

CURRICULUM VITAE

Kent McNeil

Osgoode Hall Law School
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Current Position

Osgoode Hall Law School, York University, Toronto:

Professor, 2001-present

Associate Professor, 1991-2000

Assistant Professor, 1987-91

Other Academic and Visiting Positions

Distinguished Visiting Lecturer, University of Manitoba Faculty of Law, September, 2002

Robarts Professor of Canadian Studies, York University, July, 1997 - June, 1998

University of Saskatchewan Native Law Centre: Faculty Member, Program of Legal Studies for Native People, May-July, 1996

Faculté de Droit et de Science Politique d'Aix-Marseille, France: Visitor, April-May, 1996

Northern Australia Research Unit, Australian National University, Darwin N.T.: Visiting Fellow, June, 1995

University of New South Wales Faculty of Law, Sydney N.S.W.: Visitor, January-May, 1995

University of Victoria Faculty of Law: Visitor, September, 1994

Other Professional Experience

University of Saskatchewan Native Law Centre, Saskatoon:

Research Director, July, 1981 - June, 1982

Research Associate, September, 1980 - June, 1981

Attorney-General's Department, Government of Saskatchewan, Regina: Student-at-law, September, 1979 - September, 1980

Professional Qualifications

Member of the Saskatchewan Bar since 1980

Languages

French, some Spanish

Education

D.Phil. in Law, Oxford University, 1987

LL.B. (Great Distinction, 1st in class), University of Saskatchewan, 1979

Certificat d'Etudes Supérieures, Université d'Aix-Marseille, 1976

B.A. in History (Distinction), University of Saskatchewan, 1969

Academic Distinctions and Scholarships

1985-86: Social Sciences and Humanities Research Council of Canada Doctoral Fellow

1982-85: Commonwealth Scholarship

1982: Duff-Rinfret Scholarship (declined)
MacKenzie King Scholarship (declined)
Social Sciences and Humanities Research Council of Canada Doctoral Fellowship
(declined)
Viscount Bennett Fellowship (declined)

1979: Carswell Company Prize
T.D. Brown Prize for most distinguished graduate in Law

Research Grants and Fellowships

2007-08: Killam Fellowship, Canada Council for the Arts, on Indigenous Sovereignty and European colonization of western North America: Implications for self-government (\$140,000)

2006-11: Social Sciences and Humanities Research Council of Canada Major Collaborative Research Initiative on Indigenous Peoples and Governance (approx. \$9,500/annum)

2005-08: Social Sciences and Humanities Research Council of Canada Standard Research Grant, on Indigenous Sovereignty and European colonization of western North America: Implications for self-government (\$58,123)

2001-05: Social Sciences and Humanities Research Council of Canada Standard Research Grant, on the territorial rights of the Aboriginal peoples of North America (\$60,983)

- 2001-02: Osgoode Hall Law School Research Fellowship (release time from teaching for one term)
- 1995: Social Sciences and Humanities Research Council of Canada Small Research Grant, to prepare *Aboriginal Peoples in Canada: A Legal Bibliography* (\$3000)
- 1992-93: Social Sciences and Humanities Research Council of Canada Strategic Grant, on the application of the Charter to Aboriginal governments (\$18,900)
- 1990-91: Social Sciences and Humanities Research Council of Canada Standard Research Grant, on the Aboriginal right of self-government and section 35(1) of the *Constitution Act, 1982* (\$16,935)

PUBLICATIONS

Books:

Emerging Justice? Essays on Indigenous Rights in Canada and Australia. Saskatoon: University of Saskatchewan Native Law Centre, 2001. Winner of Saskatchewan Book Awards for Publishing and Publishing in Education.

Common Law Aboriginal Title. Oxford: Clarendon Press, 1989

Monographs:

Defining Aboriginal Title in the 90's: Has the Supreme Court Finally Got It Right? Toronto: Robarts Centre for Canadian Studies, York University, 1998

Canada's Fiduciary Obligation to Aboriginal Peoples in the Context of Accession to Sovereignty by Quebec, Vol. 2, Domestic Dimensions, with Renée Dupuis. Ottawa: Royal Commission on Aboriginal Peoples, 1995

Indian Hunting, Trapping and Fishing Rights in the Prairie Provinces of Canada. Saskatoon: University of Saskatchewan Native Law Centre, 1983

Native Rights and the Boundaries of Rupert's Land and the North-Western Territory. Saskatoon: University of Saskatchewan Native Law Centre, 1982

Native Claims in Rupert's Land and the North-Western Territory: Canada's Constitutional Obligations. Saskatoon: University of Saskatchewan Native Law Centre, 1982

Articles and Chapters in Books:

“Aboriginal Sovereignty and European Colonization of Canada”, submitted for publication

“The Relationship between the Sources and Content of Indigenous Land Rights in Australia and Canada”, accepted for a book entitled *Aboriginal Title and Indigenous Peoples: Comparative Essays on Canada, Australia and New Zealand*, submitted for publication to University of Calgary Press

“Fiduciary Obligations and Aboriginal Peoples”, forthcoming in Mark Gillen and Faye Woodman, eds., *The Law of Trusts: A Contextual Approach*, 2nd ed., Emond Montgomery, Toronto

“Negotiated Sovereignty: Indian Treaties and the Acquisition of American and Canadian Territorial Rights in the Pacific Northwest”, forthcoming in Alexandra Harmon, ed., *The Power of Promises: Perspectives on Treaties with Native Peoples of the Pacific Northwest*, University of Washington Press, Seattle

“Legal Rights and Legislative Wrongs: Maori Claims to the Foreshore and Seabed”, forthcoming in Claire Charters and Andrew Erueti, eds., *Maori Property Rights in the Foreshore and Seabed: The Latest Frontier*, forthcoming, Victoria University of Wellington Press, Wellington, N.Z.

“Judicial Approaches to Self-Government since *Calder*: Searching for Doctrinal Coherence”, forthcoming in Hamar Foster and Jeremy Weber, eds., *Let Right Be Done: Calder, Aboriginal Title and the Future of Indigenous Rights*, UBC Press, Vancouver

“Aboriginal Title and the Supreme Court: What’s Happening?” (2006) 69 *Saskatchewan Law Review* 281-308.

