

THE ALBERTA LAW QUARTERLY

RANDOM REMINISCENCES

ALEXANDER SMITH*

The *Alberta Law Review* having permitted me considerable latitude in this exercise, I cannot resist the temptation, in opening, to relate that having received in December a "Return" to my "Demand for Particulars" filed three months before, I was reminded of a tale, told by Mr. Justice Holmes, of the French tombstone bearing the widow's inscription "I follow thee", and her own stone, dated thirty years later, upon which someone had written "She took her time".

In this, my version of the story of the *Alberta Law Quarterly*, I am obliged to rely on memory, all the while conscious of the tendency of recollection to be improved by imagination, and ever conscious too of the hidden snare of partiality for events of which one has been a part and for classmates and mentors with whom one has been closely associated.

Life for the *Quarterly* began soon after the onset of the Great Depression and came to a close in the last stages of World War II. To recapture the mood of the period is difficult; to convey a faithful impression of it is impossible. The times were beset, as I have indicated, by economic distress. Midway through the challenge, my freshman year, came the abdication of Edward VIII, an event which, with its attendant circumstances, profoundly shocked and disappointed the Canadian people—a response incomprehensible to the present generation. My first year in Law was the year of Munich; my second the year of the opening of the War.

Many of my classmates were enrolled in the Canadian Officers' Training Corps and afternoon classes would see them, self-conscious at first, in uniform, their wedge-shaped caps secured under the shoulder straps, all in preparation for Parade immediately to follow. The uniforms were not tailored to individual needs: one would hang loose, another would fit as the skin fits the onion. But, I assure you, whatever the sartorial arrangements, these were *my* classmates. I recall, late one afternoon, looking from a Law Library window and there below on the roadway in front of the Arts Building was our own Robert Driscoll authoritatively barking commands as he put his squad through a smart routine. The performance was one far beyond my expectations, and I was fascinated. And as Tam o'Shanter gazed enthralled that night at Kirk Alloway, so I gazed on the scene below; and like Tam I too was moved to spontaneous utterance. Leaning from the window I solemnly intoned: "My Boy!" The array of startled and suddenly upturned faces seeming not friendly, I withdrew, and Driscoll, returning to the Library, proceeded with mock earnestness to scour *King's Regulations for Canada* in search of a provision under which I might be charged.

* Professor Emeritus of Law, University of Alberta and University of Victoria.

Two of my classmates went overseas on active service on the completion of second year;¹ others were to follow at the end of the third, two of whom were not to return.

As I lift my eyes from where I sit I see a small photograph of a float in an Edmonton parade. The theme, as the large sign proclaims, is "Hitler Tried". In front sits a bench of three judges, wigged and gowned. At the rear stands a defiant Adolph Hitler flanked by two guards in military uniform. Toward the centre is a gallows with noose in place. The float was our Law School float in 1940. War and the ramifications of war were a preoccupation of the period.

Such were the times of which we speak. Such were the times in which the *Alberta Law Quarterly* was born, lived, and ceased to be.

The incomparable Dean J. A. Weir, sage, scholar, and the one great teacher of my experience, was not an active participant in the day-to-day conduct of the *Quarterly*. Its creator, its guiding spirit, its champion and slave was Dr. M. M. MacIntyre who brought to the enterprise the devotion a creature reserves for its young; and all this in addition to twelve to fourteen hours of lectures per week, to which were superadded the administrative duties of the School on the untimely death, in 1942, of Dean Weir. As the reader will already have inferred, student participation in the administration of the *Quarterly* was fragmentary and minimal. The names on the masthead were not a faithful reflection of the facts. Some students carried to and from the printer, others read galley proofs or solicited advertising. I recall arranging exchanges with other Reviews, self-consciously aware that they, on noting our slender issues, must have pondered the *quid pro quo*. I also canvassed for subscriptions. One lawyer whom I approached was puzzled with the nature of my mission and enquired what was this *Alberta Law Quarterly*. Shamelessly borrowing the arguments and enthusiasm of Dr. MacIntyre, I spoke of the purposes, the merits, and advantages of a law periodical. The good man yielded, and I had secured yet another subscription. I recall attending at a very small law office, scantily appointed. The sole occupant agreed to subscribe, but one got the strong impression that he could not afford it as he retrieved small change from his pockets in payment. But save these minor services performed by others, the whole burden rested on Dr. MacIntyre which he bore philosophically and without complaint.

