

# Orangeville Citizen

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The humblest Citizen of all the land, when clad in armour of a righteous cause,  
is stronger than all the hosts of Error. - WILLIAM JENNINGS BRYAN

## Appeal court's ruling a step in the right direction

THE ONTARIO COURT of Appeal deserves applause for last week's unanimous decision restoring a Shelburne family's lawsuit against the Ontario government.

The civil action involves allegations that negligence on the part of the government's air ambulance service played a role in the death more than four years ago of Patrick Heaslip, 17-year-old son of Gary and Denise Heaslip.

Patrick was tobogganing at the Mansfield Ski Club at about 6 p.m. on February 4, 2005 when his toboggan struck a steel snow gun, throwing him off against a tree.

He was initially taken to the home where he had been staying and when it became clear that he was badly injured was transported by ambulance to the nearest hospital, Stevenson Memorial in Alliston.

A doctor who recognized that his injuries were life-threatening called the Medical Air Transport Centre at about 8:35 p.m., only to be told that it would be two hours before an air ambulance could be sent to take Patrick to the trauma unit at St. Michael's Hospital in Toronto.

As a result, a trip by land ambulance was attempted but Patrick died en route, having shown no vital signs after about 10:30 p.m.

The civil action, which also names the ski club, hospital, Simcoe county's paramedic services and several individuals as defendants, involves allegations that negligence was involved in the failure to provide timely air ambulance service.

Specifically, the Heaslips allege that:

- The ambulance service knew that Patrick had suffered a life-threatening injury;
- A nearby air ambulance that could have taken him to an appropriate hospi-

tal was carrying another patient with non-life-threatening injuries, and

- A Provincial policy for air ambulances that gave priority to those with life-threatening injuries, even if that meant diverting another patient, was not followed.

(The family also alleges that neither of Ontario's other two on-duty air ambulances in Toronto was available. One was grounded because the pilot had reached the limit of his duty hours and the other was unavailable because it required maintenance.)

In overturning the December 2008 ruling of Superior Court Justice Guy DiTomaso, the court concluded that it was at least arguable that in the circumstances Ontario owed a duty of care to the plaintiffs.

The plaintiffs' counsel, Adam Little of Barrie's Oatley Vigmond law firm, has suggested that only time will tell how significant the decision will be. However, our reading of the judgment leads to a conclusion that some high-way accident victims may benefit from it if they can demonstrate that a high-way or intersection lacked important safety devices that could and should have been provided by the Province or municipality that owned the roadway.

Writing for the appeal court, Justice Robert Sharpe concluded that the lower-court judge had applied an unduly narrow interpretation of the test for quashing statements of claim as having no chance of success, "especially in relation to a motion to dismiss the action at the pleading stage.

"While I agree that certain allegations contained in the claim assert purely public law duties and must be struck, the core of the claim advanced by the appellants is centred on a very specific set of facts that are alleged to have arisen when Ontario was asked to pro-

vide an air ambulance to carry Patrick Heaslip to a hospital capable of treating his injuries."

Justice Sharpe distinguished the facts alleged from those in cases cited by the Province, noting that in those cases, the plaintiffs "suffered harm at the hands of a party involved in an activity subject to regulatory authority, and then alleged negligence on the part of the governmental authority charged with the duty of regulating the activity that gave rise to the plaintiff's loss."

Instead, he wrote, the Heaslips' negligence claim was focused "on the specific interaction that took place between Patrick Heaslip and Ontario when the request for an air ambulance was made."

It will be interesting, indeed, to see whether the ruling will have important sequels. For instance, would the Quebec government be immune from a lawsuit launched by the family of the late actress Natasha Richardson based on its refusal to provide air ambulance service of any kind for accident victims at the Mont Tremblant ski resort?

As for Ontario, we wonder what our courts will have to say if an accident victim alleges that the provincial government has been negligent in refusing to provide electronic warnings that traffic signals are about to change at key highway intersections, or warnings in advance of intersections on busy highways that lack left-turn lanes.

If nothing else, court rulings that governments can be held liable for clearly negligent actions or inactions would surely be in the public interest, if only because they would force governments to implement safety measures found in other jurisdictions.

Thankfully, the old rule that held the Crown immune from all forms of civil liability is long gone.



## Another good reason to look at a lease

BEFORE HER APPOINTMENT to the bench, Superior Court Justice Francine Van Melle spent a decade as an Oakville lawyer specializing in family law.

Whatever else might be said, her endorsement holding that Orangeville's representatives on Dufferin County Council cannot take part in a debate on sale of the former CPR line north of the town fails to meet a longstanding requirement of appellate courts that trial judges' reasons for decision appropriately address the issues raised before them.

