full-Body Scanners Still Raise Many Legal Concerns by Yosie Saint-Cyr on May 13th, 2010

Airport full-body security scanners raise many legal concerns, and while this isn't exactly a new issue, it made headlines recently by raising employment law concerns--particularly with respect to workplace harassment and violence. However, the more publicized issues that this technology raises are privacy and human rights concerns.

These full-body scanners screen airline passengers by peering underneath clothing, and they can store, record and transfer images of screened passengers, making the images open to possible abuse.

Privacy advocates and civil liberties groups claim that the scanners are breaching privacy laws. They are a "virtual strip search" because they display an image of passengers' naked bodies on a computer screen. Some have gone so far as to say that these scanners violate child pornography laws because the process shows a person's private parts.

The scans also violate the human rights of groups such as the disabled, the transgendered, the elderly, various religious groups, pregnant women and children, since the images from the scan might embarrass them, intrude on or violate their religious observances, or cause danger to their health and safety.

Despite these concerns, in January 2010, the Canadian government moved ahead with its plan to invest in full-body scanners to enhance security at Canadian airports. They are now in place in Toronto and British Columbia.

Airport authorities have stated that all full-body scanners are delivered to airports without the capability to store, print or transmit images. Each image is automatically deleted after it is scanned by the officer looking at the image. The scan is done by a person of the same sex. Also, faces are blurred, and the agent checking the images is located in a separate room away from the scanners.

But the BC Civil Liberties Association is not reassured. They warn that security staff could take pictures of the scans with their own cameras or celphones, or make prints from the images.

And guess what: it has already happened. One example, In February 2010, it was revealed on the BBC's Jonathan Ross show that naked images of Indian film star Shahrukh Khan were printed out and circulated by airport security staff at Heathrow in London.

Not only did staff print his image, but contrary to the directives, it was a woman operator who performed the scan, not a man.

This set off alarm bells that the precautions set out by airport authorities are flawed, they can be abused, and they do indeed violate privacy law.

The BC Civil Liberties Association and other advocacy groups have called for a ban on airport body scanners, or a switch to new software that would eliminate the problem by displaying a stylized image rather than an actual picture, highlighting the area of the body where objects are concealed in pockets or under the clothing.

I am sure we have not heard the last on this topic. But in the meantime, do we have to get used to the idea that some airport security employees will misuse these images?

Respond: Make a comment Share: Email | Save as PDF | Print | LinkedIn, Facebook, Delicious, other More: on Substantive Law | by Yosie Saint-Cyr

Articling Students in Need by Omar Ha-Redeye on May 13th, 2010

One of the unique requirements that we have in North America to be called to the bar is the articling process, the merits of which have been discussed here. And we have seen law students try to use social media to get these positions.

But I still know an astonishing number of students from the class of 2010 that do not have any articling position at all. Not just from my school, but across Ontario and the country. So here's my attempt to try and do something about it.

Read the rest of this entry ->

Respond: Make a comment Share: Email | Save as PDF | Print | LinkedIn, Facebook, Delicious, other More: on Education & Training: Law Schools | by Omar Ha-Redeye

When Is Email Received? by John Gregory on May 12th, 2010

A recent English case considered when an email message is received, for the purpose of accepting an offer of a contract. Thomas v. BPE Solicitors, [2010] EWHC 306 (Ch). (The relevant parts of a very long decision are at paras 85 - 90.)

In short, the court held that the postal rule did not apply to an email, as it had been established by authority that it did not apply to other instantaneous forms of communication, like telexes (Entores [1955] Q.B. 327 and Brinkbon [1983] 2 A.C. 34). Thus the court held that the sender could reasonably have expected that the addressee received in fact in the computer of the addressee, namely Friday evening at 6, or only when the offices opened after the long weekend, i.e. Tuesday morning at, say, 9?

The answer was that it depended ... on the expectations of the parties. In this case, the parties were in the final throes (they thought) of negotiating a substantial share purchase agreement, and the deal was expected to close that day, even after hours. Thus the court held that the sender could reasonably have expected that the addressee would still be at his office at that hour, and the email was delivered then. (As it happened, the addressee had left on vacation. However, the court's ruling that the email did not constitute a legally binding acceptance saved the vacationer from a finding of professional negligence for the loss of the deal.)

