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Stewart McKelvey, Stirling, Scales

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[Review of Barry Cahill, *The Thousandth Man: A Biography of James McGregor Stewart* (Toronto: University of Toronto Press for the Osgoode Society for Canadian Legal History, 2000)]

One man in a thousand, Solomon says,
Will stick more close than a brother.
And it's worth while seeking him half your days
If you find him before the other,
Nine hundred and ninety-nine depend
On what the world sees in you,
But the Thousandth Man will stand your friend
With the whole world round agin you.¹

Barry Cahill, senior government archivist at Nova Scotia Archives and Records Management, and former editor of the *Nova Scotia Historical Review*, has painstakingly delved into the social, political, educational and legal atmosphere of the late nineteenth and the first half of the twentieth centuries in Nova Scotia, by researching and writing a fascinating biography of James McGregor Stewart, now published on behalf of the Osgoode Society. The book succeeds in portraying both the humanity of this Renaissance man and his pivotal role in so many different milieux, such that *Canadian Lawyer* could and would refer to him as the most influential corporate lawyer in twentieth-century Canada.²

In this biography the author returns to a fruitful area of Canadian legal history, previously explored by Gregory P. Marchildon³ and himself⁴ with a focus on Stewart's law firm. I declare, at the outset, my possible bias as a partner in that same law firm, although I never knew the man, and did not practise with him. My first recollection of any reference being made to him arose in a conversation with my father, who articulated at the

* Partner, Stewart McKelvey, Stirling, Scales.

1. Rudyard Kipling, *Rewards and Fairies*, Canadian ed. (Toronto: MacMillan, 1910).

2. Christopher Moore, "The Ten greatest Canadian lawyers ever" *Canadian Lawyer* 24:5 (May 2000) 22.

3. Gregory P. Marchildon, "International Corporate Law from a Maritime Base: The Halifax Firm of Harris, Henry and Cahan", in Carol Wilton, ed., *Essays in the History of Canadian Law, Beyond the Law: Lawyers and Business in Canada, 1830 to 1930*, vol. 4 (Toronto: University of Toronto Press, 1990) 201.

4. Gregory P. Marchildon and Barry Cahill, "Corporate Entrepreneurship in Atlantic Canada: The Stewart Law Firm, 1915-1955," in Carol Wilton, ed., *Essays in the History of Canadian Law, Inside the Law: Canadian Law Firms in Historical Perspective*, vol. 7 (Toronto: University of Toronto Press, 1996) 280.

firm in 1945. He described the head of the firm arriving at his office in his chauffeur-driven Rolls Royce, a large heavy-set man on crutches, with an enormously forceful personal presence and a driving work ethic, honoured and respected by all his colleagues and adversaries. According to Cahill, the Rolls Royce is still extant, stored in the basement of the former Stewart home and complete with bar and foot rest.

Marchildon and Cahill described Stewart as “nationally recognized as the Maritime linch-pin of the pan-Canadian corporate élite, a position confirmed by his election as Vice-President of the Royal Bank of Canada in 1951.”⁵ Arguably, such was his influence and the interlocking nature of leading legal and business interests represented by the firm and its clients, that he and his successors as head of the firm became nationally recognized as members of this élite.⁶ Having whetted his appetite for a more in-depth examination of James McGregor Stewart, the man himself, than he had undertaken in researching his role in the building of the law firm, Cahill expands his perspective beyond the profession and business of law, strictly defined. At first, I had thought this to be a shortcoming in this biography, but, on reflection, enough is said about Stewart’s legal work and his distinguished corporate clients to satisfy the lay reader, while at the same time redirecting the legal practitioner or scholar to other sources, archival, academic and popular, that tell their stories⁷ and that of the firm itself.⁸

Who was this complex and intriguing man? Unlike his protégé and successor as managing partner, Frank M. Covert, Q.C., who kept daily and detailed notes of the significant events in his life and work,⁹ he was not a diarist, and apart from his legal and business files, which by their nature do not reveal the personal side, the written sources are sparse. Barry Cahill has had to pursue his quarry by synthesizing bits and pieces from many sources, including personal interviews with family, legal and business acquaintances, colleagues and friends. My assessment is that he

5. *Ibid.* at 281.