In correspondence with the client Town, Stutz & Associates lawyer Robert Brown notes "the absence of any review of the prevailing case law in her endorsement," adding that it was "clear to us that she clearly failed to consider the purposes and poli-

cy of the Municipal Act, and the Municipal Conflict of Interest Act, in rendering her decision."

He added that the judge "failed to consider the far-reaching ramifications of her decision and the general application that this ruling has on the definition of 'pecuniary interest' and how her ruling will impact the relationships between the constituent municipalities of an upper tier municipal government."

But clear as it is that this decision is wrong and should be overturned, it's no reason for a long delay in deciding what should happen to the rail corridor.

On the contrary, it's another good reason for the County to opt instead to lease the corridor to the Highland Group, if only to ensure that the potential remains for multiple use of the 66-foot-wide right of way.

## CITIZEN MAILBOX

### Police respond to prevention program letter

In response to the letter by Mr. Knetsch, Shelburne resident:

You've got to be kidding me. As a resident of Shelburne as well, I read this letter of complaint in disbelief.

As a member of the emergency services community as Mr. Knetsch is, he should realize the importance of "PREVENTION."

As a past member of the local police service I can tell you that this is not a new program and was introduced and put into effect in Shelburne over 15 years ago as I was one of the officers that helped initiate it.

For you to assume that it was under the direction of the Police Services Board, well I know that the police services board does not dictate the day to day operations of the police service, but I am sure as a responsible police service

board they would support such a crime prevention strategy.

Mr. Crewson was not on the police services board when this initiative first started, but I now he supported it the same way 15 years ago as he does today.

It certainly is not unusual for insurance companies to support crime prevention initiatives anywhere in Ontario, as it only makes sense, if there is a way to help educate people and keep our insurance rates down through awareness, it is money in our pockets.

The problem that arises from cars being unlocked is theft of wallets, identity theft, credit card fraud, computers, CD's and other personal belongings going missing.

As far as calling people stupid, well you have a lot of nerve calling a large majority of people stupid throughout our community. I would be one of them. I can admit that in past

through my busy lifestyle with kids in sports and work commitments I have unknowingly left my vehicle unlocked and even my garage door open. I don't consider myself stupid. I consider myself busy.

It is good to know that the police are out there walking, driving, riding the bike, keeping an eye on our property. To consider being offended by the police pulling on your door handle is stupid, unless you have something to hide. It's not like the police are peeking in your bedroom window, they are just trying to prevent YOU from being a victim and being proactive in their policing techniques.

Unfortunately the police have to do this as some people feel the need to try to steal from others. To say that it is not their concern, I disagree. It is their duty to provide safety and security within our community. It's called CRIME PREVENTION.

When you get up in the morning, a little piece of paper on your window will remind you that the police are out there trying to keep you safe and that maybe you accidentally left your car open.

You are not stupid; you may not have as much time on your hands as others!

Is this really a complaint about the police or is there an election coming soon?

Mark and Kelly Taylor  
Shelburne

I am writing in response to the letter written by Fred

### 'I hope we see a groundswell of outraged opposition'

I attended the Highland Companies open house this past weekend in Horning's Mills. There, the company was going to reveal a little more of their grand "vision" for Melancthon Township.

This numbered company, with undisclosed investors in Canada and the U.S., want to turn 2,400 acres of prime potato land into a 150 foot (plus/minus) hole in the ground. Absolutely outrageous!!!

The quarry bottom will be well below the water table, and will cause a massive drawdown in the water table. The water that is there now, and all of the water that will flow into this drain from underground and from rain and snow will have to

Knetsch, published on July 30th regarding the "Lock It or Lose It Campaign", specifically with respect to the Shelburne Police Service. This campaign, implemented across North America, is a results oriented program which has been proven effective. This program provides public education, crime reduction and police visibility within our community.

The Shelburne Police Service has never indicated there is any type of statute against leaving your vehicle unlocked, however Adequacy Standards Regulations, found in the Police Services Act, direct a requirement for, amongst other objectives, police to specifically address issues with property crime and clearance rates for such crimes. We have chosen to implement preventative measures and provide public education to assist in the reduction of such crimes.

As Chief of Police it is my decision to implement such programs and I will continue to direct our officers to police in a proactive, community focused manner in order to reduce victimization in our town. In 2007, the Shelburne Police Service noted a significant increase in property crimes, mainly due to thefts from unlocked motor vehicles. In 2008, after having implemented our "Lock It or Lose It" campaign, our results were a 20.5% reduction in property crimes. Given Mr. Knetsch's letter, I am led to believe he has not

• Please turn to page A8

be pumped out of the hole in perpetuity unless this it is to become a lake. They say they have a plan to deal with this "problem" and that we will have "Bottom Line: No adverse effects on water."

