

VALL REVIEW

Vol. 6, No. 4

June, 1994

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VALL 1993/94 Executive

Vancouver Association of Law
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Richards Buell Sutton

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Continuing Legal Education

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Legal Services Society

Tracey Carmichael
B.C. Courthouse Library

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Nancy Cotter, Western Legal

From the Executive of VALL

Shirley Hyndman

This is the last **VALL REVIEW** of the season. The 1993-1994 season has seen a variety of topics covered by the speakers invited to our meetings. The attendance at the meetings and workshops continues to be high, reinforcing for the Executive that we are doing the types of things that the membership wants and finds useful. The May roundtable discussion enabled the Executive to gather input from the membership on several topics. If you were unable to attend the meeting and have ideas for programs or improvements for **VALL**, please share them with any member of next year's Executive.

I would like to thank all of this year's Executive for the time and energy that was contributed to the Association. It was a pleasure to work with each of you during the past year. A hearty welcome to the new Executive, I am sure you will find your duties as rewarding as I did the past year. Many of the membership do not realize that the Executive continues to meet over the summer months in order to plan the upcoming year, I express **VALL's** appreciation in advance for the tasks you have undertaken. The new Executive is:

Gillian Crabtree, President
Karen Imeson, Secretary
Evelyn Taylor, Treasurer
Natasha Lyndon, Membership
Greg Wurzer and Sandra Manchur, Program
Jane Wells and Ana Rosa Blue, Newsletter

From the Editors

Tracey Carmichael & Jane Wells

Thanks to everyone for your submissions and positive comments. We are adding a new feature in this Newsletter — member profiles. We hope that it will be an effective way to get to know the members both new and old and hope that you will respond with enthusiasm when you are asked to submit a line or two about yourself!

We would like to welcome Ana Rosa Blue as a new editor for 1994-1995. She is already in the spirit and has created a challenging crossword puzzle for this issue of the **VALL REVIEW**.

The deadline for submissions for the next newsletter is August 25, 1994.

VALL REVIEW

OUTLINE OF BRITISH COLUMBIA'S NEW FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

On October 4, 1993, the new *Freedom of Information and Protection of Privacy Act*, S.B.C. 1992, c. 61 came into force in British Columbia. It is slated to be extended to the local level late in 1994, and will cover self-governing professions and trades in 1995. These notes outline the main features of the new law. They are by no means exhaustive.

A. WHAT THE ACT IS DESIGNED TO ACHIEVE

The Act's explicit purpose is to promote openness and accountability in government. It therefore gives a right of access to records in the custody or control of a public body.

The Act also extends information privacy rights to individual British Columbians, by requiring the public sector to adhere to fair information practices in the collection, use, disclosure and destruction of personal information.

B. HOW THE RIGHT OF ACCESS WORKS

The Act creates a right of access to any record in the custody or control of a public body, subject to limited and specific exceptions.

The Act Covers Only Public Bodies

A "public body" is any provincial government ministry and any agency, Crown corporation or other body listed in Schedule 2 to the Act. (Once in force at the local level, local public bodies will be covered. They include governments, school boards, hospital boards and universities.)

There is No Right to Research Services Through the Act

A "record" is any physical embodiment of information, regardless of medium. The right of access is a right of access to a record, not to be supplied with information, i.e., an answer to a question. There is no duty to create a record in order to answer a request.

Custody or Control of Records

If a public body physically possesses the record, it is in the "custody" of that body and is subject to the Act. Even if the body does not possess the record, it may have "control" of it and therefore it may be accessible under the Act. A contractor who provides consulting services to the body may possess records over which the body has control through the consulting contract. Those records may well be accessible under the Act.

Exceptions to the Right of Access

The Act creates exceptions to the right of access to records, but the premise is that the public interest in access is paramount. The burden of showing that an exception applies rests on the public body. The exceptions to the right of access include:

- Records disclosing the substance of Cabinet deliberations
- Policy advice or recommendations by civil servants (including draft legislation or regulations, but not factual components of records that contain advice)
- Information the disclosure of which could reasonably be expected to
 - harm the financial interests of government, including by revealing secret commercial information or proposed management plans, or
 - reveal confidential business information of a private sector entity (detailed rules apply here)
- Law enforcement information, where disclosure would harm a law enforcement interest as set out in the Act
- Someone else's personal information cannot be revealed if disclosure would be an unreasonable invasion of that person's personal privacy.

