BOOK REVIEWS

A HISTORY OF DALHOUSIE LAW SCHOOL, by John Willis, University of Toronto Press, Toronto, 1979, pp. vi and 302, $20.00.

It is fortunate that John Willis was available to "finish what Horace Read began" (p. vi). The author points out in his preface that Read had completed "a rough preliminary first draft" of the period 1883-1950 before his death in 1975, but that "the finished product is mine alone". He adds that it is not the kind of history he would have liked to write, nor is it the one that Dean Read's would have been.

It must be hard to write a history of an institution. It could easily become a mere chronicle of events and a catalogue of facts and names. More than once Professor Willis explicitly states his aversion to such a narrative, and he has certainly avoided it. His account of the development and character of the school, of problems of finance and staffing, makes good reading. He has given a vivid and authentic picture of the men who built the school.

The story begins with the appointment in 1883 of Professor Richard Weldon to provide both technical training, which the practitioners wanted, and a liberal education, which the University wanted. Thus Weldon included subjects like Constitutional History, International Law and Conflicts. The author takes occasion to contrast this "attempt to make the study of law a liberal as well as a techinical pursuit" with the "hard-nosed practitioner's slant" of Osgoode Hall Law School operated by the Law Society of Upper Canada and established on a permanent basis in 1889.

Another favourable factor was the outstanding calibre of the "over town instructors" including John Thompson who was later Prime Minister of Canada, Robert Sedgewick who later went to the Supreme Court of Canada, and Benjamin Russell who became a Nova Scotia judge and author of a text on Bills of Exchange.

Almost from the beginning the Law School was full-time and was housed in parts of the Forrest Building where it remained until 1952. One gathers that those quarters, becoming more crowded as time went on, together with the library, always inadequate because it was starved for funds, in some odd way contributed to the character of the school.

After describing the beginnings of the school, Professor Willis divides the rest of the book into roughly equal parts—"Dalhousie's Little Law School: 1887-1945", and the Post-War Period which is itself divided into two parts. The first of these is entitled "Changing: (1945-1966)" and the second is "In the Weldon Building: (1966-1976)".

Coming through are the dedication and stature of those who shaped the school—the students, the University, the profession and above all, the deans and teachers. I was about to say "full-time teachers" but this would leave out many of the practitioners who taught part-time including Benjamin Russell whose contribution on a "pittance of $1,000 a year" was immense. He continued to teach for almost forty years.

Remaining as dean until 1914, and notwithstanding nine years in Parliament, Weldon was an amazing man. The author concludes that he

conferred on his students a "college and clan spirit" and inculcated in them his own idealism.

His successor, Donald A. MacRae, who was dean from 1910 to 1924, made many contributions one of which is of general interest because of its influence on other common law schools. He shaped the Dalhousie curriculum that went into effect in 1915. Five years later the Canadian Bar Association adopted it with virtually no change. When the Faculty of Law was established at the University of Alberta in 1921 it adopted the Canadian Bar Association curriculum and indeed retained it with no change for over twenty years, and with only modest alterations until the coming of the present era of options and seminars.

Until the early 20's the dean was the only full-time teacher though the faculty was fortunate in the great support it received from the Halifax Bar. John Read was appointed full-time in 1920 and Sidney Smith a year later. It was under them that the "case method" of teaching really arrived. In the same period the admission requirement was raised to two years of Arts, Harvard accepted Dalhousie graduates as candidates for the LL.M., and the faculty began to produce legal articles, many of which appeared in the newly established *Canadian Bar Review*.

Professor Willis describes the period 1920-1933 as the Golden Age. This begins with the return of the veterans from World War I as students and embraces the last four years of MacRae's deanship, five of John Read's and four of Sidney Smith's. The last named did not leave until 1934. I think the reason the author did not extend the Golden Age to that year is the fact that he himself came to the school in 1933. John Read had recruited to the faculty Angus L. Macdonald in 1924 and Horace Read in 1925. They each had a crushing teaching load and a low salary. In 1930 Vincent MacDonald replaced Angus L. The author gives a vivid portrayal of these men, all of whom went on to distinguished careers. This section of the book ends with an account of the ceremonies in celebration of the school's fiftieth anniversary in the fall of 1933.

