

Foreword

“An Immense and
Enduring Contribution”

RUSSELL BROWN

Justice
Supreme Court of CanadaWeb: [https://www.scc-csc.ca/judges-juges/
bio-eng.aspx?id=russell-brown](https://www.scc-csc.ca/judges-juges/bio-eng.aspx?id=russell-brown)

Five years ago, I attended the “Cambridge Lectures,” organized bi-annually over five days at Queen’s College, Cambridge by the Canadian Institute for Advanced Legal Studies. The topics were a mix of the weighty (“Law and Religion”) and the stimulating (“Shakespeare and the Foundations of Constitutional Thought”). After three days, most of us were starting to wonder how as younger people we’d ever endured years of sitting through long lectures in tight quarters.

On the morning of day 4, Professor Susan Haack arrived for her advertised discussion of “Justice, Truth and Proof: Theory and Practice.” I had previously cited some of her work in my own scholarship, so I had an inkling of what to expect. But only an inkling. For the next 90 minutes before a house packed with some of Canada’s leading jurists, she delivered a master class on a subject intimately connected to much of our work, but which taken as a group we did not know about, assumed but did not think about, or knew about but usually got wrong: epistemology and, more precisely, the epistemological concepts that the law wields in applying burdens of proof, weighing evidence, and finding facts.

A gifted teacher, Susan (if I may) removed the blinkers, prompting a cascade of questions from her listeners. What of *Daubert*? What of (so-called) statistical “proof” of causation? Is legal fact-finding the same as scientific fact-finding? Gently, but firmly, and in an engaging and deeply interdisciplinary way that saw her drawing from philosophies of science and law, she helped us sort through our confusions about the epistemological concepts with which we lawyers must daily grapple. And, of course, she left us with a reading list in the form of several chapters from her new book, *Evidence Matters*—which has since been cited at my Court for helping my colleagues and me to understand and explain the distinction between scientific and civil standards of proof.

As Susan reminds us in *Evidence Matters*, “the law is up to its neck in epistemology.” It takes a gifted philosopher to appreciate it, but a gifted teacher to help the rest of us understand just what that means for how we go about our daily work. In this subject, among many others, Susan’s contribution has been immense and, I can personally attest, enduring.

Of course, many of us will continue to get it wrong. But where we get it right, I will always think that it all started one sunny Thursday morning at Queen’s College, Cambridge, when an eminent philosopher responded to the (to put it mildly) unenviable call to teach a thing or two to a roomful of cramped and lecture-weary lawyers.

I hope Susan will accept my warmest congratulations on this volume of essays compiled as a tribute to her inestimable contributions. I am also grateful to the editors for inviting me to offer these few words.