

COURT JESTERS
By Peter V. MacDonald

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The book *Court Jesters*, by Peter V. MacDonald, Q.C., brings together many humorous incidents, contributed by people from all over Canada, that prove the courts are not always as solemn and spiritless as the average person might think. *Court Jesters* sets out the puns, stupid questions, practical jokes, and the wit of those in the courtroom — lawyers, judges, court reporters, and witnesses alike. MacDonald not only depicts the 'stage presence' of the court comedians of today, but delves into the courtroom humour of days gone by.

MacDonald emphasizes in the Introduction that his reason for writing about the humour in law was to provide not only entertainment to the reader but also to capture in print the stories that form an important part of the legal history of Canada. He believes that laughter is not only a cure for all ills but it is essential to a productive and satisfying life. MacDonald's father, the late Vincent C. MacDonald, who was the Dean of the Faculty of Law at Dalhousie from 1934 to 1955 before being appointed to the Supreme Court of Nova Scotia, had the same message when he wrote an address entitled "Practical Hints for Young Lawyers", published in the Canadian Bar Review in 1928. He said:

Cultivate your sense of humour. The lawyer's work is arduous and vexatious, and the ability to see the humorous side of a situation or an adverse incident will prevent him from becoming a spiritless grind and keep his hope high and his vision clear. If he has no sense of humour and no touch of stoic philosophy about him he should abandon law forthwith, for he needs both.

MacDonald goes on to point out that some judges and older lawyers feel that the courts have become more formalized and less spontaneous over the years. MacDonald laments the supposed decrease in wit but, nevertheless, forges on with his book, jam-packed with many good jokes, as well as the occasional bad one.

Court Jesters is organized into three parts: Order in the Court, Yesterday, and Hearsay. In Part One, MacDonald deals with humour in the courtroom. He illustrates the antics of Kenneth Houston, Q.C., of Winnipeg, who holds what MacDonald believes must be the all time speed record for proving a divorce case — eleven seconds!; the quick wit of Isaac Rice, a Winnipeg magistrate; and the continual quips of Winnipeg lawyer Manly Rusen. These are just three examples of the numerous lawyers and judges who contribute to the book with their humour. The innocence and ignorance of witnesses and juries also prove to be constant sources of humour, as do the practical jokes that lawyers play on their own kind.

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Some of the jokes are short 'one-liners'. MacDonald describes the case of the young man accused of possession who, when convicted and asked by the judge if he had anything to say, stuck his head under his coat and said, "Hurry up Scottie, beam me up." Other stories are more detailed, such as the one about a man who ate his underwear in an attempt to avoid a positive breathalyzer test! By the very nature of the book the reader cannot expect, nor does he receive, any real continuity in subject matter. This is a book of anecdotes; it does not profess to provide insight into specified areas of the law.

Part Two begins with a discussion of the courts in Canada at the turn of the century. In pioneer times many men with very little education were appointed Magistrates and Justices of the Peace, but were, nonetheless, expected to solve complex matters. Not surprisingly this sometimes resulted in confusion, unusual decisions, and lots of laughter. One case in 1889 involved two Justices of the Peace who "swore out an information against a cow on a charge of being diseased, then tried the animal, found it guilty and sentenced it to die." If you find this hard to believe, look it up in (1890), 1 *Western Law Times* 85. It also becomes apparent that many Magistrates got hung up on the doctrine of reasonable doubt. There are cases in which the accused was found guilty, but received no penalty, and others where the accused was found not guilty, yet still ordered to pay a fine.

One chapter is dedicated to P.J. ('Paddy') Nolan, who practised mostly Criminal Law in Calgary from 1889 to 1913. There is a wonderful description of Nolan's practising style, courtroom prowess, and unique habits. The next chapter provides insight into the life and times of A.B. McGillivray, a Magistrate in Glace Bay, Nova Scotia from 1901-1941.

Part Three deals with the puns, stupid questions and silly slips that can occur in court. One notable typographical error is illustrated in the following statement.

Crown: Your Honour, I would ask for the warrant for Mr. Smith and I ask that he be executed.

Even editors fall victim to an occasional goof. In the case of *Loos v. The Queen*, the law report reads as follows:

The appellant was convicted of indecent assault by a magistrate without a jury.

It's clear that a comma can make a big difference!

Sometimes the strangest questions come from lawyers — as MacDonald says,

we can admire the handiwork of this scintillating cross-examiner:

Q: Who else was with you in your car?

A: There was no one else.

Q: Were you alone then?

A: Yeah.

Q: And you were the driver? Is that right?

A: Yeah.

In conclusion, I found *Court Jesters* to be a rare depiction of Canadian legal humour. For those who are familiar with the names of some well-known members of the legal profession, *Court Jesters* provides insight into the humorous aspects of their personalities. If one is looking hard it could be said that the book is sexist. Others might say it treats serious matters with disrespect. However, it's better to appreciate *Court Jesters* for what it is — a humorous look at law in Canada. After all, as Seneca (4 B.C. - 6 A.D.) once said, "It better befits a man (or woman — my addition) to laugh at life than to lament over it."