A Progression of Judges: A History of the Supreme Court of British Columbia, by the Hon. David R. Verchere. Vancouver: University of British Columbia Press, 1988. Pp. x, 196.

The expectations of professional historians and lay readers often diverge, and this has tended to isolate these two groups from one another. Most would-be historians must therefore write with a particular audience in mind and, just as important, academic book reviewers should take care that they review the book the author wrote and not one that they think he ought to have written. For his part, the Hon. David Verchere appears to have put pen to paper not for academics but for his professional colleagues, and they are likely to be well pleased.[1] The book is generally well written and informative, and succeeds in placing within a small compass many aspects of the hitherto untold story of an important institution. However, if his intentions were more ambitious, both he and his other readers are likely to be somewhat disappointed: the text is structurally uneven and only occasionally rises above chronology and anecdote. An astute counsel for the defence might argue that the best historians are interested in the events themselves rather than as manifestations of some larger truth,[2] but most events require more explanation than is to be found here.

That this first attempt at a history of the B.C. Supreme Court was not written for scholars is evident.[3] Well over one hundred pages are devoted to the period from 1853 to 1909, but less than thirty to the court's history since 1929. The result is that the book is somewhat top-heavy, and about two-thirds of the way through, its title becomes literally true: what is supposed to be a history of the court turns into a progression of brief judicial biographies. These begin with birth and end a paragraph or two later with quotations from bar magazine eulogies committed to the principle that one does not (usually) speak ill of the dead. (You know the sort of thing: he was a good judge, we'll all miss him, and were it not for the unfortunate incident involving the handcuffs, he would likely have been chief justice.) Then it is on to the next judge and his abbreviated 'bio,' an approach that

[1] See, for example, the review by Justice Lloyd McKenzie of the B.C. Supreme Court published by *the Advocate* (1988), vol. 46 at 281, the bi-monthly magazine of the Vancouver Bar Association. Unfortunately, this review ends with a comma and, unless this is a printing error, it is therefore incomplete.

[2] This was the reason R. G. Collingwood gave for preferring Herodotus to Thucydides: *The Idea of History* (Oxford, 1966), 30.

[3] It should also be noted that such histories are rare: the first book on the Supreme Court of Canada appeared only three years ago: see James G. Snell and Frederick Vaughan, *The Supreme Court of Canada: History of the Institution* (Toronto, 1985).

makes for a useful reference work but which detracts from the earlier and much more substantial chapters.

It is true that this judicial assembly line clanks to a halt now and then, but only as an aside. These range from the sort of amusing professional anecdotes that are told and re-told, Rumpole-style, at bar dinners, to public statements that are even more revealing. In the former category are incidents such as Chief Justice Morrison's description of his decision to heal a serious personal breach with a notoriously difficult colleague: "Christ-like of me, wasn't it?" (p. 122). In the latter, one might place Louis-Philippe de Grandpre's complaint, upon his resignation from the Supreme Court of Canada presumably to accept more lucrative employment, that "no other group in Canadian society has been so badly treated" as judges.[4] This nugget, which on its own is worth the price of the book, is in one of the few chapters that deal with topics rather than chronology and it will no doubt stimulate discussion among readers with a rather different view of the judiciary's financial plight. Other examples abound, and in this respect the social historian will find the book useful. But the author, who usually maintains a practised judicial distance, comments adversely only upon men and issues safely in their graves.

The first part of the book comes much closer to being a history of the court, but it suffers somewhat from the lack of a precise critical perspective and because some useful material has been overlooked. The first problem is understandable and can be easily forgiven: to criticize a judge too severely for writing a sympathetic history of his court would not only be silly, but would be to commit the error flagged at the outset of this review. However, an awareness of some recent work in B.C. history, and wider documentary sources, might have helped to shed more light on some of the events discussed.[5] For example, although James Douglas' first attempt to set up a supreme court for Vancouver Island is described, no mention is made of the fact that it was probably unconstitutional.[6] Nor is it true, as

[4] P. 112, quoting from the Canadian Bar Association's magazine, *The National*, March 1980. The reference is to judicial salaries.

[5] I am thinking here of such law-related studies as Robin Fisher's *Contact and Conflict: Indian-European Relatitons in British Columbia, 1774-1890* (Vancouver, 1977), Barry Gough's *Gunboat Frontier: British Maritime Authority and Northwest Coast Indians 1846-1890* (Vancouver, 1984), and H. Keith Ralston's work on the early coal miners and their contracts with the HBC.