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OUTLINE OF BRITISH COLUMBIA'S NEW *FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT, cont'd...*

Procedure Under the Access Provisions

A request for access must be written. There is no prescribed form at this time. The request must go to the public body the applicant believes has the record. The "head" of the public body must respond within 30 days. (The "head" is the minister or other person designated as such in Schedule 2. The head is the decision-maker under the Act.)

The response time can be extended by the head for a variety of reasons. The head must, within the required time, find the requested record and review it to see if it can be disclosed. If any of the exceptions apply, the head must if at all practicable delete the part excepted from disclosure and release the rest.

If the requested record contains third party information, i.e., someone else's personal or business information, the head must notify them and allow them to make submissions on the request.

Appeals of Access Decisions

Anyone dissatisfied with the head's decision may appeal to the Information and Privacy Commissioner. The Commissioner is an independent official, appointed by and responsible to the Legislature. The Commissioner has broad powers to investigate and resolve appeals or complaints under the Act.

This included the power to review access decisions and overturn or confirm them. The Commissioner's office is empowered to try mediation first, which is current practice. If that fails, a "review" or appeal, will be held. It can be oral, with legal representation, or written only. Public bodies have the onus of justifying their decisions not to release a record. The Commissioner may order them to release a record.

C. HOW THE PRIVACY PROVISIONS WORK

The Act defines "personal information" as information about an identifiable individual, including name, address, age, race, sexual orientation, religion, employment history, finances and medical history. It imposes rules on how such information is dealt with in government.

Collection of Personal Information

The Act provides that personal information may only be collected:

- if the collection is authorized by or under an Act, or
- the collection is necessary for, and related directly to, an operating program or activity of the public body.

When a public body collects personal information, it must notify the individual of, among other things, the authority for the collection and the purpose of its collection.

The Act also provides that personal information may only be collected directly from the individual whose information it is. Indirect collection, from other sources, is permitted in limited circumstances (e.g., law enforcement investigations).

Consistent Use of Personal Information

As for use of personal information, it may only be used for the purpose for which it was collected or a use consistent with that purpose. A new use will be consistent with the original purpose if:

- the new use has a reasonable and direct connection to the original purpose, and
- the new use is necessary for an operating programme or activity of the public body.

Disclosure of Personal Information

A public body may disclose personal information only:

- for the purpose for which it was collected,

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VALL REVIEW

OUTLINE OF BRITISH COLUMBIA'S NEW FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT, cont'd...

- for a purpose consistent with that original purpose,
- as authorized by law (including the detailed rules on disclosure found in this Act,) or
- in response to an access request under the Act.

Access Requests For Other People's Personal Information

The Act permits people to seek access to records containing other people's personal information, but access is allowed only if disclosure would not constitute an unreasonable invasion of the other person's personal privacy. The Act sets out a detailed scheme for balancing the right of access against the right to privacy.

If the disclosure would advance the accountability of a public body, it will be easier for a third party to get that personal information. But if the personal information is sensitive and its disclosure would not promote openness and accountability of the public body, it will be much tougher to get. In that light, the Act prescribes certain kinds of personal information the disclosure of which is permitted. This includes information about the position, functions and remuneration of a civil servant. But medical records of that person held by the public body very likely would not be accessible.

The Commissioner's Role in Privacy Matters

Anyone can complain to the Commissioner about decisions relating to the collection, use, or disclosure of personal information, including on an access request. The Commissioner has broad powers to order information practices to cease or be modified, and to order destruction of information collected inappropriately.

On an appeal relating to a request for access to someone else's personal information, the burden is reversed and lies on the access applicant to show that disclosure is alright.

D. IMPLICATIONS FOR LAW LIBRARIANS

The Act is unlikely to affect librarians directly. It is unlikely to dry up existing sources of information. It is not intended to do that, as the Act itself expressly recognizes. It may even encourage greater routine access, for a price. As an adjunct to this legislation, the government is looking seriously at a library depository programme.

The Act requires the Minister of Government Services to publish an index of records and of personal information banks. This is an invaluable search tool for using the Act, since it allows one to determine which public body is likely to have the desired record. Every law library should have a copy.

