

George Rammell April 09, 2023 Artist's Statement

Chambers of Predetermined Outcomes / Gatekeepers of Justice



Cast acrylic polymer, welded aluminum, wood and mixed media

In the late 1970's following my art school years my instructor Jack Harman recruited me to join his crew to cast bronze portrait busts of judges to embellish the hallways of Arthur Erickson's new Vancouver courthouse. Jack also created a small model of *Themis, the Goddess of Justice* for a competition to create a monumental sculpture under the main atrium. He won the commission. In the tradition of the British courts Jack modeled the goddess holding scales and blindfolded to symbolize the unbiased nature of the judiciary and its quest for truth. He decided to sculpt a scroll rather than a sword in her right hand. In my youthful naivety I believed his piece reflected the ethics of all modern judges, working philosophically and free of political influence. However, my experience with the courts over the past five years leads me to believe a more accurate portrayal would have the goddess peeking over her blindfold, looking for direction from the Prime Minister's office and the energy sector, her scales would be weighted to one side and her scroll would be engraved with Machiavellian injunction orders describing how to silence informed Indigenous elders and their allies.



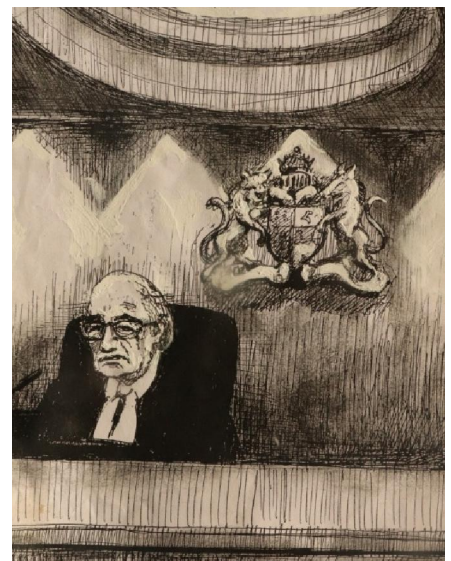
In 2018 I joined hundreds of land defenders confronting the Kinder Morgan pipeline terminal on Burnaby Mountain that was protected by Justice Kenneth Affleck's injunction. The pipeline route was to cut through the Brunette River Conservation Area where, as a kid, I discovered the magic of frogs and their clusters of tadpole eggs. The thought of 890,000 barrels a day of chemically thinned, heated bitumen being pumped through a big pipe at 900 lbs pressure was disturbing due to Trans Mountain's on-going record of ruptures and spills across the province. Trans Mountain had a 190,000 litre spill in Sumas in June of 2020. The clean-up of the Enbridge spill of tar-sands dilbit in the Kalamazoo River in Michigan required 60 miles of dredging. A spill in the Fraser River or its hundreds of tributaries that the pipeline crosses could be catastrophic. Overshadowing our local concerns were the lethal consequences of rising CO2 emissions due to our federal government's plans to expand oil production for decades.

Our Liberal government promotes its promises to cap emissions from the Athabasca tar sands oil production while hiding 85% of the problem; down-stream emissions from the global consumption of the resulting oil products.

The symbolic act of challenging Affleck's injunction by sitting in the driveways of the Kinder Morgan oil-tank depots resulted in our mass arrests and exposure to the court system. The process was highly illuminating. As the proceedings developed it became clear the judges were way over their heads. They are clearly not scholars in the range of disciplines the defendants brought forward such as Indigenous law, environmental and health sciences or engineering, and they are not working in a political vacuum. As the church did the dirty work for government during the residential school era, I saw judges relying on injunctions to clear the path for the government's energy sector.

"The courts are not about 'right or wrong', or 'justice' if you will...they are there to enforce their 'Law', and protect the industries enabled by the state".

Guujaaw, Hereditary Chief of Skedans / Haida Elder



While drawing the proceedings (as cameras aren't allowed in court), I observed a stark difference between Indigenous healing circles and courtrooms that herald Baroque style coats of arms that hang near the ceiling. Directly beneath them judges are valorized at raised benches. They wear ceremonial black gowns and winged collars that date from the 15th century. When a judge enters or leaves the courtroom everyone must stand or risk accusations of contempt. I also saw how court sheriffs attempted to prevent Indigenous defendants from carrying their ceremonial drums in court, referring to them as noise-makers. In response to these entrenched hierarchies I started a satirical coloured pencil drawing entitled *Coat of Harms*.

I began by unpacking the meaning behind Canada's coat of arms, whose origins began in medieval Europe. Warriors preparing for battle tied their embroidered coat of arms over their armour so their bodies could later be identified on the battlefield. Their crests declared their kingdom and military rank. These emblems are now used to proclaim national authority and patriotism. The Canadian coat of arms was adopted from England; its white unicorn is a symbol of Scotland. It's bound in chains, captive, as a celebration of England's very first colony.



I see blatant irony when a judge enters the courtroom and sits directly beneath an emblem that enshrines conquest, enslavement and colonization by the historic British naval empire.

I've joined a growing chorus of citizens that believe it's time for Canadians to lay our coat of arms to rest as we have done with other colonial monuments. We need to preserve some versions as educational artifacts and create a new national icon that promotes relevant ideals such as equity, real reconciliation and sustainability.

National symbols can only hold relevance if they speak to our social objectives.



At the top of my *Coat of Harms*, beneath the crown, sit two mischievous beavers holding a banner. These animals are pretending to be CSIS recruiting agents attracting university graduates towards careers as spies. Following a litany of illegal activities by the RCMP the Canadian Security Intelligence Service was formed in 1982 with the goal of a more ethical agency, but as civil liberties advocates had predicted its track record became mired in breaches of Canadian law. Information from CSIS monitoring of Indigenous leaders and environmentalists has been illegally provided to a private energy company. On-going surveillance of peaceful law abiding citizens imposes a chill on our society and inhibits basic democratic principles that CSIS is supposed to defend.

