

On the Front Cover

The Honourable Mr. Justice Kenneth E. Meredith

by Thomas C. Marshall

Meredith J. is now the senior puisne Judge of the Supreme Court of British Columbia having been sworn in on April 27, 1973.

He was born in Vancouver in 1922 and was the son of the late Elmore Meredith, Q.C., a well known Vancouver lawyer, who, in his time, had been a Bencher and Treasurer of the Law Society.

At the outbreak of war in 1939 Meredith, J. enrolled in the RCNVR along with, among others, T.E. Ladner, Q.C. After a short period of training he embarked, as a midshipman, on the armed merchantman "Rajputana" bound for England. The "Rajputana" never made it to England. It was torpedoed on Easter Monday, April 13, 1940 in the Denmark Straits off Iceland. The young midshipman swam to a lifeboat and was later picked up by a Royal Navy destroyer. He returned to Vancouver on survivor's leave before joining the destroyer, H.M.C.S. "Assiniboine", again as a midshipman. In early 1942 he took a navigator's course at King's College, Dalhousie, after which he served as navigator on another famous destroyer, H.M.C.S. "Restigouche", along with Lt. Jack Ruttan, later Ruttan, J. He served during the war in the north Atlantic on convoy and anti-submarine patrol. He eventually commanded a corvette, H.M.C.S. "Trillium", at the age of 23, at the time the youngest commanding officer in the Canadian Navy.

A former partner recalls how he first met him at Greenoch in June, 1945 preparatory to sailing back to Canada. He had just decommissioned H.M.C.S. "Mayflower" which had been returned to the Royal Navy Reserve Fleet. The ship's company and two or three officers had been returned to Canada on various ships. The remaining officers, fearful of being stranded indefinitely, used to gather on the jetty to try to thumb a ride back to Canada. Meredith, J.'s ship arrived one day and they approached him with a petition for a passage or, alternatively, a drink in compensation for passage denied. His ship was due to be decommissioned and so he could not accommodate them, but he passed them on to another corvette captain who found berths for them and returned them to Halifax ten days later. There were no bands, no civic reception and no yellow ribbons!

Meredith, J. returned to Canada a little later along with Lieutenant Arthur Harper.

He had a distinguished legal career. He graduated from the Law School at U.B.C. in 1950 after taking two years of Arts at that University. He was articled to his father at the firm then known as Campbell, Meredith & Beckett. He was called to the Bar in July, 1950, having served his articles during the summer vacations, a dispensation accorded to returning veterans by the Law Society.

He immediately plunged into a busy career proving, like his father, to be a dynamo of

energy. He ran a sophisticated commercial practice and also appeared as counsel in a number of commercial cases. His father's practice, which he inherited, included a large number of hotel clients. Like his father, his correspondence and his pleadings were brief and to the point. Hypberbole always gave way to conciseness and clarity.

As firms do, his changed successively over the years; it became Campbell, Meredith & Murray when Murray, J. joined it, then Campbell, Meredith, Murray & Campbell when J.A. Campbell's son joined it. Then in 1963, two years before the death of Elmore Meredith, it became Meredith, Marshall, MacConnell and Scott and finally, in 1978, Meredith & Company.

The second respect in which his career was distinguished has left a much greater stamp upon the profession. He became a Bencher in 1965 and would have become Treasurer had he not been appointed to the Bench in 1973. He was the driving force in the establishment of the Law Foundation. He realized that the banks were acquiring a small fortune because lawyers' trust accounts did not bear interest. He proposed to the Benchers that legislation be passed, similar to that in Australia, so that interest on trust accounts would be paid to the Foundation, mainly then with the intention that it should fund Legal Aid. It was a difficult endeavour because there was a lot of opposition from the banks and much foot dragging on the part of many then Benchers who represented a number of the banks and banking associations. The advent of the Bank of British Columbia was the final catalyst because it agreed that it would be prepared to pay interest to the Law Foundation on any lawyers' trust account. Other banks recognized that the game was up and that they might lose trust accounts to the Bank of British Columbia if they did not agree. This scheme was voluntary initially but later became compulsory and it has, of course, spread across Canada. British Columbia and, specifically Meredith, J. having led the way.

