

## FRIENDSHIPS IN THE LAW

Tony Weir\*

If there had ever been a cross word at the Tulane Law School, one of the clues might well have been "In Ferd you have one" (*anagram*, 6 letters). Friends were certainly of vital importance in Ferd Stone's life; he lived for them, and it was through them that he had much of his special effect on the law and its study, at home and abroad. The comparative lawyer needs friends abroad. They are not just a pleasure but a necessity, for while the municipal jurist can sit solitary at his modem or even read a book, the only way to learn the secret impetus of a foreign legal system is by friendly talk with its adepts: conferences are good, but conversations are better. Ferd followed Dr. Johnson's advice about keeping his friendship in constant repair<sup>1</sup> and, like Falstaff with wit,<sup>2</sup> was not only a friend himself but a cause of friendship in others. Since I myself owe so much to friendships which Ferd promoted, as well as to friendship with himself, it seemed right to reflect on friendships in the law.

### *Montaigne and La Boétie*

We can start at the Parlement de Bordeaux in 1557. Two lawyers there formed an intimate and harmonious friendship, which has resonated ever since. Etienne de la Boétie died in 1563, and Michel de Montaigne, three years his junior, never ceased grieving for him: "Since the time I lost him . . . I doe but languish, I doe but sorrow: and even these pleasures, all things present me with, in stead of yeelding me comfort, doe but redouble the grieffe of his losse."<sup>3</sup> Montaigne retired to his enchanting castle, placed an inscription to his friend in its tower-library and there wrote those marvellous *Essais* which, along with the graceful poetry of Ronsard and the ejaculatory

---

\* Fellow of Trinity College, Cambridge.

1. J. BOSWELL, *LIFE OF JOHNSON* 214 (R.W. Chapman ed. 1953).

2. "I am not only witty in myself, but the cause that wit is in other men." Shakespeare, *Henry IV, Part II*, ii.7. Dr. Johnson picked this up in saying of Foote "He is not only dull himself, but the cause of dullness in others." J. Boswell, *supra* n. 1, at 1205.

3. 1 MONTAIGNE, *ESSAYS* 207 (J. Florio, Trans., Everyman ed., 1910). Florio's translation into perfect Elizabethan prose was published just in time for use by Shakespeare. The *ESSAYS*, accepted in Rome in 1581, were placed on the Index in 1676.

effusions of Rabelais, are the glory of the sixteenth century in French literature. He would doubtless be gratified that those responsible for the streets of modern Paris have kept the names of Montaigne and La Boétie close together, probably indifferent that this should be in the chic eight arrondissement, but certainly surprised that his own name be remembered in an Avenue while La Boétie rates only a street, for in their day it was La Boétie who was much the better known and more admired. Montaigne admired his friend as much as he loved him, and says, most movingly, "If a man urge me to tell wherefore I loved him, I feele it cannot be expressed, but by answering; Because it was he, because it was my selfe."<sup>4</sup>

Montaigne's tutor spoke nothing but Latin to him from the age of three, so it is hardly surprising that in his Essay on Friendship he cites *De Amicitia*, the piece which Cicero addressed to his dear Atticus in the very year of Caesar's assassination, a crisis which was to result in Cicero's own death at the instigation of the future Emperor Augustus. The fruit of Cicero's friendship with Atticus is with us yet, in the form of a grand legacy of 426 letters,<sup>5</sup> and if Cicero himself was more of an orator than a jurist, he cast *De Amicitia* in the form of a conversation between the greatest of the early Roman lawyers, Quintus Mucius Scaevola (some of whose words, by then five centuries old, were to be preserved for us in Justinian's *Digest*<sup>6</sup>) and Caius Laelius, the great friend of Publius Scipio Aemilianus, who saved Rome from barbarism by destroying Carthage and from parochialism by importing Greek culture, the taste for which was doubtless implanted by his tutor, the historian Polybius, retained by his adoptive father, the conqueror of Macedon.

After citing Cicero, Montaigne gives us a rather surprising quotation from Aristotle: "perfect lawgivers have had more regardfull care of friendship than of justice."<sup>7</sup> His point is that concord is of the first importance for the city-state, and that amity is its base. "And if men are friends, there is no need of justice between them; whereas merely to be just is not enough: a feeling of friendship is also necessary."<sup>8</sup> This contrast between warm friendship and cold justice suggests a story in Plutarch (some of whose writing was translated by

---

4. 1 MONTAIGNE, *supra* n. 3, at 201; the relationship between Montaigne and La Boétie has been likened to that between Hamlet and Horatio: E. DOWDEN, MONTAIGNE 89 (1895).

