

Canada's Progressive Trade Agenda and a Free Trade Agreement with China: Are They Incompatible?

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Summary

The “non-market” clause in the just-concluded update of NAFTA, now known as the U.S.-Mexico-Canada Agreement (USMCA) would appear to limit Canada's options in terms of negotiating a free trade agreement with China at the present time (given the de facto U.S. veto over a Canada-China agreement that it provides), yet Prime Minister Trudeau has already reaffirmed Canada's intention to pursue closer economic ties with China despite this apparent limitation. If negotiations proceed, negotiating a free trade agreement (FTA) with China will be very different from negotiating one with a country that shares Canada's Western values. However, a trade agreement with China makes good economic sense, and while there are some unique obstacles to reaching such an agreement owing to differing views of progressive trade, these are not insurmountable. In fact, Canada can use the same models in negotiating with China that it has used with Western countries. Such an approach combines trade goals with respecting Chinese cultural and political differences, particularly those that fall into the category of progressivism. This category includes labour rights, Indigenous and gender issues, and governance.

Prime Minister Justin Trudeau's government has been focused on progressive elements in trade deals, while China has made it clear it is not interested in including them in any such pact. Concluding an agreement would mean that China and Canada must both recognize the political requirements and dynamics on the opposite side of the negotiating table, while seeking common ground diplomatically.

Side agreements such as those that exist in the original NAFTA and in the Comprehensive Economic and Trade Agreement (CETA) are one way to work with the two countries' differences. Many of the provisions in a side agreement are not binding and thus not subject to the agreement's dispute settlement mechanism or trade sanctions. Instead, they are more aspirational and sometimes lay out a process for civil society groups to raise issues and help the thinking on those issues evolve, rather than simply holding the parties accountable for breaches.

Canada is rightly concerned about Chinese stances on human rights, labour, environmental and gender issues. However, instead of including these issues in the main document on trade, they can be dealt with as shared interests between the two countries. Establishing separate but parallel mechanisms to deal with these issues would be a practical way to make progress.

Focusing on micro, small and medium-sized businesses as one Chapter of the Trans-Pacific Partnership (TPP) did, could be another successful approach. Women own many of these businesses in developing countries, so such a focus would make a substantial contribution to their welfare.

None of this means Canada should kowtow to China or look the other way on important values and issues. Side agreements and special focuses have formed parts of agreements with other countries that already share Canada's Western values. This type of give-and-take is present even when Canada negotiates with countries that are not polar opposites. No country's interests are exactly the same as those of any other and it's unrealistic to expect unanimity on every issue.

Language and firm commitments on progressive issues are still evolving in many of Canada's free trade agreements, including the USMCA. It would be unreasonable to hope that everything can be achieved in an agreement with China on the first go-around. Rather, viewing a trade agreement with China as a work-in-progress means controversial elements can be brought into the negotiations and language used that reflects the understanding that these issues are evolving.

It will require creative thinking, flexibility and joint commitment to find a solution, but—assuming that the USMCA does not rule out Canada-China negotiations toward a trade agreement— it should be possible to find sufficient common ground without having to resort to obfuscation and “creative ambiguity”.

Main Paper

“By keeping our borders open and pursuing progressive trade deals that put people first and reflect our values, we give our businesses access to more customers and we give our customers greater access to the goods they want.” Prime Minister Justin Trudeau, in a speech to the Fortune Global Forum in Guangzhou, December 2017.
Bloomberg.¹

“We think that the notion of progressive trade maybe is not a good factor in the negotiation of an FTA because we don't like factors which (have) no relation with commerce and trade (to be) included in the negotiations.” Lu Shaye, Chinese ambassador to Canada, April 10, 2018.

CBC Report.²

On the surface, there would seem to be an irreconcilable difference of opinion between Canada and China when it comes to the question of what should be covered in a trade agreement between the two countries. A Canada-China free trade agreement (FTA) has been talked about for some time. To prepare the ground, the two governments undertook a “complementarities study”³ (Ministry of Commerce-PRC, 2012), which identified a number of sectors where both sides could gain from more liberalized trade rules. This study sat on the shelf during the Harper years, but the current government resurrected the idea of negotiating a bilateral agreement with China and a bilateral working group was set up to discuss terms of engagement. There are good economic reasons for doing so (Dawson and Ciuriak, 2016) although Canadian public opinion reflects mixed views regarding closer relations with China. In the recent Asia Pacific Foundation of Canada national opinion poll⁴ (APF, 2017), a strong majority agreed that

there were economic benefits to be gained and 55 per cent supported entering FTA negotiations with China. However, roughly two-thirds of Canadians polled were concerned that closer relations with China would leave Canada vulnerable to Chinese economic and political pressure. In addition to specific concerns about China, trade liberalization generally is unpopular with many (although fortunately not most) Canadians, as witnessed by numerous anti-trade campaigns⁵ carried out by the Council of Canadians (2018), among others.

Into this vortex, the Trudeau government has launched its progressive trade policy agenda. The term “progressive” has a long history in Canada and its meaning has changed over time. From roots in the 1920s when the Progressive Party of Canada arose as a flag bearer of western Canadian discontent, to the label still carried by some right-of-centre parties in Canada (e.g., Ontario’s Progressive Conservative Party), it is more commonly used today to describe somewhat left-of-centre voters who oppose socially conservative world outlooks and who embrace a role for an active rather than passive government in its citizens’ lives. However, there is no one clearly accepted definition.

Meredith Lilly (2018a) at Carleton University has attributed the popularization of the term “progressive” in a trade context to Foreign Affairs Minister Chrystia Freeland. According to Lilly, in Freeland’s world view there is a link between progressive social policies and increasingly liberalized trade. This linkage was used during the endgame of the negotiations to conclude the Canada-EU Comprehensive Economic and Trade Agreement (CETA) when it appeared as if popular protests in Europe against the “investor-state dispute settlement” (ISDS) elements of the agreement would derail its final conclusion. Freeland, at the time International Trade minister, made an impassioned plea when the Belgian region of Wallonia blocked final agreement, stating that it seemed evident that the European Union was not capable of having an international agreement, “even with a country with European values such as Canada ...” (Smith, 2016). She noted later that making the case that Canada was a progressive country with progressive values played an important part in securing ratification (Lilly, 2018b). Since then, the policy framework for progressive trade has been more fully fleshed out and includes a range of issues not traditionally included in trade or economic partnership agreements, although some of these are more closely linked to traditional trade concerns than others.

Thus, while there is no single definition of the meaning of “progressive trade”, at various times it has been described as including such issues as labour rights, environmental commitments, gender, Indigenous economic benefits and even governance, which could be read as a code word for human rights. In short, progressive trade attempts to bridge the dichotomy of values vs. interests. This is a false dichotomy (Dobson and Evans, 2015) but one which has been often pointed to as a choice that Canada has to make (*Globe and Mail*, 2014), particularly when it comes to dealing with an authoritarian, single-party state like China. Some progressive elements, however, such as labour standards and environmental commitments, have a closer linkage to trade barriers (or removal of trade barriers) – and thus economic interests – than others, given their potential influence on the cost of production of export goods.

It is worth noting that very few of Canada's current trade agreements contain what could be considered meaningful progressive elements. When NAFTA was negotiated in 1994, labour and environmental issues were not part of the agreement. The addition of separate but related labour and environmental provisions through side agreements was part of the compromises made to achieve ratification. While the NAFTA labour and environmental agreements have existed for more than 20 years, and have led to some progress in labour and environmental standards in Mexico, they have received mixed reviews (Aspinwall, 2017a). Essentially, they sit alongside the agreement and provide a forum for addressing these issues, but for the most part they are not linked to binding commitments that can lead to trade sanctions under NAFTA. Under NAFTA's replacement, the USMCA, labour and environment chapters have been fully incorporated into the text of the Agreement, but the original NAFTA model is still applicable.

