Friedland notes that *The Constitution of Canada* was reported to have sold between 3,000 and 4,000 copies within six months, a number that is remarkable today, and was even more impressive in 1922 (p. xxiv). People in Canada and around the world clearly thought that Kennedy had written something worth reading. That was true in 1922 and it continues to be true today.

Kennedy has been dead barely a half-century (d. 1963) but has long been forgotten along with most Canadian constitutional history that pre-dates the enactment of the *Canadian Charter of Rights and Freedoms*. In this sense, Kennedy is not only enigmatic but also emblematic of the neglect of constitutional history in this country. I often say that Americans are obsessed with their constitutional history and Canadians are oblivious to theirs. It is hoped that the republication of *The Constitution of Canada* will help change this.

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Richard Jochelson and Kristen Kramar, with Mark Doerksen
The Disappearance of Criminal Law: Police Powers and the Supreme Court. Fernwood Publishing: Halifax and Winnipeg, 2014. 120 pp.

Many law scholars do research in law and society to escape the often narrow and insular focus of doctrinal scholarship. *The Disappearance of Criminal Law* does the opposite. It examines recent Supreme Court of Canada cases in the area of police powers as part of a broader socio-legal inquiry. It aims to shed light on the role of the judiciary in the criminal-law policy shift away from the policing of actual harm and toward the management of more abstract fears and concerns. The authors engage with three areas of law and society scholarship—studies by Markus Dubber, Lucia Zedner, and David Garland on the embrace of preventative policing or a "culture of control"[1]; research in surveillance studies by Kevin Haggerty and Richard Erikson, among others, on the "convergence of what were once discrete surveillance systems" into a "surveillant assemblage" (p. 10)[2]; and, finally, "governmentality" studies by Mitchell Dean, Mark Neocleous, and others.[3]

1 Markus Dubber, "Policing Possession: The War on Crime and the End of Criminal Law," *Journal of Criminal Law & Criminology* 91, no. 4 (2001): 829; Lucia Zedner, *Security (Key Ideas in Criminology)* (London: Routledge, 2009); and David Garland, *The Culture of Control* (New York: Oxford University Press, 2001).

2 Kevin Haggerty and Richard Ericson, *The New Politics of Surveillance and Visibility* (Toronto: University of Toronto Press, 2006).

3 Mitchell Dean, *Governmentality: Power and Rule in Modern Society* (London: Sage Publications, 1999); Mark Neocleous, "Security, Liberty, and the Myth of Balance: Towards a Critique of Security Politics," *Contemporary Political Theory* 6 (2007): 131.

The authors of the book contend that the Court's recent expansion of police discretion and powers of surveillance have yielded "a distinct body of juridical knowledge about good government or a governmentality of population security" (p. 20). In the process, the line between the Court and the police has become blurred: "We view the deployment of police powers by the Supreme Court as the 'central manifestation of police power,' thus reversing the conventional view that it is the police who apply the criminal law." Courts have thus become "the vehicle through which the management of crime and social order … is justified and administered into the future" (p. 21). Gaining a clearer understanding of how this knowledge is produced helps to elucidate a facet of the judiciary that is often overlooked in critical security studies, criminology, and conventional doctrinal study itself.

The general thrust of the Court's work in this area has involved the erosion of clear boundaries and limits of police powers:

> Aspects of criminal law that were once jealously guarded by our Supreme Court have been reconstituted into abstractions and delegated into objective tests that must be weighed by police officers and lower courts. The disappearance of bright lines that restrict police powers become liminal spaces that future adjudicators and actors are required to navigate in order to understand if police have overstepped boundaries.

By "reanimating" older protections of rights, or "abstracting" and "delegating" their adjudication to police, the protections have—to a significant extent—"disappeared" from the purview of the courts (p. 22). The process has unfolded in the Supreme Court's recent expansion of police powers in a range of areas, including search and seizure, arrest and detention, the right to silence and to counsel, and the admission of evidence obtained in violation of *Charter* rights.

A good example of the authors' approach can be found in the chapter on unreasonable search. Recent cases exhibit a tension between the Court's commitment to privacy and a belief in the need for greater surveillance powers in various areas that impinge on private life. Cases that allow police to carry out warrantless searches of heat signals from the home, garbage at the curb, or odors emanating from bags and lockers make limited sense given the view of the Court's primary mandate as the protector of personal privacy and liberty. They make more sense when the Court is seen as a crucial means of facilitating surveillance and "administering its limits" (p. 35).

In other cases, the Supreme Court's work points to the total suspension of limits. Under the "ancillary powers" doctrine, judges have recognized new powers—for example, investigative detention, search incidental thereto—by retroactively reading into police conduct power or discretion they did not possess at the time. The malleability of "ancillary powers" doctrine gives rise to the possibility that "new types and modes of searches are always imminent" (p. 43). Rights to silence and to counsel have also been curtailed, with breaches to be found in many cases only where "psychological integrity" of the accused has been significantly affected, or where police conduct would "shock the community" (p. 84). Finally, with the Court's removal in *Grant* of an absolute exclusion rule under section 24(2) of the *Charter*, police are sent the message that "[i]f all evidence *could* be included" (p. 108) the seriousness of any *Charter* breach is now a matter of perspective.

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Many of the same cases on police powers might have been explored in a book with a primary focus on legal doctrine. But the aim of that book would be to encourage more doctrinal coherence and to urge reform. This book goes further. It shows why such coherence is lacking by pointing to larger societal and cultural shifts that lend a broader continuity to much of what the Court has done here. Approaching the Court's work from the context of surveillance and governmentality studies and the criminology of preventive policing, the authors effectively challenge the view that the Court is committed to a greater balance between liberty and security. They offer a provocative view of the Court as a key instrument in the policing of Canada's population.

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Glen Coulthard

Red Skin, White Masks: Rejecting the Colonial Politics of Recognition. Minneapolis: University of Minnesota Press, 2014. 229 pp.

Red Skin, White Masks immediately establishes itself as a cornerstone in the areas of Indigenous governance, political theory, and activism. Its importance, however, extends much further. For socio-legal scholars following the continual proliferation of Aboriginal law jurisprudence, treaty/land claims negotiations, and a rapidly developing body of scholarship that seeks to revitalize and revalue Indigenous peoples' legal traditions, *Red Skin, White Masks* provides a persuasive new vantage point. As a Coast Salish (W̱SÁNEĆ) scholar working to strengthen and revitalize my own Indigenous legal order, I find Glen Coulthard's work critically engaging and insightful.

Glen Coulthard, of the Yellowknives Dene and Assistant Professor of Political Science and First Nations Studies at the University of British Columbia, offers an intellectually rigorous critique of settler-colonialism and the liberal politics of recognition. Coulthard approaches settler-colonialism as a "form of structured dispossession" of Indigenous peoples "of their lands and self-determining authority" (p. 7). However, he asks, if this colonial dispossession is no longer maintained principally through state violence, as appears to be the case in Canada, then what accounts for the continued dispossession and the persistent reproduction of present-day colonial hierarchies? For Coulthard, the answer derives largely from the insights of Frantz Fanon on the role of "recognition."

It is accepted that recognition has a role in identity creation insofar as human subjectivity is formed intersubjectively through our social relations. More contentious is that "relations of recognition can have a positive (when mutual or affirmative) or detrimental (when unequal and disparaging) effect on our status as *free and*

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