5. CICERO'S LETTERS TO ATTICUS (7 vols., 1965-1970), admirably edited by D.R. Shackleton Bailey.

6. D.41.1.64; D.43.20.8; D.50.16.241; D.50.17.73.

7. 1 MONTAIGNE, *supra* n. 3, at 196.

8. ARISTOTLE, THE NICOMACHEAN ETHICS 452 (VIII.1.4) (H. Rackham ed. 1926).

La Boétie) about Aristides the Just. During an ostracism--that characteristic device in Athens for defusing political discord (stasis) by banishing the politician who got the most votes--an illiterate voter (it was, after all, a democracy) asked a bystander, whom he did not recognize as Aristides, to write the name of his candidate for banishment on his potsherd for him. His nominee was Aristides himself, who, being Just, did as he was asked and wrote down his own name. Then he asked the voter what wrong Aristides had ever done him. "None whatever", replied the honest citizen, "indeed I don't even know the fellow, but I simply can't bear hearing him called "the Just" the whole time."<sup>9</sup> And banished he was. As Aristotle says, being Just just isn't enough.

According to one of Montaigne's favorite books, the *Lives and Opinions of the Philosophers* of Diogenes Laertius<sup>10</sup> (of whom nothing is known for sure, but who probably compiled this eclectic, unoriginal and unreliable work in the early third century), Aristotle wrote one book on Friendship as well as four on Justice (a "book" in those days being a unit of length rather than a separate work, and of course a scroll rather than a number of pages bound on one side).<sup>11</sup> The connection between justice and friendship, or rather between injustice and false friendship, must have been in Aristotle's capacious, if uncharming, mind when his beloved master Plato deprived him of the presidency of the Academy and gave it to his nephew Speusippus instead--an early example of the philosophy of nepotism;<sup>12</sup> not that this did Aristotle any lasting harm, for he went to Macedonia to tutor the princely Alexander, whose conquests of the physical world were to match, in éclat if not in duration, the intellectual triumphs of his teacher, and vindicate his saying, if Diogenes is right to report that he said it, that "The roots of education are bitter, but the fruit is sweet",<sup>13</sup> a view of which modern educationists, ever keen to sweeten the roots even at the cost of embittering the fruit, might take note. But Diogenes's ascriptions are not really trustworthy. Can Aristotle really have said, when asked "What is a friend?" that it was "A single soul dwelling in two bodies"?<sup>14</sup>

9. 2 PLUTARCH'S LIVES 235 (B. Perrin ed. 1914) (Aristides VII. 5-7).

10. 1 DIOGENES LAERTIUS, LIVES OF THE GREAT PHILOSOPHERS 465 (V.22) (R.D. Hicks ed. 1925).

11. See L. REYNOLDS & N. WILSON, SCRIBES AND SCHOLARS 34-36 (3d ed. 1991). Thus when Justinian told Tribonian that the *Digest* was to be in fifty books, Tribonian knew how long it was to be.

12. *The Life of Aristotle* in G. ANSCOMBE & P. GEACH, THREE PHILOSOPHERS 3-4 (1967), less racy than that of Diogenes, is more reliable.

13. 1 DIOGENES LAERTIUS, *supra* n. 10, at 461 (V.18).

14. *Id.* at 463 (V.19).