The next period is entitled "1933-1945: The Great Depression and the Second World War". Professor Willis himself had joined the faculty in 1933 for one year, and remained to replace Horace Read who went to the University of Minnesota in 1934. The new Dean, Vincent MacDonald, had three young teachers—in addition to Willis they were George Curtis and George Crouse.

Most intriguing is the author's account of the coming of himself and George Curtis. "These two outsiders, Willis and Curtis—the first non-Maritimers ever to teach at the School—were at the beginning regarded, and justly regarded, as something less than 'finds'. But by the time they left, after what was for Dalhousie Law School an unusually long stay, eleven years each, they would have become—for such is the way of the world—'good old John' and 'good old George'" (p. 222). Later, in describing his own legal writings while at Dalhousie, the author says "in the eleven years he was at the School Willis published eight articles, one of them an acknowledged classic" (p. 136). This is of course true—it is his "Statute Interpretation in a Nutshell" ((1938) 16 *Can. Bar Rev.* 1). Those that he wrote after leaving Dalhousie are, understandably, not mentioned. However, I think they are relevant because they demonstrate the author's scholarship and his pungent style and complete independence. Here are three examples.

1. Professor Willis wrote a note in the *Canadian Bar Review* criticizing

the judgment of the Supreme Court of Canada in *Canadian Wheat Board* v. *Hallett* ([1951] S.C.R. 81). This evoked three hostile letters to the editor. Willis made a vigorous reply ((1951) 29 *Can. Bar. Rev.* 296, 572, 573, 580 and 708). On appeal the Privy Council vindicated Professor Willis' position (*sub nom A.G.* v. *Hallett and Carey* [1952] A.C. 427).

2. When the reports on Ontario's Royal Commission inquiring into civil rights (the McRuer Commission) appeared, Willis wrote a robust critique ((1968) 18 *U.T.L.J.* 351 and (1970) 20 *U.T.L.J.* 274).
3. He gave a paper entitled "Trends in Administrative Law" to the Administrative Law Section of the Canadian Bar Association at its 1962 meeting in Halifax (published in 1962 papers presented at C.B.A. annual meeting, page 1). The room was jammed and the audience enjoyed the paper. Many of those present had been students of the speaker at one or other of the law schools where he had taught, and went because they knew they would enjoy the "lecture".

The last part of the book entitled "Changing" begins with developments in legal education in Canada generally, including the drastic changes in Ontario. The first section, "Post-War Revival", covers the five years after World War II. With a large enrolment of students and a full-time faculty consisting of Dean Vincent MacDonald, Moffatt Hancock, James B. Milner, and from 1946, Thomas Feeney, the author describes this period as "a second but smaller golden age" (p. 159). Once again his description of each of these and of William Lederman who came in 1949 ("another potential star") makes fascinating reading. It seems that the "chronic impecuniosity" from which the school had suffered was alleviated by increased grants from the province (the Angus L. money) and liberal gifts from Sir James Dunn. (Gifts from Viscount Bennett, a loyal alumnus, had come earlier.)

The next section covering the period 1950-1958 is called "Innovations". When Vincent MacDonald went to the Supreme Court of Nova Scotia in 1950 Horace Read returned as dean. It was still hard to obtain and to keep teachers. Nonetheless Dean Read made important changes—replacing over-town instructors by full-time staff, increasing public law courses and establishing a Legislative Research Centre and beginning a graduate program. In 1952 the school moved from the old Forrest Building to the main campus. At the end of the eight-year period came more innovations—recognition of the Dalhousie degree in Ontario, the raising of admission standards from two to three years of Arts and the coming of George Nicholls who instituted legal research and writing and spurred the faculty to build up the library.