Likewise, CETA has chapters on trade and labour and trade and the environment. In addition, it mentions gender equity, although on the latter point there is only one explicit reference, where gender discrimination is listed as one of the grounds for claiming denial of fair and equitable treatment with regard to investment regulation (Leblond and Fabian, 2017). Other elements that could be considered progressive are contained in the Strategic Partnership Agreement (EUEA, 2017) that was signed with the EU at the same time as CETA. These include "upholding democratic principles and human rights", "advancing democracy, including free and fair elections, and the importance of the rule of law for effective democratic governance", promotion of sustainable development, reducing poverty, a commitment to fighting corruption and other associated objectives. The language is largely hortatory, non-binding and aspirational⁶ and there are good reasons for this. Trade agreements mean that countries voluntarily surrender some aspect of sovereignty (such as the ability to levy tariffs, for example) in return for reciprocal commitments from their trading partners. This willingness to curb their sovereign rights is becoming increasingly controversial, as we have seen with bilateral investment treaties (such as the Foreign Investment Promotion and Protection Agreement (FIPA) with China).⁷ To ask legislators to surrender a degree of control over what many see as purely or largely domestic issues (e.g., labour, environmental and gender legislation) is difficult.⁸

Other parts of the progressive agenda are even more removed from core trade issues in the views of some, as described by Carlo Dade, Director of Trade and Investment at the Canada West Foundation (Smith, 2018a). Gender is a good example. Although there is one reference to gender in CETA, as noted above, the first Canadian agreement to contain an explicit gender chapter (in the form of an appendix⁹ (Government of Canada, 2018a) to the original agreement) was the renewed Canada-Chile agreement signed on June 5, 2017. However, this "Trade and Gender" appendix is non-binding and is not subject to dispute settlement. At best, it is an aspirational first step to recognizing issues of gender discrimination in trade; at worst, it is a hollow declaration since it has no teeth. It was also an agreement signed with a progressive country under the leadership of a female president, Michelle Bachelet, a particular circumstance not likely to be widely replicated.

Then there is China. China has made plain its views that so-called progressive elements have no place in a trade agreement, as exemplified by Ambassador Lu Shaye's comments to the press. It has been widely reported that the main reason for the failure of Prime Minister Justin Trudeau's December 2017 visit to China to reach agreement on the formal start of bilateral trade negotiations was China's refusal to accept the inclusion of progressive elements. An expected press announcement was delayed, and when the two principals, Trudeau and Chinese Premier Li Keqiang finally appeared, all they could announce was that further discussions were required before bilateral negotiations could be launched.

This seems to have come as a surprise to the Canadian side which had reportedly been told, during Li's visit to Canada the year previous, that China was open to discussing items on the progressive agenda. What happened in the interim? First, it seems that while China may be prepared to talk about certain issues like labour (or even human rights), it is not ready to commit in a press release to a long laundry list of progressive, non-core topics that could end up being baked into a negotiating agenda. Second, China is becoming more assertive, as exemplified by the results of the 19th Party Congress and the First Session in March of this year of the 13th National People's Congress, which extended President Xi Jinping's mandate and tightened his grip on power through a series of personnel and structural changes. China would like an agreement with Canada, but not at any cost. It is notorious for taking the long view.

However, for China there are both symbolic and real attractions to a deal with Canada. It would be the first with a G7 country, yet given the size of the Canadian economy it would be a manageable endeavour. China wants recognition that it is a market economy and this will be one of its key negotiating objectives. This objective can no longer be achieved directly through bilateral negotiations with Canada, however, given the insertion of Article 32.10 (the so-called "non-market" clause) in the USMCCA. This article, inserted at the insistence of the United States, states that any of the three North American partners contemplating negotiation of a trade agreement with a non-market economy, must inform the other two partners in advance of their intentions and objectives, and share the text of any draft agreement prior to its conclusion. The other two partners then can either approve or reject the draft agreement. In the case of a rejection, the partner that has signed the agreement has the option of either renouncing it or being, in effect, expelled from the USMCA. This "poison pill" clause in effect gives the U.S. a veto over any free trade agreement that Canada signs with a non-market economy. While China is not specifically referred to in the text of the USMCA, the definition of "non market economy" can be unilaterally determined by any of the three partners at the time of the signing of the USMCA. At the present time, China is so designated by the U.S. Department of Commerce.

This raises questions about whether Canada will be able to realistically engage with China at the present time. Of course, any negotiations will take time (the negotiations between Australia and China took more than ten years) and so Canada could engage with China in the hope and expectation that by the time an agreement is concluded, China will have achieved market economy status. (The significance of market economy status is that it affects the way in which trade remedy measures are calculated).

Prime Minister Trudeau has confirmed that Canada still intends to pursue closer trade ties with China despite the “non-market” language in the USMCA. (Parkinson, 2018).¹⁰ Perhaps an accord could be something less than a “free trade agreement”, which is the language used in the USMCA.

Canada’s recognition of China’s market economy status would mark a significant step forward toward Chinese global trade objectives. An agreement with Canada would provide China with a trade foothold in North America, in the U.S.’s backyard which in part explains the reason for the U.S. insistence on including this limitation on the ability of Canada and Mexico to conclude an agreement with China, at least for now. It is not known at this point how China will respond to this recent development. China is not only engaged in a tit-for-tat trade war with the U.S. but is also flexing its muscles and is acutely aware that whatever it may concede to Canada in a bilateral agreement will be seen as a template for other negotiations. So China is playing hardball.

The question that arises, therefore, is—should Canada-China negotiations get underway—whether or not there is any middle ground for China and Canada to be able to negotiate an agreement that meets both sides’ objectives from the perspective of progressive trade. I contend that with care and imagination the non-market is possible, although it will take time, will not be easy and could be derailed by other factors. One possible avenue was outlined in a paper last year by Robert Wolfe of Queens University (Wolfe, 2017) who suggested that Canada and China could perhaps find areas of convergence on progressive issues by focusing on their common interest in promoting the UN’s Sustainable Development Goals.¹¹ Another is the approach below where Canada and China would develop a framework agreement that would include binding commitments in core areas but where other more aspirational objectives would be dealt with in parallel ways, with non-binding linkages back to the core agreement. To move in this direction, first Canada needs to re-evaluate its insistence on openly including progressive elements in an agreement with China. Guy St. Jacques, Canada’s former ambassador to China, suggested this in an interview shortly after the failure of Trudeau’s December visit to get trade talks started. He was quoted¹² (Smith, 2018b) as saying, “There’s a need for an internal debate and maybe (to) make some revisions to the strategy. I think this is taking place now, so hopefully there will be progress in the next few weeks. There’s a bit of hard swallowing that is required.” St. Jacques also suggested that if allowed, diplomats could have found a form of words to bridge the gap between the two sides. However, Canada’s desire to push for explicit reference to progressive elements, including labour, in the press communiqué, led to the standoff. Neither side blinked, and the moment passed.

It is easy to argue that Canada should put some water in its wine, as indeed this author did back in January of this year (Stephens, 2018), although we have to be careful not to sell out our values or make concessions even before the negotiations have started. However, the message needs to be tailored to the market. What is possible with the EU, Chile or the United States (although the progressive agenda did not go down well with the Americans and is only faintly reflected in the USMCA) is a much more difficult sell with countries where there is a wide gap in both cultural values and economic development. China is a good example.¹³ While it has made remarkable progress in

lifting hundreds of millions of people (including women) out of poverty, growth in Western-style democratic institutions has not matched economic growth. In the area of labour, while China has unions, they are firmly under the thumb of the Chinese Communist Party. China is willing to commit to combating child labour and a number of other items on the International Labour Organization's (ILO) agenda, but it is not about to allow a Chinese version of Solidarity. The case of Solidarity in Poland shows that unions can become vehicles for broader public opposition to regimes and hasten their downfall.

One of the casualties of China's rapid economic growth was its environment. Air, water and land pollution are rampant, but things are changing rapidly. China is becoming a leader in renewable energy and electric-powered vehicles. It still burns a lot of coal (which Canadian and U.S. firms continue to sell to China),¹⁴ but soon it will no longer be a traditional laggard in environmental protection. This will have significant implications for an FTA in terms of China's increased willingness to reduce barriers to trade in green technologies (products and services) as it seeks markets for its own renewables industry (Chinese solar panels and wind-powered generators are a good example).

Including gender equality in a trade agreement with China might be a harder sell, as will Indigenous trade, another element of the progressive agenda. While Chairman Mao once proclaimed that "women hold up half the sky", there are only 10 females among the 204 members of the Chinese Communist Party Central Committee.

With regard to Indigenous trade, we run into problems of definition in dealing with China. According to various sources (Asia Society, 2018), China officially recognizes 55 or 56 national minorities, which could roughly be considered to be the equivalent of Canada's First Nations. However, among them are groups that exist uneasily within the Chinese state, such as the Tibetans and Uighurs, nationalities that the Chinese consider generally subversive or at least suspect, and which they go to considerable lengths to control. To state the obvious, China is never going to provide for special treatment within a trade agreement for Tibetans, Uighurs or any other group that might be considered an Indigenous minority. Canada needs to think this through as well. What would be the impact on incoming foreign investment if an Indigenous chapter endowed First Nations with a veto over certain projects, often referred to as prior and informed consent (Stephens, 2017)? This would add a major degree of uncertainty and would be certain to deter investment.