6. Peter C. Newman, *The Canadian Establishment*, (Toronto: McClelland and Stewart, 1975), in reference to Stewart himself, Frank M. Covert, Q.C. and J. William E. Mingo, Q.C.

7. For example, correspondence to and from Max Aitken, *Beaverbrook Papers*, House of Lords Record Office, London, England; Douglas How, *A Very Private Person: The Story of Izaak Walton Killam and his Wife Dorothy* (Halifax: The Killam Trustees, 1976); Harry Bruce, *Entrepreneur: The Story of R.A. Jodrey* (Toronto: McClelland and Stewart Limited, 1979); Harry Bruce, *Frank Sobey: The Man and the Empire* (Toronto: Macmillan of Canada, 1985).

8. *Supra* notes 3 and 4.

9. Harry Bruce, *Corporate Navigator: The Life of Frank Manning Covert* (Toronto: McClelland and Stewart Inc., 1995); also, Frank M. Covert, “Diaries and Memoirs and History of the Law Firm” [unpublished].

has successfully portrayed the human being behind the legend, balancing the professional and business aspects of Stewart's life with the personal and academic pursuits that meant so much to him.

The picture he paints, particularly of Stewart's family background, growing up in Pictou County, and his early education, is particularly affecting, and reflects triumph over adversity. Born in 1889, he was the youngest of six children of James McGregor Stewart, Sr., a prominent young lawyer in Pictou, and his wife Julia Creelman, a former school teacher whose pre-nuptial pregnancy had ended her teaching career and also the senior Stewart's plans for a Halifax practice. Jimmy was afflicted with poliomyelitis at age two and rendered permanently lame. There was considerable doubt whether he would survive very long and he learned to walk on crutches. His future wife, Elizabeth Stewart, reminisced that

[h]is father carried him about in his arms and daily massaged this weak little leg. He entertained his son by telling him stories and singing to him. Hymns and Scotch folk tunes quickly exhausted the father's repertoire, and, with true Scotch ingenuity, the elder Stewart began to sing or recite verses from Kipling's *Departmental Ditties* (1886), frequently matching the words with standard hymn tunes. Father and son alike grew fond of these "family" songs, little realizing that they had accidentally discovered the key to Kipling's composition of them. Some of young Jim's earliest recollections centre[d] around his father's lusty singing of Kipling verses to Scotch Psalm tunes.¹⁰

Then further disaster struck the young family, when Stewart's father died of a massive heart attack or stroke, just short of his forty-fourth birthday, while working at his desk in his office. He died intestate, with a small estate of \$4,000, leaving Julia to struggle and persevere. At first, she took her young family away, but she returned to Pictou so that her precocious youngest son could attend Pictou Academy, a private co-educational secondary school, then the most prestigious in the province. Academic education was free of charge to qualified students from within the county. Cahill writes that "Julia returned to Pictou solely for the purpose of enabling her disabled youngest and most precocious child to attend Pictou Academy. It was an action that spoke volumes, not only determining the entire future course of Stewart's life but also helping to explain his single-minded, lifelong devotion to—and awe-inspired fear of—his mother."¹¹ He went on to obtain the gold medal in grades XI and XII, with

10. Elizabeth E. Stewart, *James McGregor Stewart* (holograph), quoted in Barry Cahill, *The Thousandth Man* at 8-9.

11. *Ibid.* at 11.

the highest marks ever obtained in the provincial examinations, to that time. His uncle John Stewart, a prominent Halifax physician, had no children of his own and was financially able to assist Jim in pursuing a university education, but declined to do so, believing it would be a waste because he was crippled. Undeterred, Jim wrote the provincial teachers' examinations, intending to teach school in order to raise money to go to university. However, an entrance scholarship and a fortuitous loan from the Presbyterian clergyman at Pictou, allowed him to proceed directly to Dalhousie University, entering in the second year of the four-year arts course. He soon excelled, first in mathematics, then in the classics, Greek and Latin. He graduated in 1909 with high honours and the University Medal. He immediately was appointed as a tutor (assistant professor) in classics, holding it for four years, while he attended law school. Despite his handicap, he had a keen interest in athletics, managing the varsity rugby team, playing goal for the scrub hockey team, rowing for the University, and playing on the championship quoit team in the City League. However, a resolution of the University Senate, later confirmed by the Rhodes Trustees, prevented him from being chosen for a Rhodes Scholarship, although he had, by far, the superior academic record. The committee seemed convinced that the principle of *mens sana in corpore sano* precluded a crippled student from being awarded the scholarship.¹² He graduated from law school in 1914 at the head of his class, having "completed the most brilliant course of any student in the history of that institution."¹³ He had served as President of the Students' Council, while leading his class in all but one of his legal courses.

