

William Petrie Graduate Student Library Scholarship Essay Contest

Jonathan Minnes

My Master of Laws research focuses on the unique challenges faced by military members under the law and it is funded by the British Columbia Law Foundation Graduate Fellowship. My thesis attempts to articulate the relationship between military members and the state and focuses on *Scott v. Canada*, an ongoing veteran class action pension lawsuit launched in the British Columbia Superior Court in October 2012.

The *Scott* case makes novel use of historic evidence in an attempt to entrench constitutional protections for Canadian veterans. Veterans allege that under the *New Veterans Charter* (NVC) many veterans received less support than under the previous *Pension Act*. Further, it is alleged this is a contravention of the ‘social covenant’ between the government and Canadian Forces members dating back to a promise made by Robert Borden in a speech to Canadian soldiers at Vimy Ridge in 1917. They argue this promise engages an expanded interpretation of, the predominantly aboriginal legal doctrine, the Honour of the Crown but the government argues that the speech was simply political, with no legal repercussions.

My research on this subject has benefited greatly from the University of Victoria Library’s military history collection and the Law School’s focus on social justice research and aboriginal law. The Diana M. Priestly Law Library has provided numerous legal resources like the *Queen's Regulations and Orders*. This has aided my understanding of the unique legal status of Canadian soldiers who face unlimited liability while being legally obliged to follow all lawful orders, even those which are potentially lethal. I have also consulted John Borrow’s work on the Honour of the Crown to better understand the doctrine, its historic development and to gauge the possibility of its expansion into the military context.

The McPherson Library resources on Borden’s speech and Canadian veteran policy have been outstanding. In fact, I have even provided historic research to the pro bono lawyers representing the veterans in the *Scott* case. The library has a copy of the 1937 *Veterans’ Assistance Commission Report*, the earliest known reprinting of the speech and one, which calls it a ‘contractual obligation.’ This document also shows that

there were two more paragraphs in the original speech, a fact lost to contemporary historians. Librarians have also assisted me in acquiring a 1994 Veterans Affairs Report, which states that Borden articulated Canada's obligations to veterans, when he spoke at Vimy.

I was the first person ever to sign-out the 1968 three-volume report of the *Committee to Survey the Organization and Work of the Canadian Pension Commission*. A report attributed with important veteran policy developments, including the unequal treatment of modern veterans under the NVC. I also had a rare opportunity to read the seminal monograph on post WWI and WWII veteran policy in Canada, *Rehabilitation (A Combined Operation)*. Housed in the archives, this copy is signed by the author Walter S. Woods, considered by many to be the architect of Canada's celebrated programs for WWII veterans, known as the original Veterans' Charter.

Without these essential resources I would not have succeeded in my multidisciplinary project. I was overwhelmed by the interest I encountered after presenting this research at the 26th Annual Canadian Military History Colloquium earlier this month. I am grateful to be able to connect this important piece of Canadian history to the ongoing legal struggle faced by current Canadian veterans fighting their second battle for the pension rights they deserve. I could not have achieved this without the essential support provided by the University of Victoria libraries.