

12-2020

## Foreword & Table of Contents

Follow this and additional works at: <https://digitalcommons.schulichlaw.dal.ca/dlj>



Part of the [Labor and Employment Law Commons](#)



This work is licensed under a [Creative Commons Attribution 4.0 License](#).

---

### Recommended Citation

"Foreword & Table of Contents" (2020) 43:2 Dal LJ.

This Foreword is brought to you for free and open access by the Journals at Schulich Law Scholars. It has been accepted for inclusion in Dalhousie Law Journal by an authorized editor of Schulich Law Scholars. For more information, please contact [hannah.steeves@dal.ca](mailto:hannah.steeves@dal.ca).

# DALHOUSIE LAW JOURNAL

Volume 43

Number 2

Fall 2020

## *Labour Law*

Labour Law as a Subset of Employment Law? Up-dating  
Langille's Insights with a Capabilities Approach

Bruce P. Archibald

"Labour Law is a Subset of Employment Law" Revisited

Alan Bogg

Employment Law Revisited

Mark Freedland

Unifying the Field: Mapping the Relationship Between  
Work Law Regimes in Ontario, Then and Now

Claire Mummé

If Labour Law is a Subset of Employment Law, What is  
Employment Law a Subset of?

Brian Langille

Illuminating False Light: Assessing the Case for the False Light Tort in Canada

Fraser Duncan

Re-thinking the Process for Administering Oaths and Affirmations

Colton Fehr

Faith and/in Medicine: Religious and Conscientious Objections  
to MAiD

Daphne Gilbert

Consumer Credit in Canada: A Regulatory Patchwork

Micheline Gleixner

Does "No, Not Without a Condom" Mean "Yes, Even  
Without a Condom"?: The Fallout from *R v Hutchinson*

Lise Gattel & Isabel Grant

The Conceptual Gap Between *Doré and Vavilov*

Mark Mancini

Billing without Bilking: Regulating Time-Based Legal Fees

Noel Semple

The Deliberative Dimensions of Modern Environmental Assessment Law

Jocelyn Stacey

POGG and Treaties: The Role of International Agreements in National  
Concern Analysis

Gib van Ert

Responsible Scholarship in a Crisis: A Plea for Fairness in  
Academic Discourse on Carbon Pricing References

Stepan Wood, Meinhard Doelle & Dayna Nadine Scott

## **Special Contributions**

On the Presence of the Past in the Future of International  
Labour Law

Adelle Blackett

Small Claims Disputes in Nova Scotia and Access to Justice

Bill Charles





# Dalhousie Law Journal

---

## ***Editorial Board***

Kim Brooks  
*Editor*

Lucie Guibault  
*French Editor*

Jamie Baxter  
Rob Currie  
Richard Devlin  
Jocelyn Downie  
Mark Lewis  
Constance MacIntosh  
David Michels  
Mark Lewis  
Hannah Steeves  
Sheila Wildeman

## ***Production***

Lynda Corkum

## ***Student Editorial Assistants***

### *Chief Student Editors*

Jon Goud  
Charlotte Hobson

### *Student Editors*

Haneen Al Noman	Alex Jessome
Julia Borges	Siobhan Quigg
Ben Foster	Lynn Sullivan
Moira Harding	

### *Student Editorial Assistants*

David Barry	Jonathan Squires
Robbie Mason	Emily Stapleton
Laura Graham	
Kat Hirschfeld	
Riad Kherallah	
Robbie Mason	
Elizabeth Matheson	

---

This issue is the second of two for Volume 43. Cite as (2020) 43:2 Dal LJ

The *Dalhousie Law Journal* is published by the Schulich School of Law of Dalhousie University. Communications concerning editorial matters should be addressed to:

The Editor  
Dalhousie Law Journal  
Schulich School of Law, Dalhousie University  
1459 Oxford Street  
Halifax, Canada  
B3H 4R2  
Telephone: (902) 494-1469  
Fax: (902) 494-1316  
E-mail: [editor.dlj@dal.ca](mailto:editor.dlj@dal.ca).  
Website address: <http://www.dal.ca/dlj>

---

The views expressed in the contents of the *Journal* are those of the authors. Neither the *Dalhousie Law Journal* nor Dalhousie University is responsible for opinions expressed by the authors.

*Submissions:* The Editorial Committee welcomes the submission of material for possible publication. Please submit electronically to [editor.dlj@dal.ca](mailto:editor.dlj@dal.ca). All citations should follow the *Canadian Guide to Uniform Legal Citation*, 9th ed (Toronto: Carswell, 2018).