I was stalked home from a peaceful Indigenous led protest against the Trans Mountain Pipeline (TMX) in recent months by an officer who confiscated my artwork. I was also shocked when a CN security officer delivered a fine to me at home three days after an event had taken place. I was one of the few people targeted because I was holding a sign that read "*Justin, That's Not Environmental Leadership, That's Reckless*". This is not the Canada I was expecting, it feels like a creepy police state. The on-going harassment of Indigenous water protectors throughout the province by the RCMP is a violation of United Nations policies that Canada agreed to uphold.

My experiences were light compared to many others such as human rights advocate Alan Dutton who was targeted by Kinder Morgan with false accusations and a SLAPP suit (Strategic Lawsuits Against Public Participation) for \$5.6 million. He and four colleagues were organizing Burnaby residents to challenge the pipeline through lawful and peaceful means. While defending himself and others he saw judges siding with this corporation at the expense of our constitutional rights regarding freedom of speech and assembly. During the well publicized debacle Kinder Morgan executives dropped their suit when they realized they were losing ground in the public eye. Dutton successfully exposed SLAPP suits as an intimidation tactic used to silence activists. His victory empowered the community by demonstrating SLAPP suits don't stand up in court when challenged effectively.

Another positive outcome of our activism is the true reconciliation I witnessed in the streets between Indigenous land defenders and their non-native allies. As Guujaaw said after decades of activism, "*If you're not having a good time you're not going to win.*" The camaraderie is deeply inspiring, we've shared food, ceremonies and blessings. We've shared stories of our upbringings and coached each other on our rights, and how to deflect intimidation. I've had the pleasure of meeting a new circle of people from a wide range of disciplines, including former oil field technicians, biologists, public health experts, fire chiefs, politicians, lawyers and civil rights activists all working to hold the government accountable. I admire all those who channeled their environmental angst in a pro-active manner through group mobilizations, fundraising events, rallies, plays, marches, hunger strikes and long occupations in cottonwood trees in the path of the pipeline. Further north the Tiny House Warriors of the Secwepemc Nation continue to commit their lives to protect their territory from TMX, the latest obstacle in their multigenerational fight against industrial incursion.

"The notion that a radical is one who hates his country is naive and usually idiotic. He is, more likely one who likes his country more than the rest of us, and is thus more disturbed than the rest of us when he sees it debauched. He is not a bad citizen turning to crime, he is a good citizen driven to despair".

H.L. Mencken, Oct.1917 (quoted in *The Prayer Book Cowboy* by author Gordon Bailey)

While much has been written about the altruistic and personal motivations of eco-activists it appears there is little research on the psychology of oil executives. Like the tactics once used by tobacco industry executives, oil executives and their lobbyists consistently attempt to block action on climate change. It's a sociopathic characteristic; to pursue personal profit with no regard for future generations. I find Justin Trudeau's passionate determination to expand oil production extremely perplexing, as economists have stated the Trans Mountain Pipeline will carry a \$17 billion deposit. To break even it would need to maintain high production levels for decades. Trudeau's announcement in September of 2019 that all future profits from TMX will be used for a green transition was another attempt to appease his critics and buy time for the project to be completed. This is not nation building, it is tearing families and communities apart. Under Trudeau's scheme Canadians are paying for TMX knowing its eroding global climate stability. The government is already spending more on severe weather adaptation and reconstruction rather than limiting emissions. Ironically this is a Prime Minister that campaigned on a platform of climate action and reconciliation.

The federal government owns TMX and the big bouquet of conflicts of interest that accompany it. It holds a tight monopoly on regulation, permitting, policing, intelligence activities, appointment of judges, promotion, advertising and the responsibility for spill clean-up. All this is paid for by the Canadian public; we now subsidize the project even further through a \$10 billion loan guarantee to insure its completion.



In the center of my *Coat of Harms* I portrayed Justin Trudeau and Stephen Harper sharing a joke on the shield. They're chuckling because many of the Conservative's Draconian laws have been seamlessly adopted by the Liberals in spite of Trudeau's election promises to rescind them and provide a more accountable government. Abuses of parliamentary democracy and secret Orders in Council that limit freedoms and access to information have increased. The Trudeau government now has unaccountable powers through Bill C-59.

"I once speculated out loud, in front of an audience of hundreds, what would happen if I strode up to the prime minister of Canada and pronounced, Joan [of Arc]-like, that I have seen the future in which he leads the global fight against climate change, beginning by giving up his reliance on campaign funding from the fossil fuel industry"

Gabor Mate, from The Myth of Normal, Trauma, Illness & Healing in a Toxic Culture.

My portrait of Stephen Harper is surrounded with banners that read; *MUZZLE SCIENTISTS, Centralize Power, Preventive Detention and Tricks*. Surrounding Justin Trudeau's image the banners read; *MASS INJUNCTIONS, Incarcerate Protesters, Influence and Turn 180*. I feel these terms convey political legacies that have re-shaped this country for the worse and left many Canadians feeling betrayed.

I aligned myself with *Protect the Planet / Stop TMX*, a Burnaby based coalition that works to raise public awareness of on-going habitat destruction. My contribution took the form of sculptural signage as a counter-offensive to the government's slick advertising which often depicts happy teams of pipeline workers in beautiful settings. I sometimes created these projects outdoors adjacent to TMX construction fences. I attracted interest

and discussion from a largely supportive public, and from the odd heckler, but I didn't feel I was addressing the core problem; a judiciary that hides behind the law. I felt the need to sculpt a large anti-monument to address the problem. It needed to carry equal authority to Jack Harman's traditional bronzes. Using my courtroom drawings as a reference I conceived of three kinetic ventriloquist dummy judges under a 3-dimensional relief based on my drawing *Coat of Harms*. Like clowns, I've always found ventriloquist dummies to be haunting as it's not clear whose voice is speaking or where the intelligence lies. They're a timeless metaphor of a hidden or ill-conceived agenda. I wanted the whole piece to be wheeled so it can move in the streets or stand parked in the context of the public gallery. The title would be *Chambers of Predetermined Outcomes / Gatekeepers of Justice*.

