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INDIGENIZE THIS

[January 2019](#)

John E. MacKinnon

On a steamy afternoon in early August, a ceremony was held on the campus of Saint Mary's University to raise the Mi'kmaq Grand Council flag, where it continues to waft alongside the provincial and national flags, making us, apparently, not just a Nova Scotian and Canadian, but also a Mi'kmaq, institution. This was, and remains, curious, since the Mi'kmaq had precisely nothing to do with the founding and flourishing of Saint Mary's University. Those who did, in fact, are treated these days as quaintly irrelevant. According to the flag-raisers, however, the non-role of the Mi'kmaq in establishing the University, or any other institution of higher learning in the Province, misses the point. In keeping with the ritual benediction they eagerly mouth before every official event on campus, they tell us that Saint Mary's sits, just as the rest of us live and breathe, on "unceded territory." At best, the grounds for such claims are, you might say, quaintly irrelevant, and for any number of reasons [see Alex M. Cameron, *Power without Law* (Montreal: McGill-Queen's University Press, 2009)]. And yet, as long as University officials are given to such revisionist antics, the rest of us have to wonder when and how far their pandering will affect academic policy. The University's commitment to "directed," that is to say, race-based, hiring suggests ample grounds for such concerns. But there is more. Indeed, with another grading season having just run its course, it is worth recalling a particularly egregious failure of administrative nerve last academic year.

In the Winter Term of 2018, I taught Philosophy of Law. After the first meeting of the class, in which I had distributed the course syllabus, and made general remarks about assigned readings and course requirements, a student dropped by my office. I will call her Q. She told me, first, that English was her second language, adding somewhat insistently that this was not a disability, and, second, that she would therefore require a note-taker. Since she spoke English fluently, I wondered what she could mean, until it dawned on me that she was Mi'kmaq and that the unmistakable element of display in her announcement suggested that, as far as she was concerned, her limited ability in English was no shortcoming, but a bracing testament to her own cultural pride. I proceeded to contact three students whom I knew and trusted to ask if any could serve as her note-taker, and eventually urged Q to contact one of them.

The material in Philosophy of Law is demanding, but, precisely



because of this, invigorating and rewarding for those who are capable and committed. After three weeks of working our way in detail through Norman Kretzmann's article on Aquinas and H.L.A. Hart's "Positivism and the Separation of Law and Morals," I prepared a review sheet for the students, devoted an entire class to review, and, the following class, administered the test. Marks ended up ranging from 0 to 98. Q earned a 9, that is, a 9 out of 100. Immediately after I handed back the tests, she came to see me and, smiling, asked if I could simply not count her mark. I told her that, while I looked forward to her marks improving, I could not, of course, simply discount this one. She appeared taken aback by this, as if she were used to a different kind of response elsewhere. I suggested that she should perhaps consider dropping the course, but she insisted that this wasn't an option.

The class proceeded through the next set of articles, by Lon Fuller, Friedrich von Hayek, and the American feminist legal theorist Catharine MacKinnon. In the midst of this series of classes, Q asked if I minded if she tape-recorded the lectures. Although I don't like being taped, I agreed, even suggesting that she sit nearer the front of the class, so her recordings would be clearer. She didn't take me up on this, but proceeded, as far as I could tell, to tape the classes. After another few weeks, I once more prepared a review sheet and devoted an entire class to reviewing the articles we had completed since the first test. Following the review, Q stopped by my office to tell me, now two days before the second test, that she needed another note-taker, since she couldn't understand those provided by the one I had arranged for her many weeks before. They were too detailed, she said. I told her I would make inquiries, checking with those others who had responded to my initial request, but that, at this late stage of the semester, I wasn't hopeful. Students were under a great deal of pressure, with looming deadlines in all of their classes, so I wouldn't be surprised if none even felt him or herself able. This was indeed the response I eventually received, so I contacted Q to tell her, adding that, if she had recordings of the classes, in particular of the review session, she should be in good shape. On the day, Q submitted a test on which she had written a preamble to an answer to the first question, but nothing else, thereby earning 0. At that stage of the semester, with 50% of her grade determined, she had an average of 4.5. Not 45, but 4.5. She could have hung on for the final two weeks of classes, submitted a term paper (although, written by whom, it would have been hard to imagine) and taken the final exam, but there was obviously no way that she could have passed the course. So, unsurprisingly, for those final two weeks, she didn't appear. Nor did she attend the final exam or submit a term paper. We who remained concluded the semester by reading and discussing a selection from MacKinnon's *Only Words*, as well as Ronald Dworkin's "Two Concepts of Liberty," after which students completed their term papers and prepared for the final exam.