“Aboriginal Rights, Resource Development, and the Source of the Provincial Duty to Consult in *Haida Nation* and *Taku River*” (2005) 29 *Supreme Court Law Review* (2nd series) 447-60.

“Continuity of Aboriginal Rights”, in Kerry Wilkins, ed., *Advancing Aboriginal Claims: Visions/Strategies/Directions* (Saskatoon: Purich Publishing, 2004), 127-50

“The Vulnerability of Indigenous Land Rights in Australia and Canada” (2004) 42 *Osgoode Hall Law Journal* 271-301

“Challenging Legislative Infringements of the Inherent Aboriginal Right of Self-Government” (2003) 22 *Windsor Yearbook of Access to Justice* 329-61

“Culturally Modified Trees, Indian Reserves and the Crown's Fiduciary Obligations” (2003) 21 *Supreme Court Law Review* (2d) 105-38

“Reconciliation and the Supreme Court: The Opposing Views of Chief Justices Lamer and McLachlin” (2003) 2 *Indigenous Law Journal* 1-26

“Aboriginal Title on the Ground: Establishing and Protecting Occupation”, in Bruce W. Hodgins, Ute Lischke, and David T. McNab, eds., *Blockades and Resistance: Studies in Actions of Peace and the*

Temagami Blockades of 1988-89 (Waterloo: Wilfrid Laurier University Press, 2003), 147-56

“Aboriginal Governments and the *Charter*: Lessons from the United States” (2002) 17 *Canadian Journal of Law and Society* 73-105

“Self-Government and the Inalienability of Aboriginal Title” (2002) 47 *McGill Law Journal* 473-510

“Extinguishment of Aboriginal Title in Canada: Treaties, Legislation, and Judicial Discretion” (2001-2002) 33 *Ottawa Law Review* 301-46

“Aboriginal Rights in Transition: Reassessing Aboriginal Title and Governance” (2001) 31 *American Review of Canadian Studies* 317-29

“Aboriginal Title and Section 88 of the *Indian Act*” (2000) 34 *University of British Columbia Law Review* 159-94

“Aboriginal Title as a Constitutionally Protected Property Right”, in Owen Lippert, ed., *Beyond the Nass Valley: National Implications of the Supreme Court's Delgamuukw Decision* (Vancouver: The Fraser Institute, 2000), 55-75

“Fiduciary Obligations and Aboriginal Peoples”, in Mark R. Gillen and Faye Woodman, eds., *The Law of Trusts: A Contextual Approach* (Toronto: Emond Montgomery Publications, 2000), 807-65

“Sovereignty on the Northern Plains: Indian, European, American and Canadian Claims” (2000) 39:3 *Journal of the West* 10-18

“Legalizing Oral History: Proving Aboriginal Title in Canadian Courts”, with Lori Ann Roness, (2000) 39:3 *Journal of the West* 66-74

“The Onus of Proof of Aboriginal Title” (1999) 37 *Osgoode Hall Law Journal* 775-803

“Sovereignty and the Aboriginal Nations of Rupert's Land” (1999) 37 (spring/summer) *Manitoba History* 2-8

“Social Darwinism and Judicial Conceptions of Indian Title in Canada in the 1880s” (1999) 38:1 *Journal of the West* 68-76

“Aboriginal Rights in Canada: From Title to Land to Territorial Sovereignty” (1998) 5 *Tulsa Journal of Comparative and International Law* 253-98

“Aboriginal Title and the Division of Powers: Rethinking Federal and Provincial Jurisdiction” (1998) 61 *Saskatchewan Law Review* 431-65

“Aboriginal Title and Aboriginal Rights: What's the Connection?” (1997) 36 *Alberta Law Review* 117-48

“Extinguishment of Native Title: The High Court and American Law” (1997) 2 *Australian Indigenous Law Reporter* 365-70

“How Can Infringements of the Constitutional Rights of Aboriginal Peoples Be Justified?” (1997) 8:2 *Constitutional Forum* 33-39

“Co-Existence of Indigenous Rights and Other Interests in Land in Australia and Canada” [1997] 3 *Canadian Native Law Reporter* 1-18, a shorter version of which appeared as “Co-Existence of Indigenous and Non-Indigenous Land Rights: Australia and Canada Compared in Light of the *Wik* Decision” (1997) 4:5 *Indigenous Law Bulletin* 4-9

“The Meaning of Aboriginal Title”, in Michael Asch, ed., *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality and Respect for Difference* (Vancouver: University of British Columbia Press, 1997), 135-54

“Aboriginal Governments and the Canadian Charter of Rights and Freedoms” (1996) 34 *Osgoode Hall Law Journal* 61-99

“Racial Discrimination and Unilateral Extinguishment of Native Title” (1996) 1 *Australian Indigenous Law Reporter* 181-221

“The Decolonization of Canada: Moving Toward Recognition of Aboriginal Governments” (1994) 7 *Western Legal History* 113-41

“Envisaging Constitutional Space for Aboriginal Governments” (1993) 19 *Queen's Law Journal* 95-136

“Aboriginal Nations and Quebec's Boundaries: Canada Couldn't Give What It Didn't Have”, in Daniel Drache and Roberto Perin, eds., *Negotiating with a Sovereign Quebec* (Toronto: Lorimer, 1992), 107-23

“The High Cost of Accepting Benefits from the Crown: A Comment on the Temagami Indian Land Case” [1992] 1 *Canadian Native Law Reporter* 40-69

“A Question of Title: Has the Common Law Been Misapplied to Dispossess the Aboriginals?” (1990) 16 *Monash University Law Review* 91-110

“The Temagami Indian Land Claim: Loosening the Judicial Strait-Jacket”, in Matt Bray and Ashley Thomson, eds., *Temagami: A Debate on Wilderness* (Toronto: Dundurn Press, 1990), 185-221

“The Constitution Act, 1982, Sections 25 and 35” [1988] 1 *Canadian Native Law Reporter* 1-13

“The Constitutional Rights of the Aboriginal Peoples of Canada” (1982) 4 *Supreme Court Law Review* 255-65

Other Publications:

“Aboriginal Autonomy and the Crown’s Fiduciary Obligations”, in the Canadian Bar Association’s 2004 Canadian Legal Conference and Expo materials, Winnipeg, August 15-17, 2004, revised and reprinted as “Self-Government and the Crown’s Fiduciary Obligations”, in *Canadian Aboriginal Law 2004*, conference materials, Pacific Business and Law Institute, Ottawa, November 17-18, 2004

Review of David E. Wilkins and K. Tsianina Lomawaima, *Uneven Ground: American Indian Sovereignty and Federal Law* (Norman: University of Oklahoma Press, 2001), (2004) 43:3 *Journal of the West* 99

“Indian and American Sovereignty over the Missouri Watershed at the Time of the Lewis and Clark Expedition”, in *A Confluence of Cultures: Native Americans and the Expedition of Lewis and Clark*, 2003 Symposium Proceedings (Missoula: University of Montana, 2003), 121-28

Review of Bruce E. Johansen, *Debating Democracy: Native American Legacy of Freedom* (Santa Fe: Clear Light Books, 1998), (2002) 41:3 *Journal of the West* 100

“Aboriginal Rights: The Legal Landscape in Canada”, in British Columbia Treaty Commission, ed., *Speaking Truth to Power III* (Vancouver: July 2002), on-line: www.bctreaty.net/files/truthtopower.html (PDF format), 34-39

Review of Stan Persky, *Delgamuukw: The Supreme Court of Canada Decision on Aboriginal Title* (Seattle: University of Washington Press, 2000), (2002) 41:2 *Journal of the West* 103

“Treaty Rights, the Indian Act, and the Canadian Constitution: The Supreme Court’s 1999 Decisions” (2000) 8:1-3 *Canada Watch* 44-52

“History, Law, and Indian Claims: An Introduction”, with Jill Martin, (2000) 39:3 *Journal of the West* 8-9

“The *Delgamuukw* Decision: Respecting Aboriginal Title to Land” (October/November 1999) 1:2 *Confluences Magazine* 33-34

“Riparian Rights and ‘Lands Reserved for the Indians’: Some Constitutional Issues”, National Symposium on Water Law, Environmental Law CLE Programme, Canadian Bar Association, Toronto, April 1999

“*Delgamuukw* in Context: Judging Aboriginal Rights” (1998) 6:2 *Social Sciences and Humanities Aboriginal Research Exchange* 1, 8-10

“Aboriginal Lands and Resources: An Assessment of the Royal Commission’s Recommendations” (1997) 5:5 *Canada Watch* 77-79

“Aboriginal Rights in Canada in 1996: An Overview of the Decisions of the Supreme Court of Canada” (1997) 4:2 *Indigenous Law Bulletin* 4-6, a shorter version of which appeared as “Reduction by Definition: The Supreme Court’s Treatment of Aboriginal Rights in 1996” (1997) 5: 3 & 4 *Canada Watch* 60-61

“First Nation Riparian Rights and Hydraulic Development in Ontario”, in *Sovereignty Symposium VII: Full Faith and Credit* (Tulsa: Oklahoma Supreme Court et al., 1994), Section 6, 1-10

“Commentary on ‘Adhesion to Canadian Indian Treaties and the Lubicon Lake Dispute’” (1992) 7 *Canadian Journal of Law and Society* 207-12

“Las Primeras Naciones, soberanía y derechos sobre la tierra: el legado del colonialismo británico en Norteamérica”, Taller “El Derecho comparado indígena en América”, Quito, Ecuador, Mayo 16 a 19 de 1990, 31-9

University of Saskatchewan Native Law Centre *Legal Information Service Reports*: “Indian Child Welfare - Whose Responsibility?”, 1981 “Constitutional Entrenchment of Native Rights”, 1980 “Trespass on Indian Reserves”, 1980 “Native People and the Canadian Constitution”, 1980

Reports

“The Inherent Right of Self-Government: Emerging Directions for Legal Research”, a research report prepared for the First Nations Governance Centre, Chilliwack, B.C., July 30, 2004, 35 pp.

“Exclusive Occupation and Joint Aboriginal Title”, a research report prepared for the Hul’qumi’num Treaty Group, Ladysmith, B.C., July, 2003, 24 pp.

“The Inherent Rights of First Nations to Self-Determination and Self-Government”, a research report prepared for the Assembly of Manitoba Chiefs, June, 2003, 28 pp.

“Section 35 Protection of the Manitoba First Nation Self-Government Agreement”, a research report prepared for the Assembly of Manitoba Chiefs, April, 2003, 29 pp.

“Treaty Settlement Land Title and Jurisdiction: Legal and Constitutional Issues”, a research report prepared for the British Columbia First Nations Summit Constitutional Issues Secretariat, November, 2002, 21 pp.

“Section 91(24) Powers, the Inherent Right of Self-Government, and Canada's Fiduciary Obligations”, a research report prepared for the Assembly of First Nations, Office of the B.C. Regional Vice-Chief, August, 2002, in *Canadian Aboriginal Law 2002 Conference Materials*, Ottawa, December 5-6, 2002 (Vancouver: Pacific Business & Law Institute, 2002)

“The Implications of Parliament's Exercise of Section 91(24) Powers for the Inherent Right of Self-Government”, a research report prepared for the Assembly of First Nations, Office of the B.C. Regional Vice-Chief, August, 2002, 38 pp.

Expert Report on the Acquisition of Territorial Sovereignty in International Law and British Imperial Law, *Ochapowace First Nation Tax Case*, Melville, Sask., June 4, 2002, 28 pp.

“The Lands and Trust Services Initiative: Its Potential Impact on the Federal Government's Fiduciary

Obligations”, Part I (August, 1998: 64 pp.), Part II (December, 1999: 67 pp.), Appendix (June, 2000: 34 pages), a research report prepared for the Assembly of First Nations, Ottawa

“Aboriginal, Treaty and Riparian Rights in the Moose River Basin: The Potential Impact of the Ontario Hydraulic Plan”, with Patrick Macklem, a research report prepared for the Moose River/James Bay Coalition, October, 1992, 143 pp.