I submitted an application for a grant to create this piece to the British Columbia Arts Council. I was fortunate to receive two letters of support from Indigenous leaders; Kwitsel Tatel and Guujaaw, who stated my work would be a good investment. The BCAC jury approved my project. I launched into the sculpting in the spring of 2021.



While sculpting the relief in white oil-clay the composition became fully 3-dimensional as Justin Trudeau's right arm, which is disguised as the lion's arm, emerged to hold a metal halo with the engraved text **IGNORE INDIGENOUS LAWS**. This speaks to England's failure to uphold its obligations to Indigenous peoples as defined in the Royal Proclamation of 1763. Generations of Indigenous leaders have reminded the British Crown of its responsibility to ensure Canada recognizes treaty rights and to treat Indigenous people fairly and honorably. These obligations became Canada's own rule of law when the authority of the Crown shifted to Canada through the patriation of the Constitution in 1982. This founding law is consistently ignored by our judiciary, including Judge Affleck, now retired, and all the judges who continue to defend his injunction. Ironically these judges repeatedly state they are upholding the "Rule of Law".



When I modeled the three judges in clay they were too crowded at their bench so I locked their arms together the way protesters defend themselves from being dragged away by the RCMP. Once they were cast in acrylic polymer I installed mechanisms so their heads shake in solidarity, their jaws move so they can speak; their arms pound on their bench and their mirrored eyes reflect a myopic view of the courts.



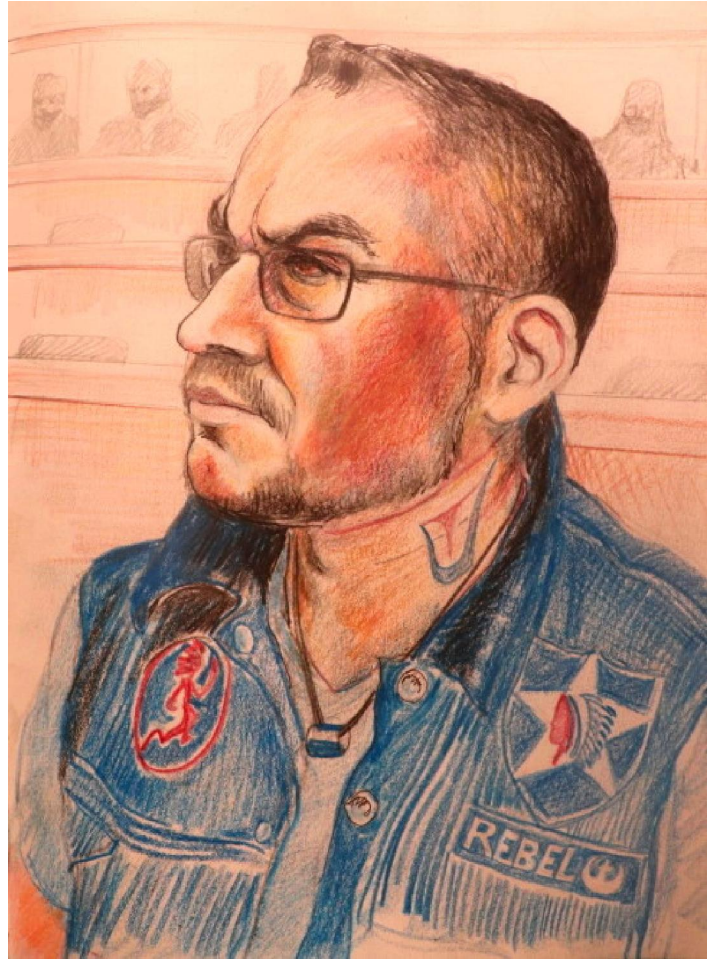
The piece is interactive and I'll invite the growing body of activists being jailed for criminal contempt to pull the levers and make the judges "speak"; to mimic and mock the way they enforced their injunction like a legal Billy-club. Perhaps this will bring power relations to the surface and provide some comic relief.

One of the many reasons I took a stand against the Trans Mountain Pipeline was to support the Tsleil-Waututh people of Burrard Inlet who have never consented to the bitumen tanker terminal on their ancestral shores where they have lived since time immemorial. Following decades of work to mitigate industrial pollution the Tsleil-Waututh recently celebrated their first clam harvest at Maplewood Flats. I've sailed their beautiful waters of Indian Arm and worked with their youth at Capilano University in our former Studio Art Program. I've witnessed their long fight to stop Canada's construction of the Trans Mountain tanker terminal. Justin Trudeau met with an individual (Indian Act) elected chief in Salish territory to establish Indigenous approval for the pipeline while strategically avoiding the Tsleil-Waututh and the Secwepemc people of central British Columbia. These nations have never consented or been properly consulted in spite of the government's claims to the contrary.

Will George is one of the many Tsleil-Waututh Nation members at the forefront of the resistance.

Referring to an event where he helped place an abandoned car in the driveway of the TMX oil tank depot in Burnaby, Judge Shelly Fitzpatrick (sitting on the left in my composition) asked him in court how he would feel if someone left a car in his driveway. Will responded; "They've been parking in my driveway for 150 years". This judge has repeatedly revealed how little she understands Indigenous culture and the legitimate reasons for their actions. It became apparent in court she didn't even know the location of Tsleil-Waututh territory.

