

# ARCHITYPES

## Legal Archives Society of Alberta Newsletter

Volume 19, Issue II, Fall 2010

### LEAVE YOUR TUX AT HOME!

COME AS YOU ARE TO SEE C.D. EVANS, Q.C. EXPOSITION OF FORTY YEARS AT THE CRIMINAL BAR

by Stacy Kaufeld



**The Still Life**

Photo Courtesy of Dr. Lori Shyba and  
Durance Vile Publications

"With the mirthful flourish of his pen, and top gallant sails flying, C.D. Evans guides us through myriad shoals of madness, mayhem, and folly encountered over four decades at the Criminal Bar. Chock full of character and characters, this is a classic of the first water."

**Richard C.C. Peck, Q.C., FACTL, Peck & Co.  
Barrister, Vancouver  
Co-Chair, Federation of Law Societies'  
National Criminal Law Program**

"Burn this book! It is far too provocative and seditious to circulate freely amongst the masses. But before you burn it, read it and laugh until your eyes water and your belly hurts."

**Cameron Gunn, Crown Prosecutor, Fredericton, NB, and  
Author of *Ben & Me: From Temperance to Humility***

"A highly recommended romp through the career of one of this country's pre-eminent...criminal lawyers and his willingness to share his insights into the characters and practices of our criminal courts."

**The Honourable Mr. Justice John Z. Vertes,  
Senior Judge, The Supreme Court of the Northwest Territories**

This year's Historical Dinner speaker, Chris Evans, Q.C., will take the audience on his journey as a criminal lawyer over 40 years. Based on his recently published memoirs, *A Painful Duty: 40 Years at the Criminal Bar*, (see feature story, pages 4-5), Evans will speak to the challenge, exhilaration, exhaustion and humour experienced during his years as a criminal lawyer.

Evans reveals numerous insights into the practice and the characters of the Criminal Bar, with special tributes to the no-nonsense judges of the early days. His noteworthy cases included police officers moonlighting as bankrobbers, North of 60 escapades, the defence of famous hockey players, special prosecutions, First Nations clients and away-from-home games in Toronto and Bermuda. A "lawyer's lawyer", Evans also represented lawyers and judges caught in legal coils.

Evans is an outspoken contrarian and iconoclast. He practiced criminal law for 40 years and he has appeared as counsel at all levels of Court in Alberta and the Northwest Territories as well as at the Supreme Court of Canada, the Federal Court of Canada and in other provincial jurisdictions. He is the author of the widely-acclaimed best-selling *Milt Harradence: The Western Flair* and the novel *Matthew's Passion*.



**Christopher D. Evans, QC**

A former Bencher of the  
Law Society of Alberta

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## LASA Historical Dinner cont.

The Edmonton Historical Dinner will be held Wednesday, October 27, 2010 at the Fairmont Hotel Macdonald and the Calgary Historical Dinner will be held on Thursday, November 4, 2010 at the Fairmont Palliser Hotel. Both evenings will begin with a reception at 6:00 pm when guests can enjoy a glass of sparkling wine and good conversation. Dinner will begin at 7:00 pm. All proceeds will go towards maintaining LASA's many historical programs. Tickets are \$110 each or \$800 for a table of eight and can be purchased by contacting LASA at 1-403-244-5510 or via email at [legalarc@legalarchivessociety.ab.ca](mailto:legalarc@legalarchivessociety.ab.ca).

Please join us in supporting the Legal Archives Society of Alberta while enjoying a stimulating behind-the-scenes look at the Criminal Bar.



Chris Evans, Q.C. speaker at the 1997 retirement dinner honouring The Honourable Milt Harradence, Q.C.

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## Upcoming New Releases and Great Deals on LASA Publications!

**LASA has slashed its prices on the following books:**

- o *Foundations of Justice* by David Mittelstadt - **\$20**
- o *Just Works - Lawyers in Alberta 1907-2007* - Regular \$75, now **\$50!**
- o *Law West of the Bay* by J.W. McClung - **\$20.00 (hard cover); \$10.00 (soft cover)**
- o *In the Name of Justice* by Azmina Suleman - **\$20.00**
- o *Milt Harradence: The Western Flair* by C.D. Evans - **\$10.00**
- o *A Guide to Alberta Courts: The Art Book* by Tzak (artwork) and J.Mahony (text) - **\$5.00**

**Watch for these new LASA releases coming soon:**

- \* *Lords & Ladies of the Western Bench* - a new and updated 2nd edition of the 1997 publication authored by Louis Knafla.
- \* **100 Year History of Alberta's Court of Appeal** - hot on the heels of BC's commemorative publication is Alberta's anticipated book by author David Mittelstadt!
- \* **2011 Calendar** - Archives Society of Alberta - historical archival images of 'Growing Up Albertan' - **\$10**

## Donation of Archival Records Received From Karen Gainer, QC

by Brenda McCafferty, LASA Archivist



Following her articles to Chris Evans, QC, Karen Gainer was admitted to the Alberta Bar in 1982.