China will find it difficult if not impossible to accept the Canadian progressive agenda in the form and format that Canada would like – but it would be politically humiliating and would undermine its overall trade objectives and messaging for the Trudeau government to walk away from progressive trade, assuming there is still interest in exploring an agreement with China. Therefore, how and where can China and Canada find common ground? It will require imaginative thinking and joint commitment to find a solution, but it should be possible without resorting to "creative ambiguity". Both the original NAFTA and CETA offer possible routes to a solution.

The labour and environmental side agreements in the original NAFTA were not originally part of the pact but were added later to address specific concerns that arose during ratification. Many of the provisions in the side agreement are not binding in that they are not subject to the agreement's dispute settlement mechanism. Instead, they lay out more of a process for civil society groups to raise issues than to hold the parties accountable. Nevertheless, despite criticisms (e.g., from organized labour) that they have not been effective (CLC, 2015), other observers point out that they have led to some positive impact (Aspinwall, 2017b), although the provisions could be strengthened. Based on this experience, and using the NAFTA agreements as a base, it should be possible to find common principles in the area of labour and the environment that Canada and China could work on together.

In NAFTA, the labour side agreement gave civil society labour groups the ability to bring complaints to the attention of the other two partners' departments of labour. China will certainly not want to empower its labour groups with this ability but other mechanisms could be found to address labour issues in a side agreement. China is an ILO member and subscribes to a number of, although not all, ILO conventions (ILO, 2018). Conceivably, there could be a commitment to work together with the ILO to assist China to accede to more conventions. China, along with Canada, is also a committed member of the Paris Agreement on Climate Change, which came into effect in 2016. This agreement on fundamental environmental principles should allow the two parties to find a common landing zone from which to begin discussions for co-operation in this area.

These discussions do not need to be related directly to a trade agreement but would clearly have a long-term impact in terms of both labour and environmental standards. More important, they would be consistent with the Trudeau government's focus on these elements of progressive trade. There are various ways to do this. Separate forums or commissions could be established to cover these issues, perhaps under the umbrella of, or linked to, a bilateral trade secretariat, but without being binding on either side or being subject to dispute settlement. Even though labour and environment have been integrated into the text of the new USMCA and are no longer side agreements, the model of the original NAFTA is still valid.

The Strategic Partnership Agreement signed between Canada and the EU to parallel CETA is another form that can be used to deal with issues such as human rights and gender, issues that Canada considers to be germane to trade but which China does not want to include in an agreement. It is significant that even with an entity like the EU, with whom Canada shares many common views and values, governance issues were put in a separate agreement, and were not included in the CETA text. If we can live with this kind of practical arrangement in dealing with the EU, why could we not do so with China?

In practical terms, if Canada wants to make progress on gender issues, a focus on micro, small and medium-sized enterprises (MSMEs) would go a long way toward improving gender outcomes regarding economic welfare, since women start and operate many micro and small enterprises in developing countries. While the Australia-China

agreement does not have a chapter dealing with SMEs or MSMEs, the Trans-Pacific Partnership (TPP) had a specific chapter dealing with small and medium-sized enterprises ([Chapter 24](#))¹⁵ (Government of Canada, 2018b) that, among other things, sets up a committee on SMEs to help small business take advantage of the agreement. This provision was included in the revised TPP, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) that Canada signed in March of this year, and is non-controversial. While China is not a CPTPP signatory, there is no reason why Canada and China could not find common ground in promoting business opportunities for SMEs within a bilateral agreement, a provision that would have a positive impact on gender opportunities in business as well as assist small Indigenous businesses.

These compromises from a Canadian perspective would not be a sellout to China. Language and firm commitments on these issues, even with trading partners with whom we share common values and level of economic development like the EU and the U.S., are still evolving. It is not reasonable therefore to expect that Canada should be able to significantly push existing boundaries on progressive trade with developing countries such as China. Yet it is still possible to incorporate progressive elements into the negotiations. Establishing separate but parallel mechanisms to deal with these new issues would be a practical way to make progress.

For China, these are issues that sooner or later are going to have to be addressed, so why not find a way to deal with them in a non-threatening manner? In his interview with *The Canadian Press* (2018) when he dismissed progressive trade as not being appropriate for inclusion in a trade agreement, Ambassador Lu conceded that labour issues were relevant to trade but “not now”. In fact, China will want to discuss labour issues with Canada and have provisions relating to labour mobility, just as it did in the Australia-China agreement (Government of Australia, 2018). Given that both sides have an interest in this topic, it should be possible to find some common ground and build from there. It’s all about finding the right terminology and framework.

I suspect that the differences between the two sides are not that great, but there is a risk that hubris or stubbornness, or just plain miscommunication, could impede the launch of negotiations. Timing is always a critical factor and the right alignment of interests is important. A moment of opportunity comes when both sides are ready to launch negotiations. Extraneous factors, such as disputes with other trade partners internal politics (elections, party congresses) and other issues can intervene. Canada’s recent [decision](#)¹⁶ (Aecon, 2018) to block the acquisition of Canadian construction company Aecon by the giant Chinese state-owned enterprise CCCI chilled the bilateral atmosphere. More important of course, is the backdrop of the U.S.-China “trade war” and the “poison pill” of Article 32.10 in the just-concluded USMCA. Because of developments like this, the momentum for negotiations can suddenly dissipate and the moment of opportunity slips away.

That is the main risk arising from the failure to launch talks last December. The longer the hiatus continues, the greater the possibility that the window will close – for both Canada and China, as recent developments would seem to indicate.

Both sides need political will and creative negotiating mandates, allowing both parties to find a way to meet their respective negotiating and political objectives. Each needs to accept a slightly different package in design and wording, recognizing the political requirements and dynamics they each face, while finding the diplomatic common ground that will allow them to proceed.

Whether they will now find a way to proceed notwithstanding the handcuffs of Article 32.10 that Canada had to accept as part of the price of concluding the USMCA remains to be seen. If they do, the progressive trade agenda does not have to be an insurmountable obstacle. China's non-market economy status might be a more serious hurdle.

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The USMCA and the US Effort to Exclude China

Hugh Stephens,

China-US Focus, October 11 , 2018

The conclusion of the updated NAFTA on September 30, known as the United States-Mexico-Canada Agreement (USMCA), revealed a few hidden surprises when the text was released. Among the most unexpected was Article 32.10, the “non-market” clause demanded by the United States. This article severely limits the ability of Canada and Mexico — and technically the United States — to enter into a free trade agreement with a “non-market” economy. It does so by requiring any Party intending to enter into such an agreement to inform the other Parties of its intentions to begin negotiations and, if requested, to provide as much information as possible regarding their objectives. Furthermore, no later than 30 days before signature of the new agreement, the contracting Party shall provide the other Parties with its full text so that they may assess its impact on the USMCA. Most important, entry by any Party into a free trade agreement with a non-market economy allows the other two Parties to terminate the USMCA.

In plain English this means that the U.S. has a de facto veto over any free trade agreement entered into by Canada and China or Mexico and China. Assuming Canada and China launched formal negotiations and arrived at a final text, the U.S. would have the right to review all terms of the agreement and object to any provision. That would put Canada in the position of having to negotiate with the U.S. and China at the same

time and in effect gives the U.S. a seat at the Canada-China negotiating table. This is all the more egregious considering that Canada and the U.S. have some directly competing interests in the China market. Assuming Canada decided to proceed with an agreement despite U.S. objections, it would be expelled from the USMCA. Given the economic stake that Canada has in maintaining good economic relations with the U.S., the destination for 75% of its exports, the inevitable outcome would be the abandonment of the trade agreement with China.

How can we say with certainty that the non-market clause is directed exclusively at China? Article 32.10 allows the definition of non-market economy to be determined unilaterally by any of the Parties. Should that Party determine, on the date of the signature of the USMCA, that a given country falls into the category of non-market economy this becomes definitive — unless there is an existing free trade agreement with one of the other Parties. This is the “get out of jail” card for Vietnam because both Canada and Mexico have an agreement with Vietnam through the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP). No such arrangement exists for China, which has already been labelled a non-market economy by the U.S. Department of Commerce. China is certain to still be on this list when the USMCA is signed next year, assuming it is passed by the U.S. Congress and the legislatures of Canada and Mexico. Non-market economy status can be determined in various ways, including by the WTO, but in this case the sole arbiter is, in effect, the U.S. Department of Commerce. It is clear that there is only one target of Article 32.10 — China.