*Domat and Pascal*

In the seventeenth century the idea that friendship is of value to the state--but of course it is now the nation-state rather than the city-state--is taken up in a large way by Jean Domat. Domat is one of the great figures of French legal history<sup>15</sup>--greater than Pothier, according to Portalis<sup>16</sup>--and his very special friend and fellow-Auvergnat was Blaise Pascal, one of the greatest figures of all intellectual history. We cannot expect a mere lawyer, even one as remarkable as Domat, to arouse widespread interest--certainly nothing to compare with Molière, three years his senior, or even Cyrano de Bergerac, three years older still--but Pascal has fascinated the modern world, by exemplifying the tension between scientist and saint, and housing in his stricken body the spiritual strife of reason and faith. We recall his marvellous saying: "Le coeur a ses raisons que la raison ne connaît point",<sup>17</sup> and it was he, of course, who saw man as a reed, but a thinking reed<sup>18</sup> that would be wise to bet on the existence of God since that way he couldn't lose,<sup>19</sup> who was able to picture Aristotle laughing with his friends(!),<sup>20</sup> and who echoed Montaigne's concern at the fact that justice depended on where you were<sup>21</sup>--a concern shared by natural lawyers and their epigoni, the human rights brigade. He had a strong sense of the contingent in the sublunary sphere, and his famous remark that the history of the world would have been different if Cleopatra's nose had been any shorter<sup>22</sup> has given the title to a marvellous example of modern juristic writing, on the rules of causation.<sup>23</sup> Though immensely clever, Pascal was not very learned, preferring mathematics to Latin (though he wrote his mathematics in Latin, as Newton a little later wrote his). Montaigne, however, was one of his favourite authors, along with Epictetus (rather an incongruous pair, the servile neo-Stoic and the renaissance pyrrhonist, both aces, of course, but aces

---

15. B. BAUDELLOT, *JEAN DOMAT* (1938).

16. S. C. SAINTE-BEUVE, *L'HISTOIRE DE PORT-ROYAL* 523 n. 2 (6th ed. 1901).

17. B. PASCAL, *PENSÉES* NO. 277 (L. Brunschwig ed. 1904).

18. *Id.*, no. 347.

19. *Id.*, no. 233.

20. *Id.*, no. 331.

21. *Id.*, no. 294, from 2 MONTAIGNE, *supra* n. 3, at 297.

22. *Id.*, no. 162; compare 3 Montaigne, *supra* n. 3, at 34: "Your fantazie cannot by wish or imagination, remove one point of them, but the whole order of things must reverse what is past, and what is to come."

23. J. Esmein, *Le Nez de Cléopâtre ou les Affres de la Causalité* D. 1964.Chron. 205.

of very different suits).<sup>24</sup> Indeed, Sainte-Beuve describes Montaigne as the fox in Pascal's tunic, gnawing with his doubts and scepticism at Pascal's rigorous and laconic spiritual commitment.<sup>25</sup>

In matters of belief, so much more obsessive then than now, when secular well-being is rated above eventual salvation and politics has to that extent ousted religion, Pascal and Domat were close. It is true that by their day the bloody Wars of Religion, from which Montaigne had stood aloof, though he witnessed their outbreak and lived through the Massacre of St. Bartholomew, had come to an end on the accession of Henry of Navarre, the Protestant who adopted Catholicism and procured tolerance for the Huguenots by enacting the Edict of Nantes, but tensions remained acute during the seventy-year reign of his grandson Louis XIV. The tensions existed not only between the Protestants and the Catholics, but also between the Catholics characterised by devout and puritanical independence, the Jansenists of Port-Royal, and those of a laxer, more flexible and submissive nature, represented by the Jesuits, who had been unwisely recalled from banishment by Henry, and now had the ear of the King because it was to their ear that he confessed his royal sins. We are more familiar with Protestant Puritans than these Catholic Puritans, who shared many of their characteristics and were no more popular with the secular authorities. Louis XIV extinguished the Protestants by revoking the Edict of Nantes at the behest of one of his mistresses, and subsequently shut up the dissident Puritan Catholics by closing the Jansenist headquarters, Port-Royal, of which Pascal was a member and Domat an adherent. With the Jesuits Domat was in frequent dispute. One dispute concerned Pascal. Domat had been at his death-bed, aged 39, and when the priest who had administered the last rites asserted that Pascal had at the end abjured his Jansenist views, Domat had to give him the *démenti*.<sup>26</sup> Domat actively, but ineffectually, opposed the establishment of the Jesuits in his home-town of Clermont-Ferrand,<sup>27</sup> he refused to allow any of his thirteen children to be educated by

---

24. See B. PASCAL, *Entretien avec M. de Saci*, in *OEUVRES COMPLETES* 291 (L. Lafuma ed. 1963). Sainte-Beuve gives a stunningly intelligent and elegant portrayal of Pascal's relationship with Epictetus and Montaigne (the pillar of stone and the pillar of mist: see R. SAYCE, *THE ESSAYS OF MONTAIGNE* 202 (1972)), 2 C. SAINTE-BEUVE, *PORT ROYAL* 382-399 (6th ed. 1901), and for this he deserves our appreciation even more than for writing about Portalis (5 *CAUSERIES DU LUNDI* 441 (1852)) or even for cuckolding Victor Hugo.

