

October 70 35¢

# the mysterious east

an independent atlantic magazine



Armament  
For  
Sale

THE  
Party  
Platform

A Rather  
Unobtrusive  
Affair

# ABOUT the mysterious east

This month is election month in two Maritime provinces. The candidates and the papers will, no doubt, tell you to get out and support the party of your choice. The litany goes, "Vote as you please, but please vote!" Why?

Why vote for a candidate who runs an issue-less campaign?

Why vote for a party that presents no alternative?

Why continue the charade of pretending that political participation begins six weeks before an election and ends when the government is installed?

If you can find one, try asking a candidate in your constituency why he is so interested in having your participation in selecting him on election day when he has not approached you earlier to help decide on the content of the platform of which he will run. Ask him whether he will welcome your political participation as much after election day as on it.

Premier Louis Robichaud, announcing the New Brunswick election, said that it was important "in many respects" that an election be held. He unfortunately failed to specify the respects. Opposition leader Richard Hatfield announced that as the election campaign developed his party would present its platform to the public. Apparently he thinks the people don't have a right to know what the Conservative party in New Brunswick stands for except during an election campaign, and not fully even then.

The Conservatives are, of course, not the only perpetrators of this confidence game; most parties tend to treat planks in their electoral platform as surprises to be sprung upon the voters to gain competitive advantage over their opposition. Notice how often the public statements of the respective leaders refer, not to the quality, but the popularity, of parties or policies.

The people are treated, not as citizens, but as consumers

of policies "produced" by the parties to be "tested" in the "marketplace" of public opinion. We are, in other words, given a "choice" among parties in about the same way as we are given a choice between soft drinks -- and the name on the label makes about as much difference. And they're all packaged in non-returnable bottles.

This is to say that far from being an exercise in democracy, an election is a process of choosing among already-selected candidates. How democratic was the process by which the candidates in your constituency were selected to run? How many people participated in that selection process? How many parties publicly sought broader citizen participation in the selection of candidates?

*The Mysterious East* in this issue presents for the voters of Nova Scotia and New Brunswick and the citizens in all four Atlantic provinces a platform we might support; for a party which doesn't at the moment exist. Compare it with what you can find of the platforms of the parties contesting these elections. Then ask yourself if any of the parties deserve your support.

And remember that the real test is not in the platform, but in the way the real political decisions are made after elections. It just may be that the most reasonable -- and politically effective -- thing you can do this election is to stay home on election day -- and come out the day after.

If you want some additional reasons for staying home, look in the July (New Brunswick) and August (Nova Scotia) issues of *The Mysterious East*.

Things you might find in this issue include our long-awaited look at Maritime legal problems, with articles on judges, Legal Aid, and the state of the law generally.

Next month, a wrap-up of our first year of publication and renewal notices for the subscribers who've been with us from the beginning.

Where've you been? Are you part of the problem, or part of the solution?

## INSIDE



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# the law

# LEGAL AID DOWN EAST

a study in regional disparities

**I**F EQUALITY BEFORE THE LAW is anything more than a soothing phrase, it must mean that rich and poor, weak and powerful, French and English, white and black, all have an equal chance of prevailing in a court action. Yet our society contains extremes of wealth and poverty. Does a person's economic status affect his success in court? You bet it does.

The chief device for cutting down the gap between rich and poor before the law is legal aid — a term which refers to a wide variety of systems for assuring that a poor person has the services of a competent lawyer regardless of his ability to pay for them. In some countries — Great Britain and Scandinavia, for instance — legal aid schemes really *do* close the gap considerably. In Ontario a widely-praised scheme has operated since 1967. The Atlantic Provinces, alas, trail far behind. Nova Scotia's system is roughly equivalent to the scheme Ontario began in 1951 and has since abandoned; Newfoundland's is similar. In Prince Edward Island and New Brunswick, legal aid is little more than a gesture, and equality before the law is little more than a useful phrase for political speeches.

## NOVA SCOTIA

When Justice Minister John Turner told the North American Judges Association convention in San Francisco that the poor got less than a fair deal in the administration of the law, Nova Scotia Legal Aid Director David Thomas remarked that the comment might be accurate for some parts of the country, but he didn't think it applied in Nova Scotia. The very ablest of lawyers, he said, were available to represent a client on legal aid when necessary; there is no danger of anyone being represented in court on a serious charge with inexperienced counsel. Three months later in February 1970, Thomas told Saint John *Telegraph-Journal* Associate Editor Bert Burgoyne that "Anyone who needs it can get legal aid free in every county of Nova Scotia."

It sounds wonderful. But how true is it?

According to Dalhousie Law School professor Keith Jobson, the situation has not changed much since 1965, aside from the initiation of a government-funded study and the appointment of Mr. Thomas. And a survey of legal aid by J. Meyers in 1965 commented that in legal aid Nova Scotia had "barely taken the first steps of a long journey." The showpiece of the system was and is the Tuesday night clinic at Halifax, which handled approximately 500 cases a year, primarily of a civil nature. Yet Meyers estimated the need at 1700 civil cases each year, and at least 300 felony cases.

The Halifax scheme is run by the fifty-two most junior of Halifax's roughly 200 lawyers. Each week two members of this "junior panel" attend at the clinic, where applicants are screened for eligibility by the lawyers themselves. A

1969 paper by Paul J. Lordon went into more detail about what happens thereafter. Lordon found that of thirty-two members of the junior panel, average experience was 2.47 years — ranging from a low of four months to a high of six years. Hours per week demanded by legal aid work ranged from seven to fifty hours per week — depending, apparently, on the conscientiousness of the individual lawyers. The average was about twenty-five hours per week. The scheme is totally voluntary; lawyers collect no fees.

Lordon attended the clinics on four evenings, and noted the treatment of a total of forty-four applicants. Of these, eleven were either refused or referred. Five of the referrals were to family service agencies, since they related to divorce. Clients can be refused, and are refused, if they have a steady income and some property; in other words, the clinic serves only the desperately poor.

Of the remaining thirty-three cases, twenty-three were of enough complexity for the lawyer to make an appointment to see the applicant during his normal office hours; the other ten were dealt with by being offered advice only. Lordon's impression was that the participating lawyers were courteous and conscientious, and offered the best service of which they were capable.

In Nova Scotia, then, formal legal aid is a voluntary scheme established and run by the barristers themselves as a public service. Within limits, it seems to work reasonably well. Yet its failings are obvious. It does not address itself at all to the man who can pay part, but not all, of his legal expenses; it tends to present legal aid as a charity rather than a right; it makes heavy demands on the junior panel, without remuneration; it hardly touches the concept of *preventive* legal aid; it makes almost no provision for attendance at court except in connection with an applicant who has already been to the clinic.

On this last point, the Canadian Civil Liberties Association surveyed three randomly chosen court calendars in Halifax during January, 1970. Of fifty-two accused who appeared, only seven had counsel. Fifty-one of the fifty-nine were convicted — forty-seven of these pleaded guilty — and of these six went to jail. Compare this with a voluntary plan operating in the early sixties in Windsor, Ontario, where over 50 percent of legal aid cases resulted in acquittals, and ask yourself about the importance of counsel — and about the effectiveness of the current Nova Scotia scheme. In his report to the Nova Scotia Barristers' Society for 1968-69, the chairman of the Legal Aid Committee, John Alward, commented that "The demands for Legal Aid services, particularly in the Halifax area, have grown to the extent that it is extremely doubtful if they can be met under the present voluntary system." Alward's conclusion seems to be entirely justified.

The provincial government currently spends \$25,000 a year on legal aid — enough to pay David Thomas and his

The contrast between Newfoundland and P.E.I. is embarrassing. The situation resembles that of Newfoundland before 1968, with no organized legal aid at all.

secretary, and to meet their office expenses as well as providing some reimbursement for out-of-pocket expenses incurred by participating lawyers. Keith Jobson points out that the comprehensive Ontario scheme costs about \$1.00 per citizen per year, and that the heavy water plant's costs would have underwritten the costs of such a scheme for the next hundred years. It is not difficult to see where the Nova Scotia government's priorities lie.

## newfoundland

Prior to the summer of 1968, legal aid in Newfoundland appears to have been almost totally on an individual, informal basis. On serious charges, as in Nova Scotia, the Attorney-General could appoint and pay defence counsel in capital cases, or where an important issue of law was at stake. The old English procedure *in forma pauperis* was also available in Newfoundland as well as Nova Scotia and New Brunswick. This quaint provision permits court fees to be waived if a litigant is worth less than \$50.00, excluding his wearing apparel. As a legal aid scheme this device has the disadvantage of being *obviously* worthless.

In the summer of 1968, under a \$10,000.00 provincial grant, the Law Society of Newfoundland initiated a voluntary legal aid programme in Saint John's. The government pays the expenses of participating lawyers as well as providing offices, office equipment, and stenographic help.

All Newfoundland lawyers are expected to participate in legal aid. The Legal Aid Committee of the Law Society has a list of lawyers and assigns cases and problems to each lawyer in turn, in alphabetical order. The Committee also assigns lawyers to the Wednesday evening clinics. If a lawyer is unable to carry out his assigned duties, he is responsible for finding and paying a replacement. Lawyers at the clinic rather than taking responsibility themselves for clients whose needs require office visits, assign such clients to lawyers on the list, who are expected to provide the same service, free, that they would provide to a paying client.

The terms under which legal aid is provided in Newfoundland are distinctly more generous, and permit participating lawyers considerably more discretion, than is the case in Nova Scotia. Said the Committee's 1966 report preparatory to the establishment of the scheme, "A person is qualified for legal aid if requiring him to pay legal fees would impair his ability to furnish himself and his family with the essentials necessary to keep them decently fed, clothed, sheltered and living as a family, or where he is at the moment without funds and requires immediate legal assistance for the preservation of his legal rights." (The phrasing is lifted directly from Regulation 3 (c) governing the operation of the Ontario voluntary plan prior to 1967.) The scheme covers civil matters, aside from thirteen specific exceptions, including divorce or matrimonial causes not

involving the health of the applicant or the welfare of infant children; defamation; breach of promise or marriage; election proceedings; small debts; Family Court matters; most appeals; bankruptcy, and so forth; (Many of these were also excluded from the Ontario voluntary scheme.) On the whole, the exceptions appear reasonable, and several permit considerable discretion.

Criminal offences cannot be defended by legal aid where the accused has had a previous imprisonment within five years; unless the situation is extremely grave. (If the initial conviction were unjust, of course, this exclusion would perpetuate the injustice.) Other exclusions in the criminal field include most summary conviction matters, and most appeals.

How does it work in practice? Well enough that the scheme is being extended to Corner Brook and may later be extended to Grand Falls. (Though the clinic only operates in Saint John's at the moment, its services are available to everyone in the province. Fintan Aylward, the chairman of the Legal Aid Committee, notes that some problems have arisen where lawyers assigned to various duties could not perform the job. "The snags," Aylward comments, "have been kept to a minimum," and he praises the co-operation of the province's lawyers. In its first year of operation the system handled over 200 applicants.

Aylward remarks on two problems. Divorce, he says, is "an area of law where legal aid is definitely required and should be extended." The other big problem is geography: "because lawyers are only practising in the major centres, it is extremely difficult to provide adequate services outside these centres. We are, however, doing the best we can."

## prince edward island

The contrast between Newfoundland and P.E.I. is embarrassing. The situation resembles that of Newfoundland before 1968, with no organized legal aid at all. Kenneth MacDonald, Secretary-Treasurer of the P.E.I. Law Society, points out that most criminal lawyers carry a heavy load of unpaid work, arranged simply on an informal basis. The courts can and do appoint counsel, for which the Attorney-General's department pays, in deserving criminal cases - not always serious ones. (There is no legal aid in civil matters at all.) But court-referred counsel is rare - one P.E.I. lawyer estimates that it doesn't happen more than seven or eight times a year in the whole province. The P.E.I. branch of the Canadian Bar Association, though making no definite recommendations, has suggested that the provincial government take another look at legal aid; the P.E.I. Law Society may follow up with definite recommendations. But at the moment the whole question of legal aid is on an *ad hoc* charitable basis. J.A. McGuigan, the Island's Deputy Attorney-General, says that "the question of Legal Aid is now

being given considerable consideration." It bloody well should be.