A few lessons: Read the rest of this entry ->

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CALL/ACBD Awards by Jeffrey Miller on May 12th, 2010

I am a bit surprised that no one has posted the news on Slaw that Ted Tjaden received the Denis Marshall Memorial Award for Excellence in Law Librarianship at the Canadian Law Libraries Association annual meeting on Monday. A description of the award can be found on the CALL website.

I assume that in due course the Association will be posting some sort of testimonial to Ted on their website along with pictures of the award presentation, but I'm quite certain that Slaw readers will want to send their congratulations to Ted as well. We are certainly proud to have Ted as one of Irwin Law's authors and look forward to the third edition of his Legal Research and Writing text which will be published later this month.

I might also mention that CALL presented a new award to Helen Rentis in recognition of Helen's long service to the legal information community. Helen will be known to many Slaw readers: she is a leader in Canadian legal publishing for many years, first as a sales rep for Butterworths and, for the last fifteen or so years, as an independent sales agent for legal publishers around the world including Irwin Law. Publishers and customers alike have benefited from her incredible knowledge, her amazing attention to detail, and her unfailing good spirits. We are certainly proud to have Helen selling Irwin Law's products but more importantly I am honoured to call her my friend. Well done Helen.

Respond: Make a comment | Read the 1 comment Share: Email | Save as PDF | Print | LinkedIn, Facebook, Delicious, other More: on Announcements | by Jeffrey Miller

Digital Economy Consultation - Our Moonshot by David Canton on May 12th, 2010

The Canadian government announced a consultation on the future of Canada's digital economy at the Canada 3.0 conference this week. I encourage readers to add their thoughts to the consultation process -- which is open for the next 60 days.

It is summarized as:

Digital technologies are critical to every aspect of our economy and society. That is why a strategy for the digital economy is needed to ensure that Canada is positioned to benefit from the opportunities that it presents.

All Canadians have a role to play in helping shape Canada's digital future. Your perspectives, suggestions, ideas and submissions will be important inputs in the creation of our digital strategy. We appreciate your interest and participation.

This consultation, and the main message of the Canada 3.0 conference, is about building a digital media strategy for Canada so that by our 150th anniversary in 2017 everyone in Canada will be digitally connected. That's both in the sense of connectivity, and how we use digital tools and media to work, learn, play, communicate, and manage our health. The organizers are calling this the "Moonshot".

The sentiment is that while Canada used to be a digital leader, we are falling behind. And that the future of our country and economy depends on the aggressive adoption of new technology

Of course, this is an issue that is easy to state -- but not so easy to do something about. Questions include the roles of government vs business. And differences in attitude and perspective of old vs new media.

Some thoughts about the conference and this issue from a couple of people I know that were there are here and here.

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Text of the Bill to Eliminate Some Pardons by Simon Fodden on May 12th, 2010

The text of the Eliminating Pardons for Serious Crimes Act, Bill C-23, introduced in the House yesterday, is available here. It amends the Criminal Records Act, R.S.C. 1985, c. C-47. The official summary of the Bill reads as follows:

This enactment amends the Criminal Records Act to substitute the term "record suspension" for the term "pardon". It extends the ineligibility periods for applications for a record suspension. It also makes certain offences ineligible for a record suspension and enables the National Parole Board to consider additional factors when deciding whether to order a record suspension.

According to statistics on the National Parole Board website, in the last year for which records are public (2008-2009) 39,628 pardons were granted by the Board, 111,769 pardons in the last five years, and, as the Board says:

[s]ince 1970, more than 400,000 Canadians have received pardons. 96 percent of these are still in force, indicating that the vast majority of pardon recipients remain crime-free in the community.

Apparently, the Parole Board doesn't release a breakdown of the offences of those granted pardons.