Teaching Materials

“Aboriginal Peoples and the Canadian Constitution”, with Shin Imai, Part-Time LL.M. Program in Constitutional Law, 2003

"Aboriginal Peoples and the Canadian State", 1997

“Aboriginal Peoples and the Constitution: Treaties and Land Claims Agreements”, Part-Time LL.M. Program in Constitutional Law, 1998

“First Nations and the Law Cases and Materials”, originally “Native Rights Cases and Materials”, 1987, revised 1988, 1989, 1990, 1992, 1994, 2000, 2001, 2003

“First Nations and the Law: Supplementary Materials”, 1996

“Issues in Constitutional History”, 1991, with Justice Walter Tarnopolsky, revised 1993, 1997

“Property Supplementary Materials”, 1988, revised 1989, 1991, 1993, 1994 (with Professor Eric Tucker), 1996, 1997, 2000, 2004, 2006

“Trusts Supplementary Materials”, 1996, revised 1997

Editorial Positions

Member, Advisory Council, *Australian Indigenous Law Reporter*, University of New South Wales Indigenous Law Centre, 1996-

Member, Editorial Advisory Board, *Journal of the West*, 2001-2005

Guest Editor, (2000) 39:3 *Journal of the West*, issue on “History, Law, and Indian Claims”, with Jill Martin

Contributing Editor, *Canadian Native Law Reporter*, University of Saskatchewan Native Law Centre, 1980-82

Seminar and Conference Presentations

“Indigenous Sovereignty, Euro-American Colonialism, and the Creation of Boundaries in North America in the 18th and 19th Centuries”, 13th International Conference of Historical Geographers, Hamburg, Germany, August 20-24, 2006

“Why Does the Type of Tenure Matter?”, conference on “Making or Breaking the Treaty Process: The Constitutional Status of Treaty Settlement Land”, Westbank First Nation, Westbank, B.C., May 30, 2006

“Aboriginal Rights and Title Overview”, Supreme Court of British Columbia Education Seminar, National Judicial Institute, Victoria, B.C., May 24-26, 2006

“Aboriginal Title and the Supreme Court: What’s Happening?”, Saskatchewan Law Review Lecture, Saskatoon, October 24, 2005

“Indian Sovereignty, Manifest Destiny, and the Doctrine of Discovery”, Western History Association’s 45th Annual Conference, Scottsdale, Arizona, October 12-15, 2005

“Historical Introduction: First Nation/Crown Relations”, Federal Court Education Seminar, National Judicial Institute, Montebello, Quebec, September 14-16, 2005

“Self-Government in Action: Acknowledgement of Indigenous Legal Traditions by Canadian Courts”, Law’s Empire, Canadian Law and Society Annual Conference, Harrison Hot Springs, B.C., June 25-29, 2005

“Federal Jurisdiction over ‘Lands reserved for the Indians’”, Mohawk Council of Kahnawake Conference, Vaudreuil, Quebec, May 24-26, 2005

“The Crown’s Fiduciary Obligations: The Aboriginal/Crown Relationship Applied to Historic Treaties and Statutes”, Indian Claims Commission, Ottawa, May 31 and September 30, 2005

“Negotiated Sovereignty: Indian Treaties and the Acquisition of American and Canadian Territorial Sovereignty in the Pacific Northwest”, conference on “Pacific Northwest Indian Treaties in National and International Historical Perspective”, Seattle, WA, May 13-14, 2005

“Aboriginal Rights, Resource Development, and the Duty to Consult: Haida and Taku River”, 2004 Constitutional Cases, Osgoode Hall Law School, Toronto, April 15, 2005

“Judicial Interpretations of the Inherent Right of Aboriginal Self-Government: Searching for Coherence”, University of Alberta Faculty of Law, Edmonton, March 9, 2005

“Aboriginal Title and Self-Government”, Rebuilding Our Nations, Mi’kmaq Confederacy of PEI, Charlottetown, March 1-2, 2005

“Crown Lands or Aboriginal Lands? Hidden Constitutional Issues in *Haida* and *Taku River*”, Impact of the *Haida* and *Taku River* Decisions: Consultation and Accommodation with First Nations, Pacific

Business and Law Institute, Vancouver, B.C, January 26-27, 2005

“Lessons from Canadian Law on Aboriginal Title to the Foreshore and Seabed”, Foreshore and Seabed: The New Frontier, Victoria University of Wellington, New Zealand, December 10, 2004

“The Inherent Aboriginal Right of Self-Government in Canada”, Quentin-Baxter Memorial Lecture, Victoria University of Wellington, New Zealand, December 9, 2004

“The Next Decade”, with Andrew Saranchuk, Aboriginal Law Seminar, National Judicial Institute, Halifax, November 24-26, 2004, and St. John’s, April 20-22, 2005

“Self-Government and the Crown’s Fiduciary Obligations”, Canadian Aboriginal Law 2004, Pacific Business and Law Institute, Ottawa, November 17-18, 2004, also presented at Aboriginal Law Update, Pacific Business and Law Institute, Vancouver, B.C, January 28, 2005

“Acquisition of Crown Sovereignty in Canada”, Federal/Provincial/Territorial Aboriginal Law Conference, Toronto, November 5, 2004

“The Legality of Aboriginal and Crown Sovereignty in Canada”, University of Victoria Colloquium on Political and Legal Theory, October 1, 2004

“Negotiated Sovereignty: A Reassessment of the Treaty Relationships in the Prairie West”, Ninth Annual International Wanapitei Aboriginal History and Politics Colloquium, Lake Temagami, Ontario, September 23-26, 2004

“Aboriginal Autonomy and the Crown’s Fiduciary Obligations”, Canadian Bar Association’s 2004 Canadian Legal Conference and Expo, Winnipeg, August 15-17, 2004

“Fort Laramie, and the Extension of American Sovereignty to the North Platte”, Symposium on “Fort Laramie: Crossroads of the West”, Fort Laramie, Wyoming, August 6-8, 2004

“The Geographical Extent of French Louisiana at the Time It Was Purchased by the United States in 1803”, 30th Annual Conference of the French Colonial Historical Society, Washington D.C., May 5-8, 2004

“Federal Responsibility for Aboriginal Peoples: Historical Roots”, Pacific Business and Law Institute Conference on “New Directions: Canada’s Responsibility for Aboriginal Peoples”, Ottawa, April 28-29, 2004