Aylward hopes, too, that in the future the provincial government will make grants allowing for modest fees to be paid in legal aid cases. In the meantime, Newfoundland seems to have a reasonably effective voluntary scheme. Most of the critics of the Nova Scotia scheme also apply to Newfoundland, of course; the problems are largely inherent in any voluntary plan. Nevertheless the Newfoundland bar gives the impression of having taken note of the problem and attempted in a modest way to deal with it. At the very least, they have laid the foundation of a comprehensive legal aid programme; they have something to build on.

## new brunswick

The New Brunswick situation is almost as bad as that of P.E.I., and with considerably less justification. P.E.I. is, after all, only half the size of metropolitan Halifax in population, and an informal legal aid system has some chance of working there.

New Brunswick's legal aid services consists of a voluntary plan in Saint John, and the Poor Prisoners' Defence Act. The latter is a conical piece of legislation originally established to provide legal aid in capital offences, but since modified to include various other very serious (and very rare) offences. Of thirty-two offences for which legal aid is available, only five -- murder, rape, and a couple of others -- are of much consequence. Others include treason, sedition and -- hold your sides -- piracy. Not surprisingly, by January 16 this year, for the fiscal year ending March 31, only \$738.00 had been paid out under the Act. The Barristers' Society estimates that only 20 out of 10,000 cases come under the Act. The Poor Prisoners' Defence Act does not even provide a lawyer at the preliminary hearing, but only at the actual trial, despite the fact that cases can be won and lost in the preliminary. Though it is not even a joke, the Act is the only provincial gesture towards legal aid.

The Saint John Law Society attempted to institute a voluntary scheme within the city, and clearly the programme -- though it was described by one of its most devoted supporters as "never more than an attempt to paper over the need" -- has been of immense benefit to some poor people in Saint John. As always, however, the demands on participating lawyers are very heavy. In a brief to the provincial government pleading for a legal aid system in December, 1968, the Society told of a man accused of rape who won an acquittal with the assistance of a legal aid lawyer. The lawyer was involved in the case for well over a month; spent two weeks on preparation, one day at a preliminary hearing and two more at a jury trial; paid for subpoenas and investigations out of his own pocket -- all at the expense of his

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## BARRED FROM JUSTICE

One of the usual arguments heard against a legal aid scheme is simply that lawyers already will defend indigent clients, so why spend more money doing something that's already being done?

Other considerations aside, just how easy is it to get legal counsel if you don't have any money? *The Mysterious East* asked several lawyers in the Fredericton area a few said they would accept the case of any indigent client who came to them. Most, vaguely indicated that they would have to talk to the client first. One, apparently, demands \$75 in cash on his desk from anyone he doesn't know before he will even listen to his problem.

And the senior partner in one prominent Fredericton law firm set out the following criteria: He must have a glimmer of a defense. It must be a serious charge. He can't have a previous record. And, of course, we don't like to deal with Indians -- they're always in some sort of scrape or other.

own practice. Such devotion among lawyers, though by no means the rule, is not uncommon (*The Mysterious East*, an indigent corporation, has had free legal advice from the start); but it means that the individual lawyer is shouldering a burden which properly belongs to the community as a whole. Equality before the law is a right; the community has a duty to ensure it.

The Saint John scheme, which ran for nearly two years during 1967-68, involved all the city's lawyers who were active and under fifty years old, and was intended as a fill-in till the government took over. In 1969, says one of its participants, at their annual convention, Attorney-General, Bernard Jean gave the lawyers to understand that the government would bring in a legal aid scheme at the next session. Comments one lawyer: "We were prepared to accept almost any kind of scheme because the need was so great. I don't think much of the public defender idea, but Jesus, it gives poor people some protection, and they don't have any now."

John Barry, who chaired the Saint John Law Society committee which submitted the 1968 brief, points to the case of Scovil Levesque, who faced a murder hearing without counsel until Barry later took the case, as "probably as strong an example as you're going to find."

In fact, the need killed the scheme: the load on the lawyers was so heavy that, when the government failed to act, it simply fell apart as one lawyer after another withdrew. The same fate had met a similar scheme in the city about ten years earlier.

One embittered participant recalls that Attorney-General Jean gave "almost verbatim" the same speech.

The nub of the matter is that the provincial government apparently wants the cheapest possible system under tight bureaucratic control; the lawyers want the potential income from legal aid... spread around throughout the profession.

to the lawyers again in 1970, at their next annual meeting. "Whenever the topic of legal aid comes up," he says, "the government's basic design is to get the heat off. They say they're studying it - but when we went to see them in 1968 Basil Stapleton, one of their lawyers, had already done a comprehensive survey of legal aid all over North America. They had details on over sixty schemes, and they'd already decided which one they wanted. Now they tell us they're studying it? It's just a stall." Echoes John Turnbull, who chairs the legal aid committee: "We've gotten nowhere."

There is no lack of support for legal aid in New Brunswick. The Saint John Law Society, the New Brunswick Branch of the Canadian Bar Association, the New Brunswick Barristers' Society, the Ombudsman, the Leader of the Opposition and countless others have called for a serious legal aid system in the province. Why has none been established - especially when the government itself has made encouraging noises from time to time?

The usual answer is "money", which also accounts for Attorney-General Bernard Jean's preference for the public defender system, the cheapest form of legal aid. More important, however, is an apparently comfortable disagreement between the lawyers and the government about the form which legal aid should take. The Barristers' Society has asked for a government grant of \$50,000 to establish a legal aid office on the Nova Scotia model; at its 1969 annual meeting various lawyers objected that, as Professor Daniel Hurley of the University of New Brunswick law faculty put it, "The only thing you'd get that we don't have now is an office with somebody who's doing nothing." Others commented, in effect, that if money were to be spent on legal aid it should go to legal fees, not to paying the salary of a co-ordinator.

The nub of the matter is that the provincial government apparently wants the cheapest possible system under tight bureaucratic control; the lawyers want the potential income from legal aid (which would pay perhaps 75 percent of normal fees in cases the lawyers now take for nothing) spread around throughout the profession. Both the public defender system and the quasi-medicare type of system the lawyers want have various advantages to the client, or course; we shall look at some of them in a moment. But the situation in New Brunswick seems to be that the lawyers basically prefer no legal aid to the public defender system; and the government can use the disagreement as an excuse not to put further strain on the already-stretched provincial treasury. In the present stand-off, everybody wins - except people like Janet Sanders, an 18-year-old girl in Moncton charged with possession of hashish for the purpose of trafficking last March, who appeared in court without counsel, pleaded guilty and was sent to the Interprovincial Home for Young Women at Coverdale (on which, see our July issue) for two years less a day.

## types of legal aid

Though the Atlantic Provinces have varying systems of legal aid now, obviously none is adequate for the needs of a modern society; all will need to be updated and expanded reasonably soon. What are the options?

In France, the applicant gets a grant directly from the government, then goes and hires a lawyer in the usual way. The grant is regarded as a quasi-loan, and if the applicant is able to repay it later, he is expected to. In Scandinavia, an accused appearing without counsel is furnished with counsel of his choice, who is paid on the ordinary scale by the State. The defence counsel has access to the prosecutor's files, crime laboratories and so forth. If the accused is acquitted, he pays nothing; in Sweden and Denmark, if he is convicted, he must pay the costs of his defence, if he can. In Norway there is no means test or charge even if he is convicted.

In North America and the Commonwealth, legal aid takes several forms.

1. *Assigned Counsel* - By far the most common system in the U.S., this is basically an extension of the court-appointed lawyer who defends an indigent accused. Sometimes he receives token payment, sometimes not.

2. *The Public Defender* - A public defender is a salaried lawyer paid by a government whose duty it is to defend poor people on criminal charges. In 1960, there were 78 public defenders in the United States, 63 of whom were in California, Illinois and Connecticut. The system made its first appearance in Los Angeles in 1913, and most public defenders are still municipal employees. A similar system has been adopted in Quebec.

The public defender system is cheap, easy to organize and control, capable of expansion, and tends to develop specialists in criminal and poverty law. On the other hand, public defenders tend to develop cozy relationships with judges and prosecutors, with whom they are in constant contact. The client has no choice of lawyer, unlike the rich man: the system thus has a flavour of charity and emphasizes the gap which legal aid should be closing. The relationship between lawyer and client tends to become impersonal indeed, different aspects of the same person's case are often handled by different lawyers. Public defender caseloads tend to become so heavy that defences are perfunctory.

The Joint Committee on Legal Aid established in Ontario by the Attorney-General's department and the Law Society looked at the public defender system in detail. Here is how it feels in practice:

*The defender addresses the prisoners in the lock-up by shouting through the bars. The object is to inform them that the public defender is available... The defender gives a brief description of certain common*

Though the public defender is cheap -- and thus appealing to the governments of the have-not Atlantic provinces -- cheapness is not a proper criterion for a system of legal aid.

*offences. He has no time to go into this in detail...He has very limited time and a large number of prisoners, perhaps 75 to 100. Many prisoners talk throughout the address and only a few appear to have much interest in what is being said. This takes about fifteen or twenty minutes. The prisoners are taken immediately thereafter into court where they are arraigned... where the accused requests the services of the public defender, the case is placed down the list while the accused and the public defender confer in the courtroom. This is obviously a very restricted opportunity for defence counsel to conduct such an interview but nevertheless this appears to be accepted procedure.*

The Ontario committee tried to find out what proportion of accused are acquitted under the public defender system. Statistics on the law seem to be almost impossible to come by, but the indications were that fewer than 10 percent of public defender clients were acquitted, as compared with over 50 percent in the Windsor, Ont., voluntary scheme. The Committee did not blame this on the dedicated lawyers who man such plans: they concluded the defect was in the public defender system itself.

Though the public defender is cheap -- and thus appealing to the governments of have-not Atlantic provinces -- cheapness is not a proper criterion for a system of legal aid. The proper criterion is quality, an attempt to provide for the poor the same level of service which is available to his well-to-do adversary. The public defender system does not seem to provide that quality.

3. *Legal Aid Societies* -- In many parts of the United States, charitable organizations, funded through the Community Chest and other private contributions, maintain a staff of paid counsel for indigent people. Essentially the system works like the Public Defender, but it is a charity. Considerable programmes of this kind exist in New York, Rochester and Philadelphia. Most of the criticisms (and strengths) of the public defender system apply to the "private" or "voluntary" defender system, as it is sometimes known. In addition, the private schemes rely on contributions and thus cannot count on any particular level of support; they may also be obliged to respect the prejudices of the contributors. (If the Catholic Church is a major supporter, the scheme is not likely to cover divorce actions.) As a stop-gap emergency programme provided by concerned private citizens, the "private defender" is admirable; but it is not an alternative to a comprehensive tax-supported plan.

4. *Contributory Schemes* -- One of the chief failings of all the systems above is their failure to provide any assistance at all to any but the desperately poor, though the Newfoundland scheme has more than the usual latitude on this point. But what of the working poor, the man who can pay some but not all of his legal costs? In England, an applicant

for civil legal aid is referred to the National Assistance Board, where an officer determines what he can pay towards his legal costs. The state assumes the balance. (In criminal matters, the English system resembles the assigned counsel plan.)

## the ontario plan

The New Brunswick Justice Department and the Saint John Law Society, at a joint meeting in early 1969 described the Ontario system as "ideal" but probably too expensive for New Brunswick. Ontario's is unquestionably the finest system in Canada, and many Maritime lawyers consider it the finest in the world.

