

ARCHITYPES

Legal Archives Society of Alberta Newsletter

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Happy 100th Birthday, Alberta!

On September 1, 2005, the province of Alberta will turn 100. All year Albertans are holding celebrations large and small in honour of this special occasion. Thanks to the hard work, creativity, and vision of Albertans, the province has gone from being a longshot on the western frontier to becoming the proud home to more than 3 million people. From its cities and towns to farms and mountains, Alberta has a lot to offer.

Frontier lawyers played a huge role in gaining provincehood for Alberta in 1905. Probably nobody else is more connected to the history of our inauguration as a province than lawyer Frederick William Alpin Gordon Haultain. Elected in 1888, Haultain served as Calgary's representative in the first legislative assembly of the North-West Territories (NWT) and served as its premier from 1897-1905. He played the leading role in the struggle for responsible government and raised the Territories from colonial to provincial status within the Dominion.

Haultain was born in Woolwich, England on November 25, 1857, and emigrated three years later, with his family, to Peterborough, Ontario. He received his primary and secondary education at Peterborough and Montreal, Quebec. In 1879, he received a Bachelor of Arts degree (First Class Honours in the Classics) from the University of Toronto and then went on to study law at Osgoode Hall in Toronto. After articling with the Toronto firm of Bethune, Moss, and Falconbridge, he was called to the Ontario Bar in 1882 and to the NWT Bar in 1884.

In 1884, Haultain moved to Fort Macleod where he began practising law. He also served as Crown Prosecutor for several years and did some editorial work for the Fort Macleod and Lethbridge newspapers. He represented the electoral district of Macleod in the NWT Council during the years 1887-88 and in the Legislative Assembly of the NWT which replaced it from 1888 to 1905. He was Chairman of the Advisory Council of the NWT Council in 1888-89 and Chairman of the Executive Committee from 1891 to 1897. Following the amendment of the *North-West Territories Act*, he was appointed President of the Executive Council, or Premier, by the Lieutenant-Governor, The Hon. Charles H. Mackintosh, on October 7, 1897. As well as serving as Premier, Haultain was also Attorney General and Commissioner of Education.

"What we want in the West, and what we have a right to expect, is to be established as a province with equal rights with the rest of the Dominion. We do not ask more, and we will not be willing to take less."

- LASA Photo Number 47-G-11



Haultain thought that the area which now constitutes Alberta and Saskatchewan should be one province named "Buffalo" governed by a non-partisan administration. Because of his outstanding service, many people felt that Haultain should be the first Premier of the new Province. However, his Conservative political leanings made this idea unacceptable to the governing federal Liberal Party. Following the formation of the Provinces of Alberta and Saskatchewan on September 1, 1905, he represented South Qu'Appelle in the Legislative Assembly of Saskatchewan as a member of the Provincial Rights Party and served as the Leader of the Official Opposition in the Saskatchewan Legislature.

In 1912, Haultain left politics when he was appointed Chief Justice of the Superior Court of Saskatchewan. In 1917, he was appointed Chief Justice of the Saskatchewan Court of Appeal and was elected Chancellor of the University of Saskatchewan. In 1939, he retired from public life after over fifty years of service.

Frederick W.A.G. Haultain died on January 30, 1942, at Montreal, Quebec. His ashes were buried near the Memorial Gates at the University of Saskatchewan, in Saskatoon. A provincial government building in Edmonton, an elementary school in Calgary, and a mountain in Jasper National Park are named in his memory. ❖

Information on Haultain taken from:
Premiers of the Northwest Territories and Alberta 1897-1991

***The Heiress vs the Establishment: Mrs. Campbell's Campaign for Legal Justice*, UBC Press, 2004**

Constance Backhouse and Nancy L. Backhouse

Reviewed by LASA contract archivist Christy Henry



Published by The Osgoode Society for Canadian Legal History, *The Heiress vs the Establishment* is the story of Mrs. Elizabeth Bethune Campbell and her attempt to obtain compensation for the improper management of her mother's estate. Mrs. Campbell's campaign began in 1922 when she discovered an unsigned copy of her late mother's will that named her as the main beneficiary. Disputes with her older sisters, her uncle William Drummond Hogg, Q.C., who from 1884 to 1922 managed her mother's estate, and the General Toronto Trusts Corporation, who assumed responsibility for the estate after Lady Howland (Mrs. Campbell's mother) was declared by the courts to be incapable of managing her own affairs, would continue for fourteen years. The case reached its pinnacle in 1930 when Mrs. Campbell appeared in front of the Judicial Committee of the Privy Council in London to argue her own case, the first woman to do so, and won. The final judgement occurred in 1935 when the Ontario Court of Appeal issued the last decision on the matter of costs regarding Mrs. Campbell's inheritance.

