

accomplish its task. And in this connection, the report focuses on the fear that fundamental research will be inhibited in future by “the absence of certain kinds of data or by the presence of rules that limit access to them.” The report specifically mentions use of judicial statistics which reflect current administrative needs rather than long-term research needs and solicitor-client privilege which inhibits the acquisition of private legal records for research purposes. To solve these problems, the Consultative Group calls on governments and professional organizations to begin discussions with academic researchers in order to amend legislation, professional rules, and administrative policies which “promote the destruction or sequestering of legal records” and to encourage the formation of legal archives with established terms of access and use for legal records. All of this is highly commendable. Presumably there might be a point at which an archivist’s perspective is considered valuable.

What can be expected from this report? Certainly it appears that the Social Sciences and Humanities Research Council is sympathetic to legal scholarship. Yet the main target of the report’s recommendations lies beyond the authority of the Council. Implementing these recommendations can only be the result of a coordinated effort by law schools, governments, and the legal profession. How likely is this? The report itself provides the clue to the answer. The most disheartening discovery for the Consultative Group was the “striking indifference” it encountered from those who should have been interested in the issues raised. The response to the Group’s regional meetings, questionnaires, and requests for briefs was disappointing. The Consultative Group reports caustically that “we have not been overwhelmed by either the extent or intensity of the response to our study.” This is an ominous indication of how the report will be received by those who are in a position to bring about change.

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Essays in the History of Canadian Law, Volume II. DAVID H. FLAHERTY, ed., Toronto: Published for the Osgoode Society by the University of Toronto Press, 1983, 592 p. ISBN 0-8020-3391-1 \$45.00.

In the second volume of the Osgoode Society’s *Essays in the History of Canadian Law*, David Flaherty demonstrates the editorial skill he brought to the first volume — although he ought to have wielded his blue pencil with a little more authority over some of the longer contributions. Reviewing a book of essays is always difficult. One could discourse on the meaning and relevance of the words “Canadian Legal History,” but too many lawyer-historians have been preoccupied with writing reviews of reviews of works on legal history. Indeed, much current legal scholarship seems to be devoted to writing exceedingly long and introspective book reviews. This may be due to the overabundance of that varsity press known as law school journals or the pervasive influence of the *New York Review of Books*.

It should be more useful to give a short sketch of each of the essays. William Wylie starts out with the “Civil Courts in Upper Canada, 1789-1812.” Wylie set himself a very difficult task; the history of legal procedure is very complicated and the archival materials from the period are no doubt sparse. The essay has a tentative and

uncertain quality. He tells us that the merchant-judges of Kingston used informal procedures, but he does not describe them with any precision. He seems to be uncomfortable with the intricacies of legal procedure. Wylie nevertheless must be commended for a pioneering effort.

Blaine Baker's essay, "Legal Education in Upper Canada, 1785-1889: The Law Society as Educator," can only be described as rococo — but so is his theme. He occupies almost one hundred pages in chronicling how the governing body of Ontario's legal profession (with the archaic title of the Law Society of Upper Canada) managed to dissipate its remarkable legal educational birthright, going from brave innovation at the end of the eighteenth century with the potential of leading the English-speaking world and ending up with a system that did not produce an academic law school until the second half of the twentieth century. The story shows that legal education is much too important to be left to lawyers who are monopolistic, self-interested, and anti-intellectual.

Paul Romney's "The Ten Thousand Pound Job': Political Corruption, Equitable Jurisdiction and the Public Interest in Upper Canada, 1852-56" is a delight. He knows how to tell a story. The author doesn't appear to have legal training, but one would never know from the deft way he discusses complicated issues about legal procedure and equity. He evokes an era in Upper Canada when everyone seemed to have a snout in the financial trough, particularly when railway finance was added to the swill.

Constance Backhouse's "Nineteenth-Century Canadian Rape Law, 1800-92" shows an author very much in charge of her material. She is very convincing in showing that the law of rape was a branch of property law, at least as seen through the eyes of men. Backhouse is producing a fine body of legal history written from a feminist perspective.

