Publisher's Note

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Native Law

Injunction principles clarified in the Blueberry litigation. In two decisions of the British Columbia Supreme Court in which the Blueberry River First Nation applied for injunctions pending a trial about infringement of treaty rights, the British Columbia Supreme Court reviewed the principles which govern the granting of such pre-trial relief. The band lost both applications, but for different reasons in each case. In the first case, the band sought an injunction which was too narrow, the court saying it was "piecemeal" litigation. The second application was for a comprehensive injunction, but the court did not grant relief because the application came too close to trial. See paragraphs 5§1213, 5§1215, 5§1218

Fake Gladue reports shock Newfoundland judge. Judge John L. Joy of the Newfoundland Provincial Court was shocked to learn that the court had been repeatedly subjected to false "Gladue Reports". Reports called "Pre-Sentence Report (Gladue Perspective)" were routinely submitted by the Crown with disregard for the principles and standards which apply pursuant to the Criminal Code and Supreme Court of Canada decisions such as *R. v. Ipeelee*, 2012 SCC 13. The Judge called this behavior "state misconduct" and said the court can correct the situation with sentence reductions and contempt of court proceedings. See chapter 17, page 378.8

Newfoundland court criticizes B.C. Court of Appeal over Gladue. The Newfoundland Provincial Court reviewed the B.C. Court of Appeal decision in *R. v. McKay*, which

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said that when no "Gladue report" is presented to the sentencing court, but the sentence imposed is sufficiently lenient that a "Gladue report" would not have changed the sentence, no error has occurred. The Newfoundland court said that this was "entirely wrong and contrary to the principles the Supreme Court of Canada set out". See chapter 17, page 378.3

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