The Ontario system is contributory, with the government providing that portion of the fee which the client cannot, up to a total of 75 percent of the normal fee. Eligibility is determined by the welfare department. The plan covers both civil and criminal matters, with very few exclusions -- divorce and appeals, for instance, are specifically included. The plan is administered by the Law Society of Upper Canada and supported financially by the provincial government. In criminal matters, legal aid is granted on request without a means test unless the applicant is demonstrably able to pay, as time permits in later stages of the proceedings, a financial investigation is made by the welfare department.

An applicant appearing in court for the first time may be represented by the Duty Solicitor, one of whom attends all the time at hearings in any court where an accused may make his first appearance, and also visits lock-ups before the court opens. (The Ontario plan borrowed this feature from an ancient and admirable Scottish tradition.) The Duty Solicitor is a lawyer in private practice who has volunteered for short periods in this role and is paid for it. He may plead the accused guilty, ask for remands, assist in securing reasonable bail and perform other routine functions. If the accused pleads not guilty, he engages the lawyer of his choice, or carries the case from that point in the normal way.

The Ontario scheme goes a long way in removing inequality from the legal system. Gaps between rich and poor still exist: a rich man's lawyer, for instance, may advise him before he commits an act which could get him into trouble, may devise tax strategy for him and so forth. But *The Mysterious East* knows of no better existing plan, and agrees with the lawyers that such a plan is infinitely better than the Public Defender scheme from almost every point of view but cost.

## regional disparity

It costs us money to live in Atlantic Canada: we have always known that. Our roads are worse, our salaries are





# THE ANSUL

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lower, our living costs are higher, jobs are scarce. Some of these things are simply among the costs of living here; there are compensating advantages; we offer no complaints. But we *do* complain when living here affects the quality of our citizenship - and that is just what the legal aid situation now does. Poor Ontarians get help: poor Maritimers often get shafted. Regional disparities in human rights? Outrageous - but that is what we have now.

In its brief to the Senate Poverty Committee, the Canadian Civil Liberties Association called for "a system of federal grants to insure everywhere in Canada at least that state of subsidized legal aid that is available in Ontario." Alan Borovoy, CCLA's General Counsel, summed it up in a biting sentence: "It is no longer tolerable to perpetuate a state of affairs in which indigent persons who run afoul of the same law in different provinces will owe their legal protections less to the quality of their act than to the place where it occurred."

It may be that federal grants are required; if they are, we should press for them. But governments which can guarantee \$10 million loans to K.C. Irving - as New Brunswick recently did - or blow hundreds of millions on heavy water plants, oil refineries in Come-By-Chance, food processing plants, that go bankrupt; governments which can afford to subsidize a bewildering variety of universities; governments which can give lavish incentives to pulp mills, establish superports, and so on - are we seriously to believe such governments can't afford to protect the basic legal rights of their citizens? Human rights come before economic growth in any rational system of priorities.

The Ontario plan costs a dollar a year per capita. For none of the Atlantic provinces should a similar plan cost more than one million a year, and probably it would cost much less. A million dollars sounds like a lot, but put it in perspective: in New Brunswick's total of \$369 million, the Department of Economic Growth uses six million, the Department of Highways \$23 million, the Premier's office \$869,127 (that alone would finance a comprehensive legal aid scheme). Service of the public debt is a whopping \$31 million, and even the Historical Resources Administration costs us \$1,632,422. The Liquor Control Commission *brings in* nearly \$18 million. But New Brunswick can't afford legal aid. Even the lawyers are asking only for a step-by-step plan beginning with criminal cases.

Nonsense. New Brunswick - and the other Atlantic Provinces - can afford a full-scale comprehensive legal aid system comparable to Ontario's - and we can afford it now. All it requires is provincial governments with some sense of priorities.

In New Brunswick and Nova Scotia, we go to the polls this month. Where do your local candidates stand on legal aid? You'll never have a better chance to ask them.

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# HONORIS CAUSA

New Brunswick Chief Justice George Frederick Gregory Bridges and recently-retired Appeal Court Justice Louis McCoskery Ritchie -- among other legal worthies -- both hold honorary LLD's from the University of New Brunswick -- and their citations make enjoyable-reading. They are found in the book *Honoris Causa*, by retired UNB University Orator Prof. Robert Cattley (Brunswick Press, 1968).

*The name of Bridges has been renowned in the annals of this University for close on seventy years, and for longer yet in those of the Province. Its fame has rested on the three solid foundations of Scholarship and Teaching, of Scholarship and Law, and of Scholarship and Administration. Always, you will note, Scholarship has been the common denominator.*

*The present bearer of the name, George Frederick Gregory Bridges, gave early proof of the family talents. Scholarship, as was to be expected, budded first -- to blossom into Law, the precocious plant being fertilized, no doubt, by some years of military application.*

But Cattley is by no means incapable of humour, and a few lines later he comments that "an outward and visible sign (if one were needed) of his innate honesty is that after practising law in the city of Moncton for many years, he was, in spite of that, elected mayor."

After that, one has to expect irony. When we turn to Mr. Ritchie, we find Cattley praising "the utter conformity" and fairness of his sentences. In Ritchie's view, we are told the law demands "meticulous accuracy, crystal-clear expression and all due protocol." Cattley continues:

*In his own office decorum forbade first names and shirtsleeves -- even on a Saturday afternoon. In court we betide the callow pleader whose language or deportment are not impeccable! In no sense a reactionary, he is a staunch champion of youth and progress. More than one Junior has cause to bless Ritchie's sage guidance, and Ritchie's office boasts the most modern of equipment.*

If that last conjunction isn't ironic, what is? And Cattley concludes:

*If ever he desires an epitaph there is one to hand from Gilbert's Lord Chancellor -- as immortal, let us hope, as the Honourable Mr. Ritchie will be:*

*"The Law is the true embodiment  
Of everything that's excellent  
It has no kind of fault nor flaw,  
And I, my lords, embody the Law."*

Cattley breaks off there, but when we consult the Lord Chancellor's Song from *Iolanthe*, where the quotation comes from, we know he's joking. For the song continues:

*The constitutional guardian I  
Of pretty young Wards in Chancery,  
All very agreeable girls -- and none  
Are over the age of twenty-one.  
A pleasant occupation for  
A rather susceptible Chancellor!*

*But though the compliment implied  
Inflates me with legitimate pride  
It nevertheless can't be denied  
That it has its inconvenient side.  
For I'm not so old, and not so plain  
And I'm quite prepared to marry again  
But there'd be the duce to pay in the Lords  
If I fell in love with one of my Wards!  
Which rather tries my temper, for  
I'm such a susceptible Chancellor!*

*And everyone who'd marry a Ward  
Must come to me for my accord,  
And in my court I sit all day,  
Giving agreeable girls away.  
With one for him -- and one for he --  
And one for you -- and one for ye --  
And one for thou -- and one for thee --  
But never, oh never, a one for me!  
Which is exasperating for  
A highly susceptible Chancellor!*

Sly dogs, these University Orators!



# a law for the RICH and a law for the POOR

JOHN MUNRO, MINISTER OF NATIONAL HEALTH AND WELFARE



*In September, 1969, Health Minister John Munro hit the front pages across the country as a result of a speech to the St. Thomas More Lawyers' Guild of Hamilton, Ontario. Calling the law "a sham" and "a shame", he accused his own profession of seeking profits from human misery, and called on lawyers to do research on laws relating to poverty, and to get out and work among the poor - to be, as he said, "meaningful to someone other than our bank manager."*

*On October 2, in The Fourth Estate, Dalhousie University law professor Keith Jobson cheerfully agreed, but called on Munro to put his own house in order by pressing for a federally funded legal aid system and a guaranteed annual income. At the end of the month, Halifax lawyer and broadcaster Brian Fleming charged into the ring, attacking both Munro and Jobson for failing to put the blame for bad laws where it belongs: with the legislators. In Fleming's view, Jobson's "intemperate and woolly attack" almost "matched the Minister's "glittering generalities."*

*The Mysterious East is pleased to present a condensed version of Mr. Munro's original speech as well as a new article by Professor Jobson. We believe both articles reflect the growing impatience with the present state of the law - even within the legal profession itself.*

This could be just another excuse for a mild speech of general platitudes on freedom and justice in our society. You know the lines by heart - Magna Carta, Blackstone's Code, impartial dispensation of judgement by our peers, the virtues of the adversary system, every man his day in court, aren't we lucky to be living in such a free society. However, I am going to resist that temptation today, because in my year of office, I have come to seriously question whether our society is as free or our justice as impartial as we all make it out to be.

Why this doubt? Well, as I remember the principles cited to me when I was about to take up the study of the law, the key to the legal system was alleged to be that it protected men against their exploitation by other men - that it was the major element in promoting equality among the different members of society. Yet as I look about our country, I do not yet see full equality, or even equality of opportunity, to which concept even the most hoary right winger will profess allegiance.

What has gone wrong? I submit, first and foremost, that all of us here have. I suggest that the law in Canada, for many of today's lawyers, has become a sham - as well as a shame to those outside the profession. Instead of practicing law to defend the weaker members of our society from exploitation - instead of conceiving of the law as a bulwark against the rule of the jungle, many of us are using law to enable the rich to get richer, and the corrupt to become more powerful.

Why? Is it because too many of us are preoccupied with the social and economic rewards - such as our fee structure which goes towards making lawyers the second highest-paid occupation in Canada? Some of us seem to be deliberately seeking profit from human misery.

Just think of some of the routine everyday tasks that many of us perform - such as figuring out ways to discover loopholes, and to get around corporate tax laws, or drawing up contracts that protect the sale of shoddy, sub-standard goods, or pocketing brokerage fees on second mortgages at usurers' rates which are sometimes guaranteed to see someone ultimately dispossessed of what he has tried hard to hold.

It's about time our profession concentrated more on relieving human suffering than causing it. I have met quite a number of lawyers who are extremely self-righteous about the subject of welfare and assistance to the less fortunate. They congratulate themselves for their own evident affluence, and look on people in the poverty category as therefore vastly inferior to themselves. The usual line is something about "shiftless, lazy bums, loafing on my tax money - why doesn't someone make them get a job?"

Yet often these same people are deriving a substantial amount of their income from archaic laws still on the

statute books which hold permanent the status quo. Just look at our real estate laws as a prime example, where silly but costly title examination procedures add to the already too-expensive prices of buying a home. Consider the needless complexities of recovering a few dollars on minor contracts, where the base work involved dissuades lawyers from taking such cases, thus causing many of the "little guys" to frequently have to lose money needlessly to those better off than themselves.

I ask why lawyers don't lead the fight for some common sense in routine legal matters that affect a great many non-affluent people. Should we face up to the fact that the preservation of meaningless legalisms represents a substantial part of their income?

I suppose that the most obvious way to help is the provision of legal aid to the indigent or the hard-up, caught in the tangle of the law. Now here I mean more than participating in the official government legal aid scheme. Often that's no real assistance to those that really need it. No, I refer to completely free legal aid - no claims, no bills, nothing - working on a case because it has merit, working for a person, not because he has outbid someone else for your services, but because he is a victim of injustice whom our society tends to condemn anyway because he has committed the crime of being poor.

Now I do not claim that every one of this type of legal aid cases will be just. Indeed, we will be bothered even more than we are now by some of the less literate who do not understand the law and the fact that they do not have a case in the matter they bring before us. We may also run into communications problems with immigrants who have not yet fully grasped the English language, especially its technical terms. And, let's face it, we will also run into some people whose imagined injustices spring from paranoia, or a deep hostility towards society, which has been fostered by years of struggle against the system which has left them impoverished.