I felt I was in a courtroom of the 1930's when Indigenous people were imprisoned for potlatching. I felt sickened and embarrassed listening to her proceedings that perpetuate the colonial agenda of dispossession. Fitzpatrick took over the role of prosecuting TMX defendants when Judge Affleck retired. Affleck, (who sits on the right in my composition) was a former lawyer who defended the corporate tobacco industry.



In June of 2018 SFU philosophy professor emeritus Ian Angus' was the first of hundreds of defendants to plead guilty to breaking Judge Affleck's injunction on the condition he could make a 10 minute statement. It was a brilliant move as a lot can be said in 10 minutes. Affleck accepted the arrangement hoping to set an expedient routine for convictions. Angus articulated his logic in a manner that was indisputable; he paid a \$500 fine and returned to his writing studio where he would be the most effective.

Of the hundreds of defendants many plead not guilty and some appealed their convictions.

https://www.climatedisobedience.org/statement_of_ian_angus

Following Angus' lead, I used my 10 minutes to compare Lord Affleck, as he wanted to be called, to two former B.C. judges from different eras that held diametrically opposing world views. The first was Sir Matthew Baillie Begbie, the first Chief Justice of the Crown for British Columbia. He owned land in B.C. but believed Indigenous people can't own land unless the Queen of England bequeathed it to them. Under his jurisdiction five Tsilhqot'in chiefs who paddled to Victoria with a promise of respectful meetings were incarcerated and hung for protecting their land from confrontational road building crews during the gold rush. Affleck appeared pleased by my comparison. The other Judge I cited was Thomas Berger who in 1974 was tasked with assessing the proposed MacKenzie Valley Pipeline. Affleck was visibly annoyed as I described how Berger spent 4 years meeting with Dene, Inuit and Métis in 35 communities located in the path of the proposed pipeline route. After carefully weighing the economic advantages against the social and environmental costs Berger concluded it wasn't worth proceeding with the project until Indigenous land claims were settled. The (then) Minister of Finance Jean Chretien was furious and told Berger he'd come to the wrong conclusion.

Lord Affleck put an end to his 10 minute statement allotment after Ian and I had spoken.

During the proceedings a young Indigenous defendant stated his ancestors had lived in the pathway of the proposed TMX pipeline "since time-immemorial". Affleck scoffed at the term, questioning its legitimacy; meanwhile we defendants were trying to understand legal jargon and courtroom protocols that were completely foreign to us.

While providing court support I saw scores of citizens incarcerated who deserve awards for their extraordinary work. Simon Fraser University professor and public health scientist Dr. Tim Takaro specializes in occupational and environmental health and the impacts of global warming. As an intervener during the review process for TMX his warnings were ignored. He bivouacked high in the trees of the pipeline corridor for 40 days while providing live educational seminars from his perches. He was sentenced to 21 days, as was UBC Professor William Winder. The Anishinabe activist Stacy Gallagher was sentenced to 90 days, he is still appealing. Errol Povah a former Sea Shepherd crew member served 40 days in jail. Indigenous elder Jim Leyden was jailed for 30 days, his heart medications were delayed and he suffered spider bites in jail that landed him in hospital on his release, he was later sentenced to an additional 45 days, which he is appealing. Extinction Rebellion member Brent Eichler protested TMX and old growth logging with a 32 day hunger strike, he served 30 days. Poet and author Rita Wong was sentenced to 28 days in jail.

The brilliant 21 year old 3rd year history student Zain Haq is on a study permit to attend Simon Fraser University. Through the threat of a hunger strike he successfully worked with other students, faculty and staff to have SFU divest from fossil fuels while encouraging McMaster University to do the same. Employing the civil rights movement as a model he's been very active in protests to mobilize Canada towards climate action. He is now threatened with possible deportation to Pakistan. Border Services considers him a national security risk. Haq questions why his actions are deemed illegal while the government's failure to act in a global emergency is not. His court hearing was closed to the public and the press for "*the benefits of life liberty and security*", which in the judge's opinion "*outweigh the negative effect of limiting freedom of expression*". Haq is an inspiration to youth suffering from climate anxiety and his leadership skills are a threat to the status quo. He knows that life, liberty and security are being eroded by climate change. He also knows our social stasis is grounded in fear; many concerned citizens are fearful of the authorities, the authorities are fearful of social change. His deportation would be an exercise of national cowardice, a transparent attempt to silence the kind of person that will stand on the right side of history.

Emily Kelsall and Métis member Maya La Framboise were jailed for frolicking in the mud of a pipeline construction site in their inflatable T-Rex outfits. This TMX site is adjacent to Burnaby Mountain Secondary School below the oil tank "farm". Their hilarious actions engaged the public while raising the issue of species extinction exacerbated by oil-sands extraction and development. Their actions also portray injunction judges as

dinosaurs. Following her sentencing Emily pulled on her T-Rex hood and tenaciously roared at Judge Fitzpatrick. The packed gallery of supporters were enthralled, but the judge showed no humor, she cleared the gallery and extended Emily's sentence by seven days. Her attempt to thwart our youth seeking environmental justice was Draconian. These young women are being sent to the "Alouette Correctional Centre for Women", but it's Judge Fitzpatrick and her colleagues at the bench who need correctional training in areas of treaty rights, Indigenous law, climate science, eco-anxiety and judicial responsibilities to consider evidence in court.