[6] Pp. 9-13. See editor James E. Hendrickson's excellent introductory essay to the *Journals of the Colonial Legislatures of Vancouver Island and British Columbia, 1851-1871* (Victoria, 1980, 5 vols.), vol. I, xxiii at xxix-xxx. Douglas' similar attempt to establish a vice-admiralty court was also flawed: Lionel L. Laing, "An Unauthorized Admiralty Court in British Columbia" (1935), 26 *Washington Historical Quarterly*, 10-15.

the author suggests, that the Colonial Office's disapproval of Douglas' refusal to allow unlicenced trading vessels into the Fraser River was solely because the HBC's monopoly was soon to be terminated. The real reason was that their monopoly extended only to trade with the Indians, and it was therefore illegal to require licences of persons who simply wished to supply the miners.[7]

It may also be worth remarking that, although the trial of William King at Hope in 1858 is commented on, the illegality of these proceedings — a point noted some time ago by Walter Sage — is not.[8] Nor is there any mention of the fact that George Pearkes, one of the commissioners appointed to try the accused, was the first man to submit a proposal for establishing a supreme court in the new colony. He did so in his capacity as Crown Solicitor for Vancouver Island, and although his proposals were graciously received, they were in effect rejected as being too elaborate.[9] This was a criticism often made by those in London and, later, Ottawa who had to pay for the changes to B.C.'s justice system that local governments regularly requested.

It would be possible to list some other debatable assertions, but there would be little point because none of them are terribly serious.[10] So too on the technical side: both the index and the bibliography are incomplete (they do not list everything in the text), and there are too many typographical and textual errors which are clearly not the fault of the author.[11] However, much of the book is interesting and readable, and the chapters which deal with the bad relations between the supreme court and the pro-

[7] P. 22. Lytton to Douglas, *British Parliamentary Papers*, vol. 23 (hereafter *BPP*) at 60.

[8] P. 24. See Walter N. Sage, *Sir James Douglas and British Columbia* (Toronto, 1938), 228. The trial was reported to the Colonial Office by Douglas in a despatch dated 12 October 1858 (*BPP*, pp. 280-81), and the illegality lies in the fact that until 19 November 1858 imperial law required capital offences committed in the fur country to be tried in the Canadas.

[9] See Douglas to Lytton, 26 October 1858, and Lytton to Douglas, 30 December 1858, *BPP*, pp. 8, 11, and 74.

[10] For example, Sir Charles Tupper was Prime Minister for ten weeks, not ten months (p. 98), and it was the Judicature Act, not the Judicial Districts Act, that empowered the Lieutenant-Governor-in-Council to make rules of court (p. 79).

[11] For example: '1949' instead of '1849', p. 6; a misplaced indention, p. 25; an incorrect insertion, p. 28; 'country' instead of 'county', p. 37; a missing period, p. 54; an incomplete quotation, p. 68; an incomplete citation, p. 89; 'anent' instead of 'about', p. 91; 'thw' instead of 'the', p. 93; and 'Smith' instead of 'Smithe', p. 95. Chapter 4 is missing endnote 4 and on page 68 there is a reference to note 2 in chapter 5 which, when looked up, does not correspond to the text. There is a similar mistaken reference at the bottom of page 52, and on page 131 the second letter quoted was written not by Justice Martin but by Chief Justice Hunter. (Two pages later the reverse occurs, and a reference to Hunter should be to Martin.)

vincial government in the early 1880s and the long-standing feud between Justices Gordon Hunter and Archer Martin a few decades later are exceptionally so.[12] These and the early ones on the establishing of judicial institutions in the colony are in fact the best in a book which, on the whole, makes a valuable contribution to B.C.'s legal history. In short, the Hon. David Verchere is to be congratulated for using his retirement to write a book that will bring pleasure to his fellow jurists and that will provide useful material for more critical scholars in the future.

[12] Chapters 8 and 12. Both episodes have been described elsewhere: on the first, see Foster, "The Struggle for the Supreme Court: Law and Politics in British Columbia, 1871-1885," in L. Knafla, ed., *Law and Justice in a New Land: Essays in Western Canadian Legal History*, 167-213; on the second, Robertson, "When Judges Disagree...", *the Advocate* (1957), vol. 15 at 181, and Williams, "Historic Dissents in the Court of Appeal," *the Advocate* (1981), vol. 39 at 115, and "Judges at War: Mr. Justice Martin vs. Chief Justice Hunter," *The Law Society Gazette* (1982), vol. 16 at 295.

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Class, Gender and Region: Essays in Canadian Historical Sociology, ed. Gregory S. Kealey. St. John's: Committee on Canadian Labour History, 1988.

It is no longer easy to do good history or good sociology without examining gender relations. The ultimate impact of advances in feminist politics, practice, scholarship, and theory will be radical and far-reaching. If one's research deals with the past two hundred years it is also difficult to ignore the effects of capitalist class relations and the distinctive regional contexts where capitalist expansion and class struggle take place.

The six papers which comprise Kealey's edited book were originally published as a special issue of the *Canadian Journal of Sociology*. They represent important directions taken by current Canadian historical and sociological research. McKay's discussion of worker discontent and militancy in the coalfields of late nineteenth-century Nova Scotia and Darroch's analysis of small property ownership in central Ontario at a slightly earlier time are solid contributions. McKay combines the historian's concern for accurate empirical detail with the sociologist's interest in explanation which uses theoretical models.

The three papers on B.C. history, each based on a doctoral dissertation in sociology, examine working-class formation, practices within the working class, and women's struggles. Conley's paper is theoretically significant.