But that is no excuse to forsake compassion or withhold attention. If "some nut" who happens to be a rich eccentric wanders into a legal office, it is certain that he will not be dismissed out of hand. Someone will see him, listen to his problem, and explain clearly why he doesn't have a case. In most instances, that's all that poor people of similar circumstances will need and want. Are they to be constantly turfed out the back door because there aren't any bucks in giving them some human consideration and attention?

After all, what is first conceived by the applicant as a legal grievance may point to some deeper-rooted personal problem. A lawyer's training permits him, quite regularly, to recognize a person who is qualified to help, and referring the applicant to that person. It may be a social worker or a doctor, or even a psychiatrist. But you can see the point - the lawyer has a responsibility to try and help in some way. This responsibility is not in any civil or criminal code; it is an unwritten law of human brotherhood.

The evidence is overwhelming that the law is not the same for the poor as it is for the middle and upper classes. Some chap who gets drunk on a Saturday night and slugs someone else gets a few months for assault. A millionaire stock promoter can manipulate stock values, make even more riches, defraud and rob countless people, and may get just a trivial fine - if indeed, he is even charged for such.

Of course, if a person steals big enough, then he can

afford the services of some of the better-known members of our most honourable fraternity.

Part of these suspect gains can be redeemed by free service - totally free service - to those in need. I could suggest that lawyers operating out of finely panelled and furnished downtown or suburban offices get together in a pool to open branches in some of the hard-core poverty neighborhoods, where each of them could contribute a few hours a week to this type of freely-given service, instead of leaving such people to only the most idealistic or most hard-up members of the profession. Such work ought to be heavily advertised around the community, so that people who have need of legal aid and counsel are fully aware of its availability, and where it is available. The medical profession is starting to move into this field now; medical students have opened neighborhood health centers in poverty communities in our three largest cities so far, and established physicians are joining them. Surely the legal profession will not allow itself to openly fall behind the medical profession in community concern. We can exercise our abilities as capably on behalf of disadvantaged citizens as we do on behalf of overadvantaged corporations.

There are many groups which are, in effect, oppressed to day in this country. As I have mentioned, the poor comprise one of them. Our native Canadians comprise another. Still a third group is the young, especially those involved in social action and social protest. Previously these forces have remained unorganized - good for an occasional complaint or even the odd demonstration - but for the longest amounts of time, passive in the face of blatant injustice, and yes, even illegality. But this is now changing.

All of a sudden, these groups are getting it together, as they say. Tired of charity and condescension, feeling a new self-pride, they are on the move.

But we must not think of these groups as enemies. As Eldridge Cleaver puts it, in seeking to save themselves, they are redeeming us from the sin of our exploiting society. They are trying to build a better world, a world of freedom, equality and justice. Therefore, to oppose their objectives is to proclaim for the whole world to hear that our ambitions are restricted to continual material advancement for the elite, and that we believe in freezing the status quo in order to keep a permanent lower class to serve our ends.

No, such people are, or should be, our friends. They seek to uplift the human spirit.

If they are our friends, then, why not make them our allies? - allies in the fight against injustice? Consumer groups can use our talents to fight deceptive pricing, fraudulent advertising, sub-standard services, and so on. Poverty groups can use our talents to establish their rights, pursue welfare appeals, and force the recognition of their human dignity. Civil rights groups can use our talents to combat police harassment, prevent false arrest, and establish their legitimate rights to peaceful dissent.

In short, there is no lack of things to do. For here is where to find what should be the greatest stimulus of all - that challenge to carve out significant new legal ground.

For example, we can find out how far tenants' rights extend. They may go a lot farther than we think. But even if they don't, at least we can find out exactly where the oppressive provisions are, so that the law-makers can be persuaded to rectify them. The same thing goes for zoning

and expropriation law, especially when urban renewal threatens to become, as it all too often does, urban removal of those already heavily dispossessed.

We are not just talking about winning of status points through legal victory. We are talking about precedents which may greatly improve the living conditions of thousands of Canadians. Let's look at the process of receiving welfare. It is my contention that the systems and procedures of welfare distribution, in themselves, are a major contributor to continued welfare dependence. A welfare office sometimes bears an amazing resemblance to a prison cafeteria, with the recipients standing in line to have their subsidy money grudgingly given them, much as penitentiary slops are dumped on the prisoners' plates, and in the same "like it or lump it" manner.

Beyond that, there are the anomalies and indignities of welfare eligibility determination. There is, for example, the 100 per cent confiscatory tax on earnings, where, if a welfare recipient shows enough initiative to get hold of a very scarce job, every dollar he makes is deducted from his welfare cheque. The lesson seems to be -- "why bother trying to get work?" Then there is the demeaning investigations ritual for a deserted or widowed mother on welfare. She tends to be subjected searches at all hours to see if there is a man around. When we set out to take the state out of the bedrooms of the nation, we do not include the poor.

The whole area of the rights of a welfare recipient, therefore, is hazy, and could certainly use some work by a number of our best legal minds. But court actions alone are not the end of how lawyers can help.

Lawyers take training in business law too. Their work frequently teaches them many sophisticated business techniques, and endows them with much administrative ability and insight. Why could not this expertise be placed at the disposal of community groups who wish to control an increasing portion of their own lives? On things like education, health services, recreational facilities, housing developments and so on, poverty communities have traditionally been voiceless and impotent, despite the intimate involvement that such things have with their well-being. At the same time, more affluent neighbourhoods have never lacked the spokesman, the expertise, or the influence to shape their immediate environments more to their liking.

Lawyers -- or to use the more expressive French term, advocates -- can help organize and they can help represent the views and desires of the less powerful groups in our society. They can give their business advice on such things as community-run health clinics, local business ventures, or neighbourhood tenant and consumer co-operatives. Indeed, with the contacts which many in the legal profession have formed with the captains of business and industry, they can help bridge the chasm between those who have and those who don't -- by educating the more fortunate in how they can concretely help rehabilitate those caught in the culture of poverty.

I am not talking about noblesse-oblige type charity. I am speaking of down-to-earth ventures which combat functional illiteracy, lack of skills, and scarcity of job opportunities, and which permit people to find their own way out of the poverty morass while keeping their pride in themselves intact. It's even a sound economic proposition -- every person put back into the economic mainstream means another charge off the tax-supported welfare rolls.

It's also sound from a negative point of view. If people are allowed to languish in poverty, barely sustained by government handouts, while the world of affluence is perceived all around them, something is going to happen. Frustration has a limit -- a boiling point. Apparently we haven't yet reached that point in this country. But if the leading lights of Canadian society, such as those in our profession, continue to wallow in social torpor and apathy, then the flash point will come sooner than we expect.

But I feel that our men of the law will not long remain in apathy. The law reflects our society, for better or worse. And the times, they are a'changing.

Nowhere is this better seen than in legal education. The iron rule of the scissors-and-paste presentation, precedent-bound school of quibbling legalisms is not under heavier attack than ever. At one of our most prominent law schools, a course is now being given on the "Law and Poverty." Moreover, law students are being mixed with people from human-oriented disciplines, such as sociology, in order to broaden their outlook on human problems. All in all, attempts are being made all over to tear down the barrier between the law and grim, social reality.

Unfortunately, this development is still in the realm of instruction. But we cannot afford to wait until the majority of the bar is composed of those lawyers now being graduated with training in these new concepts. Change is needed right away, so that all of us who are now lawyers must seek to change our attitudes and patterns of practice.

What does this mean? It means that we must make every effort to be sure that the law ceases to be conceived of as a tool of the ruling establishment, but instead, is transformed into an instrument of social development.

We have not gotten very far in treating social injustice by breaking off segments of the problem into watertight compartments of jurisdiction, because man is not a robot machine, composed of so many interchangeable mechanical parts. He is a totality and a rather impressive totality -- impressive in his suffering as much as in his success. Therefore the attack on the roots of human suffering must be a total attack, and in this, lawyers must play their role.

Let me repeat -- many people do need help. In Canada, people are hungry. People live in shum housing. Totally disabled people get \$105 a month to subsist on. People suffering from diseases do not have access to doctors. Children remain poor because their families can't afford higher education. There are many people who are tired and lonely and empty from years of struggle to provide, who have been declared redundant to our swiftly changing and rich economy. And there are people who are in trouble with the law, people who are losing their legal rights, because they do not know the first thing about writs, or torts, or delicts, or summonses, or prima facie or any of the other mumbo-jumbo built up around our system of justice.

This is the challenge -- the challenge to be meaningful to someone other than our bank manager. As a matter of fact, I believe you can find it clearly in the Bible, in the part that says that all the Commandments can be summed up in two -- love God, and love your neighbour as yourself. Also remember that the man who said that, whose teachings most Canadians profess to follow, defined our neighbour as every man on earth.

**E**QUALITY BEFORE THE LAW IS A FUNDAMENTAL PRINCIPLE of the Canadian legal order.

Public concern increases, however, with the growing gap between this principle and the reality of obvious inequality even in the most visible and understandable part of the law, the criminal law. On first impression the criminal law falls with even handed justice on rich and poor alike. On a closer look, the contradictions show up clearly.

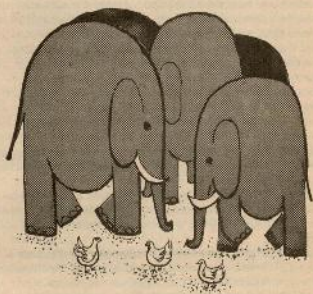
Anatole France years ago recorded the inequality in unforgettable prose: "The law in all its majestic equality, forbids the rich as well as the poor to sleep under bridges on rainy nights, to beg on the streets and to steal bread." What compelling reasons require us to treat welfare conditions with the jolting harshness of the criminal law; arrest, detention, charging with crime, appearance in court, conviction, and sentence to fine or imprisonment with subsequent criminal record? If a man is drunk in a "public place," if he sings in the street, or shouts he can be charged with causing a disturbance. While this law applies equally to both rich and poor, in its daily operation it tends to affect only the poor. The rich get drunk, sing and shout in their private clubs, and are chauffeured home in private limousines. Inadequate housing, lack of recreational centres, low income, and unemployment mean that poorer persons may well find themselves wandering in the streets ("loitering" in the eye of the policeman) drinking or celebrating in public places.

To frolic in such a coarse and vulgar manner in public is frowned upon by the police; convictions are common. The offender is sentenced to pay a fine he cannot afford and is sentenced to prison in default. So common is the failure to pay a fine for being drunk in public contrary to the semi-penal provisions of the Liquor Control Act that up to 75 per cent of all admissions at some of our local jails are for failure to pay fines.

While the police are busy clearing the streets in furtherance of middle class values, vested interests resist public programs aimed at reducing poverty. Yet petty crime is a function of poverty: just as surely as our system propels many persons on to fortune and success, inevitably it casts off a stream of people, ill educated, poorly housed, and inexperienced, many of them predictably headed for a life of petty crime and social alienation. Criminologists will state that a diverse social and cultural background statistically is more predictive of crime than, for example, psychosis.

The discriminatory application of the criminal law is not generally appreciated; for one reason the criminal activities of the rich are not clearly visible. The pilfering, stealing, and fraud that is hidden behind oak panelled board rooms and the gilt lettered doors of commercial and financial houses rarely comes to light. White collar crime, by and large, goes undetected and unpunished. Occasionally a giant commercial house collapses, riddled by fraud from within. In the wake of such disasters hundreds of small investors, widows or pensioners, lose what meagre savings they have had. One or two of the principals in the company may be prosecuted, but convictions may be hard to obtain. Because of the scandal caused by such fraudulent practices, deposits in commercial houses may now be insured - up to a limited amount. Nevertheless, the basic picture has not changed. Among police forces a low priority is put on the detection and conviction of the white collar criminal, a high priority is put on the apprehension and conviction of poor drunken souls singing in the streets.

