

VANCOUVER ASSOCIATION OF LAW LIBRARIES

VALLReview

edited by
Edward Lentz

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VALLReview is published three times a year, in the Fall,
Winter and Spring, by the Vancouver Association of Law
Libraries, c/o P.O.B. 48252, Bentall Centre, Vancouver, B.C.
V7X 1A7, and is distributed free of charge to members of the
Association. Non-members may subscribe to the Review for
\$7.50/yr. Cheques or money orders should be made payable to
the Association and mailed, c/o the Treasurer, to the above
address.

EDITORIAL

The editorial for the last issue of the inaugural volume of VALLReview will consist of an edited version of a memo I was asked to draft for the purpose of bringing the new editor up-to-speed, so to speak, when that person was elected. As it has turned out, the position is to be filled by two able bodies. I wish Johanna and Karen all the best of luck. I know that in their capable hands the concerns I address in the following memo will receive due attention.

A VALLReview Primer: Notes to the New Editor

VALLReview has so far primarily consisted of articles and book reviews. Articles were solicited by letter from the membership. This has not been a particularly successful exercise: I have not been overwhelmed by people wanting to see their efforts in print. Three articles have appeared so far. These have been generated through personal appeal, unsolicited manuscript, and the publishing of the text of one luncheon presentation. The Review has also had the opportunity of publishing news and information from the membership. Other than book reviews this volume's final issue will consist of primarily notices of services and related matters emanating from the Courthouse Library.

I consider the publishing of book reviews to have been a successful exercise. Correspondence has been carried on with the legal publishers and they have been receptive to one extent or another. Surprisingly, I have been more successful in getting reviews from non-members than from librarians. I hope the membership will try to become more involved in the future.

Production of VALLReview has been of a rough and ready, seat of the pants, nature. The first issue was transcribed word-for-word onto legal-size paper with an ancient electric typewriter and then reduced and reproduced at Kinko's. Because of the fact that the second issue was twice as long as the first I hired someone to word-process it and, again, it was reproduced at Kinko's. Costs for the first and second issues were ca. \$100.00 and \$250.00, respectively. I feel that the Review has suffered from the lack of proper facilities for layout and reproduction. I am hopeful that the new editor will have the physical resources to bring VALLReview's format in line with the quality of the content to date.

Distribution of the Review has been accomplished through the kindness of the Courthouse Library staff.

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I wish the new editor the best of luck with volume 2. I want to acknowledge the contributions of the correspondents, writers, reviewers, and publishers who have been integral in making VALLReview possible.

Edward Lentz
Editor, VALLReview, 1988/89
April, 1989

PRESIDENT'S MESSAGE

The first year of VALL has passed so quickly that it feels strange to be summarizing our activities already. Who could have imagined at the organisational meeting in March 1988 that we would have 89 members by now? What some feared would be a momentary flash-in-the-pan type enthusiasm has proven to be a lasting desire to learn, to exchange and, on occasion, to campaign.

When I mention our campaigning activities, you know I refer to the Canadian Abridgement affair. VALL has represented your concerns at the local and national levels and has had lively discussions with Carswell. The result of this action is that two CALL representations will be placed on the Abridgement's editorial board and Carswell is investigating on-line access to the Abridgement from the First Permanent Supplement onwards. All the major Canadian legal publishers attended that meeting at the CALL conference and realised that they could have been in Carswell's shoes. The main accomplishment here has been recognition that supplier-consumer problems can be addressed in an organised fashion, that results proceed from informed discussion, and that as a group we can get action.

Our members are widely representative of private, agency, court and academic law libraries as well as print and electronic suppliers. To add to our diversity, we have members in the Mysterious East (Toronto), the Far North (Fairbanks, Alaska), and the Far, Far West (Tasmania).

I would like to thank the general membership for making VALL the lively organisation it is. Your support at meetings, your suggestions and responses to calls for input have been truly gratifying. Special thanks should go to our publisher members who have wined and dined us so generously.

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It has been such a pleasure to work with your executive. Their achievement has been an association that some members perceive as "just running by itself." Notices of forthcoming meetings and current news items appear. Our lunches occur monthly. Our membership directory is in constant use. We have been stimulated and enlightened by a series of speakers and a workshop. Our finances are healthy and completely in order. The VALLReview appears at regular intervals in our mail. Of course, all this doesn't just happen, but we have tried to spare the membership the petty details of organisational housekeeping. The executive has concentrated on cooperating and getting their jobs done. I hope none of them feel it was a burden or interfered with their regular work. To Anne, Carol, Cay, Peter and Edward I want to express my appreciation of your diligence and good humour and thanks for a great year.

To Astrid and the incoming executive, I wish you all the best. You will find there are still lots of programmes to present, association wrinkles to iron out and campaigns to wage. I am sure you will enjoy yourselves. Bonne chance!

Pam Clancy
President, 1988/89

FEATURE ARTICLE

Marginal Annotations in Law Reports
in the Courthouse Library System

prepared by
The Courthouse Reference Staff

The small handwritten marginal annotations of cases judicially considered that appear in many of the law reports in both the Vancouver and the Victoria courthouse libraries are, in this era of high technology, both a glaring anachronism and a very popular service. The Vancouver and Victoria libraries are, in all probability, the only two major libraries in either Canada or the U.K. continuing the very quaint tradition of marginally annotating law reports.

To assist users who phone in to have marginal annotations read to them and for those who use annotated volumes in the library, the reference staff recently conducted a survey of the collection to determine which reports had been annotated and for how long.

