

Annotated Bibliography of Works Written on the Supreme Court of Canada

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ANNOTATED BIBLIOGRAPHY OF WORKS WRITTEN ON THE SUPREME COURT OF CANADA

1. Abraham, Henry J.

The law clerks: clerks or power behind the throne?

Canadian Bar Review (1961) 39 Can. Bar Rev. 638. This is an excerpt from a longer article on the Supreme Court of the United States entitled *Outside Influences on the Supreme Court of the U.S.* It really has nothing to do with our Supreme Court but the general outline of the influence of the law clerks on the Supreme Court could be related to the civil servants in our Supreme Court.

2. Cassels Robert.

The Supreme Court of Canada. (In the *Green Bag*. Boston, Mass. 1890 vol. 2, p. 241.) This article was written by the then Registrar of our Supreme Court, apparently to inform the American legal profession of the formation and functions of our Supreme Court. Along with a general resume on the constitution and workings of the court, Cassels gives a personal biography of every justice sitting on the bench at the time of the article. What adds to this interesting article

¹¹ 1952 R.S.C., c. 259, 1956 S.C., c. 48.

are the photographs which accompany these biographies. The author also gives specific descriptions of the Supreme Court Building, inside and out; also the opening ceremonies and the dress of the Justices and court clerks. His final comments compare our Court with the American Supreme Court.

3. Chitty, Robert Michael.

The Supreme Court of Canada (1952) vol. 2. *Chitty's Law Journal*. 63. This is a concise essay on the Supreme Court which considers the influence of the British court system on the creation of our Court, the creation of our court under Section 101 British North America Act, its jurisdiction and some of its workings. This is dealt with in three pages and thus provides a short, but informative outline of the Court and its functions. It is ideal for either the lawyer or the layman.

4. Laskin, Bora.

The Supreme Court of Canada; a final court of and for Canadians. (1951) 29 Can. Bar Rev. 1038.

This article written by one of the leading constitutional law experts, is to date the most comprehensive study of the Supreme Court of Canada. It is a detailed study of the Court both before and after the abolition of appeals to the Privy Council. The article is divided into six parts which deal with all major factors of the workings of the Court.

First there is an introduction which includes a short history of the Court and tells of the shortcomings of the Court when appeals were taken to the Privy Council. Secondly, the author tells of the Supreme Court membership. Thirdly, he deals with the organization of the Court for the despatch of business. Fourthly, he deals with the jurisdiction of the Supreme Court. Fifthly, he deals with the constitutional doctrine of the Court and finally, he deals with the Supreme Court and stare decisis. The author concludes his article with a statistical survey of the decisions of the Court.

Thus it can be seen by examining the above headings that Mr. Laskin has written an exhaustive work on the Supreme Court which is indispensable to any lawyer wishing to delve into the subject.

5. MacKinnon, Frank.

The Establishment of the Supreme Court of Canada (1946), volume 27, Canadian Historical Review, 258.

This article is an entertaining piece of historical writing for anyone interested in the beginning of the Supreme Court. It covers the debates in the House of Commons, the violent opposition to the creation of the Court, (from the provinces and Great Britain), the passing of the Act, and the first "rocky" years of the Court. This article, although concise, gives readers a comprehensive view of the struggle which occurred in creating our Supreme Court.

6. MacMaster, Donald.

The Supreme Court of Canada

In Hopkins, J.C., ed. Vol. 6. *Canada; an encyclopedia of the country*, p. 332.

This consists of a ten page detailed sketch of the Supreme Court from 1875, when it was created to 1899. The author was a lawyer, who wrote the article in legalese, and with too much detail, thus making it dull reading for anyone. However, it has some merits. The devoted researcher may discover useful facts in the article.

*7.(a) [Supreme Court of Canada]

Farewell Ceremony for Sir Lyman Poore Duff, Chief Justice of Canada. [Ottawa] 1943. 14 p.

7.(b) [Supreme Court of Canada]

Farewell ceremony for Rt. Hon. Thibaud Eau Rinfret, Chief Justice of Canada [Ottawa] 1954. 23 p.

7.(c) [Supreme Court of Canada]

Memorial to Rt. Hon. Patrick Kerwin, Chief Justice of Canada. 6 Fels, 1963.

7.(d) [Supreme Court of Canada]

Ceremonial remarks upon occasion of Rt. Hon. R. Taschereau first presiding as Chief Justice of Canada 29th April, 1963.

8. Underhill, Edward.

Blake, The Supreme Court and the appeal to the Privy Council. 19 Canadian Historical Review, 245.

This article is based on Edward Blake's private papers which deal primarily with the struggle from 1869-1875 by the Government to introduce the Supreme Court into Canada. This article is extremely valuable because it was taken from the detailed accounts of one who was intimately involved in the entire procedure and thus casts a different light on the story than is usually found in history texts. It is an insider's point of view.

