



David Asper Centre for Constitutional Rights UNIVERSITY OF TORONTO



Social Science Evidence in Charter Litigation: 30 Years of Fact Finding

November 9, 2012
Flavelle House, 78 Queen's Park
Faculty of Law, University of Toronto

Schedule

- 8:15-9:00 Registration
- 9:00-10:15 THE CHALLENGE OF THE FACTUAL RECORD: VIEWS FROM THE BENCH
Justice Robert Sharpe, Ontario Court of Appeal
Justice Susan Himel, Ontario Superior Court of Justice (*Bedford v Canada*)
Justice Lynn Smith, Supreme Court of British Columbia (*Carter v Canada*)
- 10:15-10:30 Break
- 10:30-12:00 BREAK-OUT SESSIONS
- 12:00-1:30 LUNCH PLENARY: LITIGATING ABORIGINAL RIGHTS: THE HISTORIAN'S CONTRIBUTION
Professor William Wicken, York University
- 1:30-3:00 BREAK-OUT SESSIONS
- 3:00-3:15 Break
- 3:15-4:30 REFLECTIONS: WHAT HAVE WE LEARNED?
Professor Carl Baar, Brock University and York University
Professor David Wiseman, University of Ottawa
Professor Ian Greene, York University

BREAK-OUT SESSIONS

10:30-12:00

Room FLA: Methodology and the courts

Charles-Maxime Panaccio, University of Ottawa: A theory of constitutional facts and the relevance for social science evidence for Charter cases

Roslyn Mounsey, Department of Justice: Social science evidence as proof of legislative fact - a proposed framework for a reliability analysis

Vanessa MacDonnell, University of Ottawa & Jula Hughes, University of New Brunswick: Social science evidence in constitutional cases in Canada and Germany - some comparative observations

Room FLB: Social science and election law

Yasmin Dawood, University of Toronto: Judging the law of democracy - the promise and perils of social science evidence

Michael Pal, University of Toronto: Social science evidence in judicial decision-making on the right to vote

Robert MacDermid, York University: The perspective of the expert

Room FLC: Faith, morality and Charter rights

Bev Baines, Queen's University: Judging social science evidence -a feminist perspective

BJ Wray, Department of Justice: How same-sex marriage helped to keep polygamy a criminal offence

Craig Jones, Thompson Rivers University: Proving polygamy's harms - linking social science evidence with individual testimony





1:30-3:00

FLA: Social science evidence in aid of the vulnerable litigant

Tess Sheldon, ARCH Disability Law Centre : Access to expert evidence by persons with disabilities

Lisa Kerr, New York University: Worm v Canada, gathering evidence on behalf women prisoners

Mary Birdsell, Justice for Children and Youth: R v Banks - the role of social science in the panhandling/squeegee case

FLB: Practice/Ethical issues

Hart Schwartz, Attorney General for Ontario: Work product privilege and disclosure of expert witnesses

Linda Rothstein, Paliare Roland Rosenberg Rothstein: Expert not advocate - application of the new rules to social science experts

Karen Eltis, University of Ottawa & Columbia University: Independent research and ethical issues for judges

Room FLC: Case studies

Rebecca Sutton, University of Toronto: A case study of Canada (Attorney General) v PHS Community Services Society

Lydia Stewart Ferreira, Osgoode Hall Law School: Tobacco research and health care costs

Cheryl Milne, David Asper Centre for Constitutional Rights: Canadian Foundation for Children, Youth and the Law v Canada