

THE SENIOR COLLEGE MESSENGER

Issue 40: February, 2025

This is an organ for members of Senior College to submit short articles that share news, letters to the editor, reactions to the program and anything that they feel will be of general interest. Its regular appearance will allow for an exchange of opinion of topics of interest to the members. In particular, it would be interesting to record reactions to the talks, colloquium topics, books discussed and items appearing in the Messenger.

We also welcome brief notices of important books of general interest that are worth reading and views on what should be included in a modern school curriculum from the perspective of your discipline.

Please submit contributions to the co-editors, Ed Barbeau at barbeau@math.utoronto.ca or Mary Finlay at booksaplenty1949@gmail.com.

A QUESTION OF POLITICS, JUSTICE AND THE CONSTITUTION

Mr. Trump's pardon of 1500 convicted insurrectionists was a tear in the fabric of American democracy. Until now, when the system led to oppression and miscarriages, Americans might have had faith that in the course of time, this would be recognized and redressed. The current move has dismayed justice officials, police organizations and ordinary citizens, who have felt betrayed; it may have created a nascent domestic *Schutzstaffel* (*SS*) whose members owe a personal debt to the president.

In the discussion of this presidential action, I have read of no discussion of either impeachment or recourse to the courts. Clever lawyers may no doubt argue that neither is viable. However, this does not seem evident. Impeachment is a political rather than a legal action; the peers of the president determine that the president is unfit for office due to corruption, incompetence or failure to protect the constitution and the national interest (which I suppose could be covered by "high crimes and misdemeanours" even if not legally prosecutable).

On the other hand, it seems clear that the pardoning power of the president has been abused (even by President Biden, though perhaps justified in his case as a pre-emptive measure against further abuse of the justice system), and, despite what is said in Article II of the Constitution, I wonder whether nonetheless someone may attempt to bring a case.

It is hard for a Constitution to cover all eventualities (as the Canadian Supreme Court discovered in dealing with the Charter). Thus, it is necessary to find a balance among the face provisions of the Constitution, the likely intentions of its framers, and a contemporary interpretation in the face of unanticipated circumstances, in a way that justice and national integrity is preserved.

I would very much welcome historians, political scientists and legal scholars among us to weigh in on these issues. *EJB*

WELCOME TO A NEW FELLOW OF THE COLLEGE

David Townsend retired from the Centre for Medieval Studies and Department of English in 2018. So a bit of a slow study coming to Senior College, but very pleased to

have arrived. David taught graduate courses in Medieval Latin language and literature, and both graduate and undergraduate courses in Old and Middle English and other areas. He was the first director of the undergraduate program in Sexual Diversity Studies at University College, the forerunner of what is now the Bonham Centre. His research has included both close textual studies and more theoretically oriented interpretations, especially around questions of gender and sexuality in medieval literature. His most recent book is *Queering Medieval Latin Rhetoric: Silence, Subversion, and Sexual Heterodoxy* (Cambridge University Press, 2023). David is an avid gardener and cook, as well as a long-time blogger (since 2010) on queer men's spiritual and creative lives. He is married to educational theorist Jonathan Slim, also a recently accepted member.

IN MEMORIAM

Harvey L. Dyck (March 16, 1934 – January 11, 2025)
Professor of Russian and East European History

Peter Richardson (January 6, 1935 – January 6, 2025)
Professor of Religion; Principal of University College (1977-1989)

CALENDAR OF COMING EVENTS

Events marked with **F** are for fellows and external fellows. Advanced registration is necessary for each event. This can be done in response to a weekly email from Senior College or the Faculty Club to its members that describes the events or through the Senior College website.

Talks: Wednesdays 2-4 (Zoom and in person at the Faculty Club)

February 5: Matthew Light *Ukraine: the stakes for Canada*

February 12: Tom Keymer *Jane Austen and the Jurassic*

February 19: Patricia Brubaker *The basic science underlying the beneficial actions of Ozempic*

February 26: Netami Stuart *The Port Lands flood protection infrastructure project: how to build a river*

March 5: Ajay Heble *The determination to care: festivals, pedagogy, community*

March 12: Madeleine Zurowski *Dark matter*

March 19: James Campbell *Music inside out*

March 26: Mark McGowan *'Kindred spirits' in the North: indigenous peoples in British North America and their donations to Irish famine relief*

*Colloquia: Thursdays 2-4 pm
Senior College Centre, 256 McCaul Street*

February 20: *Poverty in Canada: causes, effects and solutions. Whose responsibility?*
(Organizers: Bill Logan & Trevor Lloyd)

March 13: *Biological discoveries and their implication for sex and gender issues* (Organizer: Phil Sullivan)

