

SATURDAY REPORT

The long search for justice

It is believed there has never been a posthumous pardon in Canada, though they have been granted in Britain using what is known as the royal prerogative of mercy

by JIM BRONSKILL
and JANICE TIBBETTS
Southam Newspapers

OTTAWA — The fight for justice can survive courtroom setbacks, the passage of decades and even death.

The federal government is reviewing about 65 possible wrongful convictions, including one case dating back more than a century, documents obtained through an Access to Information request reveal.

The applications, submitted under a special provision of the Criminal Code, are normally a last hope for people seeking a fresh trial or appeal.

But it appears a growing number of applicants want to clear the names of convicted criminals who may have gone to their graves innocent.

Retired Quebec schoolteacher Alton Price is pursuing a posthumous pardon for Gaspé woodsman Wilbert Coffin, whom supporters believe was wrongfully sent to the gallows in 1956 for the murder of three American hunters.

In British Columbia, members of the Tsilhqot'in aboriginal band are seeking the exoneration of five chiefs hanged in 1864 for the murder of a group of road builders. Chiefs argue the natives were at war with authorities when the killings took place.

"The feelings are still very strong within our communities," said Joe Alphonse of the Tsilhqot'in national government.

Also on the list is Louis Riel, hanged for treason in 1885 for his role in the Northwest Rebellion. Metis leaders argue Riel, who helped pave the way for Manitoba's 1870 entry into Canada, was the victim of injustice.

Two Liberal MPs have introduced a private member's bill that would declare Riel wrongfully executed and proclaim him a Father of



Confederation.

In a given year, Ottawa receives dozens of applications alleging miscarriages of justice, usually after other avenues of appeal have been exhausted. It's up to Justice Minister Anne McLellan

to decide whether she will order a new trial, send the case back to the court of appeal for a fresh look, refer a specific question to the courts or leave the file closed.

In order for an application to succeed, there

must be new evidence demonstrating a reasonable basis for believing a wrongful conviction occurred.

However, the government often takes years to review a claim and it is rare for an application to lead to a rehearing.

Pardons are even less common and it is believed there has never been a posthumous pardon in Canada, though they have been granted in Britain using what is known as the royal prerogative of mercy, said Yvan Roy of the Justice Department's criminal law section.

Canada has similar mercy provisions that can open the door to a pardon.

However, the minister, mindful of interfering with the judicial process, is more inclined to send a matter back to the courts than to pardon someone outright, said Roy.

"In order to get in the door there has to be something new."

Most of the more than five dozen applications for review now before the Justice Department have been made in confidence, meaning names can't be released.

The submissions, involving crimes ranging from break and enter to murder, are based on claims of fresh evidence, recantation of witness testimony, bungling by counsel and even conspiracy.

The most recent successful application was that of Clayton Johnson, whose case McLellan referred to the Nova Scotia Court of Appeal in September. Johnson was convicted of murder in the 1993 death of his wife, found at the bottom of a flight of stairs.

Complaints about delays, conflict of interest and unwarranted secrecy have prompted the government to consider overhauling the machinery for assessing wrongful conviction claims. One option is the creation of an independent body to investigate alleged miscarriages of justice.

B.C. Natives can't forget hangings at Quesnel Mouth in 19th century

by JIM BRONSKILL
Southam Newspapers

OTTAWA — A century-old event may hold the key to a better future for the Tsilhqot'in aboriginals.

The B.C. natives want the federal government to clear the names of five Tsilhqot'in chiefs hanged in 1864 for killing labourers building a road to the Cariboo gold fields.

Today's chiefs argue their ancestors were at war when the violence took place.

"Because of that incident, there's a lot of mistrust with any provincial or federal government," said Joe Alphonse, a spokesman for the Tsilhqot'in national government.

The 19th-century clash stemmed from Tsil-

hqot'in fears of losing their land to white settlers.

When the newcomers refused to pay fees upon entering native territory, terrible clashes erupted.

Tsilhqot'in chiefs agreed to discuss a peace treaty with white authorities, but upon arriving for a meeting were arrested, shackled and sent off to court.

Judge Matthew Begbie, a towering figure with white hair and black moustache, sentenced the chiefs to hang at Quesnel Mouth for the road killings.

To this day, the Tsilhqot'in feel double-crossed. One of Alphonse's ancestors was among the five executed chiefs, making the matter even more profound to him.

Tsilhqot'in leaders have applied, under a special

provision of the Criminal Code, for a formal review of the case by the federal Justice Department.

