

AUGUST 3, AN ANNIVERSARY OF SORTS

On Sunday, August 3, 2014 11:25 PM, Vibert Lampkin <vlampkin@hotmail.com> wrote:

All,

For many of us of my generation - even though we were born long after the event, August 3, 1914 means the start of the First World War - the war to end all wars as it was called. For me, the date August 3, though not the year 1914, has great significance. Let me explain.

Many, if not most of you, know of my immense admiration for Lord Denning, Britain's (and the Commonwealth's) best known and most beloved Judge of the 20th century (and in my opinion, the most erudite Judge ever, even though, like most of us humans, he had feet of clay). I became enamoured of the man when as a law student, I read his judgments on Torts and more particularly on Domestic Relations, in which I realised that he was perhaps the first judge in the centuries' long history of English jurisprudence to recognise that marriage was a partnership between (in those days) a man and his wife and not a relationship where the cynics' position was that 'husband and wife are one in law and the husband is that one'. I applauded his attempts to give wives a share of the matrimonial assets, although he was knocked down time again by the House of Lords until Parliament came to his aid and passed legislation in accordance with his views. Thus all those wives (and now husbands) all over the Commonwealth, including those here in Canada, have him to thank for the legislation giving spouses certain rights in a marriage. Even as a lawyer here in Canada, I sang his praises so much that John O'Hoski, a former young lawyer in our firm who had migrated to Australia, wrote to me all the way from his new home in Queensland congratulating me on my appointment to the Bench, stating inter alia, 'I'm sure the Bar never expected to have Denning quoted to them verbatim in Provincial Court'!

I also liked his story telling ability in which he traced the history of the law dealing with the particular case before him at the same time weaving the facts into the law and vice versa. And his style of writing was impeccable. Short sentences, sometimes without a verb! But Lorna once found a sentence in one of his judgments containing fifty one words. When I told him about that he laughed heartily. When I went on the Bench, I tried - not successfully - to copy his style. Until March 1985. That is when I released my judgment in the case of a criminal lawyer who was entrapped by the police and persuaded to traffic in cocaine. When Judge Sydney Harris read the judgment he came to me in the judges' common room, and with his right index finger pointed upwards, said to me: 'Obviously you have been reading Denning. Short sentences. Sometimes with a verb'. Another judge shouted to me across the parking lot: 'I read your judgment on

entrapment. I liked your use of Hamlet'. Judge Syd Roebuck called me the following Monday morning from Etobicoke Court where he was presiding. He said he had a bone to pick with me. Upon enquiry, he said the judgment landed on his desk on Friday afternoon. When he read the first page, he could not put it down. He had to read the judgment twice (it was a long judgment). That made him late for dinner with his wife. Judge Norman Bennett rushed home to his wife in Hamilton and said: 'Judy, you have got to read this. You have never read anything like this'. Two months later, Judy Bennett ran across the dance floor at the Judges Ball in Ottawa and introduced herself to me saying: 'I have got to meet the man who wrote that judgment'.

In late 1987 a case of sexual assault came before me. The accused was a teacher who stood in loco parentis to a ten year old girl. The accused pleaded guilty. He had entered the child's room during the night, raised her night dress and lightly touched her in the vaginal area on four occasions, a few seconds each time. and left the room. There was no penetration or any other untoward behaviour. Unknown to him the child was not asleep and next morning, she told his wife. When confronted, he readily admitted his transgression and moved out of the matrimonial home. Matrimonial relations between the accused and his wife had been bad for some time and there had been no sexual relations between them for a considerable period of time. In addition his wife had the habit of undressing and being naked in his presence. Psychological testing on the child showed no harm. I suspended sentence and placed him on strict terms of probation for two years. The Crown appealed. Since the Crown had proceeded summarily, the appeal was heard by a County Court Judge. The appeal was heard on a Friday afternoon in February 1988. About 5:00 o'clock that afternoon I heard the judge's voice outside of my chambers. He was looking for me. He came in and sat before me. He said: 'I have just heard the appeal in that case (naming the Accused). I don't think the guy should go to jail either but I had to sentence him to 30 days because I think that is what the Court of Appeal is telling me'. Then he looked me straight in the eye and pointed his finger at me and said: 'But I want you to know that those are the best reasons on sentence that I have ever read from any level of court'. When he left I hit my fist into the palm of my hand and said: 'I've got it'. I think it was as close as I had got to the Denning style and thinking. In addition, when Lorna read the judgment, she said: 'You are sounding more and more like Denning'. As an aside, within two weeks, the Court of Appeal in a somewhat similar case in a majority judgment, upheld a sentence similar to the one I had imposed!.