# ELEPHANTS CHICKENS & THE STATE OF THE LAW



KEITH JOBSON

**UNJUSTIFIABLE INEQUALITY BEFORE THE LAW** arises not only from police discretion in enforcing one provision of the criminal law rather than another; very real inequality results from a failure of the legal system to provide legal services to all who need them regardless of means to pay. The legal profession has a monopoly on the supply of services; as a profession, by law they are permitted to regulate the professional conduct of their members and to set their own scale of fees as a guide to individual lawyers. The simple fact is that the high cost of legal services places them out of the reach of a very large number of people. Even in a simple case a lawyer will not likely spend a day in court for anything less than \$75.00. Add to that the cost of the lawyer's researching and preparing for trial, his time spent in negotiation with the other side, his time spent in counselling the client, the cost of letters, sheriff's fees, and witness' fees. Persons on modest incomes can not afford to purchase the services essential to the protection of their rights. Yet to embark upon the choppy waters of legal controversy without the sound guidance of a lawyer is to invite disaster. Under these circumstances, equality before the law becomes a sham: ordinary people do not have equal access to law.

Judges and lawyers better than anyone else appreciate the great importance of legal counsel in criminal cases. An accused needs a lawyer as soon as he is arrested; he is entitled to talk to his lawyer at this critical stage before the police questioning; the accused does not have to submit to interrogation; yet the police, even the R.C.M. Police, are reluctant to play according to the rules. The law is that a man must be presumed innocent until proved guilty in court according to law. Were it otherwise a ruthless government could easily suppress dissent and discussion by means of an efficient administration of the criminal law. Unfortunately, few people really appreciate the importance of the presumption of innocence except the experienced criminal or the more educated and articulate members of the upper class. Both groups, having money, use it to their advantage in hiring the best legal talent to defend their interests in a criminal prosecution. The ordinary person caught up in the criminal process is so overwhelmed by fast moving events, by the authoritarian atmosphere of the jail house and the uncertainty of his rights that he is a sitting duck for the prosecution. Ten to one he will proceed to trial, if it is a minor offence, without the benefit of counsel at any stage of the proceedings. The accused may not even be informed of his right to counsel or if he is informed by the police or the jailer the information may be so conveyed as to discourage him from asking for legal assistance. If he does ask for a lawyer, he can get one through Legal Aid. Surely the importance of having legal counsel right from the moment of arrest is so important to equality before the law that no judge should be permitted to proceed with a case in the absence of this fundamental guarantee of fairness.

The high cost of legal services not only is a substantial impediment to securing personal freedom and liberty it is a substantial obstacle to protecting property interests. *The 4th Estate* recently reported the case of a man who purchased a house from one of the largest realty firms in Halifax. The Buyer felt he could not afford a lawyer to look after his interests in the transactions and closed the deal on his own. A few weeks later he found the property had already a previous mortgage registered against it; since

he was unable to keep up the payments on the two mortgages the property was foreclosed and the Buyer lost everything he had put into the place. Under our legal system the Vendor was under no obligation to disclose the mortgage since the Buyer could have ascertained this by searching the title; a process so cumbersome and archaic that skilled assistance is required at a cost appropriately set down in the schedule of fees by the Barristers.

**ANOTHER AREA WHERE THE HIGH COST OF LEGAL SERVICES** may result in loss of property interests arises indistinctly over sales. Joe Brown, for example, looked at a second hand car with a view to purchasing it. When he asked if he could take the car for a test drive the owner insisted Joe write out a cheque for the price of the car and leave it with him by way of security. After driving the car a few miles Joe decided he didn't want it and upon taking it back to the owner told him so. The owner, however, declined to surrender the cheque, insisting that Joe must keep the car. Joe didn't know what his legal rights were; if he drove the car home would he prejudice his position; how could he get his cheque back, or defend himself against a possible law suit? Joe, hoping the whole thing would blow over, parked the car in a public parking lot told the police he had left it there, and why, then cancelled the cheque. In a short while he began receiving letters from the Seller's lawyer threatening law suit. Fortunately, he was able to get legal counsel and settle the problem.

In another case the Buyer received such poor quality of goods that she refused to finish paying for them. The Seller threatened suit, and also threatened to ruin her credit rating by reporting her as a bad risk to the Credit Bureau. People without legal counsel in such cases hardly have a chance. One is reminded of the elephant dancing among the chickens and exclaiming "It's each man for himself."

Whose responsibility is it to ensure equal access to law? At one time the legal profession accepted that responsibility as theirs and doled out Legal Aid in deserving cases. Increasingly, it is recognized inside and outside the profession that Legal Aid is not charity; legal aid is a fundamental right of all citizens not having the means to pay. A comprehensive Legal Aid scheme covering both civil and criminal cases is an obligation to be carried by the public as a whole in order to move somewhat closer to the rights set out in the Canadian Bill of Rights and to equality before the law.

Equality before the law forces an examination of the content of the law. Much of the law is made up of statutes or case law regulating the transfer of property interests: The Sale of Goods Act is a codification of the law of sales as developed by English judges and merchants in the nineteenth century; the Conditional Sales Act regulates the repossession and resale of goods sold on credit; the common law of contract, landlord and tenant law and many other laws were made by men of property on the bench or in the Legislature responding to the interests of a class they well understood. The situation is no different today. Witness the debate over the White Paper on Taxation. Laws are made by articulate well-organized men of property working through political parties to have their interests pushed forward in the legislatures, or taken up by lawyers in the courts. Only sporadically have the interests of non-propertied groups, consumers, for example, trade unionists, pensioners, deserted or widowed women, or the unemployed received

attention from the Legislatures; even more infrequently do the interests of these groups receive representation in court. No wonder their interests, and the interests of the poor particularly are so little recognized. Even if the poor did have equal access to the courts, would the judges strike down contractual terms enforcing unconscionable obligations? Are the judges capable of transforming a law for merchants into a law for consumers?

We live in a system of elephants and chickens, as I indicated earlier, and the lawyers serve the elephants because that is where the money is. That lawyers have traditionally served the causes of the rich and in so doing, become part of the ruling establishment is documented beyond all doubt in John Porter's *Vertical Mosaic*. Naturally, lawyers tend to see law in terms of interests and issues that affect their wealthy clients; that is their daily work; I do not say that lawyers are heartless and insensitive to the needs of the poor; the quality of the concern of some lawyers, however, is conveyed by one lawyer's sincere protestation: "Of course, we care about the poor. Don't I go out and sell hot dogs for the Kiwanis every Friday night?"

Something more than works of charity is now needed if the law is to respond to the needs of the poor. But the law is made by Parliament, at the behest of political parties controlled by men of property. That's the rub. When it comes to redistributing wealth so that the question of equal access to law can be remedied, the air is filled with cries of doom. On the other side among people of low income, the trade unions, and consumers generally there is an increasing impatience with the content of the law, unequal access to the law, and unequal application of the law.

As an agenda for Equality Before the Law in 1970; I would propose the following:

1. *A comprehensive legal aid scheme,*
2. *Reform of the private law of contract and sales, for example, or landlord and tenant law,*
3. *Reform of the law relating to petty crimes,*
4. *A guaranteed annual income to assist in reducing conditions that breed alienation and crime.*



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*The Rubber Duck Party does not now exist. But if it did, it would represent the kind of political organization The Mysterious East might endorse, despite its congenital bent towards opposition, with some show of enthusiasm.*

**T**HE RUBBER DUCK PARTY'S CONDUCT is governed by four principles. First, we believe in equity: we believe that differences in birth and education should not condemn one man to squalor while granting luxury to another. Second, we respect basic human rights: we believe a citizen has a right to do what he wishes provided he does not unfairly injure the interests of another citizen or the public interest. We oppose discrimination against any group of human beings, and we consider that society owes each of its members an opportunity to live in reasonable dignity and security. Third, we believe in use value rather than proprietorship. For instance, we believe in public ownership of prime urban and water front land, and in leasing it back to citizens whose use of it will take into account the needs of *all* the citizens.

What most distinguishes the Rubber Duck Party, however, is our belief in public participation in the formulation of policy. The other parties present the public with market-researched sure-fire saran-wrapped policies, and invite them to choose the product they prefer. We invite the citizens to join us in regular policy conferences at the local and provincial level; we sponsor neighbourhood talk sessions, seminars on special topics, phone-in programmes and the like. You don't have to be a member of the Rubber Duck Party to have a voice in making Rubber Duck policy. What follows is an outline of the ideas we like now. If you can suggest better policies, policies more in the interests of all people in the province, let us hear them. We can be convinced.

### **I the quality of life**

✱ *Human Rights* - A Rubber Duck government will immediately enlarge the scope of the Human Rights Act to bar discrimination against any person on the basis of sex, age, dress, marital status, economic condition, occupation, political opinions, or criminal record, unless the person against whom discrimination is alleged can show in court that the complainant's qualities actually disqualify him from the position or service he seeks. Thus banks would not have to hire embezzlers as managers, but landlords could not refuse to rent to policemen or welfare recipients (as some Fredericton landlords do), restaurants could not deny service to longhaired youths (as the Riviera Restaurant in Saint John does) and so forth.

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PLATFORM FOR A NON-EXISTENT PARTY  
**THE RUBBER DUCK  
PARTY PLATFORM**

\* **Civil Liberties** - A great many of the restrictions on civil liberties in Canada occur as a result of federal policies, and the Rubber Duck government will press the federal government to abolish all laws creating crimes without victims - the hate literature bill, laws relating to drugs, abortion, prostitution and so forth. The Rubber Duck government will abolish such laws within its own jurisdiction. In addition, the entire machinery of government will be scrutinized to prevent unfair or inequitable treatment of citizens, and to institute appeal procedures where they do not exist. For instance, both a Welfare Appeal Board and a Police Review Board, to offer recourse to citizens adversely affected by welfare decision, police practices, will immediately be set up.

\* **Guaranteed Annual Income** - A Rubber Duck government would institute a guaranteed annual income after a year's residence qualification, based on the principle of the negative income tax. A new minimum wage law would raise the minimum wage to \$2.50 per hour. The guaranteed annual income would take care of businessmen who could not stand the shock of paying a living wage.

\* **Social Incentives** - A Rubber Duck government would institute a set of fellowships, renewable indefinitely, for individuals with proven leadership ability to work full-time on community organizing, tenants' associations, power structure research, civil liberties, and so forth. The value of such fellowships would equal the average annual income of wage-earners in the province. Any citizen would be eligible.

\* **Day Care Centres** - Twenty-four hour day care centres would be made available in all major cities and important towns. Additionally, provincial subsidies would be available to any company or institution wishing to install day-care centres on their premises for the use of their women employees.

\* **Education** - At the public and high school levels, compulsory school attendance would be abolished. The public school system would be retained, but parents wishing to withdraw their children in favour of any of various alternatives which the government would encourage would be given grants equal to the average expenditure per pupil in the public system. Schooling would be available in French, English, or Indian, at the parent's discretion, though the government will encourage multi-lingual schools. The department will cease giving examinations and diplomas, and will encourage schools throughout the province to abandon such obsolete tools. University degrees will be made available in slot machines on every campus, thus freeing students to learn and teachers to teach without interference from requirements designed to certify the student as a Standard Model, like a Canada Grade A Large egg. This will promote the increased development of trade and craft schools, which the Rubber Duck government will support according to the demonstrated social and cultural utility of the trade or craft

involved. At the same time the government will institute a system of rigorous but flexible examining boards for entry into the various professions. Any citizen of the province will be entitled to take the examinations, and if he is successful, will automatically be admitted to the bar, the medical association, the accounting profession, the teaching profession, or whatever.