Book Club: Mondays 2-4 pm (Zoom only) (F)

February 3: Kenneth Miller, *The visionary scientists who unlocked the mysteries of sleep* (2023) (Leader: Daphne Maurer)

March 3: Timothy Garten Ash, *Homelands: a personal history of Europe* (2023) (Leader: David Milne)

April 7: Ursula K. Le Guin, *The dispossessed* (1974) (Leader: Molly Wills)

May 5: Emily Wilson, *The Odyssey, by Homer in the new poetic translation* (2017) (Leaders: Linda Hutcheon & Martin Revermann)

June 2: Andrew Stobo Sniderman & Douglas Sanderson (Amo Binashii), *The Valley of the Birdtail* (2022) (Leader: Janet Paterson)

July 7: Fei-Fei Li, *The worlds I see: curiosity, exploration and discovery at the dawn of AI* (2023) (Leader: Susan Pfeiffer)

Quotation

I read this at about the same time as Mr. Trump was musing about bringing about a union between Canada and the US using economic pressure. EJB

[Sir John A.] Macdonald shared with the Loyalists a deep sense of the risk posed by the American credo of manifest destiny and the views of its statesmen. “They desire to enlarge the boundaries of the country; they would like to add Canada to the United States,” he told the Commons in January, 1885, “they said, let us hold off a little longer; let us refuse them reciprocity, and Canada will fall like a ripe plum into our mouths.”

Patrice Dutil, *Sir John A. Macdonald & the Apocalyptic Year 1885*

Aftermath

The late Peter Rosenthal was both a professor of mathematics at U of T and a qualified lawyer, who often served in civil rights cases. He once represented an applicant who made representation to the Ontario Court of Justice concerning a constitutional challenge to a jury panel.

In Canada, permanent residents have many of the rights of citizens except for such things as voting, holding a passport or being selected for jury duty. It is this last that Rosenthal was challenging for a client on the basis of the Canadian Charter of Rights and Freedoms. Since the proportion of citizens that is black is less than the proportion of the permanent residents that is black, the citizenship requirement has a negative impact on the probability of choosing black jurors. This was held by him to be discriminatory within the meaning of the Charter.

The application was opposed by Her Majesty the Queen, in the form of a counsel for the the Attorney-General of Canada.

Furthermore, it is submitted that the citizenship does not result in a pool of jurors in which blacks are differentially excluded to the extent that a representative jury cannot be obtained in Metropolitan Toronto. It is submitted that the difference in proportion as between black citizens and all citizens, and non-black citizens and all non-blacks (65.9% for blacks and 85.6% for non-blacks), is not such that the Applicants will be unable to have a realistic opportunity to have a panel which will include blacks. This becomes clear when one compares the percentage that blacks are of the total Metropolitan Toronto population, 4.1%, with the percentage that black citizens are of the Metropolitan Toronto population who are citizens, $2.7/84.8$ or 3.2%. In short, the citizenship requirement for jury duty results in a pool for the array in which 3.2% of the available jurors are black, which is nearly the same proportion that blacks, citizens and non-citizens combined, are in the total population of Metropolitan Toronto, that is 4.1%. In fact, having regard to the difference in size of the black and non-black *non-citizen* groups, 1.4% and 13.8% respectively of the Metropolitan Toronto population, the inclusion of non-citizens in the array would probably result in *fewer* blacks being selected because a greater number of non-blacks would be available in the expected jury pool than blacks.

The application failed. It is not known how an appeal to a higher court fared. First, let us understand where the figures presented by counsel come from. The fraction of the population who are black citizens is $(0.041)(0.659) = 0.027$ and the fraction who are nonblack citizens is $(0.959)(0.856) = 0.821$. The fraction of the total population who are citizens is 0.848.

The counsel seems to be weakening his argument (or perhaps avoiding the issue) by suggesting that it really does not matter since the percentages of the available black jurors among citizens (3.2%) is close enough to the percentage of blacks in the whole population (4.1%) that it really does not matter, so we might as well stay with the established procedure. This moves us away from a substantive argument about the general principle, and opens the counsel to deal with what would happen in other hypothetical situations, for example, if there were no black citizens.

The final point of counsel's position raises an eyebrow. He/she suggests that the present situation might actually be more advantageous for selecting black jury members, since expanding the pool will bring in more nonblack candidates than black. Consider this simple model: Suppose we have 10 blacks, 3 of whom (30%) are citizens and 20 nonblacks, 12 of whom (60%) are citizens. From a pool of 15 citizens, blacks would have 20% chance of being selected. Expanding the pool to 30 would provide 7 more black and 8 more nonblacks, yet now blacks would have 33% chance of being selected.