The book is divided into three distinct parts. The first section is an introduction written by authors Constance and Nancy Backhouse, and provides basic biographical information for the major players, in addition to the historical context for the story. In particular, the introduction is instrumental in establishing Mrs. Campbell's ties to the social elite and the legal community in Ontario through her parents, particularly her father who was a well-known and well respected lawyer.

The second section is a reprinting, in its entirety, of Mrs. Campbell's *Where Angels Fear to Tread*. The book was

written in 1935 and originally published by Mrs. Campbell from her home in Boston in 1940 - five years after the case had ended. In her account, Mrs. Campbell describes her crusade from the point when the lost will was discovered, up to her victory in front of the Privy Council. Her narration of the lengthy and complex case is frank, intelligently written and engaging.

The third section of the book, written by the Backhouses, takes up Mrs. Campbell's story in Canada after she had emerged victorious in England. It details the difficulties both she and the Toronto General Trusts Corporation had in obtaining the money awarded them by the Privy Council's judgment, as well as Mrs. Campbell's attempts to have Mr. Hogg disbarred. It also addresses four important questions arising from Mrs. Campbell's story. The first is the question of Mrs. Campbell herself; the authors discuss what they believe may have compelled Mrs. Campbell to fight so long and so hard, as well as how certain factors, such as race, ethnicity, class and gender may have helped or hindered Mrs. Campbell in her campaign for justice. The second question addressed is whether Mr. Hogg, who was accused of withholding estate funds, was a criminal or merely burdened by a thankless family obligation. The Backhouses then consider whether or not there was a conspiracy to protect Mr. Hogg and discredit Mrs. Campbell and her case. In answering this question they examine the actions and attitudes of the Trusts Corporation, as well as individual judges and lawyers involved in the case. Finally the cost of Mrs. Campbell's victory is considered in financial, moral and personal terms. The analysis the Backhouses offer throughout the epilogue is insightful and well-balanced.

The appeal of *Where Angels Fear to Tread* is the story itself: how Mrs. Campbell, a woman lacking formal education or legal training, managed to argue her own case before the Privy Council and win; and how, in her role as both an insider and an outsider, she was able to unveil "the intricate, multilayered world of overlapping intrigue and influence that constituted the early twentieth century Ontario legal system" (p. 3). However, the strength of *The Heiress vs the Establishment* lies in the Backhouses' ability to allow Mrs. Campbell to tell her story in her own words, while at the same time providing meticulous research and additional details that enhance rather than overshadow the original story. ❖

Parting Words of MIA WWI Soldier Brought to Light

by Brenda McCafferty, Archivist

The Legal Archives recently received a donation of lost meeting minutes titled *Report of a Special Meeting of the Bar Association of Medicine Hat, held in the Assiniboia Hotel Medicine Hat on the afternoon of Wednesday, the 26th day of August A.D. 1914.*

LASA is indebted to Mr. and Mrs. Fahrner, whose mother Caroline Wesley (nee Campbell), was the minute taker at the meeting relayed below. Miss Campbell was the legal secretary to Medicine Hat lawyer W.A. Begg, ca. 1910 – 1922, and this donation was made by her son in her memory.

Chairing the meeting on that day was W.A. Begg, K.C. Those present include a list of the practising lawyers of Medicine Hat from the day - most of whose names are still recognized for the enormous contributions made to the legal scene in Medicine Hat, Alberta and beyond. They are: W. A. Begg; J.J. Mahaffy; D.W. Clapperton; I.S. Owen; Geo. T. Davidson; W. Beattie; M.L. Bell; G.M. Blackstock; Wm. P. Dundon; Sam Short; W.J. O'Neil; Gordon L. Fraser; R. R. Evans; N.A. McLarty; Frank Baird; P.H. Allen (Court Reporter); and at the piano(!) Mr. Hugh Wallace.