David Loukidelis
Lidstone, Young, Anderson

CASE CITATORS - COMPARISON

The Halifax Association of Law Libraries is coordinating a nation wide effort to compare *Canadian Case Citations* from Carswell with the McGraw-Hill Ryerson citators. Both publishers have loaned their citators to local library associations and in Vancouver they will be located at the Courthouse Library. This is a daunting comparison for an individual but luckily the work can be spread around! HALL has devised guidelines and instructions for the comparison and the time required from individual volunteers is minimal. If you would like to volunteer and be a part of this national cooperative effort, please contact Shirley Hyndman at Richards Buell Sutton.

VALL REVIEW

CROSSWORD PUZZLE

by Ana Rosa Blue

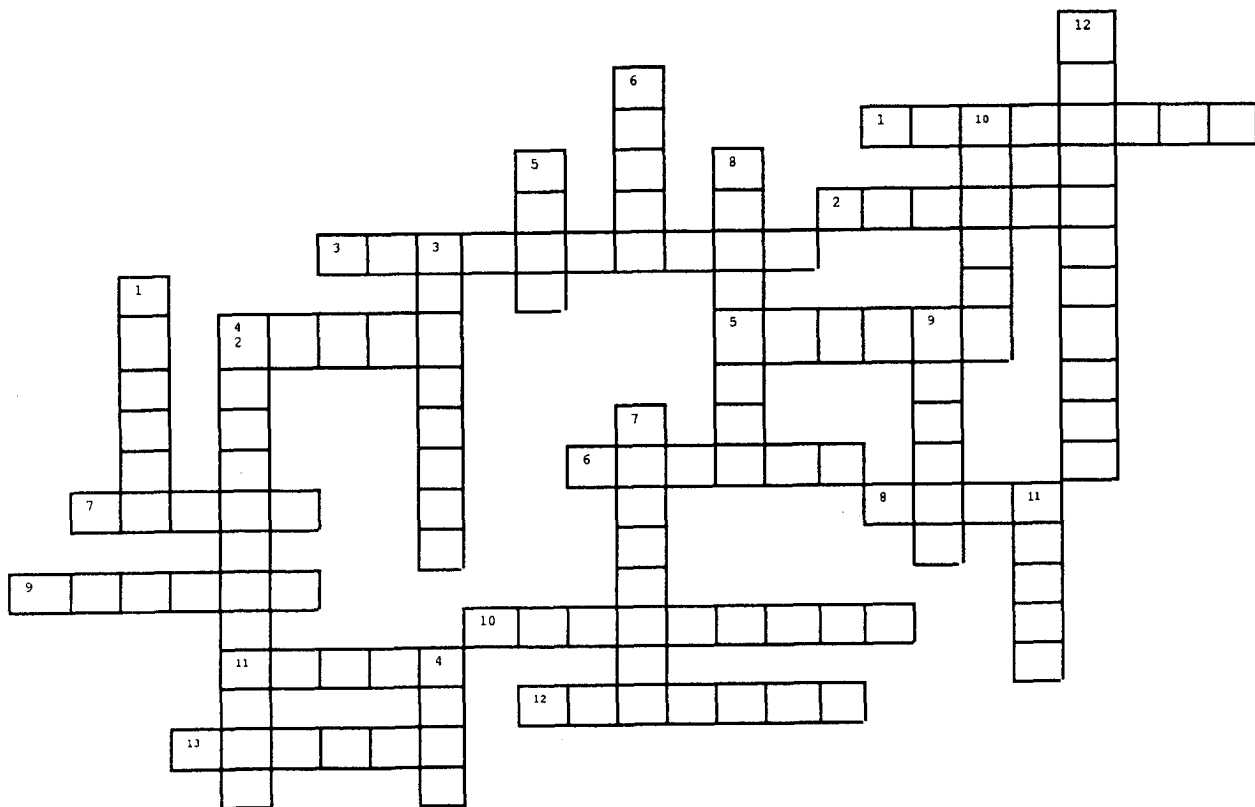
ACROSS

1. Party to a lawsuit
2. The year of the reign of the monarch
3. Federal Court of Canada, Appeal Division case handed down in May '94 regarding income tax payments on child support
4. Hand-in-hand, united
5. Lat. - "Let him beware"
6. The minimum number of people necessary for a group to make bona fide decisions
7. To let, sublet
8. To swear, vow
9. Free
10. Respondent to a claim; Accused in a criminal proceeding
11. Faith, confidence
12. Act
13. Middleman