This was made abundantly plain by U.S. officials after the conclusion of the USMCA, with National Economic Council Director Larry Kudlow proclaiming that North America was now a united front in dealing with China. Meanwhile in Canada, the non-market clause has provoked significant negative comment from commentators (here, here, and here). There was no consultation with stakeholders and the provision was sprung on Canadians by surprise. The negative reaction led Prime Minister Trudeau to state that Canada still intends to pursue close trade ties with China — despite the non-market clause. The Chinese Embassy in Ottawa, for its part, has denounced Article 32.10 as a “hegemonic action” by the U.S.

Defenders of the measure in Canada have argued that greater transparency regarding trade with China and the need to address U.S. concerns about Canada or Mexico serving as a back-door for dumped Chinese products reaching the U.S. were sufficient justification for Article 32.10. Chinese steel coming into North America is cited as a concrete example. However, there are many far less draconian methods to deal with

trade diversion. Curtailing a partner's ability to negotiate freely with third countries is using a sledgehammer to kill a fly.

The Trudeau government has tried to downplay the significance of the non-market clause by arguing that any Party can withdraw from the USMCA with six months' notice and therefore the non-market clause is no more limiting than any other USMCA provision. This is disingenuous. Article 32.10 is an unparalleled intrusion on sovereignty, a feature not found in any other trade agreement.

Given this, it is an open question how the Trudeau government thinks it can move forward to pursue closer trade ties China. Some experts have pointed to the explicit language in the non-market clause referring specifically to a "free trade agreement." Could Canada negotiate something less than an FTA with China? This would require an agreement skirting trade in goods, or perhaps a sectoral trading arrangement. However, unless a trade agreement covered substantially all trade in goods, it would not be WTO compliant. If it is WTO compliant, it would be a FTA by another name. Under these circumstances it would be difficult to avoid triggering 32.10. Of course, this presupposes that China would agree to negotiate with Canada under these circumstances.

This will almost certainly not be the last trade agreement with the U.S. containing such a clause, assuming that the negotiating partners can be strong-armed like Canada and Mexico. U.S. Commerce Secretary Wilbur Ross has been open about wanting what he describes as the USMCA "poison pill" to be replicated in future negotiations with partners such as Japan and the EU. The insertion of a chapter on currency manipulation in the USMCA is a further measure in the same direction. While the EU and Japan may be less willing to surrender sovereignty to the U.S. than Canada and Mexico, because they share many of the U.S.' concerns over China's economic policies they may nonetheless reach a similar accommodation. It is worth remembering that the flip side of the U.S. pushing a non-market clause on its trading partners is China's insistence that any bilateral agreements it signs must contain a commitment to accord China market economy status. This was the case with New Zealand, Switzerland, Australia and Singapore (the latter two countries also having bilateral FTAs with the U.S.)

This begs the question of whether China is a market economy. Since China joined the WTO in 2001 it has pursued a policy of opening up, and parts of the Chinese economy can clearly be said to operate on principles similar to those of other WTO members. However the continued dominant role of heavily-subsidized State Owned Enterprises (SOEs) has led to overcapacity problems, and consequent accusations of dumping on overseas markets, one of the characteristics of a non-market economy. Yet China has

continued to insist on its commitment to both further opening up and the multilateral trading system.

Is there a way out of this box for China and Canada? Much will depend on the extent to which China is prepared to accept the full disciplines of a market economy – operating on essentially the same economic principles as other WTO members. And that will depend more on what happens in U.S.-China relations than in any negotiations that may take place between China and Canada.

On China trade, Canada should tread carefully

Colin Robertson

The Globe and Mail, October 22, 2018

So now, in the wake of the USMCA, China [wants a trade deal](#) with Canada. Prime Minister Justin Trudeau says our country [is ready](#). Improving trade ties with China would go a long way to trade diversification but Canadians should tread carefully.

More engagement with the world's second biggest economy that is growing at twice the rate of our U.S. and EU partners makes a lot of sense. Economics aside, we have expanding people-to-people ties: the Chinese are our [largest group](#) of foreign students; Chinese tourism is up by double digits; and 10 per cent of recent immigrants came from China.

So the question is not about whether to engage, but how best to engage.

Negotiating a full free-trade agreement, says the Public Policy Forum's useful report, Diversification not Dependence, could take a decade. Last December, Chinese Premier Li Keqiang rejected Prime Minister Trudeau's overture on a closer economic partnership, dismissing out of hand the gender and aboriginal rights integral to Mr. Trudeau's progressive trade agenda. The Chinese aren't open to change, so have we decided to drop the progressive agenda?

The PPF says sectoral agreements are the way to go, starting with agri-food and natural resources, eldercare and pensions coupled with co-operative arrangements on things such as climate. These will build confidence and create momentum for more progress.

This could work although, like the rest of Asia, the Chinese are increasingly skeptical about Canada's ability to get its goods to market. One new LNG pipeline is not enough.

The Chinese will demand preferred investment access for their state-owned enterprises (SOEs). They feel that the current regime, imposed by the Harper government in 2012, is unfair. Are we prepared to relax our rules?

There is a third option – encourage China to join the Comprehensive and Progressive Trans Pacific Partnership (CPTPP). It already covers things such as SOEs, labour and environmental standards, intellectual property rights, and includes enforceable dispute settlement. The CPTPP should become the benchmark pact for the Indo-Pacific. China's own model – the Regional Comprehensive Economic Partnership (RCEP) – does not meet the CPTPP standard.

But all of this may come to naught. Like it or not, Canada is now caught in the Sino-U.S. confrontation, of which the USMCA "[China clause](#)" is the latest manifestation. While we are nowhere near negotiations with China, consulting with our principal trade partners would seem sensible.

The sense that Chinese behaviour is predatory and posing significant threats to the U.S. that need to be countered is driving current U.S. policy. The Donald Trump approach – threats, bombast and tariffs – is antagonizing China and prompting retaliation. We will need to be careful that we don't become collateral damage.

China's leadership wants to reform global governance to reflect China's superpower stature. But China only pays lip service to the rules-based international order. Its mercantilist behaviour, ranging from subsidized to forced technology transfers, has contributed mightily to the looming Sino-U.S. trade war. Its cyberintrusions – for espionage and commercial gain – are detailed in our intelligence agencies' annual reporting. While the Trump administration's method is obnoxious, the EU, Japan and North America need to defend our rules-based system.

China has not developed politically, economically or diplomatically in ways that the West had thought it might. But projecting hopes and wishful thinking on China goes further back than this current moment. In his latest book, Daniel Kurtz-Phelan describes U.S. General George Marshall's unsuccessful efforts to steer China toward liberal democracy in the aftermath of the Second World War. *The China Mission* is a must-read for foreign-policy makers practising diplomacy in Asia.

The Prime Minister meets the premiers this fall to talk trade diversification. Thrashing through a China strategy is essential. What is it we really want? What are we prepared to give up?

We need to engage in continued relationship building through ministerial visits and through the kind of Track Two discussions organized by the University of Alberta's China Institute.

It would help if the federal Conservatives are part of the consensus. No one expects lock-step agreement, but a general alignment on our objectives – as we witnessed during the

USMCA negotiations – serves the national interest. It also ensures continuity when governments change.

Beyond the obvious trade benefits, better relations with China make sense for Canada. But decisions on China should only be made after we have done our homework and with our eyes wide open.

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Canada shouldn't treat Cambodia as pariah state, despite its turn to one-party rule

By Gordon Longmuir and Darren Touch,

August 15, 2018

Canada should cultivate its ties to Cambodia through persuasive approaches from our accredited diplomats and should even contemplate early ministerial connections, such as through visits following ASEAN meetings—not immediately, but in the next year or so.

Cambodian Prime Minister Hun Sen, who has been in power for 33 years, intends to remain in office for at least another 10 years.

After 33 years in power, Hun Sen, Canada's incumbent prime minister, and the Cambodian

People's Party (CPP) secured yet another mandate in a highly controversial election in late July. As of Aug. 15, the CPP has taken all 125 seats, effectively turning the country into a one-party state.

With some Western countries condemning and withdrawing support from the country, what should Canada's response be?

Following the election, Global Affairs Canada issued a statement calling on the government "to allow basic civil rights for the people of Cambodia, reinstate freedom of expression and political participation and release opposition leader Kem Sokha."

