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‘Jim Phillips, I Did Not Commit Adultery: Marital Conflict and the Law in Ontario in the 1870s’

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Jim Phillips, *I Did Not Commit Adultery: Marital Conflict and the Law in Ontario in the 1870s* (Osgoode Society for Legal History and University of Toronto Press, 2025), 332pp. Hardback. C\$70. ISBN: 978-1-4875-1744-1.

I Did Not Commit Adultery: Marital Conflict and the Law in Ontario in the 1870s explores the spectacular breakdown of the marriage of Eliza and Robert Campbell. Told in riveting detail, the story is an intriguing social history of marriage, small-town gossip, gendered expectations, and the vulnerability of women. The question of whether Eliza Campbell had committed adultery resulted not only in salacious gossip and community conflict, but also in multiple court cases, three years of federal debate, and the only *Separation* (not divorce) *Act* ever granted by the Canadian Parliament. While the Campbell case is unique, it none-the-less reveals much about the social and legal history of marriage, gender, and the law. It also raised important constitutional questions regarding what we would now call the division of federal and provincial powers. This case study fills an important gap in legal history, as parliamentary divorce, perhaps surprisingly, has been 'almost entirely neglected by Canadian social and legal historians' (p. 4).

After an introduction which explores the case study method and the history of marriage and divorce law, Phillips introduces the reader to the Campbell and Byrne (Eliza's maiden name) families and the community of Whitby (chapter 2). The next two chapters recount the period from Robert's return from a business trip to the United Kingdom, his belief that his wife had been unfaithful, and his forceful eviction of her from the marital home. Phillips provides the story from the perspective of both parties and introduces the major witnesses who would later provide evidence in court and/or for the Senate Divorce Committee. The next three chapters deal with three major lawsuits. In the first case (Chapter 5) Robert Campbell sued George Gordon for criminal conversation, an action that could be taken by a husband against a man he alleged had had sex with his wife. Eliza then sued Robert's brother, James, who had provided testimony regarding her alleged adultery, for defamation (Chapter 6). In Chapter 7, Phillips details Eliza's suit for alimony in the Court of Chancery. When Eliza's suit was rejected, the door was opened for Robert to apply for a parliamentary divorce for which the only available cause was adultery. Chapters 8 through 14 explore Robert's unsuccessful application for divorce in 1876, Eliza's successful counter application for a divorce *a mensa et thoro* – separation without the right of remarriage – in 1877, the failure of this bill to pass in the House of Commons, and events of 1879 when the bill passed in both Houses of Parliament. Senate Divorce Committee members, Senators, and Members of the House of Commons debated not only the likelihood – or not – that Eliza had committed adultery, but also the failure – or not – of Robert to fulfill his manly duties within marriage. Further, the case engendered significant debate about the role of the federal government: was it within the role of Parliament to approve, not a divorce, but a separation, in practice overriding the (alimony) decision of a provincial court. In his conclusion, Phillips notes that while Eliza prevailed in Parliament, it is more that 'Robert lost...not that Eliza won' (p. 331). While Robert moved to the United States, divorced, re-married twice, and lived to a ripe old age, Eliza lost her children and her home, was dependent upon her birth family, and died in genteel poverty (Chapter 15).

The book is exceptionally well-researched and well-written. The structure is very effective. By providing extensive detail about the events of the alleged adultery as described by both parties and their supporters in the opening chapters, Phillips

avoids repetition in all the legal chapters which follow, allowing him to explore the intricacies and inconsistencies of law in exceptional detail. He provides extensive information about the lawyers who acted for both parties and the men who adjudicated divorce in the Senate Committee (and ultimately also in the House of Commons), revealing the myriad ways in which opinion – particularly about the nature of marriage and the obligations of men and women within it – impacted legal and parliamentary proceedings. Throughout, Eliza Campbell, the central figure in this drama, ‘rarely spoke for herself’ (p. 8). This case study is rich, evocative, and informative. While the laws and details examined are specific to Ontario/Canada, the lessons from this book have wide resonance throughout the common law world. *I Did Not Commit Adultery* is a must-read for all interested in gender, marriage, and law. It is also exceptionally entertaining.

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