DOWN

1. "The Hanging Judge"
2. Domain, the power to hear and determine a case.
3. Electronic highway that allows access to databases worldwide
4. The definite time period
5. British Columbia Appeal Cases
6. Deceit, swindle
7. An invitation you can't refuse
8. Former MLA from Saskatchewan convicted of first degree murder of his ex-wife and currently serving a life sentence
9. Highest court level in British Columbia
10. One who occupies or inhabits
11. Those who inherit
12. Subordinate legislation

Answer Key on Page 9



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PETER BARK MEMORIAL FUND

Donations should be directed to:

Peter Bark Memorial Fund
c/o V.A.L.L.
P.O. Box 48663
Bentall Centre
Vancouver, B.C. V7X 1A1

MEMBERSHIP MATTERS

This issue presents the first series of member profiles. This will be an ongoing feature where two *VALL* members will submit short personal profiles so that we can get to know them better. Please contact the editors if you wish to submit a profile for future issues.

This first series of profiles will feature Tracey Carmichael, the outgoing *VALL* co-editor and Ana Rosa Blue who will be one of the newsletter editors for 1994-1995. Both are currently employed as Reference Librarians at the B.C. Courthouse Library Society.

Tracey Carmichael

I am one of those people from "Back East" who has recently moved to Vancouver searching for a new job and the west coast lifestyle. I grew up in Montreal in a family of five daughters and the phrase, "Your poor father", has followed me throughout my life. I completed high school in french immersion although I still don't consider myself fluent in the language. Following high school and CEGEP (required 2 years of community college in Quebec) I took a Bachelor of Arts degree in psychology at McGill University which I interrupted for a year to travel to Australia on the Students Working Abroad Program. I admit that I did not go there to work or to study but to see an Australian who I had met months earlier at McGill's Annual Frat Crawl. We will be celebrating our sixth wedding anniversary this year.

After graduation I was employed for a brief period with Esprit, a clothing manufacturer. The slave wages paid to those in the fashion industry forced me back to school and in September of 1989 I started my M.L.I.S. degree at McGill. I had previously worked for several summers in the Library at the Federal Business Development Bank which guided my choice of career. After graduation I was employed on several contracts at McGill and ended as Computer Services Librarian at the McGill Law Library. I moved west in the summer of 1992 and started at the Courthouse Library that September.

In my spare time I enjoy reading, tole painting and other crafts.

Ana Rosa Blue

I was born in Monterrey, N.L. Mexico. My early education

included schooling in Monterrey, Mexico, Denver, Colorado, California, Canada, and Hong Kong. I first came to British Columbia in the Fall of 1968 when I attended boarding school in Duncan. The following year I reluctantly returned to school in California, but I did not forget the wonder of British Columbia. Along the way I studied in Hong Kong for two years, before I had the opportunity to return to the University of Victoria to get a B.A. in Art History. Upon graduation I had no idea how long it might be before I could return to Canada.

I was convinced that in the health field there would be an abundance of jobs compared to the art history field. So I pursued Radiology Technology in California and when half-way finished I got married and went to live in Regina, Saskatchewan. Fortunately, I was able to continue radiology technology training in Regina. My theory about an abundance of jobs wasn't entirely true although I managed to put my education to good use.

I juggled work in a radiology office and as a docent at the Mackenzie Art Gallery where I was soon hired as public relations assistant. One of my responsibilities was to research, write and edit the Gallery's newsletter *VISTA*. Later I taught art appreciation courses at the Mendel Art Gallery, Saskatoon, Saskatchewan. I also worked at the Rt. Honourable John G. Diefenbaker Centre, University of Saskatchewan and curated a travelling multicultural exhibit organized by the Centre. As library assistant at the Saskatoon Public Library I had a taste of what working for a library was all about and I was hooked. Thus, ten years after having received my B.A., I returned to the University of British Columbia for my Master of Library Science degree.