For the past quarter of a century, many Western governments, including Canada, have supported the progress of Cambodia's liberal, multi-party democracy. However, with the repression of the political opposition, civil society, and media, especially in the past year, both the U.S. and the European Union (EU) withdrew their support for the election process. In contrast, China—now Cambodia's predominant ally—has been supportive, as has, interestingly, Japan.

Although 20 political parties contested the election, critics of the election claim it was neither free nor fair, given the absence of the former opposition party, the Cambodia National Rescue Party (CNRP). As the only credible challenger to the government, the CNRP was dissolved last year by the Supreme Court, following charges that it was attempting to overthrow the government through a so-called "colour revolution" supported by the United States. Party leader Kem Sokha, imprisoned for more than 11 months, is still awaiting trial on charges of treason.

From exile, former opposition leader Sam Rainsy, launched the “Clean Finger” campaign that called on Cambodians to boycott the election with the hopes of delegitimizing the process with a low voter turnout. The campaign refers to the purple ink used to stain the index finger of those who have cast a ballot.

According to the National Election Committee (NEC), and as reported by Reuters, voter turnout was at 83 per cent. In comparison to the 2013 election, voter turnout was 6.6 million or 68.5 percent of the 9.7 million registered voters. The high turnout suggests that the promotion of a boycott by the CNRP was ineffective. However, the latest figures also show that more than 587,000—or 8.6 percent—spoiled their ballots. By comparison, in 2013, only 1.6 per cent of all votes were invalid.

It is easy to vilify the current regime, but it is unlikely things will change until a younger generation of Cambodians are to take control. As bleak as the future of democracy in Cambodia may seem, this must not deter Canada from being a constructive and engaged partner. Canada has, as noted above, condemned the dissolution of the main opposition party and the imprisonment of its current leader. That’s one, as far as it goes, and we should not hesitate to comment publicly when we see human rights and civil society being attacked. The major concerns should be the fair and impartial trial and/or amnesty for Kem Sokha and the restoration of a free—and freer—press. There are precedents in recent Cambodian history.

Cambodia is not a country of concentration for Canadian development assistance, but it does benefit from a number of “partnership” projects, as well as aid channelled through UN agencies. There have been calls for Canada to cease all aid projects in the country. The debate continues as to whether or not this is likely to affect the actions of the Cambodian government in respecting democratic principles, the rule of law, and human rights. The more likely outcome of such a policy would result in the removal of some valuable assistance to civil society organizations involved in areas of clearing mines and the rehabilitation of mine victims, vocational training, medical assistance and institution building. Canada closely monitors any projects that might be subject to corrupt practices or conflict of interest.

Canada should maintain its modest diplomatic presence in Cambodia, and possibly, even increase it. It has been shown in the past that the maintenance of civil, even cordial, relations with the prime minister and other senior Cambodian leaders can sometimes mitigate repressive measures by the government and the courts.

Even as Cambodia is drawn more and more towards its friend China, the West, including Canada, is still an important destination for Cambodian exports and a source of investment and foreign expertise, such as in mining and forestry. The Cambodian government must be persuaded that there are alternatives to countries other than China, whose intentions do not look entirely to strategic advantage in the region.

While we may consider the Cambodian government, led by strongman Hun Sen and the CPP, to be illegitimately elected, it does not serve Canadian interests to make condemnatory statements that do little but to irritate the Cambodian leadership. Nor should actions be taken that would sever economic ties – this would, at most, hurt ordinary Cambodians, not the government. A muscular approach will certainly put Canadian interests, modest as they may be, at risk.

None of the above can be done by Canada alone—we are a minor player now, compared to the important role we played in the years following the United Nations Transitional Authority in Cambodia (UNTAC) period and Cambodia’s first general election in 1993. “Good company” will be important. Canada must work with the U.K., the Association of Southeast Asian Nations (ASEAN) countries, the Nordic countries, Japan, and, most importantly, Australia. If the U.S. wishes to take a similar position, that would also be useful.

Canada used to be seen as a disinterested friend with a history of relations harking back to the post-colonial period of the 1950s. Canada should draw on that history, which was warmly appreciated by the late King Norodom Sihanouk and should be still by the current leadership. While Cambodia is a smaller country with a narrower range of interests, it is important that it see itself on the same footing as its neighbours, Thailand and Vietnam, neither of which can boast a more pluralistic political system.

Canada should cultivate its ties to Cambodia through persuasive approaches from our accredited diplomats and should even contemplate early ministerial connections, such as through visits following ASEAN meetings—not immediately, but in the next year or so. To treat Cambodia as a pariah state is self-defeating and of no long-term value to either Cambodia or Canada.



Links

Ferry de Kerckhove,

October 10, 2018

La Francophonie

<https://ici.radio-canada.ca/tele/24-60/site/episodes/417591/ouragan-michael-floride-michaelle-jean-cannabis-dpj>

<http://www.cpac.ca/en/programs/primetime-politics/episodes/64819367>

October 24, 2018

Radio Canada

Khashoggi

<https://ici.radio-canada.ca/tele/en-direct-avec-patrice-roy/site/episodes/418567/politique-societe-economie-actualite-direct>

Jeremy Kinsman

CTV October 16, 2018

Saudi Arabia : Springtime for Thugs

<https://www.facebook.com/CTVNewsChannel/videos/332331410907173/>

CTV October 23, 2018

Khashoggi and INF Treaty

<https://www.facebook.com/CTVNewsChannel/videos/698013650569620/>

Global Affairs Institute

Podcast, October 19, 2018

Euro-Russian Relations in 2018: A Discussion with Andrew Rasiulis

On today's 'Global Exchange' Podcast, we sit down with CGAI Fellow Andrew Rasiulis to discuss the ongoing Ukraine crisis, the geopolitics surrounding Russia's relationship with various European countries, as well as Canada's role in mediating a solution in Crimea and the Donbass.

Bios:

- Colin Robertson (host) - A former Canadian diplomat, Colin Robertson is Vice President of the Canadian Global Affairs Institute.
- Andrew P. Rasiulis - A Fellow with the Canadian Global Affairs Institute and a freelance consultant with Andrew Rasiulis Associates Inc.

The MacKay Fallen, Part I: Introduction

by Dr. Alan Bowker

Laurier Centre for Military, Strategic and Disarmament Studies

This is the first in a series of articles exploring how the Great War impacted the lives of a single family belonging to the MacKay United Church in New Edinburgh.

After the Remembrance Day service at MacKay United Church in Ottawa in 2014, in which the names of those who had fallen in two world wars were read out as they are every year, Tim Cook suggested to me that as we were now marking the 100th anniversary of this terrible conflict it might be more meaningful to provide some more detailed information on the lives of these soldiers, since their service records and other information like the Circumstances of Death Registers were now available online. It would not only be a more fitting tribute to the men, but would bring to life the ordeal of those sitting in the same pews a century before, as they waited for news and prayed for deliverance.

In all, 140 men and one nursing sister appear on the memorial plaque of what was then MacKay Presbyterian Church. Nineteen gave their lives. This is an astonishing record of service given the size of the church and the community but it is by no means unique in Canada. Why had these men joined up? What did they believe they were fighting for? How did the families and the community handle the stress of having so many of their sons away in a seemingly endless conflict? Telling the life story of each soldier and his family, against the backdrop of a church and community at war, could be a small but useful contribution to the social history of the Great War.

Of course, the research quickly became a rabbit hole and involved a widening range of sources. Besides service records and other information on soldiers available online, including the Commonwealth War Graves Commission, I used ancestry.ca to access documentary records such as birth, death, census, voters' and immigration records, online newspapers, records of the nearby Beechwood cemetery, city directories, and other sources to flesh out family stories; and I had church records including communion rolls and the minutes of the Session, the Trustees, and the Ladies' Aid. Websites such as the Canadian Virtual War Memorial, the Canadian Expeditionary Force Study Group, and others have been invaluable and one cannot speak highly enough of the gifted and dedicated amateurs who are delving into the records of regiments and people. For each of the fallen there were also specific sources such as regimental histories, war diaries, and other information, and in some cases, I have been able to contact family members who kindly provided information and pictures.

Each story was fascinating and all took me in unexpected directions. Of the nineteen, twelve were infantry, three artillery, two RFC, one with the Borden Motor Machine Gun Battery, and one who served in Egypt with the British Army Service Corps. The first to

fall died near Ypres in the autumn of 1915; the last, a TB patient, was a victim of the influenza epidemic a few days before the end of the war. Together, their stories engage much of the history of the CEF and much of the social history of their community. My wife and I visited all the cemeteries where they are buried, or in the case of four who have no known graves, the memorials where their names appear. But many of the most moving stories were those of the families who in some cases had several sons at war.