\* **Justice** - All members of the bar will automatically become employees of the province, paid at a rate equal to the average income of provincial wage-earners. Charging fees will become an offence punishable by a heavy fine and/or disbarment. (A similar policy will govern doctors); The Rubber Duck government will of course initiate a full programme of legal aid, covering both civil and criminal matters from the moment of arrest through the conclusion of the trial. In addition, the government will set up Citizens' Advice Bureaux on the British model, combining legal aid which would help a citizen stay out of court with various other information services. Where is the birth control clinic? the drug-aid centre? How do I appeal my welfare officer's decision? Any question is within the scope of the bureaux.

Judges will be paid on the same scale as lawyers, and will be obliged to spend two months per annum on upgrading courses, particularly in the social sciences, and in living with various minority groups. One week per annum will be spent in the jail to which the judge usually sentences prisoners; every other year an additional week will be spent in the penitentiary or in the correctional school. We expect the pressure for jail reform to become acute within the year, and the Rubber Duck government will be responsive to such pressures.

## II government procedures

\* **Election expenses** - The Rubber Duck government will introduce legislation providing for the payment of stipulated amounts towards the expenses of candidates in provincial and municipal elections, and will press for answering legislation at the federal level. The money will be raised by a stiff tax on all advertising. Candidates spending in excess of their allotment will be disqualified for election and will be required to bear their election expenses themselves.

The voting ages will of course be lowered to 18 and a study will be commissioned to show why it should not be lowered still further.

\* **Television and Communications** - A UHF television channel will be reserved for broadcasts relating to governmental matters. When the House is in session, its proceedings will be carried live, with a complete re-run during the summer. Meetings of important committees and commissions will also be carried live, as will all cabinet meetings in which matters of personnel are not under discussion.

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\***Cabinet Salaries** - Members of the cabinet will be paid an amount equal to that of the average wage-earner in the province. The Premier will be distinguished by the same salary as everybody else.

\***Election Schedules** - Foregoing the traditional advantage an incumbent government has of calling elections when it considers the political climate advantageous, the Rubber Duck government will, call a general election every four years and ten months after its election, and every four years and ten months thereafter, until it is defeated.

\***Ombudsman** - All procedures under the jurisdiction of the provincial government will be subject to the scrutiny of the Ombudsman, who will report weekly through paid pages in the daily press on his activities during the week. His staff will be greatly enlarged. In cases where he cannot take formal action, he will be asked to undertake public exposure and agitation -- for instance, in matters controlled by federal statute.

### III the economy

\***Ecology and Population** - Though this topic could have been placed under Human Rights -- we do have a right to a livable environment -- it has been placed under the economy in recognition of the fact that most pollution is caused by economic activity. The Rubber Duck party regards the quality of the environment as being, in the last analysis, perhaps the issue of our time: survival is our top priority. All industrial activity in the province will be scrutinized from the viewpoint of the pollution it causes, and plants which pollute intolerably will be closed down, however profitable they may be. Severe pollution laws will be rigorously enforced, and will provide for jail terms for the directors or officers of any organization whose pollution exceeds absolute minimum limits. This principle will apply to noise pollution, reforestation, fish and game laws, and so forth, (aside from the treaty rights of Indians, which the government is committed to respect) as well as to more orthodox forms of environmental degradation such as air, water and pesticide pollution. Research programmes into biological control of pests will be instituted, as well as research into effluent control devices.

Implementation of these policies may well require the creation of a new portfolio, called perhaps the Ministry of Environment. Active conservation and anti-pollution organizations will have a veto on the appointment of this minister.

The Rubber Duck Party, however, recognizes that the unchecked growth of population will ultimately ensure that even minimal pollution becomes intolerable. Accordingly it proposes to set up free birth control clinics offering free birth control supplies, abortion clinics in which practice will come as near abortion on demand as federal law permits (and the government will press the federal government for

complete repeal of the abortion laws); free vasectomy on demand; and a system of tax penalties for families which produce more than two children.

\***Economic Development** - The Rubber Duck government will alter the provincial Development Corporation to make it an initiator and backer of companies formed in the province by local people. No grants will be available to companies with majority stock -

holdings outside the Atlantic region. The Rubber Duck government will be especially sympathetic to co-operatives, and will encourage new business to take the form of co-operatives owned by the people who work in and buy from them.

The Rubber Duck government will be particularly hospitable to companies whose products emphasize the quality of life. Tax incentives will be available, for instance, to film production companies; television production companies, publishers, small boat, toy, furniture, glass, pottery and fabric companies; specialized educational institutions; electronics firms; tourist developments of a tasteful kind which reflect the region's culture and values; and other projects of a similar nature. We do not consider it realistic or desirable to turn our province into another Ontario; we do not particularly admire the environment Sudbury, Oshawa and Hamilton have created. We are interested in industries which employ many people; whose products are easily and cheaply shipped abroad and across the country; whose products create an image of our people as having taste, imagination, and humane values. We believe the quality of our entire existence and not the consumption of needless consumer goods, represents the good life.

\***Taxation** - The Rubber Duck government proposes to apply in the province the principles of the Carter Commission on Taxation, which the federal parties have all conspicuously ignored, though the Carter Report is widely considered the most intelligent and comprehensive taxation proposal ever developed in any Western nation. Briefly, its principles are that a dollar of income from whatever source should be taxed like any other dollar. Capital gains, dividends, interest, wages, fees and salaries are all regarded as equally amenable to taxation. Second, the Carter Commission recommended horizontal and vertical equity. "Horizontal" equity means that men of equal incomes pay an equal tax. "Vertical" equity means that higher incomes pay proportionately and progressively higher taxes. In addition to implementing these principles within the province the Rubber Duck government will urge them on the federal authorities.

\***War Production** - Throughout the province firms are manufacturing materials for use in the Indochinese War. We believe that war to be obscene, and we propose to cancel all provincial grants, tax incentives and the like to companies which propose to continue producing such commodities. At

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the same time, the Rubber Duck government will offer every assistance to such firms to change over to products designed for peaceful uses.

✳️ **Farming** – The Rubber Duck Minister of Agriculture will be a working farmer, who will make use of his office to assist the National Farmers' Union in whatever ways may present themselves. The objective of our agricultural policy is to assist farmers in forming strong organizations of their own with which to confront agri-business, organizations which will assure the farmer a strong say in the transportation and marketing arrangements for his products. The Rubber Duck Party is also skeptical of factory-type farming and believes the public good is well-served by keeping rural families on their farms, even if that means keeping marginal farms in operation. Accordingly, it proposes to decentralize services throughout the province and to make it as convenient and pleasant as possible for the small farm to continue in existence.

✳️ **Fishing** – The Rubber Duck Party will immediately call the House into session to pass legislation to give collective bargaining rights to fishermen. Community development workers will assist fishermen to organize; and fishing companies owned outside the Atlantic region who threaten to leave because Atlantic fishermen look likely to get a fair shake will be asked to leave. The government will advance loans to co-operatives seeking to take over the assets of such companies and to operate their plants.

✳️ **Consumer Rights** – The Rubber Duck government will increase the authority and power of the Consumer Protection Bureau, introduce legislation requiring strict honesty in advertising, ban promotional giveaways and similar marketing gimmickery. It would sponsor educational programmes in the field of consumer rights – including such topics as "Making Your Complaint Hurt the Rascals" – and would regulate the practices which large corporations routinely use to put the small operator out of business.

✳️ **Monopolies** – Any sector of the business community which is or becomes a monopoly or near-monopoly would have to face the prospect of expropriation after which it would either be placed for sale to competing interests – as in the case of the New Brunswick newspaper monopoly, for instance – or would remain under public ownership – as in the case of Nova Scotia Light and Power or New Brunswick Telephone, for instance.

✳️ **Independence** – The Rubber Duck Government would maintain that we cannot hope to design social programmes without control of our province's economic life. Accordingly it would do everything in its power to minimize foreign ownership of our economy; more important, it would publicly and rudely urge such policies on our sell-out federal administration.

✳️ **Land Ownership** – The Rubber Duck Party feels that the concept of property be extended to land, which man neither

creates nor develops, and which is held in trust for succeeding generations. The government would therefore assume ownership of all prime urban and recreational land, including seacoasts and lakeshores. The land would then be leased back to private individuals provided that their plans were in keeping with ecological and aesthetic considerations. Private ownership of individual dwellings would continue.

✳️ **Urban Development** – The Rubber Duck Government would encourage, through financial incentives, local initiatives in urban development which would preserve the essential character of our cities while enhancing their attractiveness as environments in which to live. The development of parks and the reclamation and restoration of older buildings, especially by local groups, would be a high priority. New construction would be taxed according to its architectural unsuitability. Tenant's associations and cooperative housing associations would be encouraged. Automobile taxes will be scheduled so as to discourage the use of automobiles within the city; municipal transport systems will be encouraged and subsidized.

✳️ **"Closed-Shop" arrangements** – In some cities in the province, individuals are prevented from doing plumbing, wiring, etc. in their own homes by provisions restricting those tasks to qualified plumbers, electricians, etc. Accountants have similar concessions at the provincial level. A Rubber Duck government would review all such arrangements with a view to permitting the individual to do whatever he can do, subject to inspection and provided he does not cause danger to the public; and provided he does not do it for payment.

✳️ **Culture** – A Rubber Duck government will establish or expand a Ministry of Culture, whose function will be the assistance of local citizens and groups whose work is helping to assure the continuation of regional culture. The ministry will be charged with sponsoring conferences of folk-lovers, folk festival symphony concerts and the like, but will also be given the responsibility of encouraging such events as country fairs which are not normally regarded officially as "cultural." In addition the ministry will acquire and develop a large rock festival site, which it will lease on the basis of a percentage of the profits to promoters wishing to hold rock festivals in the province.

The Rubber Duck platform is marked by two chief points: first, it encourages citizens at every point to do what they think best in their own interests and for their own welfare, and it invites participation in governmental decisionmaking by all citizens, not just the influential. Second, it displays a callous disregard for the "rights" of large organizations operating against the interest of individual citizens of the province, whether through the profit motive, or otherwise; and it regards the profit motive as weak and an undignified foundation for a human society.

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# OFFICIAL LANGUAGES ACT

## BUT YOU STILL CAN'T SPEAK FRENCH IN COURT

On April 12, 1969 the New Brunswick Official languages bill received 3rd reading in the provincial legislature. At the time Premier Louis Robichaud announced that the bill, when in effect, would permit the use of either French or English during court procedures, in the legislature, and in municipal government assemblies, as well as in the schools. His objective, he said, was "to ensure that no New Brunswick will find himself at a linguistic disadvantage in participating in the public life of the province." This October, 1970 - over 18 months after the Bill was passed by the legislature, and it is *still* not possible for those who speak French in New Brunswick "to participate in the public life of the province." Why, you ask? Because the Lieutenant-Governor has not proclaimed certain of the sections included in the bill - the most important ones, incidentally - thus they are not yet part of the law.

The sections of the Official Languages Bill yet to be proclaimed deal with (1) the right to the use of your language of choice in court (Section 14), (2) the establishment of English, French, and bilingual schools on an equal footing, (3) the use of French in the legislature (4) the publication in French of government statutes, documents and reports of various types.

We challenge Mr. Robichaud to explain how non-English speaking people in New Brunswick are to "participate equally" in the public life of the province, when the following section of the Languages Act (Section 11) is NOT part of the law:

"Subject to Section 16, where requested to do so by any person, every public officer or employee of the province, any agency thereof, or any crown corporation shall provide or make provision for such person:

- (a) to obtain the available service for which such public officer or employee is responsible,
- (b) to communicate regarding the services in either official language."

At the time the bill was passed, the Premier was quoted as saying that "it would take some time to prepare courts and public institutions to handle all proceedings in either language." We, Mr. Premier, consider 18 months more than adequate time to do so.

Consider also the wording of significant sections of the Official Languages Bill. Section 14 for instance, the one that deals with the courts, is instructive:

14(1) "Subject to section 16, in any proceeding before a court any person appearing or giving evidence may be heard in the official language of his choice and such choice is not to place that person at any disadvantage."