However, Alphonse said in recent months there has been a rethinking of the strategy. Some feel that requesting a pardon is tantamount to acknowledging, to some degree, wrongdoing.

Still, the Tsilhqot'in want the federal government to find some means of declaring their ancestral chiefs innocent.

Alphonse believes relations between his people and Ottawa will be strained until the matter has been settled.

"That's the starting point as far as the nation is concerned. Before we can even talk treaties or anything like that, that issue has to be dealt with."

Judge wants historical perspective

by LISA DEMPSTER
Southam Newspapers

An outspoken judge fighting to keep his job in Canmore, Alta., has slammed how the justice system deals with aboriginal offenders.

Judge John Reilly said recently that historical circumstances should be taken into account in sentencing where the accused is aboriginal, including the effects of residential schools, unfair treaties and religious persecution.

Softer sentences and more treatment is the proper way to address past native injustices, he added.

Mark Poucette, 19, was convicted in the stabbing death of Larry Labelle during an alcohol-fuelled fight on the Stoney Reserve last year — and in Reilly's judgment this month on the manslaughter case in Cochrane provincial court, the judge said he wanted to sentence the native man to six months' imprisonment.

The Crown had sought federal time — more than two years — for the killing.

"This would reflect the fact that the accused is an aboriginal and that past injustices have contributed to his commission of this offence," Reilly wrote in his 17-page judgment, which also cited similar findings in the Royal Commission on Aboriginal Peoples.

But he says his hands are tied by a Alberta Court of Appeal decision last year on a Stoney wife-beating case, which ruled Reilly could not sentence natives differently from non-aboriginals.

A Stoney tribal councillor praised the judge's stand. "He is a like a godsend to us," said Greg Twoyoungmen, also an outspoken proponent for change and accountability on the reserve, located 60 kilometres west of Calgary.

"My people have a lot of healing to do. . . there is so much internal anger and strife, it makes us to things we normally wouldn't do, impairs our judgement. I admire his stance. He's seen it. I've never seen another judge come to the reserve before, come to my house."

Reilly would not comment on his written judgment, saying only that it speaks for itself.

The scrappy judge has already attracted national attention for his opinions on aboriginal issues, and is currently in court fighting an order by Alberta's chief provincial court judge Ed Wachowich to transfer him back to Calgary.

Reilly, who has dealt with troubling cases involving natives for more than five years, claims the transfer is punishment for his outspoken views.

Campaign revived to pardon hanged woodsman

by JANICE TIBBETTS
Southam Newspapers

OTTAWA — The hanging death of Wilbert Coffin is still alive on the Canadian justice ledger.

It's been almost 43 years since the Quebec prospector went to the gallows for the murder of three American hunters and Ottawa is dealing with a renewed campaign to clear his name.

"Somebody in our country owes it to him," said Alton Price, a retired schoolteacher from Quebec's Eastern Townships who filed an application last spring for a posthumous pardon for Coffin.

"I've become obsessed with it, I'll be honest."

Price, 68, said he never met Coffin but became convinced of his innocence after reviewing trial transcripts about the 1953 murders in the Quebec bush.

Price then wrote a book, To Build A Noose, which he published two years ago, alleging he knew who the real killer was.

Coffin maintained his innocence right up until he was hanged on Feb. 10, 1956.

His death lives on in the minds of many Quebecers, particularly those from his native Gaspé region, who insist that Canada hanged an innocent man.

The woodsman has been the subject of numerous books, including three by Liberal Senator Jacques Hébert, among them 1963's I Accuse the Assassins of Coffin.

Hébert's work prompted a royal commission, which concluded that Coffin got a fair trial.

Not so, says Price.



Like many other supporters, Price thinks Coffin was a scapegoat of the provincial government of Maurice Duplessis, which was desperate to protect Quebec's tourist industry.

"They went after this thing tooth and nail because these were American tourists and there was tremendous pressure put on by the States," Price said.

Coffin admitted he met the hunters in question — Eugene Lindsay, 47, his son Richard, 17, and Fred Claar, 19 — in the Gaspé woods in June 1953.

The conviction rested on American money, clothing and other articles the Crown said Coffin had stolen from the victims.

But Price said the police conducted a shoddy investigation, the coroner was not well trained and Coffin was poorly defended.

Price said his only connection to Coffin was that Price's father worked with him in the woods and liked him very much. He said his father was in the same bush at the time of the murders.

"It's never left me," Price said. "I've thought about it very much."

A Justice Department spokesman would not comment on the federal review.

It's been 42 years since Quebec woodsman Wilbert Coffin was hanged for the murder of three American hunters. But the quest to clear his name persists.

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