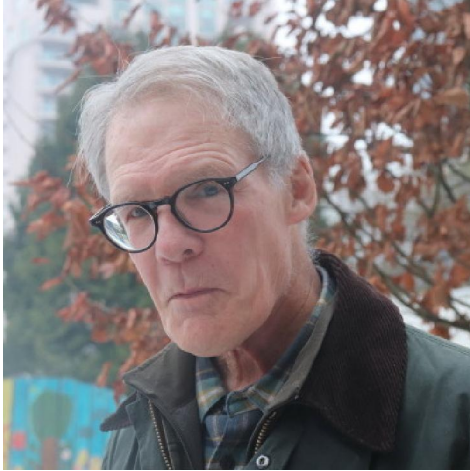
Many other activists across the province are awaiting trials and sentencing.

"I know there's no justice"

Beau Dick, Kwakwaka'wakw artist/chief (1955-2017)

"No Good Deed Shall Go Unpunished", a classic slogan often uttered by Bill Reid, Haida artist, (1920-1998)

Of all of the defendants I believe it was retired Vancouver lawyer and artist David Gooderham who understands the inner workings of the law and provided a thorough science based challenge to the court. He and his colleague, science educator Jennifer Nathan dedicated years compiling statistics regarding Canadian CO2 emissions and future green-house gas projections due to the TMX and Enbridge Line 3 expansion projects. They saw that Canada is greatly exceeding its emissions reduction targets and our government's claims of substantial emissions reductions by 2030, and net zero by 2050 are fallacies. David also described the impossibility of legal or political alternatives to civil disobedience to stop the pipeline, as the judges suggested they should have. He cited several cases including one against the National Energy Board by the City of Vancouver with its large budget for litigation. The city wanted the NEB to include downstream emissions in its environmental impact assessments, but their case was dismissed by the federal court. It is clear there are no legal or political avenues for citizenry to challenge the omnipotence of the federal government's energy projects, and even if it was possible the timelines of court hearings can take years while pipeline construction continues.



On the day of Greta Thunberg's first *School Strike for the Climate* in Sweden, David sat in front of the gates of Trans Mountain's Westridge pipeline terminal in an act of peaceful **Defence of Necessity**. Jennifer was also arrested at a gateway sit-in.

"*Defence of Necessity*" means a citizen is free from liability if a typically illegal act is performed out of necessity. For example, if you see kids in a burning house you can kick a locked door open to save them without fear of reprisal. The courts have recognized the importance of "Defense of Necessity" in some states in the USA where pipelines have been challenged.

In Europe the scientific evidence regarding the catastrophic implications of rising CO2 emissions has been accepted in court hearings in Ireland, Germany, and the Netherlands. The highest court in the Netherlands has ruled that the Dutch government is legally obligated to accelerate its emissions cuts by 2030. That ruling was based on similar evidence David and Jennifer presented to the B.C. Court of Appeal, which the judges refused to consider. Our B.C. judges showed no interest in global case precedents.

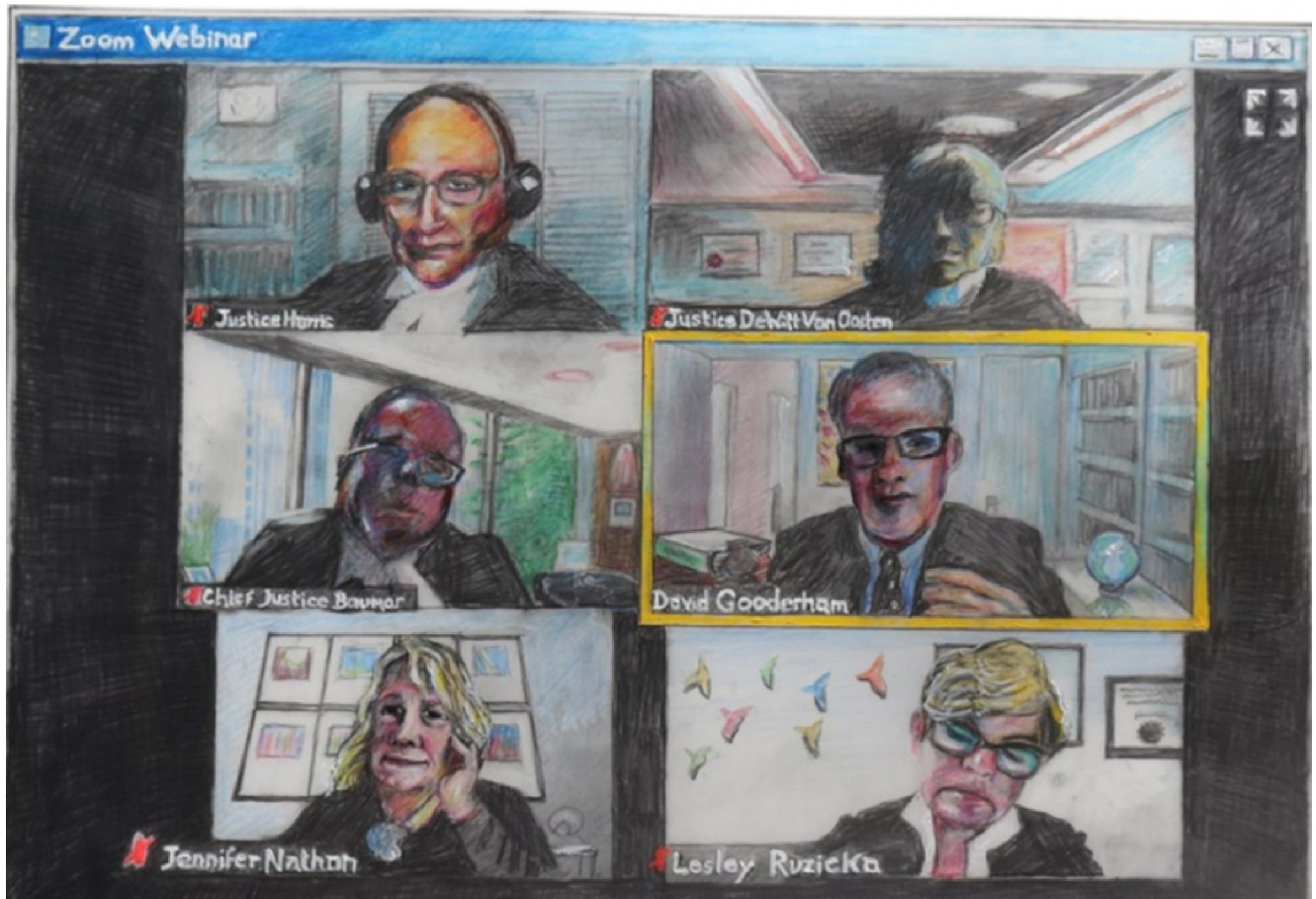
A year following their arrests David and Jennifer's case was heard by Judge Affleck. This was the first time that detailed scientific evidence regarding the gravity of the unfolding climate peril was presented in a Canadian courtroom. Affleck rejected their defence claiming there is no "air of reality" to their claims, that "there is a contingency", that "social measures" may be adopted in the future sufficient "to prevent such a dire outcome" of climate collapse, so a very grave outcome "is not a virtual certainty", but is in the realm of what is "foreseeable or likely". He didn't explain what these contingencies or social measures were, he was simply riding on the modernist trope that technology will save us. He speculated that the danger of global warming is not an "imminent peril".