President W.A. Begg gives opening remarks at the meeting as follows:

"It is unnecessary for me to state the reasons for our having gathered here this afternoon. You are all aware of the fact that two members of our profession, Mr. George T. Davidson and Mr. Owen, have volunteered for active service in the European War which unfortunately is now waning. Mr. Owen, I understand, has seen service under canvass in Wales. Mr. Davidson, so far as I am aware, has not had any active service, although I am informed that he has been seen in the company of "dead soldiers" on diverse occasions. I am not going to try to be facetious nor do anything more at present than to, present, on behalf of the Medicine Hat Bar Association, to Messrs. Davidson and Owen these small tokens of our appreciation of their conduct in volunteering for service."

Following several songs and shouts of "Hear! Hear!" the detailed well wishes presented by each in attendance wishing Davidson and Owen a safe voyage and safe return were made and each man received a watch as a parting gift. Davidson made the following remarks before embarking from Calgary on the first dispatch of young men deployed in September 1914 to battle overseas.

"We hope we will, and if we do, I hope that we may come back and be received amongst you again with the same spirit in which you are letting us go and sending us off, but there is one

time at least in every man's life when something higher, something more noble than the mere personalities and the mere living for one's self comes to the front, and I feel that I do not want you to take this in any manner as posing or anything like that, but I feel that the highest duty that any individual in the world can perform towards his country and himself is to serve his country. (Applause)

"On behalf of myself and Mr. Owen, I can only thank you one and all from the bottom of our hearts for these gifts which you have presented to us. I will always keep this and I am sure Mr. Owen will do the same and we will wear it when we come back or when we fall."

Epilogue: The significance of the meeting minutes was revealed after further investigation was made into the subjects of the hearty farewells. LASA uncovered the following sad account:

On the night of October 25th Lt. Davidson stationed at the Somme front, some 15 yards away from the German trenches, went out, accompanied by a non-commissioned officer, to reconnoitre the enemy's barbed wire entanglements in anticipation of an attack the following night. Rifle fire ensued and bombs were thrown, and the non-commissioned officer returned to the lines with one arm lacerated and unable to give an account of what had happened. Listed originally as MIA, Davidson presumably died during the wee morning hours of October 26th, 1916. His name is included on the memorial tablet unveiled at the Edmonton Court House on November 11th, 1921. ❖



The memorial tablet unveiling, Edmonton Court House, November 11th, 1921

LASA Photo Number 5-G-43

Senator James A. Lougheed

~Frontier Lawyer~

~Member of the Dominion Cabinet~

~Distinguished Senator from Alberta~

May 1, 2005 marked the official opening date of the historic mansion that was built by Senator James A. Lougheed and his wife Isabella Hardisty Lougheed in 1891. The couple named the mansion 'Beaulieu' and lived and entertained there continuously until the Senator's death in 1925. Isabella continued to host meetings and events at the house until her death in 1936.

Since 1995, the not-for-profit Lougheed House Conservation Society has been devoted to the restoration and re-use of Beaulieu, the historic Lougheed House and its Gardens. Approximately 650 members ~individuals, organizations and companies shared in the dream of restoring and creating an active heritage centre at Beaulieu.

Recently, LASA's Archivist Brenda McCafferty mounted a permanent exhibit in the Senator's study at Beaulieu. The exhibit focuses on Senator Lougheed's legal career in Calgary. The exhibit, which was completed for the pre-opening gala on April 9, has contributed, we hope, in some small way to the enjoyment of the touring public and gatherings visiting this magnificent place. Below are excerpts taken from the exhibit.

The Honourable James Alexander Lougheed, K.C. was born in Brampton, Ontario on September 1, 1854. After studying law, he gained admission to the Bar of Upper Canada and was soon made a Queen's Counsellor. He was engaged in the practice of law in Toronto, Winnipeg, and Medicine Hat before his arrival in Calgary in 1883.

In Calgary he became a land agent for the CPR and Hudson's Bay Company, and among his many achievements he helped found the Law Society of Alberta. Lougheed was able to add "Sir" to his name after being knighted by King George V - the only Albertan at the time to have entered the peerage.