25. 2 SAINTE-BEUVE, *supra* n. 24, at 397. Pascal's response to Montaigne's concern with self-portrayal was to say (shout, scream?) "Le Moi est haïssable" (B. PASCAL, *supra* n. 17, no. 455).

26. BAUDELLOT, *supra* n. 15, at 199.

27. *Id.* at 200.

them,<sup>28</sup> and he used his legal position to have a Jesuit priest prosecuted for preaching the infallibility of the Pope,<sup>29</sup> whose shortcomings Domat expressed in his exclamation "Am I not to have the consolation of seeing a Christian on the throne of St. Peter?"

Domat and Pascal were not just fellow Auvergnats and fellow-believers: both sons of lawyers, they went to the same school in Paris, the Collège de Clermont, now the great Lycée Louis le Grand, close to the rue Domat and the Law Faculty, the rue Pascal being a little to the South, where Port-Royal used to be. After school, Domat participated in Pascal's experiments on air pressure, which involved climbing the Puy de Dôme, the volcanic mountain just west of Clermont. Pascal left Domat one quarter of the royalties payable on the vehicles he designed for the Paris transport system,<sup>30</sup> but unlike Montaigne, says little of friendship, and nothing really edifying. The fragment which says "*Je n'ai point d'amis*"<sup>31</sup> may be explained away, but there is unquestionably something displeasing in the instruction he wrote to himself, found on a scrap of paper in his bed, not to let people love him because, given his impending death, there would be no future in it.<sup>32</sup>

Domat, by contrast, gives friendship a special place in the Plan of Society at the beginning of his great *Les Loix Civiles dans leur Ordre Naturel* (1689).<sup>33</sup> In this work Domat, true to his time and place, sought to make an orderly system out of the chaos of Roman law as it is transmitted to us in the *Digest* and *Code* of Justinian (though as nothing to the chaos in which Pascal left his *Pensées*). He succeeded: Boileau said of him that he restored reason to jurisprudence, and Victor Cousin described his work as the "preface to the Code Napoléon."<sup>34</sup> The work was extremely successful, and justified the pension Louis XIV gave him in order to enable him to complete it,<sup>35</sup> though Domat remained puzzled that pagan Romans should have been such good lawyers when, after all, they did not recognize God, the Summum Bonum to which the first law required one to aspire, mutual love. "Friendships", he said, ". . . are . . . Sources of an infinite number of Good Offices and Services, . . . and . . . contribute a thousand ways to

28. PASCAL, *supra* n. 24, at 654.

29. BAUDELLOT, *supra* n. 15, at 204.

30. *Id.* at 33.

31. B. PASCAL, *supra* n. 17, no. 154; in no. 101 he observes that there wouldn't be four friends in the world if people knew what others said of them behind their backs.

32. B. PASCAL, *PENSÉES* NO. 832 (J. Chevalier ed. 1936).

33. J. DOMAT, *THE CIVIL LAW IN ITS NATURAL ORDER* (trans. W. Strahan, 1722).

34. VIOLLET, *HISTOIRE DU DROIT CIVIL FRANÇAIS* 222 (2d ed. 1893).

35. BAUDELLOT, *supra* n. 15, at 187.

the Order and Uses of Society . . ."36 For Domat friendship was not the cause but the result of Engagements; its distinguishing characteristic was that one was free both to enter and to break it (for while the duty to love one's neighbour was invariable, even if he hated you, friendship was marked by reciprocal affection, altruistic in seeking the Summum Bonum, not interested in personal advantage, even of a moral variety). Its terminability distinguished it from marriage, its reciprocity from parenthood, its voluntary nature from fraternity. Domat does not discuss how the law should react to the incidents of friendship, for "seeing this is not a matter treated of in the Civil Laws, it is not proper to enter upon the detail of the particular Rules of the Duties of Friends."<sup>37</sup> One commentator is surprised that Domat should mention friendship at all when he is not going to discuss it in detail,<sup>38</sup> and it is true that the passage in question sits ill with what has been described as the "cold and geometrical construction" of Domat's system.<sup>39</sup> But the suggestion that Domat was just aping Cicero is unpersuasive in the highest degree.<sup>40</sup> One who himself drew a portrait of Pascal and then pasted it into his working copy of Gothofredus's *Corpus Juris* (Gothofredus being the first scholar so to name the legislation of Justinian) is much more likely to have been affected, in Pascal's phrase, by the reasons of the heart which reason does not know.<sup>41</sup> One is reminded of Montaigne writing in his library under the inscription to La Boétie.