To earn a university degree, students are subject to a number of academic regulations. At the beginning of each semester, for instance, they have eight or nine days to add and drop courses. This gives them a chance to get at least some measure of a course and its instructor, and to decide whether the course material is sufficiently interesting and the course requirements sufficiently manageable to remain



enrolled. After that deadline, withdrawal from a course is indicated on a student's transcript by a "W," which has no bearing at all on the student's GPA. Much later in the semester, however, there is a further deadline, what our *Calendar*, relying on academic regulation 16 a.), refers to as "the last day for withdrawing without academic penalty" from a semester-long course. Those who withdraw after this date are automatically assigned an "F." Although this is not a common occurrence, it is hardly unheard of. Thus, in the Winter Term of 2018, a student in my Propaganda and Truth class withdrew one day late and was immediately given an "F." Likewise, in the Autumn Term of 2018, again in Propaganda and Truth, a student withdrew one day late and was duly assigned her "F". Even though Q remained enrolled in Philosophy of Law ten full days past the deadline for withdrawal without academic penalty, when I went on-line to submit final grades, her name had been removed from the class-list.

On occasion, of course, retroactive withdrawal can be granted a student who has failed to withdraw in time, thereby sparing her a failing grade. Over the years, I have supported several such requests, but always in consultation with the Associate Dean of Arts and always on grounds that the Associate Dean and I regard as reasonable. Such grounds almost always involve illness, whether physical or mental, afflicting the student herself or a close family member to such an extent that the student misses an inordinately high number of classes. "Being Mi'kmaq" is no such reasonable ground.

Out of an initial enrolment of twenty-six students in Philosophy of Law, twenty-four completed the course, although, of these, four (not counting Q) failed, while two earned D's, and another five received marks in the C-range. Since most who enrol in Philosophy of Law are seriously entertaining the possibility of applying to law school, and since it is unlikely that anything lower than a B+ in the course would do them any favours, I can only assume that many, if not all, of those who earned disappointing grades would have wished their transcripts scoured with the efficiency and stealth that Q's had been.

When I discovered that Q's name had been expunged from official records, I immediately contacted V to find out on whose authority this had been done and on what grounds. The paper trail, V eventually reported, indicated that Q had met with a mid-level administrator, that she had vaguely, and I can only imagine haltingly, complained that certain course requirements, expectations, and deadlines had not been made clear to her, even though an examination of the course syllabus, complete with a reminder, in bold print, of the deadline for withdrawal without academic penalty, would have confirmed how groundless this charge was. And yet, at no point, I reminded V, had the administrator bothered to contact me. "There are," V nodded in an attempt to explain, "...sensitivities."

I have no way of knowing whether this particular administrative diktat was mandated, encouraged, or merely permitted, whether it confirmed the malign influence of what Marilynne Robinson calls "the tyranny of petty coercion," or whether, to adapt Nabokov, the administrator's "fine ear caught the soft whisper of official suggestion long before it had become a blare" [Robinson, *The Death of Adam* (New York: Picador, 2005), pp. 255 ff.; Nabokov, *Speak, Memory* (New York: Vintage, 1989), p. 282]. Regardless, it managed to spare





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The case of Q prompts a number of questions for indigenizers. Q was admitted to Saint Mary’s as a transfer student on the strength of her having completed twenty-seven credit-hours (the equivalent of nine half-year courses) in arts and humanities courses at another university. For a student who cannot function in written English, how is this even possible? Are Mi’kmaq students not being taught English in school? Or is English, even if taught, given short and derisive shrift? If so, on whose direction? The Government of Nova Scotia? The Minister of Education? The Mi’kmaq Grand Council? Since failure to learn English well can only jeopardize the prospects of the students themselves, why, petty cultural politics aside, is this tolerated? Does “indigenizing” the academy entail non-indigenous students, in addition to shouldering their own considerable responsibilities, doing work that Mi’kmaq students should be doing for themselves? Is this what educational bureaucrats mean by “service learning”? How many academic regulations have been relaxed or ignored, how many transcripts tampered with, how many grades inflated and pseudo-subjects concocted in deference to the imperatives of “indigenization”?

The first institution of presumptive higher learning that Q attended has clearly debased itself, dispensing university credit on the cheap. And yet, I have little doubt that, in time, she will manage to navigate her way through the thicket of academic regulations and requirements at, and earn a degree from, Saint Mary’s. Once again, though, how?

I know the answer to that one.

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