# Queen's law journal

# Volume 49, No 2, Spring 2024 Faculty of Law, Queen's University

### **Articles**

Boom or Bust: The Public Trust Doctrine in Canadian Climate	1
Change Litigation	
Hassan M Ahmad	
Gender-Diverse Individuals and the Carceral State: Conditions of Confinement and Sentencing Reform Shailaja Nadarajah	41
Luck of the Draw III: Using AI to Extract Data About Decision- Making in Federal Court Stays of Removal	73
Sean Rehaag	
Review	
Ernest J Weinrib, Reciprocal Freedom: Private Law and Public Right	127
Stéphane Sérafin	

### Queen's Law Journal

### Editors-in-Chief

AJ Davidson & Shayan Mehri

Managing Editors of Articles

Anna Olchowec & Aidan Sneyd

Managing Editors of the Style Guide

Daniel Querques & Sarah Shipley

Managing Editor of Volunteers

Emily Caza

**Production Editor** 

Joanna Popova

Managing Editor of Submissions

Mack Stieg

Managing Editor of Business & Marketing

Kieran Woboditsch-Velasco

Associate Articles Editors

Conor Alexander

Ari Derohanesian Dante Fasulo Keith Hickey

Associate Submissions Editors

Fionna Campbell Brendan Chun Stephanie Clancy Jonah Muyal Abdimalik Nagash Max Sun Rick Xu

Senior Articles Editors

Sahil Gaur, Greg Pike & Teodora Stoicescu

Senior Submissions Editor

Silke Kuhn

Faculty Advisor

Grégoire Webber

Journal Administrative Assistant

Carol Johnson

Editorial Volunteers

Jessica Abugov
Anthony Amoah
Mitchel Babec
Rachel Boyd
Thomas Broccolini
Max Brooker
Darshini Challa
Frankline George
Olivia Graham

Simran Grewal

Zainab Hameed

Kennedy Heitman Neha Khoral Jeffrey Kristoffy Christopher Leichthammer Ryan Levy Shayna Maharaj Lachlan McBride Curtis McCullough Danielle Milankov Victoria Moscone Alara Once Emily Palva
Ibrahim Rehman
Thomas Tio Revelstoke
Luqman Sattar
Aarti Sayal
Savannah Sguigna
Summer Sheridan
Robert Smith
Dawood Tullah
Daniel Wang

Alexander Wolff

### Correspondence & Submissions

All business correspondence and subscription requests should be sent to the *Queen's Law Journal*, Faculty of Law, Queen's University, Kingston, Ontario, K7L 3N6, to the attention of the Managing Editor of Submissions, or by email to qlj@queensu.ca. Our web address is

### https://journal.queenslaw.ca

The *Queen's Law Journal* invites the submission of articles, comments, and book reviews. The *Queen's Law Journal* is a fully refereed publication. Submissions are first reviewed by the Submissions Committee and then externally assessed on a double-blind basis before a decision is made on acceptance.

Manuscripts should be sent by email to the address above, to the attention of the Managing Editor of Submissions. Authors will be asked to confirm that their manuscripts have not been submitted elsewhere. Manuscripts should generally be in the order of 10,000 words and up to 15,000 words, including footnotes. We will review manuscripts which exceed this limit; however publication of these articles would be conditional on the production of a final draft which has fewer than 15,000 words, including footnotes. Submitted manuscripts should include an abstract of around 250 to 500 words. Authors should also provide a short statement indicating their occupation and place of work, as well as any acknowledgments they would like to include. These will not count towards the word limit. Footnotes rather than endnotes should be used, and footnotes must conform to the *Canadian Guide to Uniform Legal Citation*, 10th Edition. The *Queen's Law Journal* formats the body of the text in accordance with the *Canadian Guide to Legal Style*, 2nd Edition.

Copyright is reserved jointly to authors and the *Queen's Law Journal*. No reproduction in whole or in part by any means is permitted without written permission.

The *Queen's Law Journal* gratefully acknowledges the financial support received from the Faculty of Law and the Law Students' Society of Queen's University.

The *Queen's Law Journal* acknowledges that Queen's University, including the *Queen's Law Journal* office, is situated on the traditional territory of the Haudenosaunee and Anishinaabek.

### Subscription & Advertising Information

For current subscription and advertising rates, please contact:

Managing Editor of Business & Marketing

Queen's Law Journal
Tel: 613-533-6000 ext. 74295

Faculty of Law
Queen's University

CON 1/21 2016

Fax: 613-533-6509

E-mail: qlj@queensu.ca

Kingston, ON K7L 3N6

Canada

### Back Issues

Back issues of the *Queen's Law Journal* are available online through:

HeinOnline (www.heinonline.org)

Quicklaw (www.lexisnexis.com/ca/legal)

WestlawNext Canada (www.westlawnextcanada.com)

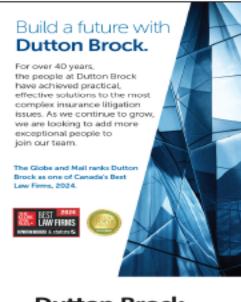
EBSCO (www.ebsco.com)

Gale Group (www.gale.cengage.com)

Queen's Law Journal (https://journal.queenslaw.ca)

CanLII (https://www.canlii.org/en)





### Dutton Brockup

duttonbrock.com

## THE ART OF LAW

Come paint your career path with us

CONTACT US:

SCARFONE HAWKINS LLP Lawyers and Trade-Mart Agents

I James St. S., 14th Floor; P.O. Box 97/6, Depot 1, Hamilton, Ontario LBN 3F9.











### The David Watson Memorial Trust & Award

The friends, colleagues and classmates of David Watson (Law '87), former Editor-in-Chief of the *Queen's Law Journal*, have donated funds to form a trust in his memory.

The purpose of the David Watson Memorial Trust is to promote the publication of excellent scholarship in the *Queen's Law Journal*. The David Watson Memorial Award is presented annually for the paper published in the *Queen's Law Journal* judged to make the most significant contribution to legal scholarship. The recipient is selected by the *Queen's Law Journal* Awards Committee—composed of the *Journal's* Editors-in-Chief, its Faculty Advisors and the Dean of Law.

### **Award Winner for Volume 48**

The *Queen's Law Journal* is pleased to announce the winner of the David Watson Memorial Award for Volume 48:

**Robert Diab & Jolene Sanderson,** "Reasonable Apprehension Under Mental Health Law" (2022) 48(1) Queen's LJ 1.