### *Boswell and Johnson*

The friendship in the eighteenth century between James Boswell, the rakish Scots lawyer, and Samuel Johnson, *the* Englishman of letters, has given us one of the most entertaining books in the world, published exactly two hundred years ago, and one, indeed two, of the best biographies in English.<sup>42</sup> Boswell is perhaps

---

36. 1 DOMAT, *supra* n. 33, at xvii.

37. *Ibid.*

38. BAUDELLOT, *supra* n. 15, at 85.

39. VIOLLET, *supra* n. 34, at 22.

40. BAUDELLOT, *supra* n. 15, at 86.

41. *Id.* at 38; the portrait is reproduced as the frontispiece to PASCAL, *OEUVRES COMPLETES*, *supra* n. 24.

42. J. BOSWELL, *LIFE OF JOHNSON* (R.W. Chapman ed. 1904, 1953); W. JACKSON BATE, *SAMUEL JOHNSON* (1978). JOHN WAIN, *SAMUEL JOHNSON* (1974) is also to be recommended. Johnson outdoes our generation in all it most prides itself on: not only was he a talk-show in himself, but his piece on the Falkland Islands demonstrates the trumpery quality of current journalism: see *Thoughts on the Late Transactions respecting Falkland's Islands*, in 5 S. JOHNSON, *WORKS* 392-426 (R. Lynam ed. 1825).

vulnerable to Domat's disapproval of friendships tinct with interest, but Johnson is not, unless joint relief from shared melancholia constitute personal advantage. How charming the story is of Johnson, already over forty, being roused from sleep at three o'clock one morning--he slept poorly--by a pair of young companions who besought his company for further carousal, and shouting down to them "What, is it you, ye dogs? I'll have a frisk with you."<sup>43</sup> He not only accompanied Boswell on a long voyage through the Highlands and Islands of Scotland,<sup>44</sup> a perilous trip for one of his years, but much earlier, in 1763, went to Harwich to see the young Boswell off to Holland to train as a lawyer, as so many Scots did in those days.<sup>45</sup> While at Utrecht, Boswell tried to put his life in order and, just as Domat had drawn up a Plan of Society, Boswell drew up an Inviolable Plan for himself: "For some past years you have been idle, dissipated, absurd and unhappy." (Boswell addressed himself in the second person). But Johnson had had a very beneficial effect: "The Rambler showed you that vacuity, gloom and fretfulness were the causes of your woe . . . He furnished you with principles of philosophy and piety to support the soul at all times. You returned to Utrecht determined. You studied with diligence."<sup>46</sup> And so, up to a point, he did, but whereas his father, the dour Judge Lord Auchinleck, wrote him, "It will be an entertainment to compare the two laws of Scotland and of Rome",<sup>47</sup> the son found other matters more entertaining, and despite his intention of "piously preparing for immortal felicity"<sup>48</sup> (trust Boswell to have grand aims!), he was subject to constant backsliding. He did, however, become a lawyer, and did quite well, if not as well as he madly hoped.

Though not himself a lawyer, Johnson helped Boswell with some of his cases. What Boswell didn't know was that Johnson also helped Robert Chambers to write the law lectures which Chambers had to give as successor, only twenty-five years old, to William Blackstone in the Vinerian Chair at Oxford.<sup>49</sup> The lectures were published in full

---

43. W. BATE, *supra* n. 42, at 346; J. BOSWELL, *supra* n. 42, at 176.

44. S. JOHNSON, A JOURNEY TO THE WESTERN ISLANDS OF SCOTLAND (M. Lascelles ed. 1971); R.W. Chapman (ed.), JOHNSON'S JOURNEY TO THE WESTERN ISLANDS OF SCOTLAND and BOSWELL'S JOURNAL OF A TOUR OF THE HEBRIDES WITH SAMUEL JOHNSON LL.D. (1924, 1931).