Lougheed was a minister without portfolio in Canadian Prime Minister Robert Borden's government. This was preceded by his election to the Canadian senate and appointment as leader of the Conservative Party. His distinction as a lawyer and relation to the Hardisty family through his marriage to Isabella Hardisty (daughter of Chief Factor of the Hudson's Bay

Honourable James A. Lougheed, K.C., ca. 1911
Glenbow Archives, NA3918-14



Company William Hardisty) led to his 1889 Senate appointment at age 35 distinguishing him as the youngest person in the chamber. He died in Ottawa in 1925.

The Lougheed Offices

Lougheed identified himself with Calgary when it was a town of tents and shacks on the newly constructed line of the C.P.R. He was one of the aggressive workers who prepared the way for the larger progress of the future.

His law firm operated out of a number of temporary locations on Stephen Avenue before the construction of his permanent office in the Clarence Block (named after his son Clarence) was completed.

For some time, Lougheed practised law at a location close to the historic I.G. Baker store, opposite the Royal Hotel. Later he relocated on 8th Avenue, near 1st Street SW where he constructed a small residence with an office adjacent next door.

For the majority of time until his death in 1925 however, the offices of the Lougheed firm were located in the Clarence Block on 8th Avenue, Calgary. This building like others Lougheed had constructed in the vicinity was named after his son. The Clarence Block is located at 122 Stephen Avenue and is the only one of the three office locations still in existence today. It currently houses the McNally Robinson Book Store and has been identified with a heritage plaque on the exterior as formally being offices of Lougheed Bennett law firm.

Clarence Block, ca. 1890s
It was rebuilt after a fire in 1900.
Glenbow Archives, NA64-3



Murder on the Frontier

One of Calgary's earliest murder cases involved Jess Williams, who in 1884 was accused, convicted and hanged for the murder of a store clerk on Stephen Avenue. Lougheed defended the accused drifter. Col. James F. Macleod, the former NWMP Commander who gave Calgary its name, presided over the case. Another early Calgary attorney, Henry Bleeker, acted as the prosecutor, and confectionary owner and Town of Calgary counsellor Isaac Freeze was a member of the jury who rendered the guilty verdict. This case represented one of the few occasions on record where Lougheed appeared before a judge performing as a defender for a criminal trial case.



The scene of the crime - MacKelvie and Graves Store located at the left side of the picture. Stephen Avenue is barely existent in these early days of 1884. Glenbow Archives NA1931-1.

The Industrious Partners of James A. Lougheed, K.C.

For the majority of his career, Sir James A. Lougheed ably combined an influential legal practice with a long career in business and the arts.

In 1911, during Calgary's economic boom, Lougheed incorporated the real estate firm of Lougheed and Taylor with his friend and partner Edmund Taylor, which later expanded as brokers and financial agents.

To compensate for time involved focussing on numerous political and commercial ventures, Lougheed relied on many industrious partners over the years to carry out the practise of law. Fortunately for him, James Lougheed had a great eye for legal talent and was always able to choose excellent law partners.

The Calgary law firm he established soon after his arrival in Calgary with his friend and colleague Peter McCarthy from the Aikins firm in Winnipeg became one of the most successful in early Alberta. On retainer from the Canadian Pacific Railway and Calgary Power, Lougheed's firm dominated the Calgary legal scene from 1883 to 1907.

In 1897 Lougheed went into practice with R. B. Bennett – the 11th Prime Minister of Canada (1930-1935).

Irreconcilable Differences

The firm Lougheed & Bennett was dissolved in 1922 following a dispute between the two partners. Bennett formed a new partnership in downtown Calgary with Alexander Hannah and Percy Leroy Sanford. The name of the firm evolved over the years reflecting the fluid nature of the partnerships, and for many years came to be known locally as simply the 'Bennett' firm. Today the firm is called Bennett Jones. Ironically, The Honourable E. Peter Lougheed, former Premier of Alberta, and grandson of Sir James, is associated as counsel for the firm proving the old adage that given time, history comes full circle.

The law firm of the 1920s and 1930s was heavily involved in many business dealings. Lougheed and his associates often acted as middlemen drafting contracts and establishing connections between individuals interested in new entrepreneurial ventures. Later members of the firm suggested that the break between Bennett and Lougheed had been rooted in these outside business interests.