9. Williams, E. K.

The Supreme Court of Canada moves into its "new" Building. In (1946) 32 American Bar Association Journal.

This article was written by E. K. Williams the president of the Canadian Bar Association expressing the close link between the U.S. legal profession and the Canadian legal profession. He also gives a brief resume of the Court, its work and composition; and concludes with a description of the construction of the Supreme Court Building,

*These four articles are only available in the Supreme Court Library.

the laying of the cornerstone by Queen Elizabeth, the Queen Mother, in 1939, and tells of the nostalgia felt by the profession for the old building which used to house the Supreme Court.

10. Smith, J. Norman.

The Supreme Court of Canada.

Ottawa Journal, March 29, 1952-April 4, 1952.

Six articles in the Journal.

There were no copies available to the writer in Toronto.

11. Gray, Gratton.

Seven Wise Men. Maclean's Magazine.

Toronto, 15 March, 1949.

This article was written immediately after the abolition of appeals to the Privy Council. Gratton Gray presented an interesting and informative article on the history, the judges, and the functions of the court, for the layman. His language is clear, and he is able to explain in uncomplicated terms how an action is launched and brought to final appeal, costs and how they are distributed and how the decisions are rendered. He describes vividly the ceremony involved in the Court and, coupled with illustrations of the Court and its members, he presents a most enjoyable article.

12. Sandwell, B. K.

The Supreme Court: Liberty's Safeguard.

Saturday Night, Toronto, 16 August, 1952.

This is a short article which expresses the hope that the Supreme Court will be the defender of liberty. He points out that the new position and the new attitude of the court, since the appeals to the Privy Council were abolished, will aid in its duty as protector of the Constitution. The article is one which shows concern for the place of the Supreme Court in our system and expresses a concern which was probably common at the time the article was written.

13. Sandwell, B. K.

The Supreme Court and the Constitution.

Saturday Night, Toronto, 23 August, 1952.

This article is more concerned with problems involving the Supreme Court and its history and thus gives a new approach to writings of the Court. The author is concerned over the defect in the creation of the Court, i.e. by an Act of Parliament, which does not give any Constitutional safeguards to the Court. He gives examples of what could occur as a result of this and he suggests remedies for the defects involved. Thus he raises problems which are provocative and serious enough to be considered in any programme of reform.

14. Hugesson, Hon. A. K.

Making the Supreme Court Supreme.
Financial Post, Toronto, 20 October 1949.

This article is a digest of the speech to the Senate on October 18, 1949. The speech was made during a debate on the Bill to abolish appeals to the Privy Council. Commentators on the speech said that it was one of the best speeches during the debate. In the speech the Senator regrets that, when the first Supreme Court of Canada Act was passed, Section 47, which made the Supreme Court the final appeal Court was not worded differently to prevent appeals to the Privy Council, which was not a Court as described in that section. He consequently advocates the abolition of appeals to the Privy Council. The speech itself was stimulating and informative and as reproduced makes excellent reading.

15. Wilson, Kenneth R.

What Can The New Court Set up Mean to You?
Financial Post, 3 December, 1949.

This is an excellent article written immediately before the abolition of appeals to the Privy Council in 1949. It expresses the interests and views of a business man, in the new Court which would emerge. The author canvasses the Court before the passing of the Bill and he looks to the future to see what effect this Bill will have on the ordinary citizen. This illustrated article presents a clear picture to the layman of what the Supreme Court is all about. G.R.L.

JUSTICES OF THE SUPREME COURT OF CANADA 1961-63**Abbott: Hon. Douglas Charles**

Born at Lennoxville, Quebec, on May 29, 1899. Educated at Bishops College; McGill University (B.C.L.); Dijon University (D.C.L.). Appointed to the Supreme Court on July 1, 1954. Served overseas during W.W. I with 7th (McGill) Siege Battery and the Royal Air Force. Elected to House of Commons 1940, re-elected 1945, 1949 and 1953. Sworn into the Privy Council April 18, 1945. Appointed Minister of National Defence (Army) Aug. 21, 1945; appointed Minister of Finance December 19, 1946. He is married and has 3 children. Anglican.

Cartwright: Hon. John Robert

Born at Toronto, Ontario on March 23, 1895. Educated at Upper Canada College and Osgoode Hall. He was called to the Bar of Ontario in May, 1920, winning the silver medal at Osgoode. Appointed a King's Counsel in 1933. Appointed to the Supreme Court of Canada on December 22, 1949. A Bencher of the Law Society of Upper

Canada from 1946-49. Served overseas in W.W. I with 3rd Canadian Infantry Battalion; he was awarded the Military Cross in 1917. He is married and has one child. Anglican.