David explained; *"there is no evidence on record to support the judge's inference that social measures will be undertaken within the next 10 years by the world's industrial countries to achieve the required very deep and rapid emissions cuts, or even that cuts on that scale could be achieved. None of the available evidence shows that countries even intend to make reductions that could remotely close the emissions gap"*.

"We went to the courts for help ...by the spring and summer of 2018 we had run out of time to rest our hopes on the democratic process to halt this unfolding catastrophe. So far, all our institutions have failed us"

We are living at a time when moral authority lies beyond the present day Judicial system.

Richard Powers, *The Overstory*.



David and Jennifer launched a very expensive appeal. They eventually sat in front of their computers at home for an impersonal Covid-style zoom tribunal headed by Chief Justice Robert Bauman, (portrayed in the middle of my sculpture). To play it safe I drew the proceedings from my home computer screen as I didn't know if there are new rules regarding photography of a zoom-case. Unfortunately the judge's domestic lighting obscured their faces. As with Judge Affleck this tribunal of judges couldn't dispute the defendant's empirical evidence or challenge the climate scientists they wanted to call as witnesses for an examination of the facts. From the distance of their home screens, without physical proximity, they simply punished David with a 28 day jail sentence for Criminal Contempt. This wasn't a virtual punishment; David was going to bricks and mortar prison. With the historic line of judicial buffoonery Chief Justice Bauman told David; ***You could have chosen to do nothing and let the process unfold, as unpalatable as it may be to you.***



This means accepting Canada's expansion of oil production; a major contributor to a planet that's 3.2 degrees warmer than pre-industrial levels by the year 2100. I see Bauman's verdict as a historic failure of justice at the tipping point of the climate crisis. I believe this case deserved judges with the integrity to recognize the significance of the evidence the defendants brought forward. As emperor Nero fiddled while Rome burned these judges sat in their positions of privilege. They won't be the ones dying in heat waves, losing their homes to wildfires or losing their crops to floods and droughts. Based on their on-line ruling, if you see kids in a burning house; as unpalatable as it may seem to you, don't be tempted to force the door open to save them because *you have a choice, you should do nothing and let the process unfold*. In other words be a good Canadian, stay home and do nothing.

The most perplexing aspect of Justice Bauman's position is that he gave a speech at the Canadian Institute for the Administration of Justice in 2021 that serves as a critique of his own practice. He described the importance of listening to stories, yet he refused to take David and Jennifer's evidence seriously. He also spoke of how the courts can lose their relevance when the judiciary hides behind the law, which is precisely how he and his tribunal behaved.

He stated; *..."it's a myth that a judge can always discover the substantive, real world truth behind a matter. But legal truths are none-the-less a core function of the courts..."* *"We must hold space for hard conversations, and be willing to be wrong". "Our jealous need for control is destructive"*

David spoke to me of doing 21 days in a cold jail cell with only a thin mattress. The noisy cells were stacked in tiers with bright lights shining 24 hours a day.

Following his incarceration David was invited to testify at the *Parliamentary Standing Committee on Natural Resources in March of 2022*. Rather than feeling defeated or bitter he participated with the best intentions. Unfortunately it turned out to be a promotion for carbon capture initiatives for the oil industry, to be paid for through public subsidies. While carbon capture technology appears promising on the surface, it's being used as an excuse for expanding oil production, and it doesn't exist where oil products are consumed. David was deeply disappointed by the presence of many oil lobbyists who had strong support from federal politicians. David found the Bloc Quebecois and Member of Parliament Charlie Angus to be the only enlightened political forces present. David stated "Angus repeatedly and fearlessly raised the hard questions of climate change".

David has recently exposed the federal government's false claims that it doesn't have the power to cap oil and gas production by the provinces. He explains the federal government has the full constitutional power to refuse offshore oil projects such as Bay Du Nord, and it has exclusive constitutional power to approve or reject the construction of new oil pipelines. Also, the federal government's new Greenhouse Gas Pollution Pricing Act (GGPPA) that imposes a carbon price across all provinces is well within its constitutional power (even over the objections of provincial governments) to impose a substantial and rising carbon price on all oil producers. Unfortunately the Liberal Government has deliberately chosen to impose a very minimal carbon price on oil producers to keep Canadian oil flowing to global markets.

David and Jennifer are now working towards a campaign to launch an Independent Public Inquiry.

