

2005

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Citation Information

McDonald, Susan E.. "Book Review: The Heirness vs the Establishment: Mrs. Campbell's Campaign for Legal Justice, by Constance Backhouse and Nancy L. Backhouse." *Journal of Law and Social Policy* 20. (2005): 145-148.
<https://digitalcommons.osgoode.yorku.ca/jlsp/vol20/iss1/7>

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BOOK REVIEW

The Heiress vs the Establishment: Mrs. Campbell's Campaign for Legal Justice

by Constance Backhouse and Nancy L. Backhouse
Vancouver: UBC Press, 2004. 344pp. ISBN: 0-7748-1052-1

REVIEWED BY SUSAN E. McDONALD

I first heard of this book through a *CBC Sunday Edition* interview with the authors by Michael Enright, and I was intrigued. The book was not available at any local bookstores, so I ordered it by telephone and waited three weeks for its arrival. The wait was certainly worthwhile.

The book is divided into three sections, as well as significant endnotes. An introduction by the authors sets the historical background, providing important context for the main players (including photographs) and the Ontario legal establishment. The second section is a reprint of a book written by Elizabeth Campbell in 1935 and published, also by her, in 1940. *Where Angels Fear To Tread* is her first-person account of her legal battles. The authors then provide an analysis of the events in the Epilogue.

The book is about Elizabeth Bethune Campbell, who was the daughter of James Bethune, Q.C., a prominent Toronto lawyer and bencher. He died in 1884 at the young age of forty-four. His widow remarried some years later to become Lady Howland, wife of the Sir William Pierce Howland, a lieutenant governor of Ontario. Elizabeth, the youngest daughter, grew up in a very privileged atmosphere. She attended a convent school in France, but otherwise had no formal education. She married Thomas Clyman Campbell, an Episcopalian minister, and moved to Boston, where he held a position as minister of St. John's Episcopal Church in Jamaica Plain. After her mother's death in 1924, Elizabeth challenged the will and then the alleged improper management of the estate. Lady Howland's estate had been managed for many years by the chair of the Toronto General Trusts Corporation, William Drummond Hogg, Q.C., a prominent Ottawa lawyer and bencher who was her brother-in-law.

After finding a copy of her mother's will while sorting through an old trunk in which Mrs. Campbell was named as the primary beneficiary of the estate, she started asking questions of the Toronto Trust Company (as it is called throughout her book). She sued the company and her sisters, with the assistance of Arthur Slaughter, who was by all accounts an effective and skilful Ontario lawyer. The court ordered her to settle with her sisters and the Trust Company.

Mrs. Campbell then challenged the value of the estate and decided to pursue William Hogg and the Toronto Trust Company in court to recover the money that she felt had been improperly managed. Hogg produced limited records to detail his administration

of Lady Howland's estate. Records were offered to the court were sketchy and suspicious. For example, there were cheques sent to Lady Howland for interest paid on mortgages in her name. When Mrs. Campbell dug further, the actual amounts of the mortgages differed, and indeed it seemed that the principal was never paid out.

Mrs. Campbell was unsuccessful at each level of the Ontario court system. Having exhausted the courts and her resources, she decided to go to London to argue her case before the Privy Council. Not only did she argue the case on her own, but she was the first woman to ever appear before the Privy Council. And she won.

In their Introduction, Constance and Nancy Backhouse situate the reader in the time period and introduce us to the main characters. The social context is very important to understand, for one immediately gains a sense of the advantages that Mrs. Campbell had in pursuing her legal battles; through her father's prominence, she was connected to the legal establishment, not to mention the connections of her mother's second marriage, and she was most certainly a member of the elite socio-economic class in Ontario at that time. Indeed, her first words in her book are, "I belong to the old Canada, that Canada which is rapidly passing away." She was the daughter of one of the "old boys" of the legal establishment. She was, however, a daughter. Her primary disadvantage was being a woman.

The authors also provide the reader with numerous other aids: a cast of the characters, a chronology of the legal actions, and photographs of the players and buildings in which the drama unfolded. The photographs provide a wonderful view into the times as they then were. I found myself searching through the pages for the photographs to enable me to picture the particular judge or lawyer as he played out his part in the narrative.

The reader then follows the story in Mrs. Campbell's own voice. And it is a good story. She describes in detail her struggle to find counsel for the various challenges, the exceptional Mr. Slaughter, and the less than exceptional Mr. McCarthy who took her case at different levels, her own diligent and painstaking work helping Mr. Slaughter to prepare the case, and of course, her year on her own in London as she prepares and argues the case before the Privy Council.

One winces at what would be at best, sloppy record keeping, and at worst, fraud. One also cannot help but raise two eyebrows at the judges who refuse to find Hogg responsible for his actions. According to Mrs. Campbell's account, several of the judges actually said what they believed, in particular claiming close friendship with William Hogg, or commenting on her pertinacious behaviour. For any paralegal or articling student who has survived the oftentimes confusing first forays into court procedure, Mrs. Campbell's description of the laborious preparation of the court briefs for the Privy Council will garner immediate empathy. Her accounts of the great kindness and assistance of library, court, and Privy Council officials also are reminders of the many people who help us sort through these very procedures.