The next section covering the years 1958-1966 is called "On a New Plateau". This saw the beginning of staff meetings and the assertion of power by the faculty and as well the beginning of "student power". One gathers that the faculty's effort to have a major voice in the selection of a dean to succeed Horace Read in 1964 was not successful.

Speaking of Dean Read, he is of course prominent in the story. Of him, Willis says that he always looked at the school "through a rainbow". Referring to his death in 1975 the author concludes with this observation, "Everybody who knew him, even those who did not particularly admire him, agrees that the School stood always first in his thoughts. An excellent teacher, a first-rate author and an unaffectedly kind man, he will be long and deservedly remembered" (p. 227).

The last part entitled "In the Weldon Building", deals with the decade beginning in 1966. The school became a different place. There was more money and a quick increase in numbers both of faculty and students, student activism and ferment over curriculum and teaching methods which brought an end to the old MacRae curriculum. Andrew MacKay, who had succeeded Horace Read as dean in 1964, left the office five years later. This marked the end "in the long line of traditional deans". The vast increase in size of the school put an end to the old intimate atmosphere as well as to the one-man administration. "In a year or two the dean, to the students, will be a somewhat remote figure in the recesses of the Dean's Office: an associate dean and a host of faculty committees will be doing the academic 'joe jobs' that he used to do; and he will in all matters of importance be subject to what is called faculty control" (p. 218). Major developments under Dean Ronald St. J. MacDonald (who came in 1972) were the establishment of a Legal Aid Service, revival of the graduate program, establishment of the Dalhousie Law Journal and of a centre for Marine and Environmental Law. The explosion in the number of teachers from eight or nine to thirty-six meant a loss of close contact with the students and it brought a proliferation of meetings and paper work but also an increase in the amount of legal writing. Because of the very large student body it was impossible to preserve the intimate atmosphere of the old school though efforts were made to keep some of it. "Academically, the student body of today comes in better qualified, works harder, and does better than it did ten years ago" (p. 234). On the other hand, the student is "pampered or mollycoddled." The author concludes that the Weldon tradition of high academic standards and public service continue, although the open-door policy has had to give way in spite of every effort to preserve it.

The author's research has been meticulous. There are however three small inaccuracies.

1. The text states at p. 86 that whereas Dalhousie in 1924 raised the admission standard to two years of Arts, and MacRae recommended this to the Canadian Bar Association as the standard in all common law provinces, Ontario's Osgoode Hall ignored this recommendation for many years. The report of the Canadian Bar Association's committee on legal education in 1933 says that Ontario lowered the standard from two years to one in September 1932. Legal Education, (1933) 11 *Can. Bar Rev.* 475 at 476).
2. In speaking of Dean Read's establishment of the Master's program in 1950, the author at p. 176 quotes a statement that at this time Dalhousie was the only law school in Canada offering Jurisprudence. It was offered in the Faculty of Law at the University of Alberta from the time of its founding in 1921. I took it from Malcolm MacIntyre in 1930-1931 and taught it for some six years beginning in 1945. It has never left the calendar.
3. At p. 184 is a reference to the Viscount Bennett Scholarship. It says that in 1956 one of the graduating class "was the third Dalhousie graduate to win the premier Canadian award, the Viscount Bennett Scholarship, since it was first awarded in 1951." The first selection was made at the mid-winter meeting of the Council of the Canadian Bar Association in 1945, the winner being R. M. Sedgewick, Jr. of Toronto (1946 *Proc. Can. Bar Assoc.* 176). Chief Justice McRuer in his presidential address in 1947 (1947 *Proc.* at 87) said:

> the income from [the Viscount Bennett] fund has been sufficient to provide post-graduate studies for three students during the last two years.

Arnold Moir, now a member of Alberta's Court of Appeal, won the award in 1947.

These three items are really *de minimis*.

This is a good history and easy to read. It is of interest to anyone concerned with legal education in Canada and it brings to life the many men connected with the school who made a great contribution and by way of public service.

W. F. Bowker, Q.C.
Professor Emeritus of the Faculty of Law
University of Alberta