“Inherent Right Strategy: Directions for Legal Research”, First Nations Governance Centre Think-Tank, Vancouver, March 30-31, 2004, also presented at the First Nations Governance Centre Youth Think Tank, Calgary, October 4-5, 2004

“The Nature and Proof of Aboriginal Title”, Department of Justice, Aboriginal Law and Strategic Policy, Ottawa, March 1, 2004

“Aboriginal Self-Government and the *First Nations Governance Act*”, Association for Canadian Studies in the United States 17th Biennial Conference, Portland, Oregon, November 19-23, 2003

“Infringement of the Aboriginal Peoples’ Inherent Right of Self-Government by the Parliament of Canada, 1867-1982”, American Society for Legal History Annual Meeting, Washington, D.C., November 13-15, 2003

“The Oregon Boundary Question: American and British Pretensions versus Indian Sovereignty”, Western History Association Annual Conference, Fort Worth, Texas, October 8-11, 2003

“British Acquisition of Sovereignty in Western Canada”, public lecture, University of Calgary Faculty of Law, September 18, 2003

“The Sources and Content of Indigenous Land Rights in Australia and Canada: A Critical Comparison”, conference on “Delgamuukw, Mabo, and Ysleta: Native Title in Canada, Australia, and the United States”, University of Calgary, September 18-20, 2003

“How Does the *Charter* Affect First Nation Governments?” , Canadian Aboriginal Law Conference, Pacific Business and Law Institute, Ottawa, September 10-11, 2003

“The Historic Indian Treaties in Canadian Domestic Law”, Nunavut Land Claim Workshop, Akitsiraq Law School, Nunavut Tunngavik Inc. and the Government of Nunavut, Iqaluit, September 9, 2003

“Indian Sovereignty and American and British Claims in the Pacific Northwest: The Oregon Boundary Dispute”, American Historical Association Pacific Coast Branch 96th Annual Meeting, Honolulu, Hawaii, July 31- August 3, 2003

“Indian and American Sovereignty over the Missouri Watershed at the Time of the Lewis and Clark Expedition”, A Confluence of Cultures: Native Americans and the Expedition of Lewis and Clark, International Conference, University of Montana, Missoula, May 28-30, 2003

“What Have We Learned?”, Aboriginal Ownership and Management of Resources in Canada: An Analysis of Litigation and Negotiation, Canadian Bar Association National Conference, Halifax, April 25-26, 2003

“Indian Lands, Culturally Modified Trees, and the Crown's Fiduciary Obligations”, 2002 Constitutional Cases Conference, Osgoode Hall Law School, Toronto, April 3-4, 2003

“The Courts and Oral Tradition”, with Justice Mary Ellen Turpel-Lafond, Aboriginal Law Seminar, National Judicial Institute, Calgary, January 23-25, 2003

“The Next Decade: Constitutional Issues”, with John Borrows, Aboriginal Law Seminar, National Judicial Institute, Calgary, January 23-25, 2003

“Aboriginal Governments and the Charter: Lessons from the United States”, Canadian Aboriginal Law 2002 National Forum, Pacific Business and Law Institute, Ottawa, December 5-6, 2002

“Would the Proposed *First Nations Governance Act* Extinguish or Infringe the Inherent Right of Self-Government?”, Canadian Aboriginal Law 2002 National Forum, Pacific Business and Law Institute, Ottawa, December 5-6, 2002

“Aboriginal Self-Government and the Constitution of Canada”, Aboriginal Law Forum, Insight Information, Toronto, December 2-3, 2002

“Was the Missouri Watershed Part of the United States in 1804-1806?”, Conference on Lewis and Clark: The Unheard Voices, Pennsylvania State University, November 14-16, 2002

“Whose Law Is It, Anyway? Aboriginal Rights and Canadian Courts”, Distinguished Visitor Lecture, University of Manitoba Faculty of Law, September 26, 2002

“Outstanding Issues in Aboriginal Rights”, Legal Studies Seminar, University of Manitoba Faculty of Law, September 26, 2002

“Governmental Infringement of Aboriginal Resource Rights”, Law and Society Association Annual Meeting, Vancouver, B.C., May 30- June 1, 2002

“Constitutional and Governance Implications of Different Options for Holding Treaty Settlement Land”, Conference on Aboriginal Self-Government: What Does It Mean in Practice?, Canadian Bar Association, Victoria, B.C., April 27-28, 2002

“Should the Charter of Rights and Freedoms Apply to Aboriginal Governments?”, Charter at Twenty Conference, York University, Toronto, April 13, 2002, also presented as “Application of the Canadian Charter to First Nation Governments: Lessons from the United States”, Conference on Aboriginal Self-Government: What Does It Mean in Practice?, Canadian Bar Association, Victoria, B.C., April 27-28, 2002

“Reconciliation and the Supreme Court: The Opposing Views of Chief Justices Lamer and McLachlin”, A Just and Lasting Reconciliation: First Nations Government, University of Victoria and Assembly of First Nations (B.C.), Vancouver, March 19-22, 2002

“Aboriginal Rights: The Legal Landscape in Canada”, keynote address, Speaking Truth to Power III: Self-Government, Options and Opportunities, BC Treaty Commission, Vancouver, March 14-15, 2002

“Emerging Justice?”, public presentation, McNally Robinson Bookstore, Saskatoon, February 19, 2002

“Constitutional Recognition of Aboriginal and Treaty Rights in Canada: Has It Made a Difference?”, Canada-U.S. Relations Conference, Texas A & M University, College Station, November 13, 2001

“Locating Boundaries: The Interplay of Law, History and Geography”, 11th International Conference of Historical Geographers, Quebec City, August 12-18, 2001

“The Inalienability of Aboriginal Title”, Philosophy and Aboriginal Rights: Critical Dialogues

Conference, University of Winnipeg, June 22-25, 2001

“How Can Infringements of Aboriginal and Treaty Rights be Justified?”, Aboriginal Law Seminar, National Judicial Institute, Saskatoon, May 9-11, 2001

“Options for Asserting Aboriginal Rights”, featured speaker at the B.C. Continuing Legal Education 2nd Annual Aboriginal Law Conference, Vancouver, March 9, 2001