Stewart then was called to the Bar and became an associate at Harris, Henry, Rogers & Harris. He taught part-time at Dalhousie Law School until 1923, when the press of corporate law practice demanded more and more of his time. His connections with Dalhousie University did not cease, however, and he became a Governor in 1929, Vice-Chair of the Board in 1932 and Chairman in 1937. At that time, he was described by President Stanley as "an addict to the classics."¹⁴ He retained a lifelong love of fine books, particularly in Latin, and acquired and donated the twenty-volume edition of Cicero's *Opera Omnia* (published in Glasgow in 1749 and formerly belonging to Lieutenant-Governor, The Earl of Dalhousie, founder of the University) to the University library.¹⁵

12. *Ibid.* at 20-23.

13. *Halifax Morning Chronicle*, (5 August 1914), quoted, *ibid.* at 25.

14. Carleton Stanley, "President's Report" (Dalhousie University, 1937-38).

15. *Supra* note 12 at 27.

Stewart, need I say, was Presbyterian—his grandfather Murdoch Stewart was a Gaelic-preaching probationer candidate in the Church of Scotland, and came direct from Scotland to be the first Presbyterian minister in Richmond County. His mother's uncle, Samuel Creelman, was leader of the Conservative opposition and a pillar of the Presbyterian Church. Conservative politics and Scottish Presbyterianism was bred in the bone. Pictou Academy and Dalhousie University were dominated by the Presbyterian influence. Nonetheless, Cahill notes that Stewart was more affected by the Church's commitment to higher education than committed to its religious tenets. He was baptized and buried in the Presbyterian Church, but was neither married there nor a communicant.¹⁶ Religion for him was a matter of personal morality.

Stewart met his future wife, a gifted and hard-working Conservative stalwart, who took her politics and her religion very seriously, at the law firm. Elizabeth Wilson had commenced work at the gilt-edged Conservative firm of Borden Ritchie and Chisholm, but transferred to Harris, Henry, Rogers and Harris in 1912. She was Scottish Presbyterian on her grandfather's side, but her father converted to Roman Catholicism at the insistence of her mother. Miss Wilson began as a stenographer, and became senior secretary, then solicitor's clerk, finally working directly with and exclusively for Stewart. The office romance between lawyer and secretary blossomed into an unofficial engagement by 1920. Stewart delayed marriage, partly because of the religious issue, but also possibly because of social stigma attached to an élite lawyer marrying his secretary. The head of the firm, W. A. Henry, had disapproved. They disappeared, separately (and secretly), to New York, in 1931, and were married in a Roman Catholic ceremony. After a wedding trip to the Caribbean, they returned to Halifax, and the former Miss Wilson resigned from the firm. Shortly thereafter, they purchased a grand residence on the North West Arm, and she made her debut at a reception for four hundred people as Mrs. J. McG. Stewart, Jr.¹⁷ They named their home "Braemar" after the McGregor family seat in Aberdeenshire.

The book is well organized, with separate sections organized around major themes—Stewart's early life (as noted above), his career as barrister, his role in "Nova Scotia Incorporated", in national affairs, and finally, in Cahill's phrase, "Swansong." Much of the later public life is documented in the records of business, government and various organizations, but Cahill has managed to draw on all these disparate sources to

16. *Ibid.* at 29.

17. *Ibid.* at 41-42.

depict a fuller and more comprehensible assessment of Stewart's own role in the great events of his day.