45. F.A. Pottle (ed.), BOSWELL IN HOLLAND 1763-1764 at 2 (1952).

46. *Id.* at 375.

47. *Id.* at 63.

48. *Id.* at 377.

49. W. BATE, *supra* n. 42, at 418. On Chambers and Johnson, see A. McNAIR, DR. JOHNSON AND THE LAW 16-17 (1948).

only a few years ago.<sup>50</sup> Chambers himself was not a Scot, but at school in Newcastle he made friends with two remarkable lawyers, the brothers Scott, better known to posterity as Lord Eldon and Lord Stowell, the leading equity and admiralty lawyers of their day. Indeed, Eldon acted as Chambers's stand-in for the three years during which the Vinerian Chair was kept for him while he tested the climate in India, where he had been appointed to the newly formed Supreme Court of Bengal,<sup>51</sup> and Stowell accompanied Johnson on to Edinburgh to meet Boswell for the trip to the Highlands after dropping Chambers at Newcastle.<sup>52</sup> The *Dictionary of National Biography* says of Chambers, "Wherever he went, he found friends",<sup>53</sup> and notes that this was incomprehensible to Dr. Johnson's friend Mrs. Thrale, the wife and widow of the brewer at the auction of whose property Dr. Johnson is alleged to have said "We are not here to sell a parcel of boilers and vats, but the potentiality of growing rich, beyond the dreams of avarice."<sup>54</sup> How marvellous Augustan speech and prose could be! But it was not always solemn. Dr. Johnson once happened upon Chambers throwing snails into his neighbour's garden and upbraided him for this unneighbourly conduct. Chambers explained that the neighbour was a dissenter. Replied Johnson, the Tory, "Oh, if so, toss away, Chambers, toss away!"<sup>55</sup>

One of the friends of Robert Chambers in India was Sir William Jones, who while an undergraduate was also Tutor to the son of the first Lord Spencer (of whom Princess Diana is the direct descendant). Jones was already a member of Johnson's Literary Club, admitted the same day as Garrick, Johnson's actor school-friend whose death, Johnson said, "eclipsed the gaiety of nations and impoverished the public stock of harmless pleasure".<sup>56</sup> He was an excellent linguist, who came to know thirteen languages thoroughly and twenty-eight quite well, and his first three publications were in French, the first a translation from the Persian at the instance of the King of Denmark. When he became a lawyer and then Judge of the High Court of Calcutta, he decided to become the Justinian of India and embarked upon a codification of all the native law, Hindu and Mohammedan. Death prevented him, and Chambers wrote his epitaph in the chapel of

---

50. A Course of Lectures on the English Law Delivered at the University of Oxford 1767-1773 by Sir Robert Chambers, Second Vinerian Professor of English Law, and Composed in Association with Samuel Johnson (T.M. Curley ed. 1987).

51. 10 DICTIONARY OF NATIONAL BIOGRAPHY 22-3 (1887).

52. W. BATE, *supra* n. 42, at 463.

53. 10 DICTIONARY OF NATIONAL BIOGRAPHY 22 (1887).

54. BOSWELL, *supra* n. 42, at 1132 (6 April 1781).

55. J.C. BAILEY, DR. JOHNSON AND HIS CIRCLE 177 (1913).

56. J. BOSWELL, *supra* n. 42, at 58; Johnson lightly repelled Boswell's pert criticism of his expression: *id.* at 1021.

University College, Oxford.<sup>57</sup> Before going to die in India, as so many altruistic imperialists did, Jones had written an *Essay on Bailments*, which was quite successful in England and had a tremendous éclat in the United States, where Justice Story said of its author that if he had written nothing else "he would have left a name unrivalled in the common law for philosophic accuracy, elegant learning and finished analysis"<sup>58</sup>, doubtless the very qualities which explain its relative lack of success in Britain, unless it was the author's opposition to the American War which made him unpopular with the authorities who had, as ever, the power of appointment and disappointment.