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Feds Introduce Child Porn Reporting Bill by Dan Michaluk on May 12th, 2010

On May 6th, the federal government introduced Bill C-22, the Protecting Children From Online Sexual Exploitation Act. If passed, the Act will impose a duty on persons who provide an "internet service" (internet access, e-mail or internet content hosting) to report child pornography offences in certain circumstances. This includes when a service provider has reasonable grounds to believe its service is being used to commit a child pornography offence. Fines and offences range from \$1,000 to \$100,000 for repeat offenders.

This adds to duties embodied in legislation in Manitoba (in force since April 2009), Nova Scotia (in force since last month), Ontario (passed in December 2008 and, according to the Canadian HR Reporter, expected to come into force in January 2011) and Alberta (coming into force on July 1, 2010). These provincial statutes impose duties that apply to "persons" writ large, while Bill C-22 imposes duties that apply only to internet service providers. Bill C-22 specifies that a person who has reported information in compliance with an obligation to report child pornography under the laws of a province will be deemed to have reported in compliance with the provisions of Bill C-22.

For Yosie Saint-Cyr's related post, see here. For a critique of the prior version of Bill C-22 by Michael Geist, see here.

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North America - Opportunities for Knowledge Management in the Evolution - Librarians by Ted Tjaden on May 11th, 2010

I had the pleasure of presenting on knowledge management at the CALL/ACBD/Michall law library conference currently underway in Windsor, Ontario. I shared the panel with Geneva Saylor of Fraser Millner Casgrain, Denise Bonin of andornot, and SLAW's own Simon Fodden.

It would appear that knowledge management is alive and well, albeit perhaps in an evolving manner. I will try to post shortly in more detail on the discussions that ensued at the session but thought for now I would post here at the following link a PDF of the paper I submitted called The Evolution of Law-Related Knowledge Management in North America - Opportunities for Librarians. Part of my thesis was that in some organizations lawyers sometimes under-value the role that law librarians can play in knowledge management at the same time as law librarians sometimes under-sell or under-leverage their skills and abilities relating to knowledge management.

As knowledge management evolves, I see a positive, on-going role for law librarians covering all aspects of knowledge management, including document and records management, legal education, litigation support, legal research and intranet content delivery, continuing legal education, information management, practice management and client-facing initiatives.

Respond: Make a comment Share: Email | Save as PDF | Print | LinkedIn, Facebook, Delicious, other More: on Legal Information: Information Management or Legal Information: Libraries & Research or Practice of Law: Future of Practice or Technology: Internet | by Ted Tjaden

Effective Blogging for Libraries by Connie Crosby by Ted Tjaden on May 11th, 2010

The CALL/ACBD/Michall law library conference currently underway in Windsor, Ontario, has had lots of useful sessions, as previously mentioned here on SLAW by Shauna Mireau.

A busy schedule at the conference, combined with outrageously expensive wireless Internet access at the Caesars Windsor conference hotel, has prevented "live" blogging but I hope to post some entries shortly on lessons learned.

In sharing a panel session of free internet legal research with Connie Crosby and two American law library colleagues, I learned about and briefly perused Connie Crosby's new book called Effective Blogging for Libraries available from Neal-Schuman so wanted to mention and celebrate this new title.

Congratulations Connie!

Connie has already posted her presentation on Web 2.0 Sources from the panel session on her blog here.

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The Osogode Society's 2010 Publishing Program by Gary P. Rodrigues on May 11th, 2010

The Osogode Society for Canadian Legal History has announced its 2010 Publishing Program. According to an honourary publication published in the 2009 Annual Reports and available on their website at osogodesociety.ca, this year the Society will publish four new works:

1. Work on Trial: Canadian Labour Law Struggles edited by Judy Wager and Eric Tucker and published for the Osogode Society by Irwin Law. \$45 incl GST.

2. A History of the British Columbia Court of Appeal by Christopher Moore and published for the Osogode Society by the University of British Columbia Press. \$45 incl GST.

3. Viscount Haldane: Gilded Stepfather of the Canadian Constitution by Frederick Vaughan and published for the Osogode Society by the University of Toronto Press. \$48 incl GST.

4. Race on Trial: Black Defendants in Ontario's Criminal Courts, 1850-1950 by Barrington Walker and published for the Osogode Society by the University of Toronto Press. \$40 incl GST.