If Baker is rococo, Paul Craven's "Law and Ideology: The Toronto Police Court, 1850-80" is impressionistic. He gives us some fine sketches, sometimes funny and sometimes tragic, of the human menagerie called the police court. The sad fact is that the ambience of that court has changed very little in the intervening century. However, the attempt by Craven (and Wylie too) to apply the Hay thesis of Crime Law and Authority is a little strained at times.

Hamar Foster's "The Kamloops Outlaws and Commissions of Assize in Nineteenth-Century British Columbia" is the best-crafted essay in this collection. His story deserves cinematic treatment with scenes of the Wild West, gunfights, Mounties, irascible judges, and the small-mindedness of puffed-up bigwigs in a tinpot colony. The story is a very strange mixture of petty lawyers squabbling over legal niceties amid blatant frontier violence. Foster makes the whole thing entertaining.

Jamie Benidickson's "Private Rights and Public Purposes in the Lakes, Rivers and Streams of Ontario, 1870-1930" was very difficult to read. Although he writes like a technocrat, he has important things to say about *laissez-faire* capitalism and state regulation in the lumber industry. Can one detect the influence of James Willard Hurst in this essay? The subject would suggest as much and the writing style is similar. Benidickson, however, could derive inspiration from a stylist such as Maitland.

R.C.B. Risk's "‘This Nuisance of Litigation’: The Origins of Workers’ Compensation in Ontario" shows his usual meticulous work. This time he has gone beyond the appellate case law and combed the archives for trial materials and statistics. The development of legal reparation for injured and killed workers and their families shows the integrity and tenacity of William Meredith, one of the few Canadian judges of his period who could truly be called very competent.

Margaret Banks has written "The Evolution of the Ontario Courts, 1788-1981," an enormous task and an essential one. She provides charts and, in a way, the whole essay is a chart in prose. Banks has provided an excellent skeleton. Now we need someone to flesh out the courts’ history with the human side — the judges’ personalities and rivalries, the perspectives of the litigants, and the experiences of the lawyers. Banks’ essay shows the type of painstaking and pioneering work that would probably be impossible without the Osgoode Society. Long may it thrive.

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Haida Monumental Art: Villages of the Queen Charlotte Islands. GEORGE F. MACDONALD. Vancouver: University of British Columbia Press, 1983. ix, 240 p. ISBN 0-7748-0155-7. \$140.00.

Less about Haida art than about the monumental objects on which it was displayed, this substantial volume provides a village-by-village analysis of the more than 500 totem poles and 250 houses that stood in Haida settlements on the Queen Charlotte Islands during the closing decades of the nineteenth century. The cedar plank houses have long since vanished. About 10 per cent of the poles found their way into museum collections and a far smaller percentage (primarily at the southern village of Ninstints) stand today *in situ* like weary ghosts from a now legendary past.

Drawing upon the rich historical photographic record of Haida villages, village site surveys conducted by the National Museums of Canada between 1966 and 1981, and the published and unpublished data of several early ethnographers, George MacDonald has produced a compendium of Haida architecture, totem poles, and village plans — no small feat given the fragmentary and conflicting data upon which he had to draw.

The twenty chapters on the major villages are bracketed by Haida artist Bill Reid’s eloquent preface, MacDonald’s overview of Haida culture, history, and cosmology, and photo-archivist Richard Huyda’s concluding commentary on photography and the Haida villages. The latter essay is a fitting sequel to MacDonald’s village study even though it retraces the groundwork laid by others in earlier publications.

Taking a structuralist approach, MacDonald presents an original analysis of Haida cosmology. Haida architecture, art, and rituals are viewed as cosmic metaphors. During a totem-pole raising, for example, the pole’s dangling support ropes mimicked the *axis mundi* pole whose strings extended to all the Haida villages. While it can be argued that Haida cosmology is more central to the understanding of Haida art and architecture than other features of Haida culture, MacDonald’s