### *Holmes and Laski*

Recent years have perhaps been less rich in friendships, but one could not write of friendships in the law without saying something of the relationship between Oliver Wendell Holmes, Jr. and Harold Laski. It was remarkable in its nature--they were very different in their age and styles, Olympian and organ-grinder's monkey--and in its product, for the *Letters*<sup>59</sup> make splendid reading, not far short in pleasurable interest from Boswell's *Johnson*. As to the warmth of the friendship, we need only quote Holmes's letter when Laski was leaving for England a few years after they met: "But oh, my dear lad, I shall miss you sadly. There is no other man I should miss so much. Your intellectual companionship, your suggestiveness, your encouragement and affection have enriched life to me very greatly." Ten years later he wrote: "You are the best correspondent I ever had."<sup>60</sup> And as to Laski's side, his biographer has said "No one who knew Laski well could fail to realise that there was in his feeling about Holmes a quality that tinged none of his other relationships".<sup>61</sup>

Those other relationships were very numerous. Some of the great men we have mentioned would doubt the possibility of having a true and deep friendship with more than one person--Dr. Johnson quotes Diogenes Laertius: "an old Greek said 'He that has *friends* has

---

57. 30 DICTIONARY OF NATIONAL BIOGRAPHY 174-177 (1892); there is a new life of "Indianus Jones": G. CANNON, *THE LIFE AND MIND OF ORIENTAL JONES* (1991).

58. 6 NORTH AMERICAN REVIEW 46-47 (1817), cited in 30 DICTIONARY OF NATIONAL BIOGRAPHY 175 (1892).

59. HOLMES-LASKI LETTERS (M. Howe ed. 1953).

60. *Id.* at 256, 1272.

61. K. MARTIN, *infra* n. 66, at 44.

no *friend*"<sup>62</sup>--and though Laski is not beyond suspicion of promiscuity of affection, even of affecting affection, it would be unduly harsh to say that he was as much a name-catcher as he certainly was a name-dropper, or an opportunist in personal affairs. He *used* Holmes not at all, apart from asking for a testimonial towards a temporary job in Cambridge, England,<sup>63</sup> and Cosgrove may go too far in saying that Laski "made the most of the American connections he had established to enhance his own scholarly standing . . ."<sup>64</sup>

Laski is not perhaps very well remembered today in the United States--not too many will have read the *Congressional Record*<sup>65</sup> in which he was twice excoriated towards the end of his life--so it may be worth saying something of him.<sup>66</sup> Son of the leader of Manchester Jewry, himself in *Who's Who?* as well as a familiar of, and host to, Winston Churchill, young Laski was an outstanding pupil at Manchester Grammar School, and went on to Oxford, where his Tutor was Ernest Barker, a distinguished political scientist. He soon met and married (in Scotland, where parental consent was not required) a eugenicist called Frida, and while this was to prove a highly satisfactory step in the long term, in the short term it was disastrous, for it provoked a fearful family breach. Disowned by his father, Harold left with Frida for Canada and took a job at McGill. It was there that Felix Frankfurter recruited him for Harvard, where he served as Tutor and Instructor in History from 1916 till 1920. It was in the Law School, however, that his heart really lay. He took some classes there and not only acted as Book Editor for volumes 31 and 32 of the *Law Review* but also had a couple of articles published in it.<sup>67</sup> Just as he never lost an American accent,<sup>68</sup> he never disclaimed the profound impression that legal education *à la* Harvard had made on him; it stimulated him to cause Lord Sankey, the Labour Lord Chancellor, to

---

62. J. BOSWELL, *supra* n. 42, at 946; DIOGENES LAERTIUS, *supra* n. 10, at 464 (V.1.21).

63. HOLMES-LASKI LETTERS, *supra* n. 59, at 437.

64. R. COSGROVE, *OUR LADY THE COMMON LAW* 254 (1987).

65. *Congressional Record*; H. Repts. 24.1.1941 (Thomas, N.J.); 6.2.1946 (Woodruff, Mich.); K. Martin, *infra* n. 66, at 196.

66. See KINGSLEY MARTIN, *HAROLD LASKI (1893-1950), A BIOGRAPHICAL MEMOIR* (1953). Kingsley Martin was for long the influential editor of *The New Statesman*, now defunct.

67. *The Personality of Associations*, 29 HARV. L. REV. 561 (1917), published before his arrival; *The Early History of the Corporation in England*, 30 HARV. L. REV. 561 (1917); *The Responsibility of the State in England*, 32 HARV. L. REV. 447 (1919), along with Notes on MM. Duguitt and Hauriou. See Z. Chafee, *Harold Laski and the Harvard Law Review*, 63 HARV. L. REV. 1398 (1950).

68. KINGSLEY MARTIN, *supra* n. 66, at 59.