The stated purpose of the Osogode Society is "to study and promote public interest in the history of the law, the legal profession and the judiciary in Ontario and elsewhere in Canada and to stimulate research and publication on these subjects".

Set out below are the marketing blurbs that describe this year's offerings in greater detail.

Read the rest of this entry ->

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Washington Supreme Court Supports Library's Stringent Internet Filtering Policy by Agnese Caruso on May 11th, 2010

The Supreme Court of Washington issued a decision on May 6th supporting a public library's decision to fully filter Internet content, stating that such filtering could be viewed as "collection development". The case is known as Badburn vs. North Central Regional Library District.

Library.org has an article that summarizes the decision and provides reactions and predictions from various experts.

Respond: Make a comment Share: Email | Save as PDF | Print | LinkedIn, Facebook, Delicious, other More: on Technology: Internet | by Agnese Caruso

2010 World Summit and Symposium on Elder Mediation by Nicole Garton-Jones on May 11th, 2010

I am currently attending the 2010 World Summit & Symposium on Elder Mediation and am presenting on ethics on May 11th and advance directives on May 12th. I enclose slides on a general overview of some ethical issues in elder mediation:

Elder mediation ethics View more presentations from Nicole Garton-Jones.

It is estimated that there are currently approximately 3.7 million Canadians over the age of 65. With the leading edge of the "baby boom" poised to hit retirement in 2011, seniors will soon make up close to a quarter of the population. This demographic shift will have a profound effect on our society socially and economically.

The potential for issues and disputes will increase as larger numbers of older adults face life transitions and issues of incapacity, health care, housing, finances, family and relationship concerns, possible abuse and neglect, estate planning, end of life decisions and other significant concerns. Elder mediation is a potential solution to assist seniors, their families and other stakeholders facing a maze of options and tough decisions.

What is Elder Mediation? Elder Mediation is a cooperative process in which a professionally trained elder mediator helps facilitate discussions that assist people in addressing the myriad of changes and stresses that often occurs throughout the family life cycle. Elder mediation typically involves larger numbers of participants including older people, family members, friends and others who are willing to give support. Depending on the situation it is not uncommon to include paid caregivers, hospital staff, nursing home and or community care representatives, physicians and other professionals.

Over the past 20 years mediation with age-related issues has been emerging as a distinct specialty in the field. Elder Mediation is now being recognized internationally as an important step in the continuum of care -- focusing on addressing concerns and issues while maintaining and strengthening the myriad of relationships critical to the well-being of the older person.

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CALL Innovation Gallery by Shauna Mireau on May 10th, 2010

Hello from Windsor. Like many of my Slaw colleagues, I am lucky to be attending the Canadian Association of Law Libraries Annual Conference so far.

This evening, an event was held at the University of Windsor Law School, sponsored by Canada Law Book. The event was titled "Innovation gallery", but really, it was a speed dating event with presentations by a number of very talented people.

Conference attendees had an opportunity to attend five 10 minute presentations highlighting a variety of interesting projects, including:

"Developing an On-Line Search Thesaurus for Civil Justice Resources" presented by Bratley Albrecht

"Full-text Search and E-Commerce with Access CLE at the Great Library" presented by Olcay Atacan

"Advantages of Mind Mapping in Libraries" presented by Nathalie Belanger

"Expanding our Online Offerings with the Annotated Nova Scotia Civil Procedure Rules" presented by Deborah Copeman and Susan Jones

"McGill Library Expanded Deposits Project" presented by Maryvon Cote

"The Training Librarian's Toolbox" presented by Liana Giovando

"Achieving Legal Research Literacy using Blended Learning and Learning Community Strategies" presented by Nathalie Lavigne

"How to Plead: Essential Elements" presented by Ted Tjaden

The difficult part of the evening was leaving each 10 minute session. If you are wondering what those library people are doing, I can tell you that they are creating enormous contributions to their organizations and to the legal community.

I look forward to sharing more from the conference this week.

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This Week's Biotech Highlights by Jeremy Grushcow on May 10th, 2010

This week was the BIO international convention. 15,00