And that prompted me to write to Denning. I wrote to him on February 28, 1988, enclosing copies of my judgments in the case of entrapment and sexual assault, not seriously expecting a reply. I was wrong. His reply was immediate - his letter to me is dated 15 March 1988. And that started correspondence between us that lasted up to my

last greeting to him on his 100th birthday - six weeks before his death on Friday March 5, 1999. I have a four inch binder of the correspondence between us.

That is the background to what August 3 means to me. In the summer of 1990 we decided to holiday in England. When I wrote to him advising of my impending visit, he invited me to spend a day with him. When I was in London, I called him and told him that I also wanted to go to Scotland for a week. He encouraged me to do so and to visit him on my return. I visited him on Friday August 3, 1990. I went down by an early train to Whitchurch, Hampshire, the village where he and his siblings were born and where he returned to live in 1960. (When he went to the House of Lords in 1957, he became Lord Denning of Whitchurch). On my arrival about 10:30 a.m. I saw a woman approach two or three non-Caucasian passengers who shook their heads in a negative manner and moved on. Then she approached me and asked whether I was Judge Lampkin. She said that Lord Denning had sent her to collect me. Now Denning knew my background, that I was born in Guyana and that probably surmised that I was likely not Caucasian.

We arrived at his home known as 'The Lawn' in short order as he lived walking distance from the train station. He was seated in his study reading the current issue of The All England Law Reports! He was 91 years old and had retired from the Bench on September 29, 1982, eight years before - the same day I was sworn in as a judge, yet he was still interested in law to be reading the current issue of The All England Law Reports! I had taken a piece of Inuit art for him. He gave me two books: 'Leaves from my Library' released on 23rd January, 1986, his 87th birthday, and 'Landmarks In The Law' which was released in August 1984.

In "**Leaves**" he wrote the following endorsement on the frontispiece:

For Vibert
With high esteem
and regard for his outstanding
career in the law in Guyana
and especially in Ontario
and much appreciation
of his friendship and goodwill
and all best wishes
for continued success
and happiness

Tom Denning
3 Aug 1990

In '**Landmarks**' he wrote the following endorsement:

For Vibert
On his visit with us
on 3 Aug 1990 at The
Lawn - the hottest of
days and the best of
our visitors ever.

All best wishes
Tom Denning

We spent a delightful two hours together before lunch. As we sat in his study I was flipping through the pages of 'Landmarks' when my eye fell on page 22. I said to him: 'Do you realise that today August 3, is the anniversary of the execution of Sir Roger Casement in 1916 for treason, as you have said here on this page'? He said in his Hampshire burr: 'Give me that page and I will write some more'. He then wrote on pp. 22/23;

3 Aug 1914 - First World War

3 Aug 1938 - my son Robert was born

3 Aug 1990 - Vibert came to see us.

Lord Denning and his brothers all fought in the wars. He wrote in 'The Discipline of Law', published in 1979:

It is something to have lived through this century - the most dangerous century in the history of the English people. Our family has done its part. All five of us brothers fought in the wars. Two were lost. They were the best of us. Three survive. One to become a General. One an Admiral. And me, the Master of the Rolls.

On November 13, 1998, eighty years and two days after the end of the First World War, the French Government presented Lord Denning with the Legion d'Honneur in the Class of Chevalier (Knight) for services fighting on French territory in the First World War. He was aged 99 years and 10 months at the time - but better late than never. He had entered Magdalen College, Oxford University, in October 1916 at the age of 16 on a scholarship but a year later he had to break his studies to join the Army as a member of the Royal Engineers. Why the Royal Engineers? He was a mathematician - when he returned to Oxford at the end of the war, he left there with a triple first - a double first in Mathematics and First in Law.

After lunch on August 3, 1990, Lord & Lady Denning retired for a rest while I roamed the grounds. He had about 25 acres. The Georgian residence with its huge lawn stands on 4 1/2 acres on one side of the River Test. Across the River over which there is a bridge, he had about 20 acres full of willows, poplars and hazels. There is an island of about 3/4 of an acre with two quaint bridges connecting it to the residential part. He had a garden of flowers and vegetables that had been adjudged the second best in England in private hands.

Some time in the afternoon two Welsh Magistrates, John Jennings and Gerry Sullivan, arrived at Lord Denning's invitation for tea. In an Article in their Journal, 'The Justices' Clerk' published in January 1991, in describing their visit, they had this to say about me:

In the shade of the terrace we were joined for tea by Lady Denning and a visiting Judge from Canada. He is such an admirer that he is called "Son of Denning" by his fellow Judges and made the journey especially to meet his mentor, they having corresponded for some years.

So you see, August 3 means much to me. It is an Anniversary of sorts.

Alumnus Justice (retd.)Vibert Lampkin



Judge Vibert Lampkin with Lord and Lady Denning



Relaxing with two Welsh Magistrates,
John Jennings and Gerry Sullivan

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