My eclectic background paved the way for an equally varied library experience (post-MLS) at the Vancouver Public Library, West Vancouver Memorial Library, Legal Services Society's Resource Centre, Medical Library Service as Bibliographer to B.C.'s Royal Commission on Health Care & Costs, before coming to the B.C. Courthouse Library Society.

New Faces

Nick Collings,
Allen & Overy (London, UK)
Assistant Librarian

Laura Cooney,
Ratcliff & Company
Litigation Case Manager

Catherine Best,
Boughton Peterson Yang Anderson
Research Lawyer

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MEMBERSHIP MATTERS, cont'd...

Directory Changes

Insurance Corporation of British Columbia, Information Resource Centre:

Manager	Grace Makarewicz	661-6960
Senior Information Specialist	Carol Anne Saxon	661-2739
Information Specialist	Joanne Osborn	661-6699
Information Specialist	Linda Van Soest	661-2758
Technical Info Specialist	Sybille Taylor	661-2829
Information Technician	Ida Bradd	661-6095

LETTERS

March 28, 1994

Ms. Shirley Hyndman
V.A.L.L.
P.O. Box 48663
Bentall Centre
Vancouver, B.C. V7X 1A1

Dear Ms. Hyndman:

Last fall, it appeared that it might be necessary for Dalhousie to close its programmes in Music, Theatre, Costume Studies, Public Administration and Librarianship, in order to maintain its other offerings in the face of a large projected budgetary shortfall. You wrote to me at the time to stress the importance of programmes being considered for closure and the extent of the loss to Nova Scotia and the country were they to be terminated.

I am pleased to be able to tell you that Dalhousie's Faculties have gone to very great lengths to devise means of meeting their budget targets without closing programmes. We are re-affirming our commitment to continuing students in the above-mentioned programmes and are actively recruiting new students for September 1994. We hope that you will pass the word along to anyone who may be interested in these programmes.

Delighted as we are to have found means of sustaining all our programmes, we know that the financial problems confronting Dalhousie remain very real and that it will be a challenge to maintain educational excellence while continuing to achieve balanced budgets.

We hope that we can count on you and other supporters to continue to affirm the importance of the programmes Dalhousie offers and to assist us in our efforts to make available to Nova Scotians and Atlantic Canadians all the opportunities a national university can provide.

Thank you for your interest and concern.

Yours sincerely,
Howard Clark, President
Dalhousie University

May 25, 1994

Shirley Hyndman, Library
Richards Buell Sutton
300-1111 Melville Street
Vancouver, B.C. V6E 4H7

Dear Shirley:

Hello!

On behalf of the local CLA Planning Committee and CLA members, I would like to thank the Vancouver Association of Law Libraries for its sponsorship support for this year's CLA Conference.

Your Association's cheque has been forwarded to CLA Office in Ottawa. V.A.L.L. will be acknowledged in CLA's publicity packages as a cash sponsor toward Special Libraries Day events at the Conference in June.

In the meantime, if you have any questions about sponsorship, please do not hesitate to contact me (my business card is enclosed).

Yours sincerely,
Joan I. Andrews, B.A., M.L.S.
CLA '94 Sponsorship Chair (local committee)

NEWS

Farewell and Thanks to Diana Inselberg

Diana will soon be leaving Vancouver for a new life in Enderby.

In recognition and thanks for her contributions to the Association and law librarianship in general, V.A.L.L. awarded Diana with a \$200 honourarium towards attendance at the C.A.L.L. Conference in Montreal. Those of us who were present at the May meeting were treated to an interesting report of the business and gossip from the Conference. The membership would like to thank Diana for her many contributions to V.A.L.L. and C.A.L.L. and wish her a happy retirement.

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NEWS, cont'd...

CLIC Immigration Decisions

The British Columbia Courthouse Library Society is now home to the Canadian Legal Information Centre's copies of the decisions summarized in Notes of Recent Decisions by the Immigration Appeal Board from 1979 to 1989. An Index to the decisions is available for \$35. Please call the Vancouver Courthouse Library if you would like to order a copy of a decision or the Index.

Supreme Court of Canada Decisions on the Internet

The Supreme Court is currently experimenting with electronic distribution of decisions over the Internet. Although the texts of the cases will not be searchable, they will be available to download to your own computer. The project is similar in spirit to the Project Hermes in the United States. The U.S. Supreme Court releases their decisions electronically immediately after judgment has been rendered. These cases can be downloaded for free from various Internet sites throughout the U.S.A.