Go to; Gooderham Nathan / independent inquiry

"This proposal is a call for the government to appoint an independent public inquiry to determine what future levels of oil and natural gas production would be safely aligned with a global effort to limit warming to 1.5 degrees Celsius. It will also ascertain whether the government's existing plan to continue increasing the annual

level of Canada's oil production and oil exports to 2030 and 2040 are compatible with the solemn commitments made by the liberal government under the Paris agreement in December of 2015".

I believe it's imperative that environmental organizations across the country support David and Jennifer's determination to launch an independent evidence-based public inquiry. I believe their inquiry, combined with Indigenous demands for justice are the pivotal tools to stop TMX before the bitumen starts flowing.

Footnotes;

* I'm indebted to The British Columbia Arts Council for their financial support to make this art project a reality.

* I also want to thank two Indigenous leaders; Kwitsel Tatel and Guujaaw, who wrote powerful letters of support for my proposal;

Kwitsel Tatel has been a tireless land and water defender and advocate for Stolo culture. She is an Indigenous rights activist and served as a matriarch at Camp Cloud in Burnaby where improvised dwellings contained a ritual fire pit. The media repeatedly portrayed these peaceful and well educated Indigenous land defenders as homeless radicals with a dangerous fire; a claim the Burnaby Fire Marshall denied. He stated the Tank Farm is the real danger.

Guujaaw is an artist, singer, past president of the Haida Nation and Hereditary Chief of Skedans. He has dedicated his life to the resurgence of Haida title to the land and sea and to protect the ecology of Haida Gwaii. He works towards the resurgence of Haida culture through a range of disciplines including potlatching, canoe carving, singing, and the transmission of oral traditions.

* I've quoted David Gooderham throughout this statement. While he has relentlessly demanded environmental justice over the past five years he has always maintained respect for the judicial process, in spite of its severe shortcomings. David wrote "*the law has an extraordinary integrity and capacity to address the most complex and vexing conflicts*", but I believe that's only possible if the judiciary is considering expert evidence and not working to predetermined outcomes and a dependence on the injunction process.

* Jennifer Nathan has dedicated years compiling and teaching the science of CO2 emissions and global warming. I dedicate this sculpture to her and David, to Dr. Tim Takaro, the Tslei-Watuth of Burrard Inlet, the Secwepemc and all their allies working in various fields across the province. These teams deserve major awards for their work rather than incarceration. I hope the humor in my piece conveys the ludicrous injustices they and many others continue to endure and I hope it functions as praxis towards structural change to our judicial system.

*I often contemplate the enormous work ethic and sacrifices Indigenous leaders have made fighting TMX, such as Grand Chief Stewart Phillips, Chief Judy Wilson, Reuben George and Kanahus Manuel. This is only one feud in a multigenerational fight Indigenous Nations are facing across the country. Like the Wet'suwet'en fighting the Coastal Gas Link Pipeline, the Coldwater, Secwepemc and Tsleil-Waututh are confronting a government that pushes extraction and resource megaprojects through their land without free, prior and informed consent. Indigenous allies in the TMX resistance include social justice activist Kris Hermes who has kept us informed of complex court proceedings over the last 5 years. Artist/educators Rita Wong and Pia Massie have nurtured community activism through their respective writing and art workshops. Sara Ross and Donna Cark of *The Community Nest Finding Network* stopped TMX construction for a 4-month period in 2020 to

protect nesting Hummingbirds. Former Trans Mountain engineer Romilly Cavanaugh, who was recently arrested in Kamloops, confirmed our fears that only 10% of a bitumen spill in the sea or rivers could likely be recovered. SFU professors Lynne Quarmby and Maureen Curran have worked extensively to educate the public and hold the government accountable, as has David Suzuki, ecologist Christine Thuring and biologist Karl Sturmanis. Peter McCartney of the Wilderness Committee has been a determined crusader for environmental justice, while economist Robyn Allan has repeatedly exposed the financial liability of TMX. The Cree writer Thomas Clayton Muller worked here on the coast while campaigning globally with 350.org. Coalitions are continuing to expand, they include *The Canadian Association of Physicians for the Environment*, *Protect the Planet/Stop TMX*, *Dogwood, BROKE*, *Sustainabilityteens* who organize monthly marches, *Youth Stop TMX*, *For our Kids*, *Babies for Climate Action*, *Extinction Rebellion Vancouver*, *SFU 350* and *RAVEN* (Respecting Aboriginal Values and Environmental Needs), *Raincoast Conservation Foundation*, *Ecojustice*, *Stand.earth* and the *Living Oceans Society*. Divest from RBC actions are gaining momentum. Alison Bodine and Thomas Davies held years of rallies through *Climate Convergence*, raising awareness through on-going banner drops and zoom seminars. Many of their placards of children and endangered species were painted by the late Marta Robertson-Smyth who hosted group studio sessions until her untimely death in December of 2020. That same year Mairy Beam and the *Sinister Sister's Collective* launched their play *Irreparable Harm? A Tale of Trans Mountain Resistance*. Earl Peach's music and *Solidarity Notes* choir are great examples of citizens using their professional expertise to build momentum and raise public awareness. Eugene Kung and his colleagues at *West Coast Environmental Law* have been protecting the environment for decades. *The Tyee*, *The Narwhal*, *The Breach* and *Leadnow* have published many excellent articles on the climate emergency. The work of large environmental coalitions is the battery of this movement, but it all requires the work of individuals such as Maurice Jackson whose energy and humor encourages volunteerism at rallies and events. This groundswell of action; campaigning, legal advice, training, and fundraising is commensurate to the human hours involved in the pipelines construction.