“The Vulnerability of Indigenous Land Rights in Canada and Australia”, Property Rights in the Colonial Imagination and Experience: A Colloquium in Comparative Legal History, Victoria, Feb. 22-24, 2001

“Equality, the Constitution, and the First Nations of Canada”, Middle Atlantic and New England Council for Canadian Studies Biennial Conference, Plymouth, MA, October 19-22, 2000

“The Relevance of Traditional Laws and Customs to the Existence and Content of Native Title at Common Law”, Osgoode Indigenous Rights Colloquium, Toronto, October 16, 2000

“How the New Deal Became a Raw Deal for Native Americans: The *Tee-Hit-Ton* Alaska Decision and the Denial of Fifth Amendment Protection to Indian Land Title”, Western History Association 40th Annual Conference, San Antonio, Texas, October 11-14, 2000

“*Delgamuukw* and the Treaty Right to Shelter”, Federation of Saskatchewan Indian Nations Treaty Forum on Shelter, Saskatoon, September 5-7, 2000

“The *Delgamuukw* Decision and Treaty Rights”, Treaty 5 Adhesion Gathering, “Exercising Our Sacred Treaty Obligations”, Red Sucker Lake, Manitoba, May 24-26, 2000

“The *Delgamuukw* Decision: An Overview”, Supreme Court of British Columbia Annual Meeting, Kelowna, B.C., May 4, 2000

“Treaty Rights, the *Indian Act*, and the Canadian Constitution”, Conference on 1999 Constitutional Cases: An Analysis of the 1999 Constitutional Decisions of the Supreme Court of Canada, Osgoode Hall Law School, York University, Toronto, April 7, 2000

“The Lands and Trust Services Initiative: Its Potential Impact on the Federal Government's Fiduciary Obligations”, Part II, AFN/INAC Think Tank on the Fiduciary Relationship, Ottawa, March 9-10, 2000

“Aboriginal Land Rights: *Delgamuukw v. British Columbia*”, Encounter Canada Conference: Aboriginal Rights and Treaty Rights”, McLaughlin College, York University, Toronto, March 2, 2000

“The Onus of Proof of Aboriginal Title”, Assembly of First Nations Workshop on the *Delgamuukw* Decision, November 12, 1999, Vancouver; Assembly of First Nations/Atlantic Policy Congress of First Nation Chiefs, Conference on “Looking Forward: Treaty Implementation”, St. John's, February 1-3, 2000

“New Directions in Aboriginal Rights: Reassessing Aboriginal Title and Governance”, 15th Biennial

Conference of the Association for Canadian Studies in the United States, Pittsburgh, PA, November 17-19, 1999

“Aboriginal Title on the Ground: Establishing and Protecting Present Occupation”, Blockades and Resistance: Aboriginal History/Politics Colloquium, Wanapitei, Lake Temagami, Ontario, August 26-29, 1999

“The *Delgamuukw* Case”, Quebec Claims Research Workshop, Territory of Kahnawake, June 8-9, 1999

“Aboriginal Title as a Constitutionally Protected Property Right”, The *Delgamuukw* Case: Aboriginal Land Claims and Canada's Regions, a Fraser Institute Conference, Ottawa, May 26-27, 1999

“Riparian Rights and ‘Lands Reserved for the Indians’: Some Constitutional Issues”, National Symposium on Water Law, Environmental Law CLE Programme, Canadian Bar Association, Toronto, April 9-10, 1999

“The Lands and Trust Services Initiative: Its Potential Impact on the Federal Government's Fiduciary Obligations”, AFN/INAC Think Tank on the Fiduciary Relationship, Ottawa, March 17-18, 1999

“Indian Claims in Canadian Courts: The Legalization of Oral Histories”, with Lori Ann Roness, 42nd Annual Missouri Valley History Conference, Omaha, Nebraska, March 11-13, 1999

“*Delgamuukw*: Changing the Legal Landscape?”, Conference on “*Delgamuukw*: One Year After”, Victoria, B.C., Feb. 18-19, 1999

“Self-Government and the Fiduciary Relationship”, Self-Government Conference, Tri-Partite Forum, Dalhousie University, Halifax, N.S., Oct. 19, 1998

“Sovereignty on the Northern Plains: Indian, European, American and Canadian Claims”, Thirty-Third Annual Northern Great Plains History Conference, Sioux Falls, South Dakota, Oct. 1-3, 1998

“Aboriginal Peoples and the Application of English Law in Rupert's Land: Implications for Aboriginal Sovereignty”, Rupert's Land Colloquium 1998, Centre for Rupert's Land Studies at the University of Winnipeg, June 4-7, 1998

“Judging Cultures: Aboriginal Rights in Canada in the 1990s”, Western Social Science Association 40th Annual Conference, Denver, Colorado, April 15-18, 1998

“Defining Aboriginal Title in the 90's: Has the Supreme Court Finally Got It Right?”, Robarts Lecture in Canadian Studies, York University, Toronto, March 25, 1998

“Aboriginal Title and Federalism: Setting Jurisdictional Limits”, Conference on “‘We Are All Here to Stay’: The *Delgamuukw* Judgment”, Victoria, B.C., January 26, 1998

“The Concept of Title in Canadian Aboriginal Land Rights”, Sovereignty Symposium X, Tulsa, Oklahoma, June 9-11, 1997

“Taking Aboriginal Title Seriously”, Conference on “Calling People Together: Beyond the RCAP Report”, Victoria, B.C., February 3-5, 1997

“Social Darwinism and Judicial Conceptions of Indian Title in Canada in the 1880s”, Western History Association Annual Conference, Lincoln, Nebraska, October 4, 1996

“Les Droits des Peuples Autochtones au Canada”, Public Lecture, Faculté de Droit et de Science Politique d'Aix-Marseille, Aix-en-Provence, France, May 7, 1996

“Extinguishment of Native Title: The Down-side of the *Mabo* Decision”, Faculty Seminar, Monash University Faculty of Law, Melbourne, VIC, July 18, 1995

“Constitutional Protection of Indigenous Rights in Canada”, Northern Territory University Faculty of Law Symposium on “Aboriginal Rights after Statehood: A Matter for a Constitution”, Darwin, N.T., June 28, 1995