For a couple of days this past July, LASA was fortunate to share time with an engaging former member of Alberta's legal community, Karen Gainer, QC. The brief period of time was spent hunkered down in her storage unit, talking and sifting through many archival papers of interest

and relevance. A few days following her donation, she kindly agreed to return to our office where she was interviewed by David Mittelstadt, LASA's oral historian.

The archival records donated consist of papers relating to her criminal law practice in Calgary. Gainer's papers also include numerous files related to aboriginal justice.

Karen Gainer helped found the Calgary Criminal Trial Lawyers association; and ran twice (in 1984 and 1993) as a federal candidate representing the Liberal party in the Calgary West constituency. In 1993, she finished a close second to Reform Party candidate Stephen Harper. Active for many years with Calgary Health Services Board, she was also an appointee to the National Forum on Health.

Karen Gainer practiced criminal law in Calgary from 1981 to 1996. During that time she participated in several high-profile trials, including acting as the defence counsel for activist Milton Born With A Tooth.

In 1996, Gainer was appointed by the National Democratic Institution for International Affairs to a two-year mission in Croatia where she assisted members of that country's six political parties in establishing a functional democratic system.

She is currently living, working, and raising a daughter in Hanoi, Vietnam. ❖

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## Errata

Submitted by The Honourable W.E. Wilson, Q.C.

Re: Series of *Architypes* articles "Memories of a Small Town Alberta Law Firm"

1. The address of the Cairn's home in the west end of Edmonton was stated to be on Ravine Drive. It should be "Summit Drive".
2. In the description of the layout of the offices at 24 Dominion Bank Chambers, I stated that the office occupied by Cairns was to the east of that occupied by E.B. Wilson. That should have said, to the "west".
3. The quote from the poem by Kipling referred to "McAndrew's Hymn". The reference should have been to the Kipling poem "The Mary Gloster".

# A Painful Duty: 40 Years at the Criminal Bar

by author C.D. Evans

For forty years I moiled at the Criminal Bar, which is sort of the tar sands of the legal industry. My approach to the practice of criminal law for those four decades was that of the strip miner: twenty-four hours a day, seven days a week, no holidays, no time off. As a sure-fire way to success, it was a winner; as a formula for living, it was a flop.

November 14th, 2004 was the 40th anniversary of my Call to the Alberta Bar. I went on the inactive practicing list in March 2005. I immediately started work on my memoirs of my criminal practice, the legal profession's equivalent of the Profession of Arms. My history is no conventional encomium upon my profession: based upon my experience in my field, I hold strong critical views on, among other things, the decline of the art of advocacy. But a small part of my Memoir is criticism: the practice of criminal law can be a noble endeavour. And there are moments of great good humour: criminal lawyers are notoriously no respecters of persons, and in a profession peopled by puritans, it is the criminal lawyer who is needed to point out that some things have to be said about law and lawyers that to do not appeal to the puritanical mindset (a puritan, said Mencken, being "*someone who has a horrible feeling that somebody, somewhere, might be having a good time*"). Being a trial lawyer and practicing at the Criminal Bar was an exhilarating roller-coaster ride of a life, full of dramatic moments and peopled with extraordinary *dramatis personae* that the most imaginative novelist would be hard-pressed to invent.

Walt Whitman asked: "*What is the part the wicked and the loathsome bear within Earth's orbic scheme?*" Answer: a substantial part. Nothing reveals the dark underbelly of humanity more profoundly than the practice of criminal law. As I report in my Memoir, in the course of a career spanning four decades, I have seen or heard at close quarters just about everything about humanity that is evil, obscene, reckless, bestial,



Chris Evans on the cover of his recently publish memoir, *A Painful Duty: 40 Years at the Criminal Bar*. Photo courtesy Dr. Lori Shyba and Durance Vile Publications.

cruel: calculated homicide, criminal negligence, infanticide, contract murder, fraud and thievery, beating and robbing defenceless victims, child pornography and molestation, rape and sexual assault, callous disregard for lives and safety, professional incompetence, racism and bigotry, mindless and mob violence, pimping and procuring, what have you.