*To avoid systemic colonial authority of the courts, I believe Canadian courthouse architecture should embrace Indigenous values. I would like to see new courthouses designed with circular hearing rooms, where all participants sit at the same level. Traditional courthouse structures are merely Western constructions that should be re-formed to adapt to changing social needs. Our existing courthouses could be adapted to social services and healing.

I believe sensitivity training and retraining of the judiciary in areas of Indigenous Rights and climate science would have a very limited effect. If judges were nominated from the humanities, arts, sciences and Indigenous nations court outcomes would take a dramatic shift towards justice.

*Haida artist Bill Reid often muttered the old aphorism; *No Good Deed Shall Go Unpunished*. In an act of civil disobedience, Bill Reid sat carving on a logging road at a blockade on Lyell Island in 1985. He was arrested with 75 Haida citizens and allies. These arrests eventually contributed to a movement that protected the South Moresby archipelago and the establishment of Gwaii Haanas National Park Reserve and Haida Heritage Sites.

I made an edition of ink-jet prints of my coloured drawing entitled *Coat of Harms*, one of which was in the Haida Gwaii Museum's exhibition *Hlk'yak'ii / To Start A Fire* in 2021, it remains part of their permanent collection.

* The National Energy Board (NEB) was replaced by the Canadian Energy Regulator (CER) in August, 2019. Like its predecessor this board refuses to consider Indigenous and civic opposition, downstream emissions, global warming, impacts to the orca population in the Salish Sea and a host of other environmental issues. It is heavily criticised for its narrow parameters and bias towards pipeline construction at all costs.

* I believe Seth Klein's book *A Good War, Mobilizing Canada for the Climate Emergency* is a must read for all Canadians. He compares the magnitude of social change needed to avoid climate collapse to the Canadian war

effort of the 1940's. He holds an optimistic view that we can transform our society towards a sustainable future if we act quickly and decisively.

* *The Petroleum Papers, Inside the Far-Right Conspiracy to Cover Up Climate Change* by Geoff Dembicki is a highly revealing expose of the oil industries decades-long attempt to hide dire warnings from their own scientists regarding CO2 emissions.

* *The Comeback* by John Ralston Saul describes our responsibilities to uphold treaty obligations with Indigenous nations. These obligations are consistently ignored by the judiciary penalizing Indigenous opponents of mega-projects and extraction industries.

*While planning my *Chambers of Predetermined Outcomes* I considered the conceptual-environmental work of Mel Chin and the ceramic caricatures of military generals during the Vietnam War by the late California Funk ceramic sculptor Robert Arneson. I also embrace the "artist" work of Hans Haacke who exposes the hypocrisy of art philanthropy by liberal institutions. My main guide was a piece I made in 2014 of the president of Capilano University and her poodle entitled *Blathering On in Krisendom*. The piece drew attention to illegal cuts to our art programs. It was seized and destroyed by campus security. Administration has never apologized for this vandalism. When they were eventually forced to return the shards I rebuilt them into a more elaborate version entitled *Margaux and the Monarch*. This artwork is censored in perpetuity at Capilano University but it is now part of the permanent collection of the Museum of Vancouver.



I find it interesting how viewers are intrigued by the back of my piece where the metal armature supports the stage like edifice of the court. The contrast between the frontal appearance and the utility of the bracing is a metaphor of judicial pretence and its props holding up an elaborate allusion of justice.

I find it ironic I'm using this device of the exposed armature in the studios that the late Geoff Smedley designed, built and worked in for decades. He was a preeminent post-modern sculptor who referenced Renaissance architecture through his sculptural facades and their supporting structures throughout the 1980's.

* I modeled two relief portraits of Justin Trudeau for the coat of arms; one with a beard and one without so the panels can be changed. If you see he's changed his beard status and I'm not around please key the other panel in from behind. It will be under the bench.

My wife Nancy Brignall has been fully supportive throughout the making of this piece, and many other projects and actions, even when I was arrested, detained or spending long periods in court supporting my colleagues. She has shared her keen perceptions and celebrated my discoveries along the way. She also tailored the judge's gowns and assembled the digital imagery for this essay.

My son Coulter has kept me functioning in our Gambier Island studios with coaching on welding techniques, welder repairs, lighting and assistance moving the components of my sculpture between studios.

Artist/architect/designer and friend Charles Dobson provided the help I needed to have wildfire videos on the judge's laptops and a forthcoming animated video of the ventriloquist dummy judges in action. This isn't the first time Charles has come to my rescue by graciously sharing his ideas, skills and enthusiasm for my projects.

I'm grateful to author, philosopher and friend Ian Angus (Professor Emeritus, Department of Global Humanities, SFU) who immediately responded to this sculpture with the initiative for an unveiling and panel discussion. David Gooderham, Kris Hermes, Gordon Bailey, Zain Haq and Dr. Tim Takaro all contributed their knowledge and insights for this statement.

I anticipate the judges I portrayed may not see the humor in my work. While the halls of the courts have traditionally been decorated with sculpture, paintings and photographs of judges, this anti-monument was commissioned entirely by my own conscience, with the financial support of the B.C. Arts Council. There could be attempts to censor my work or I could be charged with contempt of court. If there's an attempt to silence this legitimate piece of satire I'm prepared to accept that as an enhancement of the work.

<https://indiginews.com/arts/artist-unveils-sculpture-mocking-colonial-tmx-judges-theyve-got-blinders-on>



During the first months of 2021 my sister Terry and I provided our mom with end of life care at her home beside Queens Park in New Westminster, she was 96. I was painting protest signage to protect Brunette Creek in her living room. She reminisced about how much she enjoyed watching me carve and paint as a kid, and how we'd often walk down the hill together to Hume Park from our suite in Sapperton. She loved nature and she was pleased I was doing the best I could to save the creek, the marsh, and all its wonderful creatures.