“The Boundaries of Native Title”, Faculty Seminar, Northern Territory University Faculty of Law, Darwin, N.T., June 21, 1995

“Possessory Native Title and Extinguishment in Australian Law”, Staff Seminar, Cape York Land Council, Cairns, QLD, May 29, 1995

“Native Title and Extinguishment”, Foundation for Aboriginal and Islander Research Action Native Title Conference, Brisbane School of the Arts, Brisbane, QLD, May 11, 1995

“Constitutional Entrenchment of Aboriginal Rights in Canada: Section 35 of the *Constitution Act, 1982*”, University of Western Australia Law School, Perth, W.A., April 5, 1995

“The Crown's Fiduciary Obligations to the Indigenous Peoples of Canada”, Public Lecture, Murdoch University School of Law, Perth, W.A., April 4, 1995

“Constitutional Entrenchment of Aboriginal and Treaty Rights”, Public Lecture, Flinders University School of Law, Adelaide, S.A., March 28, 1995

“Extinguishment of Native Title”, Faculty Seminar, University of New South Wales Faculty of Law, Sydney, N.S.W., March 21, 1995

“The Meaning of Aboriginal Title in Canada”, Faculty of Law, University of Auckland, November 29, 1994, and School of Law, University of Waikato, Hamilton, N.Z., December 8, 1994

“The Meaning of Aboriginal Title: From Judicial Confusion to Territorial Recognition”, Faculty of Law, University of Victoria, September 8, 1994

“First Nation Riparian Rights and Hydraulic Development in Ontario”, Sovereignty Symposium VII, Tulsa, Oklahoma, June 6-9, 1994

“Aboriginal Self-Determination and the Charter”, faculty seminar, Osgoode Hall Law School, York University, November 19, 1993

“The Decolonization of Canada: Moving Towards Recognition of First Nation Governments”, Research Committee on Comparative Judicial Studies, International Political Science Association, Santa Fe, New Mexico, August 1-4, 1993

“Aboriginal Peoples and Constitutional Reform in Canada”, Seminario-Taller “Derecho Indigena: Derecho Alternativo”, Instituto de Estudios Sociales y Instituto Latinoamericano de Servicios Legales Alternativos, Universidad de Guadalajara, Guadalajara/Chapala, Mexico, October 28-31, 1992

“First Nation Sovereignty in North America”, Canadian Association for Latin American and Caribbean Studies Annual Conference, York University, October 13, 1990

“Taking First Nation Rights Seriously”, Learned Societies, Law and Society Sessions, University of Victoria, May 30, 1990

“Unravelling the Judicial Strait-jackets that Bind Aboriginal Land Rights in Ontario”, Institute of Northern Ontario Research and Development, Laurentian University, October 21, 1989

“The Constitution Act, 1982, Sections 25 and 35”, Banff Centre School of Management, November 26, 1987

“Common Law Aboriginal Title”, University of Toronto Faculty of Law, December 8, 1986

“Canada's Constitutional Obligations to Native Peoples in the North-Western Territory and Rupert's Land”, University of Saskatchewan College of Law, November 13, 1981

Other Conference and Workshop Participation

Commentator on panel on “The Aboriginal Rights of the Métis and the Doctrine of Inter-jurisdictional Immunity”, conference of Crown-Métis Relations: Section 91(24) of the *Constitution Act, 1867*, Winnipeg, February 5-7, 2006

Commentator on panel on “Droits ancestraux et structures politiques contemporains”, Colloque Autochtonie et Gouvernance, Montréal, October 21-22, 2004

“The Inherent Right of Self-Government: Emerging Directions for Legal Research”, First Nations Governance Centre Youth Think-Tank, Calgary, October 4-5, 2004

Panellist on “Using Recent S.C.C. Decisions in Jurisdictional Disputes”, Canadian Aboriginal Law 2003, Pacific Business and Law Institute, Ottawa, September 10-11, 2003

Resource person, Aboriginal Law Seminar, National Judicial Institute, Calgary, January 23-25, 2003

Chair, Panel on “Islands of Law: Legal Geographies of In/Exclusion”, Law and Society Association Annual Meeting, Vancouver, B.C., May 30- June 1, 2002

Resource person on “Reconciliation and Aboriginal Land Rights”, A Just and Lasting Reconciliation: First Nations Government, University of Victoria and Assembly of First Nations (B.C.), Vancouver, March 19-22, 2002

Participant and resource person, Treaty Justice Symposium, Office of the Treaty Commissioner, Saskatoon, December 11-13, 2001

Presenter and resource person, Walpole Island First Nation Workshop on Aboriginal Title, Walpole Island, Ontario, April 11, 2001

Panellist on “Contemporary Struggles, Primitive Behavior: Canada's Perpetual Repression of Aboriginal Rights”, Law Union of Ontario Annual Conference 2001, Toronto, March 3, 2001

Panellist on “Aboriginal Law and Section 25 of the Charter”, Ontario Regional Office Charter Conference, Department of Justice, Toronto, October 27, 2000

Resource Person, National Gathering, “Banishing the Indian Agent” - Choices for Change: Restoring First Nation Governments, AFN/INAC Joint Initiative for Policy Development (Lands and Trust Services), Winnipeg, June 6-8, 2000

Presented “Overview of the *Delgamuukw* Decision” and acted as Facilitator for a Workshop on “The Impacts of *Delgamuukw* in Atlantic Canada”, Halifax, June 17, 1999

Panellist on “Canadian Citizenship at the Millennium”, Western Social Science Association 40th Annual Conference, Denver, Colorado, April 15-18, 1998

Chair, Panel on “Aboriginal Rights”, Biennial Conference of the Association for Canadian Studies in the United States, Minneapolis, November 19-23, 1997

Moderator, University Forum held by the Royal Commission on Aboriginal Peoples, Osgoode Hall Law School, York University, November 18, 1993

Moderator, Panel on “Competing Claims for Self-Determination: Aboriginal Nations and Quebec”, Martin Ennals Memorial Symposium on Self-Determination, University of Saskatchewan College of Law and International Alert, Saskatoon, March 3-6, 1993