I have indicated how meagre was student contribution to the administrative duties of the *Quarterly*. Their contribution to its pages was equally negligible. And while, as I have already observed, Dr. MacIntyre bore the administrative burden good-naturedly, his geniality ended there. His crusade for publishing material was at once unrelenting and ruthless. And we, because of our proximity, were, for two years, fully exposed to the brunt of it. (He was on sabbatical in our first year.) He himself was captivated and exhilarated by literary style and had a penchant for

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1. The two, following demobilization, returned to complete their law programme and raised no eyebrows when they found themselves being taught Constitutional Law by their erstwhile classmate Smith. The class comprised these two together with a third from a subsequent year, lectures being conducted in my law office on Jasper Avenue. In my thirty-one years of teaching at the Law School, that class was one of the most satisfying. One member has now passed on; another is retired; the third sits in our Appellate Division.

apt and arresting example, analogy, simile, and metaphor. I recall his appearing in class one morning to repeat a phrase he had coined in the night for inclusion in a current endeavour. I recall also, in the course of a discussion, my having characterized, with tiresome adolescent excess, a line of cases as having accomplished the feat of "chopping down the tree without disturbing the branches". In conversation later he altogether disarmed me by adverting to the figure of speech and asking whether he was free to employ it. On another occasion a smile was elicited by the irreverent inversion of Goldsmith in my: "And many who scoffed to come prayed to remain". But to repeat, he unremittingly exhorted us to write for the *Quarterly*, soliciting and importuning whenever an occasion was presented, now by cajollery, then by shame. Every battle in class concluded with his addressing the leader of the fray: "Very well. As you feel so strongly on the point, write it up for the *Quarterly*". And then when he was rewarded by so much as a tentative response, his gratitude knew no bounds, like the man in Shakespeare who loved his horse so much he buttered his hay. The full impact of his zeal was felt in his class in Jurisprudence which so often would assume the form of a seminar or workshop in writing for the *Quarterly*. As an incentive, a contribution would go to augment the grade in the final examination. His persistence was unrelenting. The philistines, by way of self-serving defence, argued, clumsily and *reductio ad absurdum*, the notion that he who knoweth most sayeth least and that only the ill-informed are moved to utterance; that what at first appears to be an earth-shaking truth to be proclaimed from the house-tops suffers, upon scrutiny and analysis, such qualification and erosion as not to be worthy of statement, and so the wise are silent. Dismissing the evidence as too brittle for the argument, our mentor rejected our plea. The thesis, of course, is old, is more than a half truth, and enjoys some respectability. One remembers, for example, Coke's aphorism: "The most learned doubteth most", and Maitland's: "... he knew too much to write". Carlyle was adumbrating the same notion when he submitted that it would be salutary for literary standards if authors were paid for what they *do not write*.

Those days and events of which I have just spoken were happily brought to mind many years later when, accidentally, I encountered a generalized enunciation of the old theme, and infinitely more felicitously expressed: "The springs of action lie deep in ignorance . . ."

But to return to the *Quarterly*, I am obliged to say that, notwithstanding the sustained exhortations of Dr. MacIntyre, student contributions of materials remained few and, for my part, I was able to muster no more than, in second year, a brief biographical sketch of Lord Cairns to accompany a reproduction of his portrait in the *Quarterly* and, in my final year, a short article on a point of evidence.

In 1944 a strong sense of filial duty took Dr. MacIntyre back to New Brunswick and, like the faithful collie on the loss of its master, the *Alberta Law Quarterly* yielded up its life and passed into history.

The path of mankind down through the ages is strewn with the wrecks of discredited faiths, false prophecies, forgotten loyalties, improvident ventures, and abandoned enterprises. The *Alberta Law Quarterly* is none of these.