INFOBITS

- VALL** • September 1994. Watch your mail for the notice for the first meeting
- UBC** • May 2 - June 29. Topics in the Management of Libraries and Archives: Financial Management. Anne Turner. Mondays and Wednesdays 7:00-9:00 p.m.
 - July 5 - August 11. Topics in the Management of Libraries and Archives: Human Resource Management. Bryan Bacon. Tuesday and Thursday 1:00-4:00 p.m.
 - August 3-5, 1994. The Internet for Library and Information Professions.
- CLA** • June 15-18, 1994. Annual conference. "Delivering Quality in Tough Times" Waterfront Centre, Vancouver.
- AALL** • July 9-14, 1994. 87th Annual conference in Seattle, Washington. "Changing Environments." The changing environment of the library will be explored focusing on the use of Internet in the law library and copyright.
- ALA** • June 23-30, 1994. Annual conference. Miami, Florida
- SLA** • June 11-16, 1994. Annual Conference. Atlanta, Georgia.

BIBLIO NOTES, cont'd...

The editors would like to thank Teresa Gleave who wrote the Biblio Notes column in the March issue of the *VALL REVIEW*.

Désert, Sheila E. "WESTLAW is natural v. Boolean Searching: A Performance Study", 88 *Law Library Journal* 713.

If you thought that natural language searching was just for beginners, this article will cause you to think again. The author compares the results of real world search questions formulated by herself, by power searchers, and by other law librarians. WIN is especially effective when the terms of a boolean search retrieve too many cases. WIN will choose twenty of the best. It is also more effective when dealing with a complicated topic where it is difficult to select the most relevant terms to use in a boolean search. Boolean still wins in some cases. WIN is supposed to retrieve the most relevant twenty cases, however, results found that it missed landmark cases, did not consider recent cases to be more relevant than older cases, and gave you twenty irrelevant cases if no relevant ones could be found in the database.

Eis, Arlene L., *Directory of Law-related CD-ROMS 1994*, Teaneck, N.J.: Infosources, 1994.

CD-ROM titles are listed alphabetically and each entry includes publisher contact information, format, compatible drives, equipment specifications, language, coverage dates, update frequency, and price. Additional indexes allow you to search by subject (including country of origin for non-U.S. titles), publisher/distributor, and search software. If you are interested in knowing what is available, it is well worth the \$49.00. For an extra \$39 you receive four updates per year.

Shorten, Lynda. "False Memory Syndrome", *Canadian Lawyer*, May 1994, 17-20.

Sexual assault cases based on repressed memories are appearing more frequently in both civil and criminal courts. These cases most often end up with duelling experts on the stand discussing whether False Memory Syndrome really exists. This is not a medical/psychological syndrome but a phrase created by the False Memory Syndrome Foundation and perpetuated by the media. This article introduces the controversy surrounding the topic and looks briefly at various explanations both for and against False Memory Syndrome.

VALL REVIEW

NOTICES

Tours

Orientation tours of the Vancouver Courthouse Library are available by appointment. These are particularly useful to new (to the city and/or province) library staff, lawyers, or summer articulated students. To book a tour, please call Ana Rosa Blue at 660-2841, Monday to Friday, 8:30 a.m. - 4:30 p.m.

Transportation and Accommodation at AALL Conference

If you will be attending the AALL Conference in Seattle and need a ride and/or a roommate, fax the following information to Tracey Carmichael at 660-2821:

Name, telephone number, travelling dates.

Do you need a roommate?

Do you need a ride?

If you are driving, number of passengers you can accommodate.

No travel arrangements can be made but I will try to match people with similar needs.

7. Subpoena
8. Thatcher
9. Appeal
10. Tenant
11. Heirs
12. Regulations

CROSSWORD PUZZLE ANSWER KEY

ACROSS

1. Litigant
2. Regnal
3. Thibaudeau
4. Joint
5. Caveat
6. Quorum
7. Lease
8. Oath
9. Gratis
10. Defendant
11. Trust
12. Statute
13. Jobber

DOWN

1. Begbie
2. Jurisdiction
3. Internet
4. Term
5. BCAC
6. Fraud