When he first became a Bencher, Legal Aid functioned under the aegis of the Law Society. With the considerable assistance of Frank Maczko (now Maczko, J.), the Legal Aid Society was created with the objective of using funds from the Law Foundation to pay for Legal Aid. The Benchers wanted to keep Legal Aid under the control of the Law Society and it was with difficulty that the change was made. The Legal Aid Society opened offices in the old Sun Tower. Meredith, J. made sure that the bureaucracy was restricted as a result of which, much of the initial work of the Legal Aid Society was actually done by staff lawyers.

He was editor of *The Advocate* for twelve years. The *Advocate* had been founded by his father during the war primarily as a means of creating contact between the members of the Law Society in B.C. and those members who were serving overseas during the war. He resigned as editor in 1967. The current editor says that when he was appointed by the Vancouver Bar Association he telephoned Meredith, J. and made an appointment to go and see him with the intention of understudy him for a period of time before actually taking over as editor. He was ushered into Meredith, J.'s office and saw on the editor's desk a small cardboard box about half full of papers. Meredith, J. picked it up, handed it to the new editor and said, "There you are, Roberts. Good luck." That was it! It was a gesture typical of the man who always manages to achieve objectives with a minimum of fuss, fanfare and assistance and with a decisiveness which was the envy of all who knew him.

He was an athlete of note. He and Darrell Thompson won the Canadian Doubles Badminton Championship in 1948 and 1949 and he was B.C.'s Singles Badminton Champion twice.

He was President of the United Way for some years in the 1960's and a director throughout that decade.

He was President and a director of "Theatre Under the Stars" in the early 1960's until

it was driven out of business by the advent of television and some bad weather. He is one of the few life members of the Vancouver Bar Association and is also a life member of the Architectural Institute for which he acted for many years.

He is known as a quiet, but decisive trial judge. In 1986 the Court of Appeal, in **Ondrik v. Goodwin** (1986) 21 CCLI 47 reversed his decision at trial. In this case the Plaintiff and the Defendant had spent 4 1/2 hours drinking together and the Plaintiff, the owner of the car, decided he was impaired and asked the Defendant to drive. The Defendant promptly drove it into a ditch killing himself and seriously injuring the Plaintiff. The deceased driver had a blood alcohol reading of .212. An expert testified that with this reading everybody's ability to drive would be impaired, but that 10% of persons with a high tolerance to alcohol would not necessarily show signs of impairment. Meredith, J. found the Plaintiff 40% contributorily negligent for riding with a driver he ought to have known was impaired, since they both had much the same amount to drink and the Plaintiff knew it. The Court of Appeal overruled him, holding that the driver might have fallen into the 10% and that there was insufficient evidence to permit Meredith, J. to arrive at the conclusion that the Plaintiff ought to have known the driver was incapable of operating a motor vehicle. This decision of the Court of Appeal attracted adverse comment from Professor Steve Wexler (*The Advocate* 1986, Volume 44, Part VI, Page 841). Recently Meredith, J. (and Wexler) were vindicated when a five judge Bench in **Shaw v. Storey** expressly held that its previous decision in **Ondrik** was wrongly decided, both in principle and on its facts, thus restoring the judgement of Meredith, J. It took six years, but everything comes to him who waits.

An interesting feature of his career at the Bar occurred in 1971 when he was appointed a Q.C., but declined to accept the award. He felt strongly that politics was far too decisive a factor in the appointments, being a form of patronage given to the Attorney-General. He was in favour of abolition, but it was not to be.

His spare time is spent in summer sailing his 28' Cal sloop to Savory Island where he maintains a delightful retreat on the water's edge.

Meredith, J. has indeed proved himself "a man for all seasons". It is to be hoped that he will not succumb to the lure of an early retirement, but will continue to serve the public as he has done so faithfully for the past 18 years.



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