The more one learns, the more elusive the subjects become. It is my hope in placing some of this work-in-progress on a blog that some readers may be able to provide further ideas or relevant information.

To begin this exercise I have prepared a series of blogs which tell the story of the **Stalker family**: Robert, who was killed at Vimy Ridge, his children and a fight for their custody between their grandmother and his second wife, two brothers who also served, the widowed mother who watched and waited, and the other members of the Stalker family including four sisters whose early death from TB is as much a social commentary as is the story of the men.

But first, to set the stage, some background on the community and the church.



Rideau Hall in 1915. Source: Wikimedia Commons

New Edinburgh is a community within the city of Ottawa between the Rideau River where it empties into the Ottawa River and Rideau Hall. It was founded by Thomas McKay, who used his fortune from building locks on the Rideau Canal to purchase 1100 acres of land, built flour, grist, lumber and textile mills at the Rideau falls, was a partner in the Ottawa and Prescott Railway to ship his lumber to the United States, and many other enterprises. The village was laid out to house his workers, many from Scotland, and he built Rideau Hall as his own residence. When he died in 1855 he left many debts which his son-in-law John MacKinnon (for whom he built Earnscliffe) proved unable to manage. When MacKinnon died the estate was managed by another son-in-law, Thomas Coltrin Keefer, a pioneer engineer and entrepreneur. Keefer sold off some land, many business assets including the railway and the mills (which eventually became the W. C. Edwards lumber company), Earnscliffe, and Rideau Hall to the Government of Canada as the residence of the Governor-General. He aggressively developed New Edinburgh and laid out Rockcliffe as a pioneer urban parkland village.



Thomas McKay. Source: Dictionary of Canadian Biography.

In 1867 New Edinburgh was incorporated as a village and in 1888 it was annexed to the city of Ottawa. Many of the houses were built for workers in the sawmills, the railway, the Ottawa Street Railway, and other small industries in the area, but with the growth of Ottawa as the capital of a transcontinental Dominion and its proximity to Rideau Hall, New Edinburgh was increasingly home to civil servants as well as a few wealthy professionals and entrepreneurs. Immigration also swelled its population so that by 1914 it had about 2000 people and was sprawling beyond its original boundaries. A raw, rather unhealthy place subject to periodic floods at the turn of the century, New Edinburgh by the Great War had street lights, some paved streets and sidewalks, sewers, a street railway, flood control, schools and athletic facilities including a rowing club, and the pleasant ambience of village life within a city – but it still had an appalling rate of childhood mortality. It was a diverse community of Scots and Anglo-Saxons with a large influx of Germans, a place with large families and crowded houses, and a substantial number of men of military age.



MacKay United Church. Source: Wikimedia Commons

Thomas McKay had been a staunch Presbyterian and following the union of the Presbyterian churches in Canada in 1875, his grandson, William Alexander MacKinnon, took the lead in establishing a church on land from the McKay estate, and other members of the family donated a manse. From some 32 members at its founding, the congregation had grown big enough by 1910 to replace its original Sanctuary with the charming arts-and-crafts structure that stands today. Under Dr. Peter William Anderson, who was minister between 1904 and 1934, the church prospered with a large Sunday School, missionary societies, young peoples' clubs, a ladies' aid, a strong athletic life that included a championship hockey team, and a vibrant community life including amateur theatricals produced by the minister's wife. A leading lawyer recalled that he joined the church in 1916 because "I decided that here was an excellent example of a Union Church because its members were originally of practically all shades of Protestant beliefs with the good old Scottish Presbyterians predominating of course, and leavening the whole." In 1925 the congregation voted overwhelmingly to join the United Church of Canada. MacKay Presbyterian, like its parent denomination, strongly believed in the justice of the war. The Ladies' Aid rolled bandages, knit socks, and raised money for their sons overseas. And the church supported the soldiers with their prayers. There were few families in the congregation by 1916 that did not have one or more sons (and one daughter) serving overseas, including Robert Stalker and his two brothers. It is to their story that we turn to next.

The MacKay Fallen, Part II: Robert Alexander Stalker

This is the first in a series of articles exploring how the Great War impacted the lives of a single family belonging to the MacKay United Church in New Edinburgh.

Click [here](#) for Part I of the series.



Robert Stalker c. 1914: From an image provided by a descendant

Robert Stalker was born in London, England, on February 22, 1879, the second son of George Frederick Stalker, an eminent Scottish architect who had come to Ottawa in 1883, and his wife Clarinda (1849-1930). In all the couple had nine children, the youngest an infant, when George died suddenly in 1895. He appears to have left enough money for his widow and family to live in an attached house at 37 Charles Street in New Edinburgh (shown here as it is today). Clarinda Stalker joined MacKay Presbyterian church in 1909 along with three of her sons. She was a stalwart in the Ladies' Aid and was one of the church's Visitors to the Protestant Hospital.^[1] But tragedy continued to dog the family. None of the four daughters survived past early adulthood: three died of TB and the infant died at age 4 of pneumonia.



House at 37 Charles Street New Edinburgh as it appears today (it is the right side of the double house). Photo by author 2015

Robert and his four brothers, however, escaped this dreaded disease, and participated in the vibrant New Edinburgh athletic scene, which included rowing, football, track, and hockey. Around 1901 he and his elder brother George moved to Golden, British Columbia, where he is recorded in the census as a General Store Clerk making \$500 a year. According to a descendant, Robert met his wife, Anna Kenny, there, but because she was Catholic they had to go to Revelstoke to marry in 1904.

In 1909, Robert and his family moved to Prince Rupert, worked for a year in a grocery store, then started his own store, Stalker and Wells.[2] The business did well enough that Stalker could build his own house and have a \$5000 life insurance policy. Unfortunately, in 1913 Anna died of a perforated ulcer, leaving him a widower with four young children.[3] His mother-in-law, Martha Kenny, who had raised eight children of her own, took them back to her home in Golden. But in 1914 Robert brought Martha and the children back to Prince Rupert.



A younger Robert Stalker. Image provided by a descendant.

On May 1, 1916 Robert enlisted in Comox, BC, as a lieutenant in the 102nd battalion of Northern BC. Another of Martha's daughters moved to Prince Rupert to help with the children. Stalker, like his older brother George, had military experience. He had been a member for four years of the 68th regiment, Earl Grey's Own Rifles based in Prince Rupert, and before that he had served for three years in the 43rd Duke of Connaught's Own Rifles, an elite Vancouver regiment. We may still raise our eyebrows at a 37-year-old widower with four small children and a business enlisting in what by 1916 would clearly be no glorious adventure; but by then enlistment requirements had been relaxed and such a thing was not uncommon.

The 102nd Battalion was called the “buck twos” or “Warden’s Warriors” after its commanding officer, Lieutenant-Colonel John Warden. Most its men were drawn from the Earl Grey’s, together with some leftovers from the Duke of Connaught’s and some men from the interior of British Columbia.[4] The first recruits to arrive at the training camp in Comox suffered severe hardships because the camp was not ready, but Stalker and the Prince Rupert men did not join them until the spring when the headquarters and administrative staff were well established and training could begin in earnest. Oddly enough, neither he nor any of the other officers in the 102nd (Northern BC) Battalion, as it was now called, was assigned a service number. He was 5’ 8”, expanded chest 35”, and gave as his NOK his daughter Jean in Prince Rupert, who was a child of seven.



OFFICERS' GROUP, COMOX, MAY, 1916

From Left to Right—Lt. J. M. Whitehead, Lt. G. B. Proctor, Lt. H. E. Whyte, Lt. J. C. Halsey, Lt. K. G. Mackenzie, Lt. R. A. Stalker, Lt. W. J. Sturgeon, Lt. J. H. Wilson, Lt. R. D. Forrester, Lt. J. H. Grant, Lt. J. F. Brandt, Major G. Rothnie, Capt. N. M. McNeill, Capt. F. Quinn (temporarily attached from Dental Service), Lt.-Col. J. W. Warden, Lt. T. P. Copp, Major L. M. Hagar, Lt. H. E. Homer Dixon, Lt. J. B. Bailey, Capt. A. T. Johnston, Lt. R. G. H. Brydon, Capt. F. Stead, Lt. A. Carss, Capt. T. C. Colwell, Lt. R. P. Matheson, Capt. J. A. Kirkpatrick, Lt. R. McCuaig, Lt. McL. Gordon.

