



# New Lawyers Update

Jordan Diacur

If you've watched the CBC lately, you may have noticed that they've started making 'Heritage Minutes' again. The original set of about 70 shorts, from the early 1990s, were a staple of Canadian television for about...well, they sort of never went away, did they? Sure, they were beyond earnest verging into cornball territory (*But I need these peach baskets back!*). They still did their job. They were the first place I ever heard of Vince Coleman, Jennie Trout and La Bolduc and, given the ungodly amount of time spent focusing on the Fur Trade and the First World War in the Canadian History curriculum, I'm sure I wouldn't have heard of dozens of other worthy subjects at all without them.

One of the new bunch is about Sir George-Étienne Cartier, who would be on Canadian Mount Rushmore, if there was one. He was a *patriote* in the crushed rebellion of 1837, returning from exile to practice law in Montreal before entering politics. He was involved in bringing responsible government to the Canadas, but it was after he allied with Sir John A. Macdonald that he had his greatest impact. He convinced Quebecers to sign on to Confederation, a feat that Prime Ministers Trudeau (*père*) and Mulroney would try repeatedly to extend, without success. To Francophone fears of being swamped by English Canada, and Protestant fears of being swamped by Catholicism, he responded, in a great speech at Quebec City (Feb. 7, 1865), "if we unite, we will

form a *political* nationality, independent of the national origin and religion of individuals". He added that while some might hope that Canadian diversity would disappear in an American-style melting pot, he did not think that a moral or pragmatic goal—diversity would be Canada's strength in times to come. Later, he walked the walk, working with Métis emissary Abbé Ritchot to add Manitoba to our growing nation, promising *there will be a place for your people in Canada*. By offering a transcontinental rail link, he also won the enthusiastic support of a BC delegation that had been willing to settle for a road through the Rockies.

I've been thinking about Cartier recently, and it seems I'm not alone. Back in June, *Macleans* published an essay on Cartier's legacy by Jean Charrest, the former Premier of Quebec, and Prime Minister Trudeau ( *fils*) in his recent Christmas address repeated one of his favourite riffs on Cartier, speaking of "the strength of our diversity". This might all be chalked up to the usual retrospective, introspective stuff that tends to come out around an anniversary like Canada's 150<sup>th</sup>, but I'm not so sure that's all it is. I mean, 2017 wasn't an auspicious year for diversity, globally. If Canada was founded on Cartier's pledge that there would be a place in this country for anyone prepared "not to quarrel, but to work together for the common welfare", mightn't this attention to the past be a rational response to worries about the future?

The Law Society of Ontario—that's going to feel weird to read the first few thousand times—does seem worried. It has been pursuing an Initiative on Equality, Diversity and Inclusion for a few years, and is in the middle of implementing recommendations intended to effect change in the legal profession, including ones designed to address issues of "systemic racism". The recommendations were made in the unanimous report of a 15 Bencher working group, based on a lengthy consultation process, which "identified widespread barriers experienced by racialized licensees...at all stages of their careers". The recommendations have first made themselves felt in the new requirement that we all create and abide by an individual Statement of Principles that "acknowledges our obligation to promote equality, diversity and inclusion generally, and in our behaviour towards colleagues, employees, clients and the public".

The response to this in various quarters has been a little quizzical, a little annoyed, a little litigious. Isn't this a Big Law issue that is being foisted on the rest of the province? Aren't there more pressing needs to be addressed? Doesn't this constitute forced speech?

While one or more *Charter* challenges may wend through the Courts, I have not been able to square a freedom of expression argument with the Oath required at the Call to the Bar (how's that for forced speech, by the way?). When I swore it, the Oath included a line about "strictly observing and upholding the ethical standards that govern my profession". If one of those ethical standards is now an obligation to promote equality, diversity and inclusion, then I find not only am I already bound by it, I'm surprised it wasn't an obligation before.

I have more sympathy for the suggestion that the Statement of Principles

has a whiff about it of ‘virtue signaling’, a desire to look for all the world as though something noble is being done, without any actual change being envisioned. That was my knee-jerk reaction, and that may yet prove true. However, upon reflection, it seems a bit too early to dismiss the attempt as doomed or akin to a self-serving Facebook ‘awareness’ campaign. If someone were to conclude that trying to help has value after reading an essay like Hadiya Roderique’s “Black on Bay Street” (*Globe and Mail*, Nov. 4, 2017), which details some of the barriers that the Law Society is talking about—“In a recent study, a third of Asian and black participants reported whitening their resumé or covering their minority status. And though it may pain the soul to do so, it works. Black students who whiten resúmes get 2.5 times more callbacks”—I’d have a hard time calling them naïve. It isn’t controversial (I think, but who knows) to say that a law school graduate in Ontario shouldn’t have

to use a more ‘mainstream’ middle name on an application, or delete an extra-curricular activity or scholarship, to avoid ‘outing’ themselves as a member of a minority group, but that is happening, and more besides.

Would there be greater hope for change if a solid business case for diversity could be made, instead of tossing out comforting pieties about what some bloody Father of Confederation thought? Well, Ms. Roderique can help with that, too: “Firms should want to be diverse. This isn’t political correctness, it’s business. Even the mere presence of minorities adds a competitive advantage.” A McKinsey & Co. management consultants study (“Diversity Matters”, Feb. 2015) found that companies in the top quartile for racial and ethnic diversity are 35 percent more likely to have financial returns above their respective national industry medians, whereas companies in the bottom quartile are statistically less likely to achieve

above-average financial returns (that is, they are lagging behind rather than merely ‘not leading’). Gender parity, I might add, is also correlated in the same study with double-digit increases in the potential for outperformance. That’s a pretty eye-popping demonstration of the strength of diversity, and one applicable well beyond Big Law.

There will be a place for your people in Canada, indeed. It was win-win back then. Still is. ■

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## New Lawyers’ Subcommittee Presents: Lawyers Who Care

By Erica Lamont

Last year the New Lawyers’ Subcommittee took the initiative to engage “new” lawyers to give back to their community. In doing so, they began “Lawyers Who Care”. This initiative was to highlight the importance for all lawyers to give back to their community and for the new/young lawyers to follow the examples set by many senior lawyers in the Hamilton Bar.

The Subcommittee members asked colleagues to donate \$100 to participate in the selection and voting process. Any donor was able to submit the name of a charity of their choice with their donation. Of the charities entered, three were selected at random and asked to present at a reception where a vote took place. Last

year, the three charities chosen were Food4Kids, Welcome Inn Community Centre, and Camp Quality, Southern Ontario. All donors were invited to attend the reception to vote on one of the three charities and the winner of the vote received all of the funds. Last year, Food4Kids was the recipient of a whopping \$10,400.

This year, the New Lawyers’ Subcommittee aims to meet and surpass that goal. The launch date for this initiative is March 1, 2018, with an early bird donation deadline of April 2, 2018. This year’s reception date is tentatively scheduled for May 8, 2018.

The Subcommittee asks all new and young lawyers to be ready for a call from one of their colleagues asking for a donation of \$50.

With your \$50 donation, you can submit the name of a charity that is important to you and tell your friends to do the same. Three charities will be invited to attend the reception and a vote will take place. After the vote is complete, the charity with the most votes will receive 80% of the funds with the 2nd and 3rd place charities receiving 10% each. All donors will receive a tax receipt from one of the three charities.

The season for giving is never passed so please be ready to donate \$50 to support the Lawyers Who Care initiative. ■

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