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CIVIL ASSET FORFEITURE IN CANADA

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What's New in this Update:

- After an extended period of time, an Ontario case involving an outlaw motorcycle gang clubhouse in Niagara has finally resulted in a trial decision. The judgment canvasses:
 - evidentiary questions (8:70.40);
 - instruments questions: the clubhouse was an instrument as a safe space to plan unlawful activity (but not as a booze can) and paraphernalia like the patches that identified the wearer with the outlaw motorcycle gang were instruments but more general memorabilia, like patches from other clubs were not (8:40.20);
 - proceeds questions — the mortgage of an outlaw motorcycle clubhouse was paid down through member dues and the court

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inferred that at least some of those dues were derived from illegal drug sales (8:40.10);

- and most interestingly “clearly not in the interests of justice” or CNIJ questions (8:60.40) — one outlaw motorcycle gang member had struck a plea bargain with a federal prosecutor which included lifting a restraint on the clubhouse. The court distinguished and narrowed the application of an existing decision (Railton) and found that the Federal Crown cannot bind the province in a civil forfeiture case.

The respondents are appealing.

- In British Columbia, there is anticipation surrounding a report to be issued by Dr. Peter German in March 2018 that will examine money laundering in casinos.
- Finally there cases out of British Columbia and Quebec that ask whether a tax violation can constitute unlawful activity for the purposes of civil forfeiture (see discussion at 4:20.20).