Nineteen twenty-two was not the first time a legal partnership turned sour for Lougheed. The first public split he suffered with a law partner came about in 1893 when he and partner Peter McCarthy suffered irreconcilable differences.

The 1922 Supreme Court of Alberta court action rising from his split with Bennett created a media stir and had far reaching repercussions in Calgary's legal fraternity with lawyers aligning themselves with one or the other side.

William H. McLaws articulated with Lougheed and joined the Lougheed Bennett firm in 1906 before being admitted to the bar in 1907. When the Lougheed Bennett firm split in 1922, McLaws, who returned to Calgary after several years in British Columbia, joined Lougheed in establishing the new firm of Lougheed McLaws Sinclair and Redman, a name the firm operated under until 1929.

The firm continued to flourish with varying membership, a McLaws always remaining prominent. In 1998, the firm existed as Parlee McLaws, which was established in 1986 as an amalgamation of McLaws and Co. in Calgary and Parlee Co. in Edmonton.



R. B. BENNETT, 1938

LASA Photo Number 66-G-1



WILLIAM H. MCLAWS, 1910

Glenbow Archives NA-813-40

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New Faces at the Archives



Here Stacy Kaufeld is standing atop the Reichstag in Berlin, Germany. The Berliner Dome can be seen in the background.

Stacy Kaufeld **Administration and Development Officer**

LASA has gone through several staff changes in recent months. Myrene Hayes completed her one-year replacement of Executive Director Kirsten Olson, who has returned following a year-long maternity leave. Also, LASA welcomes Stacy Kaufeld, who will replace Tanya Barber as Administration and Development Officer while she is off for a one-year maternity leave.

Stacy Kaufeld worked for LASA last year conducting background research on candidates for the Calgary Oral History Project. He also worked on research and development of legal history displays and exhibits. Stacy was also active volunteering for LASA, he worked at the 2004 Historical Dinner in Edmonton, as well as LASA's casino fundraiser in May 2005.

Stacy received his BA in 2000 in History and Political Science from the University of Victoria. After taking a couple years off, he enrolled in the Masters program in September 2002 at the University of Calgary. His areas of interest include German social and cultural history, inter-war German cinema and society, and German anti-Semitism and the Holocaust. Stacy is nearing the completion of his thesis on anti-Semitic film propaganda during the Third Reich. In the future, Stacy wants to continue in a doctoral program (likely not at the University of Calgary), and eventually teach at the University level.

Stacy spends most of his spare time with his wife Kim. They enjoy spending time with family and friends, traveling, and watching plenty of movies.

Judy N. Boyes, Q.C. **Benchers' Representative**

Judy practices exclusively in the area of family law and is a registered Collaborative lawyer.

Called to the Bar in 1980, and a member of the Law Society of Alberta, the Association of Collaborative Family Lawyers and the Alberta Arbitration and Mediation Society, Judy has extensive experience in family law. She has appeared in all levels of Court in Alberta and acts as an Arbitrator in family law matters. More recently, Judy has been working collaboratively with counsel and clients.



Judy was elected a Benchers of the Law Society of Alberta, the governing body of the legal profession, in November, 2003. She is past Chair of the Board of Directors of the Legal Education Society of Alberta and of the South Alberta and National Family Law Sections of the Canadian Bar Association. She has been an instructor in the Trial Advocacy Program, Faculty of Law, University of Calgary and has served as a panelist for numerous conferences on matters relating to family law, civil litigation and ethics. Judy was appointed Queen's Counsel in 2000.

Neil B. Watson **Director**

Neil B. Watson is with the firm of Gorman Gorman Burns & Watson in Calgary. He was called to the bar in 1991, having received his LLB from the University of Calgary in 1990. Prior to starting his legal career Mr. Watson received his M.A. in History from the University of Calgary and was Staff Archivist with the City of Calgary Archives from 1979 through 1987. He has published a number of articles in the Field of Western Canadian Legal History, is Chairman of the City of Calgary Heritage Advisory Board and is a Sessional Instructor at the University of Calgary Faculty of Law for the course: Law 609 - Western Canadian Legal History.