Cahill skilfully canvasses the more public roles played by Stewart, now firmly established as the leading corporate lawyer, having gravitated to that practice, despite a glittering earlier career as advocate.¹⁸ It is difficult to envision today how one person could be involved successfully in so many simultaneous endeavours. He became legal counsel and alter ego to Izaak Walton Killam, whose Royal Securities was essentially a private investment holding company for his diverse and far-reaching investments in many industrial and utility firms. He assisted Sir Herbert Holt, President of the Royal Bank of Canada, in consolidating the Nova Scotia coal and steel industry, through the acquisition and incorporation of Dominion Steel and Coal Corporation. He presided over Acadia Sugar Refining Limited, and oversaw the creation of National Sea Products Limited out of numerous smaller fishing enterprises. He was an influential board member of Nova Scotia Light & Power Company (acting as Killam's appointee, in effect). When Killam built the Mersey Paper Company, Stewart assisted by working behind the scenes with the Conservative government of the day to negotiate long-term favourable tax concessions and with the Power Company to ensure a stable supply of electricity at a fixed price on a long-term basis. His connections with the Rhodes Government in Halifax and the Bennett government in Ottawa led Stanley to comment, "[i]n Nova Scotia he has something of the power, perhaps more, that Huey Long had in Louisiana."¹⁹ Cahill suggests that Stewart, as treasurer of the Conservative Party, and back room *éminence grise*, had enormous influence over the political agenda (essentially, the best interests of his corporate clients) in this period.

It is in the nature of the private practice of law that much of what lawyers do is bound up in confidentiality. To add to the difficulty faced by Cahill in writing about the solicitor-client relationship, many of the historical files of the law firm have been destroyed. Nonetheless, Cahill has been able to piece together sufficient data from other sources to reconstruct the behind-the-scenes activities that Stewart pursued on behalf of his business clientele.

18. Professor George F. Curtis, of Dalhousie, later Dean of University of British Columbia Law School, wrote that "He was a towering figure in the law in his time. Had it been Nova Scotia's 'turn' he would undoubtedly have been on the Supreme Court of Canada." *Ibid.* at 49.

19. Carleton Stanley, 1944, *ibid.* at 147. By this time Stewart as Chair of the Board at Dalhousie University and Stanley, as President, were not on good terms. Indeed, Stewart later introduced a motion to the Board, which was subsequently approved, requesting Stanley's resignation, and Stanley did resign.

Stewart pursued more public roles later in life. He served as co-counsel for the Royal Commission on Dominion-Provincial Relations (Rowell-Sirois),²⁰ president of the Canadian Bar Association, wartime coal administrator under the War Time Prices and Trade Board (in effect, dictator of the coal industry in Canada), and later, arbitrator in connection with the expropriation of the privately held Montreal Heat, Light & Power Consolidated, and the Beauharnois Power Corporation by the Government of Quebec. In these endeavours, Stewart's contribution is more fully documented in public documents and archives, and Cahill, ever the thorough scholar, has mined these sources with great care, exhibiting a sure touch in deciding what is relevant and interesting to enhance the biography. Although this is an academic, as opposed to a popular, biography, it never fails to fascinate, and the pace of the narrative makes it an enjoyable reading experience, both on the popular and academic levels.

Notwithstanding his demanding work schedule, Stewart remained a scholar and collector of Kiplingiana, to the end of his life. He prepared a massive 673-page bibliography of Kipling's publications, letters and periodical references, which was the first major publication of the Dalhousie University Press, and has become the standard reference and research tool.²¹ He bestowed his Kipling collection on his beloved Dalhousie University. Stewart was never a narrow individual, but a well-rounded "man of parts," in Cahill's description.

To end where we began, why is he The Thousandth Man? This dates from a recollection of his luncheon meeting with Rudyard Kipling in 1932, while in England to argue his most important case before the Judicial Committee of the Privy Council.²²

The conversation at luncheon was very animated and they were invited to remain for tea. Mr. Stewart was saying goodbye to Mrs. Kipling and Col. Vanier was speaking with Mr. Kipling just a short distance away. Mr. Kipling nodded his head towards Mr. Stewart and said: 'I think I have found my "Thousandth Man"'.²³

20. The Commission, appointed by the Liberal Prime Minister, Mackenzie King, was uniformly Liberal, as was his co-counsel Louis St. Laurent, but Rowell insisted on having Stewart, politics notwithstanding, as commission counsel.

21. *Supra* note 19 at 163.

22. *Croft v. Dunphy*, [1933] 1 D.L.R. 225 (P.C.).

23. Rt. Hon. Georges-P. Vanier, as relayed to Elizabeth Stewart, *ibid.* at 159.