Officers Group 1916. Stalker pictured sixth from the left. Picture taken from Leonard McLeod Gould, *From B. C. to Baisieux*, being the narrative history of the 102nd Canadian Infantry Battalion. Victoria, B.C.: privately printed, 1919, on-line at <http://www.102ndbattalioncef.ca/warpages/102chap1.htm>

Warden pulled strings to get the 102nd sent overseas as quickly as possible and on June 10, 1916 they embarked for Vancouver and a long train trip across Canada, with stops for parades in a number of cities and towns. On June 18 they were loaded on the CPR “Empress of Britain” at Halifax and two days later sailed with an escort ship. The weather was calm but the ship was carrying three battalions and the food was atrocious. They landed in Liverpool on June 28 and reached their training camp near Bramshott on June 30. There, in the words of an early historian of the Battalion, “when the authorities found out that we were the tallest, the heaviest, and the most maturely aged of any unit that had reached England”, the 102nd was incorporated directly into the 11th Brigade of the newly formed 4th Division. They then had to undergo six weeks of

rigorous training to catch up with the rest of the Division, weed out unfit officers, discard under-age boys, and have their equipment replaced with standard issue. They had only two weekends' leave, one of which was cut short so that Sam Hughes could inspect the division. ("We surely did love our Minister of Militia when this news came through.") On a sweltering hot August 11, 1916, the 102nd entrained for Southampton, proceeded to Le Havre, and at midnight the next day found themselves on a "side-door Pullman" trip to Belgium that lasted a day and a night.[5]

But Robert Stalker was not with them, for on August 14, 1916, he was married again, at Marylebone in London, to Edith Boulton, a 36-year-old Englishwoman. Stalker was presumably given a few days' special leave and joined his company in Belgium.[6] There is a mystery surrounding this marriage. Edith Stalker is mentioned only once in Stalker's service record as a person to be notified in case of casualty; the names usually given are his mother or his brother Moray, or a Mrs. Gordon Melville in Hurlingham, England, whose relation to him is not known. Throughout his service, money from his pay was sent to Mrs. Kenny for the care of the children. When he was wounded (see below) Edith was living in Liverpool – whether she travelled to London to be with him is not clear; he does not appear to have gone there.[7]

Edith had, one might say, an interesting background. Her father, Peter Rawlinson (Rollo) Boulton, appears to have been a habitual criminal who spent much of the 1880s and 1890s in prison for forgery, embezzlement and other offenses, and Edith and her brother were raised by her mother and grandmother.[8] After Edith's mother died in 1893 she seems to have been increasingly on her own.[9] Rollo Boulton was sentenced once again to prison for forgery in 1897, and when released in 1898 he declared his intention to travel to the United States – his son had gone to New York in that year. However, in 1902 Rollo was once again sentenced to a year in prison in Nottingham.[10] That same year Edith travelled to the United States and in 1904 she married one Ernest Bordat, a French national, in Fall River, Massachusetts.[11] What happened to this marriage is not clear, but in 1911 she was also back in England, living in Islington with her father.[12] Then in 1914 she and Rollo travelled to Prince Rupert, where they lived for two years. She likely met Stalker there and may have travelled to Britain at the same time as he was shipped overseas.[13]

When Stalker rejoined the 102nd, it was in the St. Eloi sector of the Ypres salient getting "put wise" to trench warfare by being rotated, company by company, into the line to be paired with more experienced units. This was officially a "quiet" time, but the 102nd suffered the usual "wastage" from snipers and shells, and on September 7 Stalker joined the list of casualties with a bullet wound to his left arm.[14] He passed through field hospitals to No. 14 General Hospital in Boulogne, before being sent to England and admitted on September 9 to "Mrs. Pollock's Hospital", London, for convalescence. Although the bullet had passed through the left forearm without breaking bones or leaving any foreign matter, it proved slow to heal and Stalker went through two monthly medical boards before he was cleared to return to duty on November 16, 1916. He thus missed the terrible battles on the Somme which took a high toll on his battalion. When he rejoined his unit on December 30, 1916, it was rebuilding and preparing for the

attack on Vimy Ridge. In February, Stalker was dispatched for a week's training as a platoon commander and in March he was sent for training in preparation for the coming battle.

In early April the men began training on a course taped out on the grounds of their base camp. The 4th Division had a particularly difficult assignment: on the northern flank of the Canadian battlefield, it would attack against heavily fortified and well dug-in troops, facing heavy fire and determined defenders. The 102nd, with the 87th on its left, would take the first leg of the attack on Hill 145; after they reached their objective, two other battalions would pass through them and capture the high point that was absolutely essential if the Canadians were to take and hold the ridge.

WAR DIARY or INTELLIGENCE SUMMARY			Army Form C. 2118
Instructions regarding War Diaries and Intelligence Summaries are contained in F. S. Regs., Part II and the Staff Manual respectively. Title pages will be prepared in manuscript.			(Erase heading not required.)
Place	Date	Hour	Summary of Events and Information
Battle Hdqrs.	Apr. 9	7.40 a.m.	Things were not going well; at this time the left flank appeared to be well protected.
		8.10 a.m.	Two runners from D Coy reported that Strong Point No. 2 had been established, and that an enemy Strong Point on the left of Broadmarsh Crater had been cleverly captured by a landing movement. No officers, however, were to be seen anywhere; all were either killed, wounded or missing. Lt. R. A. Stalker was reported in the first category; Major Brydon & Lt. Wilson in the third. In the meantime the Battalion was under the active command of C. S. M. Russell, J. of C Coy, while Sgt. Georgeon, D.S. was maintaining a platoon in a section of Broadmarsh Crater. His situation was now very serious and so continued, being mostly maintained from Hill 145, though subsequent eye witnesses maintained that he had tunnel connection between shell holes and the valley to the East. It now appeared that the 54 th , who, in accordance with orders, had passed through our wires, had been compelled to fall back, and were holding the newly won trenches in conjunction with our men.
		9.00	The Platoon Scout Officer reported from BREDISUG that consolidation was being completed, but 10 minutes later an A Coy runner reported that C. S. M. Russell, J. had been badly wounded in stomach, hip and hand, that Sgt. Brown, D. H. had been wounded and that, owing to the defection of the 57 th

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Remarks and references to Appendices

J.E.

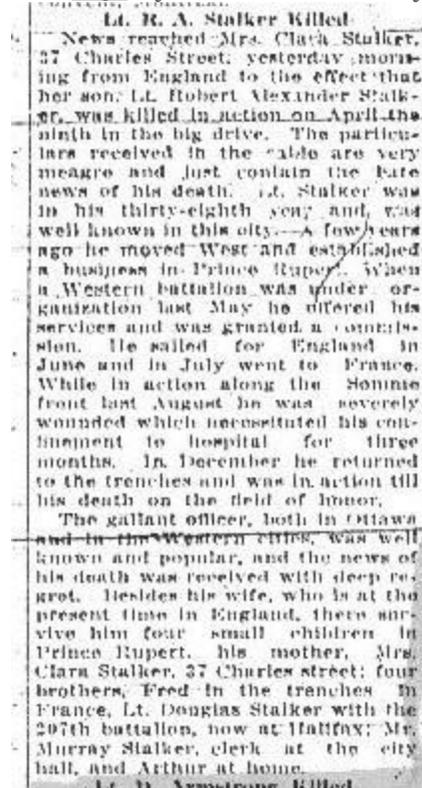
T. 231. W. 7708-776. 56000. 415. 50 J. C. & S.

Page from war diary can be accessed through

<http://canadiangreatwarproject.com/WarDiaries/diarySummaryLocation.asp?Unit=102nd+Battalion&offset=250>

On April 9, 1917, in a blinding snowstorm, the 102nd went “over the top.” Its war diary reflects the confusion of its headquarters in the fog of battle. Initial reports from runners were good but within a couple of hours it was clear that “things were not going well.” The attack on their left had stalled and with its flank unsupported the 11th Brigade’s attack dissolved in shambles, and the 102nd were exposed to murderous machine gun and artillery fire. When they finally reached their objective, all the officers of the 102nd had been killed or wounded; and for an intense hour, while it desperately held onto its position against repeated counter-attacks, the battalion was commanded

by a seriously wounded Company Sergeant Major. Stalker was killed early in the battle; according to the battalion war diary his death was confirmed by a runner at 8:10 a.m.[15] By the end of the day the 102nd was finished as an effective fighting unit.



Clipping announcing Stalker's death, paper unknown, posted on the [Canadian Virtual War](#)

Memorial page for Robert Stalker.