The Vancouver library was founded in 1893 and prior to the establishment of the B.C. Law Library Foundation in 1975 records of the "annotating tradition" were not kept. The earliest annotation found in any law report dates back to 1861. However, it is believed that the Vancouver library acquired volumes already annotated by a private law firm. It appears that annotating did not begin in earnest in the Vancouver library until the early 1900s when most English law reports were annotated. Annotations earlier than 1900 do appear, many of them in elegant copperplate script, but not consistently. They seem to have been added at a later date.

Manual annotations and small stamps containing annotations issued by a "sticker service" exist side-by-side in the annotated law reports. There was an early sticker service for Canadian law reports issued by the Queen's Printer in Ottawa but today the only sticker service is issued by the Incorporated Council of Law Reporting for England and Wales (ICLR).

Tiny handwritten annotations and stickers seem closer in time to the quill pen than the computer. In 1973 a project was proposed involving creating an on-line database and producing "microfische [sic] discs" which were to be

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marketed to individual lawyers. However, nothing ever came of it.

Over the years, with the appearance of citator services, the number of law reports manually annotated has diminished. Manual annotations of British law reports ceased in 1980 and the number of Canadian law reports annotated was cut back in 1980 and again in 1982. Today English reports are annotated with the sticker service published by the ICLR and a small number of Canadian law reports are manually annotated from incoming paper parts by one staff member.

As a result of the survey of the Vancouver collection a list of annotated law reports together with the dates of coverage of the annotations has been prepared and is available from the Vancouver library. Contact the reference staff at 660-2841 to request a copy.

INFOBITS

"New Medical Databases at the Courthouse Library"

The reference staff at the Courthouse Library are now able to perform computer searches on two medical databases: MEDLINE and the Whiplash Database.

MEDLINE, the major legal database of the U.S. National Library of Medicine indexes articles from over 3,000 medical journals from 1966 onwards and covers a wide range of biomedical topics such as dentistry, nursing, mental disorders, pharmacology, orthopedics, gynecology, cardiology, etc. MEDLINE is useful for research in malpractice and personal injury actions. Searches on MEDLINE are charged at approximately \$70.00/hour.

The Whiplash Database contains awards from 1985 to date. This database has been made available free of charge by the Expert Systems Team of the Law and Computers Project at UBC. The decisions are indexed by judge, quantum and whiplash severity. There is a brief case profile listing style of cause, judge, court, registry number, general damages, age, sex and occupation of the plaintiff, whiplash severity, and recovery period in each case.

To request a search on MEDLINE, the Whiplash Database, or any legal database contact the Computer Assisted Legal Research Service at 660-2841.

"Charges at the Courthouse Library"

Please note that as of April 1, 1989 the following charges will be in effect:

Photocopy	\$0.50/page for staff operated photocopying; \$0.25/page for coin operated photocopying
Facsimile Transmission	\$5.00/order plus photocopying charge if required for orders within Canada; long distance charges are added to orders outside Canada
Mail, Courier	\$2.00/order for items sent by mail or by a courier arranged by the library

BOOK REVIEW

Ellis, Mark Vincent. Fiduciary Duties in Canada.
Don Mills, Ont.: R. De Boo, 1988- .
ISBN 0-88820-317-9 \$135.00 (Loose-leaf)

by Edward Lentz

In the Preface to Fiduciary Duties in Canada, Mark Vincent Ellis admits that the fiduciary relationship is a concept which causes consternation in its application in the commercial world. The establishment of what constitutes "trust and confidence," "good faith," and "conflict of interest" in the relations of two or more parties has become imperative in environments as volatile and diverse as employment and securities. Although "fiduciary obligation arises in any circumstance where the reposing of trust and confidence is accepted, there subsist nevertheless a number of 'categories' where a finding of fiduciary standing is incidental to the capacity in which the trusted party serves." Ellis has formatted this book to serve the purposes of, first, outlining what characterises fiduciary duty in the broad area of trusts and, second, determining what criteria are necessary to establish a fiduciary relationship in specific circumstances.

Ellis initially outlines the "fiduciary concept" and proceeds to explain how it is applied in the realm of what he terms as "true fiduciaries": trustees, agents, and administrators. What follows are sharply focussed discussions of specific types of commercial and administrative relationships--business agents, financial advisors, professionals, business relations, corporate fiduciaries, and governmental authorities--where the courts have considered if, or held that, a fiduciary obligation exists. As well, Ellis concentrates on delineating the criteria used in establishing such relationships distinct from the normal contractual obligations that would hold in such circumstances. The final chapter is devoted to a general discussion of the remedies available where a fiduciary obligation has been established. This general discussion is supplemented by specific remedies contained in a series of case synopses.

The case synopses, appended to most chapters, are one of the admirable features of the text. They provide quick reference to breach circumstances and remedies allowed in a format which is deemed appropriate to the topic under discussion (e.g. the synopsis for the Directors and

Employees chapters of Corporate Fiduciaries is arranged by position). A table of cases is also provided.

Both the text and the index are heavily cross-referenced. Some chapters are headed by scope notes indicating the depth of the discussion as well as the location in the book of complementary information.

Fiduciary Duties in Canada is an exemplary textbook. Comprehensive in its coverage of the topic, this book has been fashioned not only to provide expert commentary on case and statute law, but, as well, to provide an insightful, unaffected, overview of fiduciary trusts for the legal librarian, law student, and novice legal researcher. Citing the "fluidity" of this particular field of law, the intention to update this text adds to its value.