Where Angels Fear to Tread begins and ends with the triumph in London, with the release of the decision to much media attention. Mrs. Campbell's sense of fulfillment is palpable; her joy leaps off the pages. As a woman, I, too, felt her accomplishment keenly and wondered out loud why I had never heard of this woman before in all my legal studies.

The Epilogue follows Mrs. Campbell's memoir and in it, the authors provide a balanced and well-researched analysis of the events. Both sides are carefully presented, and the authors do not quickly jump to Mrs. Campbell's defence on every issue. Wherever possible, the authors have provided the other side of the story. For example, in the draft of Mr. McCarthy's autobiography, he denies much of her description of his representation on her case. Other sources are then provided to flesh out this "she said, he said" state of events.

The authors also examine the roles of class, gender, and race in the dynamics that are played out. Gender is highlighted of course, but there is also discussion of Mrs. Campbell's own position as a white, privileged woman and her use of racist language.

A fascinating aspect of the book is the dynamic of the legal establishment. The authors describe the close network through marriage and firms and appointments. Mrs. Campbell was very aware of its existence and commented on it throughout her account. As a lawyer who certainly does not belong to the "old boys" club, I would have been interested to have greater analysis on the state today. Today's bench has changed dramatically at all levels. The last bench election, however, resulted in a rather small number of women and members of minority communities being elected. Much has changed, but how much?

The actual amount of the estate remains difficult to assess, but an estimate of \$60,000, if it had been managed properly, would have been at the time a substantial sum. The financial accounting of the estate is difficult to follow in both Mrs. Campbell's account and the Epilogue. This is not the fault of any of the authors' lack of clarity. Rather, the estate's confusing and improper management is at the very essence of the litigation.

One difficulty I had with the book overall was the endnotes, which were placed, as they are aptly called, at the end of the book. These notes are detailed and full of important facts where the authors have found additional information to augment both Mrs. Campbell's tale and their own analysis. Footnotes in legal writing are equally detailed, but they are found at the bottom of each page. I found the constant flipping to the back of the book an intrusion into the flow of the narrative, particularly so in the case of Mrs. Campbell's account where they were also so important. Admittedly I skipped several of the footnotes when my book marker had slipped out, and finding the exact page was time consuming. While this may seem a petty criticism in what is otherwise a wonderful book, when one reads *Where Angels Fear to Tread*, one does not want to put it down or stray. I wonder at the decision to place them at the end.

The authors also provide details on what happened to Mrs. Campbell's case after the victory in London. The litigation continued for five more years in Ontario. The

Backhouses tell the continuing legal struggles that Mrs. Campbell faced in Canada to have the Privy Council's decision enforced. In the end, she and her sisters divided only about \$2000, deemed to be the remainder of the estate after ten years of litigation. Even after her legal avenues for gaining restitution were exhausted, she was unwilling to concede defeat. For a period of time she picketed with a sandwich board in front of the Toronto Trust Company to protest her treatment by that institution. She unsuccessfully pursued disciplinary actions against Mr. Hogg, eventually even attempting to have criminal charges brought against him. Whatever Hogg's intentions or failings, he was destroyed by the case professionally, financially, and perhaps personally as well. Mrs. Campbell herself may have been driven to distraction in her single-minded pursuit of what she felt was justly hers. Whether it was worth it for her is left for the reader to judge.

If this book were simply a reprint of Elizabeth's Campbell's fascinating memoir, it would be worthy in itself. Campbell gives insights into the workings of elite systems of legal power in Canada in the early part of the twentieth century that are unique. While I would not want to make facile comparisons to Charles Dickens, Campbell's book has narrative elements that are in some respects similar. Themes include the interplay of virtue and vice, the intensity of family conflicts, and the potentially suffocating power of institutions. There is a cast of colourful characters, and there are wonderful names. Dickens himself could not have chosen a better name for one of his evil protagonists than "William Drummond Hogg" or for the very sharp and aggressive lawyer, Mr. "Slaughter". And Campbell, like Dickens, had nothing but the highest regard for all things British, including, of course, a vast (but at this time fading) empire.

Apart from its novelistic elements, however, what marks this work as especially useful for scholars of law and politics are the foreword, epilogue, and meticulous endnotes that explain in detail the particularities of not only the case, but the legal and political system of which it was a part. Anyone can learn a great deal about Canadian legal history from reading this book. Especially important is the Backhouses' recognition of the significance of class, race, and gender as central to the legal conflicts that unfolded. In the end, this book is really about systems of social and legal power—how they can be challenged, with what effects, and the tremendous losses (and occasional victories) that can be entailed from such challenges. The book is tremendously relevant for understanding the operations of not only the Canadian legal system, but the operations of legal systems in general. As such, it would be a valuable addition to any law and society or legal history course. The ambiguities of the case, which Backhouse and Backhouse are wise not to tie up too neatly, would make for great class discussions.