Note, however, Subsection (2):

(2) Subject to subsection (1), where  
(a) requested by any party, and (b) the court agrees that the proceedings can effectively be thus conducted the court MAY ORDER THAT THE PROCEEDINGS BE CONDUCTED TOTALLY OR PARTIALLY IN ONE OF THE OFFICIAL LANGUAGES.

Did someone say something about linguistic equality in participating in the public life of the province?

After all this, if you *still* feel that what really matters is the spirit of the thing, not the form of the legislation, try this on for size:

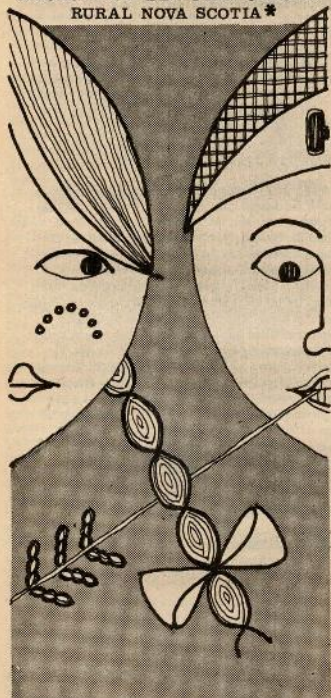
On July, 1968 the New Brunswick Supreme Court rejected an appeal by two Quebec students, Jacques Bealise and Jacques Moreau, to have their public mischief trial conducted in French, and ruled that English was the "official language" of the provincial courts. Mr. Justice J.A. Hughes, in issuing judgement, pointed out that English became the official language of the provincial courts through English statute law passed on through the BNA Act. The judgement of the court cited an act of English Parliament passed in 1650 as part of the basis for decision. It seems only fair to point out that this decision was reached *after* the government had passed a resolution, May 28, 1968, to proceed "with appropriate speed" to make French and English official languages, and *in the same year* as Confederation for Tomorrow Conference sponsored by Ontario Premier Robarts.

One certainly would not want to accuse the New Brunswick Supreme Court of responding too hastily to new initiatives.

**garry allen**

# GROWING UP IN NEW MINAS:

A SORT OF ANALYSIS OF NON-VOTING  
AMONG FOURTEEN YEAR OLDS IN  
RURAL NOVA SCOTIA \*



\* From the author's unpublished but not yet rejected Ph.D. thesis *Coming of Puberty in New Minas: A Study of the Socialization, Politicization, Self-Actualization and thus Emasculation of Rural Nova Scotia Teen-Agers.*

**T**HE LITERATURE ON GROWING UP is by now voluminous.<sup>1</sup> So is the literature on non-voting. So is the Oxford Standard Dictionary.

Our aim here is precise. We hope to fill a lacuna in the literature, one that has existed for some time and probably would have continued to do so. We feel that our discipline, distinguished as it is, must ever proceed by putting into place small bits of data. Only thus will it gradually evolve into, as Aristotle so succinctly put it, the Master Science.

The present article is solidly grounded firmly in very hard data. We conducted a series of interviews (attached) during August 14-23, 1969 in and around the picturesque town of New Minas, Nova Scotia. This town is not really untypical of the average Nova Scotia usual small town, as can readily be perceived and replicated by a perusal of the 1969 Nova Scotia Small Town Statistical Abstract.

The findings of the interviews were quite revealing. About 50 percent of the randomly chosen<sup>2</sup> interviewees were males, the remainder being for the most part female.<sup>4</sup> A number of reasons were advanced by the fourteen year olds interviewed for their not voting in either of the last Federal or provincial elections. 6 percent indicated that they felt their votes would have been wasted, as most party leaders appeared to favor retaining the Don Messer Show, 7.128 percent (of which only 40.7 percent were female) of those interviewed stated that they had detentions on voting day and then had chores to take care of when they got home. 9.4 percent were unaware that elections were taking place; one of these was the son of a Conservative cabinet minister in Nova Scotia who sported long hair and lice. 0.6 percent had been involved in voter registration drives in the Springhill area and were thus absent from their domicile. Surprisingly a full 94.8 percent gave vague responses implying that they somehow felt that the right to exercise the franchise was not theirs; only 5.89 percent indicated that they actually did vote in one of the two electoral outings we were studying.<sup>5</sup> Of this group, most stated they voted for one of the major party leaders, although one said he voted for someone named D. Duck and a young lady named her favourite candidate as being independent (?) E. Presley. Of the interviewees who were Negro, 94.8 percent stated that they did not know there was a government in the province. 88.7 percent did not know what an election was (several thought the term had sexual overtones), while only 37.3 percent of the non-Negro (which includes two Indians) group were similarly uninformed. Affection for the political system seemed fairly high.<sup>6</sup> Of the respondents who had never been out of the province (98.6 percent), 95.8 percent felt that Nova Scotia government was either: groovy (67.8 percent); out back (43.7 percent); plastic (45.8 percent); progressive and well-meaning (1.7 percent).<sup>7</sup>

We conclude that on balance, ceteris parabis, and with due regard to factors not allowed for in our brief analysis, that on the whole the average type of Nova Scotia fourteen year old exhibits norms in this regard that would correlate nicely (to perhaps .97) with findings of similar studies utilizing similarly sophisticated techniques and data obtained from other similarly stratified populations from analogous provinces in Canada. More than this we cannot go as our data does not allow us. With this addition to the literature we bring to a close our scholarly analysis of this subject. In future we hope to be able to subject a cross-section of fifteen year olds to similar analysis, but that will have to wait further grants and more pressures upon us to add our vita.

- 1 See *Growing Up in New Guinea* and *Coming of Age in Samoa* both by M. Mead. Also of use is *Attaining of Puberty in Prince Edward Island*, author ashamed. Best source is P. Goodman, *Growing Up Aburd*.
- 2 For instance *Non-Voting in Canadian Federal Elections by Roman Emperors: Absentee Non-Voting: A Case Study* by Yuss Less, occasional effort published by the Center for Copping Out, Queen's University. See also *Laura Secord and the 1878 Election: A Case of Missing Person?* probably publishable M.A. thesis by I.M. Rigorous, Harddata University. Of use as well is "Alger Hiss and the 1953 Election: Some Factors Affecting Non-Voting", *Journal of Publish or Perish*. We anxiously await the forthcoming signal addition to the literature *Non-Voting and Taxidermy: The Stuffing of Ballot Boxes in Canadian Elections and at other times*.
- 3 The Chance Luck Random Number Tables, prepared under the auspices of I.D.S. Pool, H. Last Very Well and S. Agnew, were utilized throughout. We recommend these highly.
- 4 All of the findings noted are from our hard data. Various techniques were utilized, including Method of Fewest Triangles, -Cube, Lineal Descendency, Retrograde Analysis, Value-Free Thinking and Cheating. Replication would be, probably be, impossible and from our point of view undesirable. All's Well that End's Well, as someone said.
- We wish to take this opportunity to thank the Society for the Encouragement of Dilettantism for their generous support, as well as the Canadian Association for Socially Harmless Research. We also thank Professor I.M.A. Eunuch for his reading of a earlier draft, and attach no responsibility to him.

- 5 One respondent indicated that he voted seventeen times in the last provincial election but we were unable to correlate, substantiate or establish authenticity of his assertion. None of the fourteen year olds interviewed said they voted in earlier elections, which might lead one to hypothesize an increase in citizen participation. See the literature which is voluminous.
- 6 See the literature on affection for the political system, esp. *How We can Learn to Love Nova Scotia and Drink Heavy Water* (Conservative Party Headquarters Think-Sink).
- 7 The numbers add to more than 100 percent due to computer error.
- 8 C.F. The Random House Dictionary. College Edition: *Literature*: writing regarded as having permanent worth through its intrinsic excellence.

Robert Vaison taught for the past two years at Saint Mary's University in Halifax. Presently he is studying for a Ph.D in political science at Dalhousie University.

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# LEGAL MANEVRES

"How do you plead to the charge? Guilty or not guilty?"

"Oh... guilty."

"Do you have anything to say before I pass sentence?"

"Well your honour, you see I've been driving that road every morning now for four years and there's never been a sign there before. I found out later they just put it there that morning. But couldn't even see it because the MacDonald's were moving - they're the people on the corner - and the moving van was in front of the sign."

"Well, Mr. Smith, that's a pretty reasonable explanation, but I can't do anything about it now because you have already pleaded guilty. You should have had a lawyer to represent you."

"I couldn't afford a lawyer, your honour."

"I'm sorry Mr. Smith, you've already pleaded guilty and I'm going to sentence you to ..."

"Next..."

**I**F SMITH HAD HAD A LAWYER to present his case, there is little doubt that the charge would have been dismissed. But Smith didn't have the money to hire one and, of course, there is no legal aid scheme in New Brunswick. (See article elsewhere in this issue.)

But this is not an article about why we need a provincial legal aid scheme; it is an article about what happened when students at the University of New Brunswick Law School tried to set up a plan to help people in Fredericton, like Smith.

There was a time in Fredericton when articling law students would regularly appear in court as representatives of the firm for which they were working. They would plead a client or act on a client's behalf in the more routine cases. But that came to an abrupt end last summer. It seems a well-prepared law student representing a friend made the crown prosecutor's lack of preparation painfully obvious. Somewhat piqued, the prosecutor complained to the New Brunswick Barristers' Society. And before long Section 18 of the Summary Convictions Act was drawn to the courts' attention and students were no longer permitted to appear in Court.

The members of the Barristers' Society had simply tightened ranks and, in effect, legislated the embarrassing opposition from the field.

Of course, as the Dalhousie Law students pointed out a few months ago at the annual meeting of the Canadian Bar Association in Halifax, this type of maneuvering is not foreign to the traditionally closed and reactionary lawyers' associations. And as the law students at UNB discovered last fall, the New Brunswick Barristers' Society is no exception.

Since negotiations between the Barristers' Society and

the government concerning legal aid had been stalemated for several years, the UNB students conceived a plan of their own for the Fredericton area which would benefit both themselves, the lawyers and those people unable to afford legal counsel.

Allan Ruben, then a third year law student, outlined the plan: *What we hoped to do was set up a legal aid office in the law school and give the phone number to all the lawyers in the Fredericton area. Then when an indigent client came to them, they could simply call the office and the case would be assigned to one of the students who had enrolled in the plan. The student would then meet with the indigent client and spend 10 - 20 hours researching the case.*

But since the students themselves were prohibited from appearing in court they would meet with the lawyer prior to the clients' court appearance and attend court with the lawyer. "This way", explained Ruben, "the lawyer would have his research done for him, the indigent client would be well represented, and the student would get the experience."

The plan was greeted with enthusiasm by the students and the lawyers the students consulted, but with something other than enthusiasm by the Barristers' Society.

The students third meeting held to finalize their plans was attended by Ted Gilbert, a local lawyer, Secretary-Treasurer of the Provincial Barristers' Society, and the Society's only permanent officer. Looking very much like a dog in the manger, Mr. Gilbert reminded the students that the Barristers' Society already had a plan for the whole province, so there was really no need for the students' plan and, in fact, most local lawyers accepted clients who were unable to pay, anyway. And besides, he said, students couldn't give good advice to the client. Warming to the argument, Mr. Gilbert concluded his remarks rather derisively, report the students, by noting that he wouldn't send a law student to court to buy him a newspaper.

"The clear implication of Gilbert's argument", noted Ruben "was go ahead, but don't be surprised if you're not admitted to the bar when you graduate."

Since he is on the bar admissions committee, Mr. Gilbert's remarks carried a good deal of weight with the students, justifiably fearful that if they continued with their project they might well find themselves with a law degree but no place to practice.

In the meantime, the Barristers' Society and the government are still arguing about legal aid schemes and Fredericton's John Adam Smiths continue, unrepresented, to plead guilty.