Fauteux: Hon. Gerald

Born at St. Hyacinthe, Quebec, on October 22, 1900. Educated at St. Mary's College, Montreal and Sacred Heart College, Sudbury, Ontario. Called to the Bar in July, 1925. Appointed a King's Counsel in 1933. Practised law in Montreal from 1925-1947. Appointed to the Bench of the Superior Court of Quebec in April, 1947. Appointed to the Supreme Court of Canada in December 1949. Chief Crown Prosecutor for the Province of Quebec 1939-44. Professor of Criminal Law at McGill University from 1936-1950. Dean of Faculty of Law, University of Ottawa since 1953. Hon. Secretary of Canadian Bar Association from 1941 to 1947. Legal Counsellor to Royal Commission on Espionage. He is married and has five children. Roman Catholic.

Hall: Hon. Emmett Matthew

Born at St. Columban, Quebec, on November 29, 1898. Educated in public schools of Saskatoon and graduated from the Law School of the University of Saskatchewan in 1919. Called to the Bar of Saskatchewan in 1922. Appointed to the Court of Queen's Bench of Saskatchewan in 1957 and appointed to the Court of Appeal of Saskatchewan in 1961. Appointed to Supreme Court of Canada in November 1962. Former Chairman of Royal Commission on Health Services. Former President of Law Society of Saskatchewan. Former Vice-President for Saskatchewan of the Canadian Bar Association. Chairman of Saskatchewan Government's Law Reform Committee. He is married and has two children. Roman Catholic.

Judson: Hon. Wilfred

Born at Todmorden, Yorkshire, England on July 20, 1902. Graduated from University of Manchester in 1923 (M.A.). Graduate of Osgoode Hall. Called to Bar of Ontario in 1932, winning the gold medal. Appointed a King's Counsel in 1947. Appointed to High Court of Justice of Ontario in 1951. Appointed to Supreme Court of Canada on February 5, 1958. A Bencher of Upper Canada Law Society 1951. Former President of Law Society of Toronto. He is married. Anglican.

Kerwin: Hon. Patrick

Born at Sarnia, Ontario, on October 25, 1889. Educated at Sarnia Separate School, Sarnia Collegiate Institute and Osgoode Hall. He was called to the Bar of Ontario in 1911, created a King's Counsel in 1928. Appointed to Supreme Court of Ontario, in 1932. Appointed to Supreme Court of Canada in 1935. Chief Justice of Supreme Court from 1954-63. He was made a Privy Councillor on July 1, 1954. He was married and had three children. Roman Catholic. He died in 1963.

Locke: Hon. Charles Holland

Born at Morden, Manitoba, on September 16, 1887. Educated in Public Schools. Called to the Bar of Manitoba in 1910, and to the Bar of British Columbia in 1928. Created a King's Counsel for Manitoba in 1923 and for British Columbia in 1936. Appointed to the Supreme Court of Canada in 1947. He retired in 1962. He served overseas during W.W. I and won the Military Cross. He is married and has three children. Anglican.

Martland: Hon. Ronald

Born at Liverpool, England, on February 10, 1907. Educated at Public Schools in Edmonton, Alberta, University of Alberta and Oxford. Called to the Bar of Alberta in 1932 and created a King's Counsel in 1943. Appointed to the Supreme Court of Canada in 1958. Former Professor on the Faculty of Law at the University of Alberta. A Bachelor of the Law Society of Alberta 1948-58. He is married and has three children. Anglican.

Ritchie: Hon. Roland Almon

Born at Halifax, Nova Scotia, on June 19, 1910. Educated at Trinity College School, University of King's College and Oxford University. Called to the Bar of Nova Scotia in 1934. Created King's Counsel in 1950. Appointed to the Supreme Court of Canada on May 5, 1959. Served in W.W. II as a Lieut.-Commander. Lecturer in Faculty of Law at Dalhousie, 1947-1959. Vice-President, Nova Scotia Barrister Society 1958-1959. He is married and has one child. Anglican.

Spence: Hon. Wishart Flett

Born at Toronto. Educated at University of Toronto School, University of Toronto, Osgoode Hall and Harvard University. Called to the Bar in 1928, the winner of a gold Medal. Appointed to Supreme Court of Ontario in 1950. Appointed to Supreme Court of Canada in 1963. Lecturer at Osgoode Hall 1936-46. Chairman Royal Commission on Coastal Trade. He is married and has two children. Anglican.

Taschereau: Hon. Robert

Born at Quebec City on September 10, 1896. Educated at Quebec Seminary and Laval University. Called to the Bar of Quebec on July 8, 1920. Created a King's Counsel in 1930. Appointed to Supreme Court of Canada on February 9, 1940. Named Chief Justice in 1963. Professor of Criminal Law at Laval University from 1929-1940, and Civil Law at Ottawa since 1953. Elected M.P.P. for Bellechase 1930 and re-elected 1931 and 1935. Hon. Secretary of Canadian Bar Association 1934-1941. Created by the Government of France, Chevalier of the French Legion of Honour. He is married and has two children. Roman Catholic.