Chair, Session on Aboriginal Rights, “Law, State and Society” Conference, Law Society of Upper Canada, Osgoode Hall, Toronto, May 15-17, 1992

Commentator on “Guaranteeing Aboriginal Rights” by Mary Ellen Turpel, Conference on “Negotiating with a Sovereign Quebec”, York University, February 7-8, 1992

Commentator on three papers on Aboriginal issues, "Law for the Elephant, Law for the Beaver" Transboundary Conference on the Legal History of the West and North-West of North America, University of Victoria, February 21-23, 1991

Panellist on "Peace, Order and Good Government? The Use of Force", York University Faculty Association Forum on "Oka: The Conflict Continues", York University, October 11, 1990

Panellist on "Self-Sufficiency", United Indian Councils of the Mississauga and Chippewa Nations National Indian Government Conference, Osgoode Hall Law School, October 4, 1990

Comparative Indigenous Rights in the Americas Workshop, organized by Instituto Latinoamericano de Servicios Legales Alternativos, World Council of Indigenous Peoples, and Confederación de Nacionalidades Indígenas del Ecuador, Quito, Ecuador, May 16-19, 1990

Facilitator, Workshop on "The Impact of the Charter of Rights and Freedoms on Native Rights", United Nations Association Conference on "Native Rights '88 - National and International Dimensions", University of Toronto Faculty of Law, September 23-24, 1988

Community and Other Work

Research advisor for National Centre for First Nations Governance, 2006-

Expert witness in *Ochapowace First Nation Tax Case*, Melville, Saskatchewan, June 4, 2002

Appeared before the Senate Aboriginal Peoples Committee on the Nisga'a Treaty, Ottawa, March 22, 2000

Advisor to *Delgamuukw* National Review Research Committee, Assembly of First Nations, 1998-2002

Advisor to legal counsel for the Chippewas of Sarnia in *Chippewas of Sarnia v. Attorney-General of Canada*, 1996-2001

Advisor to legal counsel for the Wet'suwet'en Nation on appeal of *Delgamuukw v. British Columbia* to Supreme Court of Canada, 1996-97

Radio Broadcasts, CKLN, Toronto, Ontario, on "A Taste of Justice", providing alternative perspectives on current legal issues, 1991-96

Expert on Aboriginal and Treaty Rights for Moose River/James Bay Coalition, Ontario Hydro Environmental Assessment Hearings, 1991-93

Judge, International Essay Competition on Parallel Legal Systems, Instituto Latinoamericano de Servicios Legales Alternativos, Bogotá, Colombia, 1992

Commented on Dene/Métis Comprehensive Land Claim Agreement for Dene Nation, Northwest

Territories, 1989-90

Provided opinion on Innu case against low-level military flights over Nitassinan for Court Challenges Program, Canadian Council on Social Development, Ottawa, 1989

Wrote paper entitled "Aboriginal People and the Charter: A Survey of the Case Law" for Court Challenges Program Report on Unequal Treatment of Federally Imprisoned Women for Women's Legal Education and Action Fund, Toronto, 1989

Courses and Seminars Taught at Osgoode Hall Law School

First Nations and the Law (formerly Native Rights), 1987-

Issues in Constitutional History, 1991-97

Property Law, 1988-

Trusts Law, 1996-

Native Rights, 2000, 2004

Aboriginal Peoples and the Constitution, Osgoode Part-Time LL.M. Program in Constitutional Law, 1998, 2003

Osgoode Part-Time LL.M. Program: seminar leader, two sessions, 1990

Other Teaching

Aboriginal Peoples and the Canadian State, Canadian Studies Programme, York University, 1997-98

Real Property Law, Program of Legal Studies for Native People, University Saskatchewan Native Law Centre, May-July, 1996

Guest speaker in courses at Flinders University, Griffiths University, James Cook University of Northern Queensland, Université d'Aix-Marseille, University of New South Wales, University of Saskatchewan, University of Tasmania, University of Victoria, York University

Legal Dimensions (Property), Osgoode Hall Law School, Jan. 20, 2000, March 22, 2001

Graduate Supervision Completed

D.Jur., Ph.D.: John Borrows, 1994; Michael Halewood, 2005

LL.M., full-time: Mei Lin Ng, 1994; Andrea McCallum, 1993; Patricia A. Monture, 1998; Richard Johnson, 2003; Janna Promislow, 2004; Jennifer Dalton, 2005

LL.M., part-time: Theresa McClenaghan, 1999; Tom Rock, 2000; Ron Stevenson, 2004; Margot Hurlburt, 2004

M.E.S.: Lori Ann Roness, 1998

Graduate Examining Committees

Ph.D. and D.Jur. dissertations: 4

LL.M. theses: 6

M.E.S. theses: 2

Independent Research Supervision. LL.B. Program

Aboriginal Rights; 9; Alternative Dispute Resolution: 1; Animal Rights: 1; Fiduciary Law: 1; Human Rights: 2; International Law: 1; Property Law: 1; Trusts: 2

Intra-University Law Moots

Faculty supervisor, Aboriginal Law Moot, Winter term, 1997

Osgoode and York University Service

Academic Policy Committee, 1999-2000

Academic Standing Committee, 1992, 2000-6 (Chair, winter 2001, 2003-4)

Ad Hoc Committee on Academic Offence, 1989

Admissions Committee, 1988-91 (Co-chair, 1989-90; Chair, 1990-91)

African-Canadian Equality Committee, 1995-96

Civil Law - Common Law Exchange: Faculty Administrator, 1988-90

Equality Committee, 1993-94, 1995-98

Faculty Seminars Committee, 1987-88

Graduate Studies Committee, 1993-94, 1999-2001

Nominating Committee, 1988-89, 2005-6

Priorities and Finance Committee, 2001-3

Race Relations Committee, 1988-93

Research Advisory Committee, 1996-97

Research Programme Committee, Chair, 1993-94

Student Awards Committee, 2002-3

Tenure and Promotion Visiting Committees: Stepan Wood, 2002; Gordon Christie, 2003

University Ad Hoc Travel Grants Committee, 2002-4 (Chair, 2003-4)

University Appellate Tribunal, 1988-90

University SSHRCC Travel and Small Grants Sub-Committee, 2000-2, 2004-6