*Copyright:* All articles in this issue of the *Dalhousie Law Journal* are licensed under a Creative Commons BY 4.0 Licensing (<https://creativecommons.org/licenses/by/4.0/>). Articles may be reproduced, shared and adapted, provided you give proper name and journal citation, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.

The *Dalhousie Law Journal* is indexed in the *Index to Canadian Legal Periodical Literature*, the *Current Law Index* and the *Index to Legal Periodicals*.

---

---

Labour Law as a Subset of Employment Law? Up-dating Langille's Insights with a Capabilities Approach <i>Bruce P. Archibald</i> .....	445
"Labour Law is a Subset of Employment Law" Revisited <i>Alan Bogg</i> .....	479
Employment Law Revisited <i>Mark Freedland</i> .....	515
Unifying the Field: Mapping the Relationship Between Work Law Regimes in Ontario, Then and Now <i>Claire Mummé</i> .....	543
If Labour Law is a Subset of Employment, Law What is Employment Law a Subset of? <i>Brian Langille</i> .....	581
Illuminating False Light: Assessing the Case for the False Light Tort in Canada <i>Fraser Duncan</i> .....	605
Re-thinking the Process for Administering Oaths and Affirmations <i>Colton Fehr</i> .....	637
Faith and/in Medicine: Religious and Conscientious Objections to MAiD <i>Daphne Gilbert</i> .....	657
Consumer Credit in Canada: A Regulatory Patchwork <i>Micheline Gleixner</i> .....	697
Does "No, Not Without a Condom" mean "Yes, Even Without a Condom"? The Fallout from <i>R v Hutchinson</i> <i>Lise Gottel &amp; Isabel Grant</i> .....	767
The Conceptual Gap Between <i>Doré and Vavilov</i> <i>Mark Mancini</i> .....	793
Billing without Bilking: Regulating Time-Based Legal Fees <i>Noel Semple</i> .....	835
The Deliberative Dimensions of Modern Environmental Assessment Law <i>Jocelyn Stacey</i> .....	865
POGG and Treaties: The Role of International Agreements in National Concern Analysis <i>Gib van Ert</i> .....	901
Responsible Scholarship in a Crisis: A Plea for Fairness in Academic Discourse on Carbon Pricing References <i>Stepan Wood, Meinhard Doelle &amp; Dayna Nadine Scott</i> .....	929
<b>Special Contributions</b>	
On the Presence of the Past in the Future of International Labour Law <i>Adelle Blackett</i> .....	947
Small Claims Disputes in Nova Scotia and Access to Justice <i>Bill Charles</i> .....	963



## **Labour Law versus Employment Law in the UK and Canada: A Brian Langille Legacy**

The special segment in this Volume 43, which is devoted to an exercise in comparative labour, is the brain-child of Alan Bogg and Mark Freedland. Both were at Oxford University in 2016, thinking about the up-coming third conference of the Labour Law Research Network (LLRN) in Toronto, which was scheduled for summer of 2017. (Alan is now at Bristol.) They thought it would be interesting to explore distinctions between labour law and employment law in both Canada and the United Kingdom, where the notions have different connotations and but considerable overlap from various perspectives. They thought that a useful starting point for comparative analysis would be the influential article written by Brian Langille, who was at the time of authorship at Dalhousie Law School, entitled “Labour Law is a Subset of Employment Law”: (1981), 31 UTLJ 200. Bruce Archibald (Dalhousie) and Claire Mummé (at Windsor, and a former post-doc at Dalhousie) were recruited to provide Canadian input to the project. A spirited round-table involving the four was held at the LLRN 3 conference. The discussion generated a good deal of engagement among those in attendance. After the initial event was over, the four thought that it would be valuable and fun to transfer their deliberations and debates into publishable form. The four invited Brian Langille (long since at University of Toronto) to write a response. Brian agreed with alacrity. All are delighted and grateful that the Dalhousie Law Journal, and the peer reviewers for the collection, were willing to give these ruminations a place in the academic sun. The hope is that readers may find the results to be of both theoretical and practical interest. In addition, the original proponents of this special issue are pleased to see that the editors have included at the end of this volume the Note, “On the Presence of the Past in the Future of International Labour Law” which was presented as the Horace E. Read Memorial Lecture at the Schulich School of Law by our esteemed colleague Adelle Blackett (McGill). We trust it can be seen that we are all committed in our own ways to the emancipatory and humanizing potential of both domestic and international labour and employment law.

Bruce Archibald  
Professor Emeritus  
Schulich School of Law at  
Dalhousie University