Strangely, as a businessman with four small children, Robert Stalker had left no will. Ordinary soldiers were encouraged to make one, usually on a page in their paybook, but officers were not required to do so. He apparently did settle his debts and his business obligations before he left. But though Mrs. Kenny was listed on his service records as the guardian of his children, and was receiving monthly payments for their support, he had made no formal arrangements for their guardianship.

Within a month of his death, in May 1917, his widow Edith and her father Rollo Boulton arrived in Halifax on the *Olympic*, [16] travelled on to Prince Rupert, and took the children away (it is not known to where). In August a probate court approved her claim that as Stalker's lawful wife she was the administrator of his estate, subject to a security of \$200 and taking an oath that she would pay all just debts and administer the estate in a fair manner and render true account. His estate – some \$200 with no debts, and no real property, investments, or securities – was divided between Edith Stalker, who got \$66.66, and the four children who got \$33.33 each. [17]

Mrs. Kenny could not do much about the estate, but she could, and did, do something about Stalker's \$5000 life insurance policy, of which his eldest daughter Jean was the

beneficiary, and his final military payments and the pensions and benefits for the children. In May 1918, an application was made to the British Columbia Supreme Court on behalf of the four children, “by their next friend Martha Kenny”. According to a Prince Rupert newspaper she claimed that “Edith Stalker is not a fit woman to have charge of the young people,” and Edith and Rollo were forced to “produce” the four children before the court.[18] On September 12, Mr. Justice W. A. Macdonald heard the case in chambers, with affidavits by Mrs. Kenny, Nora Kenny (her daughter), and witnesses who knew the family, as well as Edith Stalker and Rollo Boulton, with lawyers pleading the case for both parties and for the Official Guardian. He ordered “that Martha Kenny, of Prince Rupert, British Columbia, widow, be and she is hereby appointed guardian of persons of the said infants [...] during their respective minorities until other order shall be made to the contrary”, and that the costs of the Official Guardian would be paid out of their estate.[19] The family returned to Prince Rupert. We may assume that the pension amounts for the children, and other amounts owing to Stalker, were paid to Mrs. Kenny, and Stalker’s medals and decorations were sent to his eldest son c/o Mrs. Kenny in 1920.[20]

Edith Stalker did not take long to recover from her defeat. On January 5, 1918, now resident in Victoria B. C., she married Lieutenant Colin James Morris in Vancouver. Morris was a 33-year-old bachelor who had immigrated from England in 1905 and worked as a commercial agent. He had joined the First Division Canadian Field Artillery at Valcartier in 1914, had been promoted to Sergeant and then Lieutenant in the field, had been wounded and discharged with injuries to both knees.[21] Edith declared herself a widow, occupation housekeeper, age 30 (she was actually in her 39th year).[22] Apparently, this union did not last, because on June 24, 1920, Morris, now divorced, married again.[23] But Edith was not yet finished. On June 13, 1921, declaring her age as 35, she married Francis John Beattie Cox, 25, a bachelor farmer from Manitoba, in Toronto.[24] They may have moved back to England, where he may have died in 1935. Her father died in New York in 1924. What happened to Edith we do not know.



Stalker’s original grave marker, paper unknown, posted on the [Canadian Virtual War Memorial](#) page for Robert Stalker.

The stories of men who fell in the Great War reveal the courage of men facing death on the battlefield. Less well recognized is the courage of those at home who carry on, in the face of stress, hardship, and loss. And of Martha Kenny, who fought in the courts – an expensive process and difficult terrain for a woman in her position at that time – to regain her four grandchildren, and then raised them in what must have been challenging circumstances. Besides the pensions for the children, the \$5000 life insurance policy was doled out to her by the Official Guardian in instalments of \$458 per annum, except for an amount of \$244.13 that was retained to pay the government’s commission under the Official Guardian’s Act. In 1927, Mrs. Kenny successfully petitioned the Government to pay her this money since she “being a widow, is having difficulty in meeting expenses in connection with the maintenance of the children.”^[25] Martha Kenny died in 1937 at 76 and is buried with her daughter Anna Stalker in Fairview Cemetery, Prince Rupert.^[26]

Approved and ordered this 29th day of April

R. H. ...
A.D. 1927.
Lieutenant Governor.

At the Executive Council Chamber, Victoria,

PRESENT:

The Honourable

in the Chair.

Mr. Oliver
Mr. Manson
Mr. MacLean
Mr. Barrow
Mr. Sutherland
Mr. Pattullo
Mr.
Mr.

To His Honour

The Lieutenant-Governor in Council:

The undersigned has the honour to REPORT:--

THAT the Official Guardian has charge of the affairs of Nora Jean Stalker, Norman Douglas Stalker, Robert George Stalker, and Margaret Stalker, children of the late R.A. Stalker, who was killed in France on the 9th April, 1917. The said children were left by the late R.A. Stalker in charge of their maternal grandmother, Mrs. Martha Kenny of Prince Rupert, B.C.

THAT the deceased left certain life insurance amounting to \$5,000.00, payable in instalments of \$456.00 per annum.

THAT the Official Guardian has received on behalf of the children the sum of \$4,586.88 under the insurance policy, which has been expended for the maintenance of the said children, with the exception of \$244.13, which has been retained to cover commission payable to the Government under the "Official Guardian's Act".

THAT the said Mrs. Kenny, guardian of the said children, being a widow, is having difficulty in meeting expenses in connection with the maintenance of the children, and an application has been made for remission of the commission due the Government.

AND THAT it is deemed right and conducive to the public good that the said commission be remitted.

AND TO RECOMMEND THAT, under the provisions of section 43 of chapter 222 of the "Revised Statutes of British Columbia, 1924," "Revenue Act", the commission due the Government by virtue of the "Official Guardians Act", in the said R.A. Stalker estate, be remitted, and that same be paid over to Mrs. Martha Kenny aforesaid to be used on behalf of the above named children.

AND THAT a certified copy of this Minute, if approved, be forwarded to the Official Guardian, Vancouver, B.C.

DATED this 27th day of April, A.D. 1927.

R. H. ...
Attorney-General.

APPROVED this 27th day of April, A.D. 1927.

John Oliver
Presiding Member of the Executive Council.

Executive Council of BC Decision

http://www.bclaws.ca/civix/document/id/oic/arc_oic/0437_1927

Back in Ottawa, the courage of Mrs. Clarinda Stalker, herself no stranger to tragedy, was also being tested. After Robert's death in April 1917 her eldest son was badly wounded at Passchendaele, and her youngest son was in the same battle and in early 1918 was slightly wounded as well (their stories will be told in the next two blogs in this series). Another son, Moray became the point of contact for the brothers overseas and managed her affairs. Meanwhile, Clarinda led the Ladies' Aid in prayer, worked tirelessly making jam to donate to the Protestant hospital, knitted socks and assembled parcels for soldiers, made clothes for the Red Cross, and held bake and rummage sales or concerts and socials to raise money for the Sunday School and Building Fund. She, like the other mothers in the "little band of faithful" watched and waited for news from the front and prayed that it would not be bad.[27]



Villiers Station Cemetery: photo by Carolyn Bowker, October 2015

Robert Alexander Stalker's body was taken to the Villiers Station Cemetery near the small village of Villers-au-Bois, about 11 kilometres from Arras. This cemetery was used mostly for Canadian burials from late 1916 to the middle of 1917, with a few in 1918; it contains 1009 Canadians, 179 British, 205 Australians, and 32 Germans, who are unidentified and buried in a row marked with a single headstone. Set in the middle of a large open field, it is laid out with the gravestones at an angle to the main axis and the Great Cross. There are large Canadian maple trees around the perimeter and plants including a number of roses along the rows of stones. When we visited in October 2016 the land was shrouded in fog with the Canadian maples beginning to change colour, and the bucolic peace of this simple cemetery belied the many months of fierce and unrelenting carnage in the Arras sector from which men were brought for burial day after day. Robert Stalker lies near the middle of the cemetery with a few rows of other men who fell at Vimy.



Robert Stalker gravestone: photo by Carolyn Bowker, October 2015

After the war her surviving sons rebuilt their lives, married, and established careers. Clarinda Stalker continued to attend MacKay Presbyterian, as it rapidly expanded and then became MacKay United. She remained one of the Church's Visitors to the Protestant Hospital and was on the the Executive Committee of the Ladies Aid until 1924. In 1930 she died at home and was buried at Beechwood cemetery – in the words of the MacKay Death Register, “an old and honoured member of MacKay church.”