My calling has been to stand in the shoes of those who are not equipped to speak for themselves. I had to ensure that the accused had a fair trial, and that all that could possibly be said on his/her behalf was urged upon the tribunal. I had no license to judge my client. Nor did I endorse my clients' calumnies. And if you did your job right, Milt Harradence, as always, said it best: "Every time you finish the case and walk out, you've left a bit of yourself in the courtroom."

Our system is that the client is deemed to be innocent until proven guilty beyond all



reasonable doubt, or, more accurately, in the words of a witty colleague, my client was innocent until proven broke.

To those of us who practice for years at the Criminal Bar, extricating life's sticky situations becomes second nature. It's a dirty job and a painful duty but, dammit, someone has to do it.

My professional philosophy was objective detachment from the client but engagement in his cause, that is, it was relatively psychopathic and mercenary. I did my most prominent work in the "white collar crime" area, and the metaphysic was simple: it took the client four years to steal the money, it took me four weeks to get it from him, he went to jail, I did not. *Ergo*, the system works.

As to my calling, I was a mercenary, and I made no bones about it. There was no "higher purpose" to my practice. I was never motivated by pity, disgust, anger, or a cause to right wrongs. I seldom if ever refused a brief, barring a conflict. The retainer was the *locus classicus*: the client retained me to act for him and not to act against him.

There were a few genuine humble foot soldiers of the bar - a phrase coined by John Mortimer QC - who actually did do yeoman service representing the botched and the bent, and for no reward save the promise of a front place in heaven. I was not one of that brave, but nerdy, host. The *desperados* I rode with - Harradence, Major, McClung, Stevenson, Stilwell, MacPherson - were a hard-core of well-paid shootists. Any one of us could have landed a speaking part as a member of the outlaw gang in "*3:10 to Yuma*". None of us lay awake nights agonizing over the destinies of our clients, which is not to say that we did not spend sleepless hours plotting the confoundment of our nemesis the Crown prosecutor.

In my book I provide sketches of a number of Judges and Barristers - think Aubrey's "*Brief Lives*" - and compendia of some of my more interesting cases. I strove to avoid tedium or prolixity. I have documented an array of boon companions - *illuminati* of the Alberta Bar - and

have stayed away from some other "learned friends" who are neither learned nor friendly. I strove to provide insights into the practice and the characters of the Criminal Bar, with special tributes to the no-nonsense judges of the early days. Noteworthy cases include police officers moonlighting as bank robbers, North of 60 escapades, the defence of famous hockey players, First Nations clients, and away-from-home games in Toronto and Bermuda. I meant what I said in the conclusion to the Law Society 100th Anniversary book *Foreword* about the valediction of Robert Emmet and the admonition of Thomas Erskine, KC: I believe that the best ideals of our great profession will survive, because "the strength of the Bar" will survive. The "strength of the Bar" is found in every new and nervous young criminal lawyer who struggles to her/his feet in the courtroom to perform our painful duty.

I conclude my Introduction to my book by stating that I entertain the hope that my Memoir might encourage young counsel to join the ranks of criminal lawyers, a fiercely independent and admirable subculture. *A Painful Duty: 40 Years at the Criminal Bar* celebrates my forty year journey that brought challenge, combat, exhilaration, exhaustion, and often, high humour, for if irony is going to strike, it will be in the courtroom. I should be honoured to have the reader join me on this voyage. ❖



Peter Martin & Chris Evans standoff in court.

- Photo courtesy of the Calgary Herald

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# Announcements

- LASA's next casino will be held at Stampede Casino on Wednesday, February 16 and Thursday, February 17, 2011. Please contact our office today at 403-244-5510 to confirm your participation!
- The 2010 historical dinners will be held in Edmonton at the Fairmont Hotel Macdonald on Wednesday, October 27 and in Calgary at the Fairmont Palliser Hotel on Thursday, November 4. All proceeds go towards maintaining LASA's many historical programs such as displays, oral histories, publications, research services and preserving records in the archives.
- Did you know that October 4-9, 2010 is Archives Week in Alberta? Archives Week is an annual event sponsored by the Archives Society of Alberta to raise awareness of the historic documents, photographs and other records preserved by Alberta's numerous archival institutions. This year, a virtual exhibit at [www.archivesalberta.org](http://www.archivesalberta.org) highlights images of childhood from the early 1900s to the 1970s, drawn from the holdings of 22 archival institutions around the province. The ASA has also produced a 2011 calendar.

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**The Legal Archives Society of Alberta**

**510, 919 - 11 Avenue SW,  
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**fax: (403) 541-9102**

**[legalarc@legalarchivessociety.ab.ca](mailto:legalarc@legalarchivessociety.ab.ca)**

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