We are pleased to have such knowledgeable and distinguished people join us at LASA and we look forward to new ideas and accomplishments in the coming year. ❖

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The Lougheed Family

~Lineage of Lawyers~

Two of James A. Lougheed's children gained admission to the Alberta bar. The first was Clarence Hardisty Lougheed who was admitted October 27, 1908 and the second was Edgar Donald Lougheed (the father of Premier Peter Lougheed) who was admitted on August 27, 1923.

Edgar D. Lougheed joined his father's firm in 1923, after completing an LL.B. at Dalhousie University. He remained with the firm until 1939.

Founding Member of the Law Society of Alberta

His pre-eminence among his fellow lawyers permitted Lougheed to claim the first position on the membership roll of the new Law Society of Alberta in 1907.

James A. Lougheed, K.C. was also an original member of the Benchers of the Law Society of Alberta as seen depicted below (seated second from the right with crossed arms). He served as a Bencher continuously from 1899 to 1919.

For more information on the Lougheed family and the Beaulieu mansion log on to their website at:

www.lougheedhouse.com

LASA would like to acknowledge and thank all those who volunteered their time to support our recent fundraising Casino held at Casino Calgary on May 11 & 12, 2005. LASA is indebted to the following individuals who gave graciously of their time to support LASA's programs:

Tina Barzo
David Bickman
Aaron Bickman
Robert Bourne
Catherine Christopher
Brian Cochrane
Mark Donaghy
Jack Dunphy, Q.C.
Tammy Faas
Myrene Hayes
Linda Janzen
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Carol Price
Graham Price, Q.C.
Derek Rogers
Harry M. Sanders
Miriam Sanders
Yuval Sanders
Michael Swanson
Richard Tanner
Brandon Tigchelaar
Neil Watson
Heather Wylie

Also, many thanks to those who purchased tickets and attended the Legal Archives-sponsored Theatre Calgary production of *Humble Boy* on April 29th, 2005. The proceeds from both these events will go far to ensure that LASA is able to maintain its preservation, research, and educational activities. Thanks to Legal Archives staff and the representatives from Theatre Calgary who contributed to the success of the evening and especially to event planner Candy Schacter and Deluxe Inc. Global Cuisine for their support organizing the event. The display assembled by LASA Archivist Brenda McCafferty in the foyer, highlighting many of LASA's noteworthy archival collections, added further interest and enjoyment to the evening. ❖

Benchers of the Law Society of Alberta
Elected December 1907 at first Election for the Province of Alberta
Back Row, Left to Right
George W. Greene, Red Deer, O.M. Biggar, Edmonton, E.P. McNeill, Macleod, Charles F. Adams, Calgary (Secretary-Treasurer)
Front Row, Left to Right
W.L. Walsh, K.C., Calgary, C.F.P. Conybeare, K.C., Lethbridge (Vice-President), James Muir, K.C., Calgary (President), D.G. White, Medicine Hat, Hon. James A. Lougheed, K.C., Calgary, J.C.F. Bown, K.C., Edmonton
LASA Photo Number 53-G-1



Mark Your Calendar

● LASA's 2005 Historical Dinners will be held on September 22 at the Fairmont Palliser Hotel in Calgary and on September 29 at the Fairmont Hotel Macdonald in Edmonton. The featured speaker in Calgary will be the Hon. Clifton D. O'Brien, former Chairman of Bennett Jones LLP and recent appointee to the Court of Appeal of Alberta. He will speak on reminiscences of a lawyer's life before the Bench. The speaker in Edmonton will be Court of Queen's Bench Justice the Hon. Mr. Jack Watson who will share some entertaining stories from Alberta's legal history resulting from research on the LSA 100th Anniversary book. In conjunction with Alberta's Centennial in 2005 the Legal Archives celebrates its 15 year anniversary! Tickets to the historical dinners are on sale now so don't miss out on what promises to be a great evening. Prices are \$100 per person or \$750 for a table of eight. For further information on the dinners please contact the Legal Archives Society of Alberta.

● After minor delays, *Foundations of Justice: Alberta's Historic Courthouses*, the University of Calgary Press and LASA publication, is expected to be completed in August 2005. Details of the book launch will be posted on our website www.legalarchivessociety.ab.ca.

Archetypes is published biannually by the Legal Archives Society of Alberta. Submissions, suggestions and any questions should be addressed to:

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