They say they can put agricultural uses back into the bottom of the hole, and that all they are doing is "reshaping the land." How preposterous and how ridiculous!

Show us examples of where something of this scale has worked. I don't think they can. How long until some of the land is returned to "agricultural use?" According to one of their consultants at the

• Please turn to page A17

### A fascinating look at Baroque, history

It was a couple of years ago that Maestro Rob Hennig first mentioned the idea of taking his two choirs on a European tour.

Back then, my expectation was that we'd get a chance to sing in a couple of English cathedrals and perhaps cross the Channel for a bus tour of France and maybe Italy.

When instead it turned out to be a tour of Austria and the Czech Republic, I was slightly disappointed, if only because I hadn't a clue what lay in store for us.

Back in the mid-20th Century, history for Ontario students was primarily British, with a smattering of the North American (primarily U.S.) variety.

Sure, we did learn some modern history, and in those days every student knew about Hitler and the Second World War, and we were even starting to learn about the horrors of the Holocaust. But as for Central Europe, most of what we knew was Cold War-related.

Back then, everyone knew about the partition of Germany and Berlin, and the fear was that the Soviet Union would preside over the westward expansion of Communism, whether or not the tool became a nuclear conflagration.

Although I knew full well that Hungary was in the Eastern Bloc, I knew precious little about Austria, let alone the fact that Vienna was occupied and divided up along lines similar to those in Berlin, with Soviet, British, French and U.S. sectors remaining until May 1955 when the occupation ended and the city regained its status as the capital of modern Austria, a nation of nine provinces and a current population of slightly over 8 million.

Small wonder, then, that when we arrived in Vienna we discovered a truly fascinating metropolis with 1.6 million inhabitants and an ancient and modern history that few places in the world could equal.

One of my first impressions was that Vienna's public transit system puts those of any North American city to shame.

As one small example, at a time when the Toronto Transit Commission is looking at purchasing a new generation of low-level streetcars, Vienna already has a fleet of such trams that run so smoothly and quietly that we suddenly noticed them passing along in front of our Hotel Kavalier in the city's west end, a half-hour taxi ride from the city centre.

Similar comments can be applied to our other two overnight stops, Salsburg and Prague. Even Salsburg, with a population of barely 150,000, has a trolley bus system that really makes one wonder what on earth was in the minds of the TTC management of the day when they ended trolley bus service in favour of smelly diesel buses.

As for Prague, its transit system was inferior to Vienna's but still far better

than Toronto's. More about that later.

Although the high points of the 10-day whirlwind tour were musical — both listening to two excellent choirs and our own performances in or near Vienna, Salsburg and Prague — we also learned a lot from our knowledgeable and eloquent Austrian tour guides.

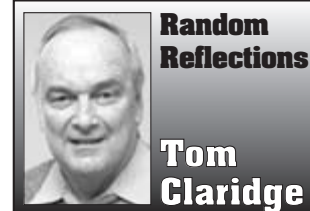
As examples, they told us that Austria's absorption into Hitler's Third Reich in 1938 was almost universally welcomed by a population that had looked enviously at Germany's economic progress while their own country remained mired in the Great Depression. As well, the guides confided that Austria's treatment of its Jewish population was far worse than Germany's in the 1930s, and that one consequence of the outbreak of the Cold War was an almost complete absence of action against Austrian Nazis in areas occupied by U.S. and British forces.

In Vienna, we learned much about the Hapsburg dynasty, which had its origins in the 10th Century and continued until the end of World War in 1918 with the founding of the Austrian Republic. A tour of Schonbrunn castle (the Hapsburgs' summer palace) in what was once the Vienna Woods opened our eyes to mind-boggling opulence. And we were told that even that lavishness was eclipsed by the mid-city winter palace, which we didn't have time to tour.

When one thinks of monasteries and monastic lives perhaps the first thought is of self-imposed poverty and an eschewing of things material. However, there was no semblance of either when we visited Melk Abbey, overlooking the Danube. The Benedictine abbey, one of the world's most famous monastic sites, was founded in 1089, but today's impressive Baroque structure, built between 1702 and 1736, can only be described as massive and opulent, its chapel acoustically perfect and its ornamentation priceless.

Although it's 20 years now since what's now the Czech Republic (then Czechoslovakia) ridged itself of communism, the contrast between Austria's wealth and its neighbour's relative poverty is still striking, as is the absence of any border controls now that the Czech Republic is in the European Union, albeit without yet enjoying the euro currency.

As our buses whipped across the border I couldn't help but wonder whether we'll ever see anything similar between Canada and our opulent giant to the south, where now we face barriers akin to those the Czechs encountered in trying to cross over into the "Free World."



Random Reflections

Tom Claridge