The judgement of *The Mysterious East* on the matter? We sentence Mr. Gilbert, as representative of the Barristers' Society, to one Rubber Duck Award.



# ENJOY YOUR VACATION TOM

willard richardson

I WAS IN HONG KONG when the violent Communist-perpetrated demonstrations broke out in the Kowloon area of that tiny British colony in the late spring of 1967. It was my first encounter with dissent of this nature although I had seen Red Guards the same year in nearby Macao.

The rioting was a far distance from my native Canada and, although it was upsetting, I was not unduly disturbed, only cautious about walking alone on Nathan Road.

My next encounter with a demonstration from which violence erupted was here in Toronto May 9. I had been in the city only a week or so and it was pure coincidence that I happened to be in Nathan Phillips Square that Saturday afternoon. Noting the crowds moving in the direction of University Avenue I followed and edged myself into a vantage point almost directly across from the American embassy.

I watched for a long time; indeed, until that mass body of protesters to the Vietnam War were dispersed to take up position on the spacious grounds fronting the new Court House.

The events of that afternoon have been well publicized and I have no intention of recounting what I saw -- which was nothing not seen by the multitude of other onlookers. However, one aspect of the demonstration puzzled me.

Most of the placards hit out essentially at Canadian complicity in selling arms to the United States. One chant went somewhat like this:

"Trudeau and Sharp -- Hey! Hey!  
How many babies did you kill today?"

The aspect of Canada's export of arms had never struck me before. I found myself still pondering the plausibility and accuracy of those indicting placards the next morning.

My curiosity and subsequent concern prompted me to write a letter to a long-term Member of Parliament whom I have known for a lengthy period. As a citizen, taxpayer and elector, I was entitled to know the volume of our armament exports and the Federal policy pertaining to their sale.

Five days after I had written (May 15), I received a reply which included after the usual courtesies:

"I will have to dig around to get the actual information. I could put forthright questions on the Order Paper but will let you know if this is necessary."

A short time later I learned from another source that Canada was the fifth largest arms exporter in the world. She is eighth in terms of military power.

I shot another letter off to my friend in Ottawa to this effect:

"Would you please put on the Commons Order Paper a query which would include these questions: What is Canada's overall policy with regards to supplying armaments or components used in armaments to the United States?"

Has the volume of such exports been increased commensurate with the intensification of the American military role in Southeast Asia?

"Has no consideration been given to the moral implications of supplying such armaments to the U.S., especially now, since Canada is one of the three-member countries composing the International Control Commission on Cambodia which, as you know, is now a part of the battleground? This commission, you must also know, is being urged to reactivation."

The reply was not as prompt as that to my initial letter. Here it the essence:

"Thanks for your further letter, and I did start to draft the questions, as suggested, but thought I would check with... (another MP well known to us both, who specializes in international affairs)... who has more up-to-date information on these matters."

"I have, therefore, noted your interest and will be pleased to keep your thoughts in mind should I be personally involved from time to time."

"Be sure and let me hear from you on any subject and give us a shout if you are ever in Ottawa."

This letter was dated May 26 and, despite a magazine article, which subsequently came out with a lead article on the economic importance, as well as other data, of Canada's military export plum, I am still at a loss for answers to some of my questions.

Not long ago, Prime Minister Trudeau is quoted as having said, during the course of talks with a group of Mennonites in Winnipeg: "I would say we are opposed to militarism."

A local newspaper editorial poses the dual question: "If you really believe this why do you allow your Government to help the American war machine by means of the defence cost sharing programs, and why do you allow Canadian firms to advertise and sell military equipment in the U.S.?"

Why indeed?

And as to my questions, the House of Commons has prorogued. Where do my answers come from? Perhaps I should have written directly to the Minister of Defence, but I do not know him, have never spoken to him, and am not interested in a reply from one of his departments saying my questions would be taken under advertisement or some such thing.

Ah, well. The House reconvenes in the fall, and I have the reassuring "Be sure to let me hear from you on any subject" from Thomas M. Bell, Chief Opposition Whip and M.P. for Saint John-Lancaster.

Thanks a lot, Tom, and enjoy your vacation.

*Willard Richardson is a member of the editorial board of the Toronto Telegram.*



## CANADIAN WAR PRODUCTION

*A thick richly-illustrated book entitled Canadian Defense Products (Queen's Printer, latest edition, 1967) published by the old Department of Defense Production provides a comprehensive listing of some 700 Canadian companies that supply or would like to supply military and supporting products.*

*The products listed include: all calibres of guns ranging from small arms to 200 mm cannons, rockets and rocket launchers, complete fire control systems, ammunition of all calibres, bombs, land mines, torpedoes, demolition materials, ships, aircraft, vehicles, communications equipment, and various quasi-military items ranging from air conditioners and copper pipe to chemicals and office furniture.*

*The weapons producing capacity of many companies is surprising; for instance, CCM which is listed on page C-14:*

**CANADA CYCLE & MOTOR CO. LIMITED**  
2015 Lawrence Avenue West  
Weston, Ontario

Manufacturers of: Bicycles; Sporting Goods; Ice Skates; Hockey sticks; Exercise Machines; Rifle and Machine Gun Components; Shell and Mortar Bomb Inert Components.

*But of the 700 companies listed, most have their head offices and manufacturing facilities in Toronto, Montreal and surrounding areas, although some may have branch sales offices in the Maritime region.*

*However, there are a few Maritime based companies or companies that have manufacturing facilities in this area that advertise their military equipment production capacity in Canadian Defense Products:*

**DOMINION STEEL & COAL CORPORATION LIMITED**  
Sydney, Nova Scotia  
Manufacturers of: Steel Ingots, re-rolling and forging; Steel Rails, Wire Rods, Barbed Wire, etc...

**LUNENBURG FOUNDRY AND ENGINEERING LIMITED**  
Lunenburg, Nova Scotia  
Manufacturers of: Steel barges, lighters and small craft; repair and overhaul facilities, etc.

**EMI - COSSOR ELECTRONICS LIMITED**  
Dartmouth, Nova Scotia  
Manufacturers of: (Among other things) Sonar, Radar and Microwave Equipment.

**ENAMEL AND HEATING PRODUCTS LIMITED**  
Amherst, Nova Scotia  
Manufacturers of: Airframe structural components, jugs, fixtures and tooling, etc.

**FAIREY CANADA LIMITED**  
Dartmouth, Nova Scotia  
Manufacturers of: Helicopter Hauldown and Rapid Securing System; Fairey "Fairlift" Materials Handling Device; Electronic Equipment; ... Engine Test Stands Ground Handling Equipment Aircraft Sheet Metal Work, etc.

**H.K. MORRISON & SONS LIMITED**  
Mount Uniacke, Hants County, Nova Scotia  
Manufacturers of: Press tools, jigs and fixtures; precision machinery of component metal parts, etc.

**SAINT JOHN SHIPBUILDING & DRY DOCK COMPANY LIMITED**  
Saint John, New Brunswick  
Manufacturers of: Passenger and troop ships; Combat Ships and Landing Vessels, etc.

**SURRETTE BATTERY LIMITED**  
Springhill, Nova Scotia  
Manufacturers of: All types of heavy duty commercial batteries, and U.S. Navy Storage batteries to BuShip standards.

**HAWKER SIDDELEY CANADA LTD**  
Trenton, Nova Scotia  
Manufacturers of: Rail Cars; Railway Equipment; ...Axles; Forgings of all types; Ammunition projectiles to 105 mm; Buoys, Steel; Pressure Vessels.

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trm 1

# WHY DON'T YOU TALK ABOUT THE EAST RIVER AND SHUT-UP ABOUT BOAT HARBOUR

**T**HE SIGN PROUDLY ARCHES across the bridge which spans the East River: WELCOME TO NEW GLASGOW. If you stop on the bridge long enough to read the fine print on the rather ugly sign, you may have some doubt about the nature of the welcome. The fragrance emanating from the river is caused by the sewage of the towns of Stellarton and New Glasgow. Before the river dumps its burden into Pictou Harbour, Trenton, Canada's first steel town, will have made its contribution.

New Glasgow residents will tell you that they have always dumped their sewage untreated into the East River. The total population of the area (about 19,000) has remained constant for years, and it is not expected to increase much in the near future. So the domestic pollution problem had only increased insofar as more households are using phosphate detergents, cleaning agents, dyes, and other things that make their way to the drain. Even industry has not increased its pollution much in the last few years.

Just for the smell of it, I took a walk along the south-east shore of the river. At New Glasgow, the East is only about four miles from the ocean, so it responds to the tides. I was walking just before dusk at low tide.

The slippery rocks forced me to be careful. The shore looked as if some great jolly green giant had tossed a huge slime net over everything in an attempt to catch the rocks. Only the one-way bottles, cans, cigarette packages and other paraphernalia of bad habits and a bad diet added color to an otherwise green and brown shoreline. I passed a huge pile of bricks which could probably have made a sturdy two-seater outhouse. As I ducked under a few pipes that were trickling out the last of a day's industrial wastes, I noticed the ground on which I was walking sinking deeper and stinking more. For some time I had been within noseshot of the sewer. After rounding the bend, I could see it in all its panoramic glory.

Actually, sewer pipes have never been glamorous affairs - only the most estranged photographer would consider them aesthetic. A rather unobtrusive affair, this one kind of half buried itself in the muck of the river edge. After spending a few picture-taking minutes in the area, I honestly felt like a Lilliputian trapped in a baby's diaper which hadn't been changed in a week. And it was no comfort to know that this was just one of eighty similar sewer outlets for the three towns.

The climactic scene came after I reached the top of the bank. On the shore of the once-beautiful East River lies the town dump. It is true that they just recently stopped dumping garbage there, but it is also true that the garbage there will probably be there for a long time to come. No one has volunteered to clean it up.

What is in store for the East River? Not long ago, the Pictou County Regional Planning Commission asked FENCO, an engineering consulting firm, to do a survey of the pollution problem of the East River, and recommend solutions.

The survey concluded that there was "sewage discharging into open ditches on lowlands", and "that several sewer





Aside from domestic pollution, there is pollution from other sources along the river. The following is a list of the "guilty":

1. Acadia Colliery Wash Plant - Stellarton.
2. Allen's Dairy - Stellarton
3. Maritime Steel and Foundries - New Glasgow
4. The New Glasgow Hospital (particularly dangerous; no antiseptic treatment).
5. Hawker-Siddley (Canada) Ltd. - Trenton
6. Eastern Meat Packers - Trenton

The *Mysterious East* urges the citizens of the area to press for action that will result in a clean-up.

outfalls are broken and damaged so that sewage runs on ground towards the East River. They also noted the dumps located on the riverbank, as well as the danger of oil pollution. FENCO recommended two solutions:

- (1) Connecting the sewer systems of New Glasgow, Stellarton and Trenton into one, and pouring all sewage untreated into Boat Harbour.
- (2) Do the same thing as (1) except pour it all into a central treatment plant.

Capital expenditure for both schemes would be about \$2,047,000, although the operating cost for the latter would be about \$20,000 higher per year than the Boat Harbour plan. Primarily because of this saving, FENCO urges that already dead Boat Harbour be used as a sewage lagoon." States the report: "In case of the Boat Harbour scheme, sewage would require no treatment and no chlorination prior to discharge into Boat Harbour." It suggests that if the Water Commission ever installs treatment for the Scott mill effluent, the towns might hook into that as well. Said one critic caustically "to pour sewage into Boat Harbour is not to treat it - it is to mis-treat it."

Another reason that FENCO preferred the Boat Harbour scheme (they submitted complete designs for both) was the horrifying fact that "a central treatment plant would require about 2.5 acres of land which would be lost as a site for development of a commercial opportunity."

It appears that the public may have won a battle in the war to save what is left of Boat Harbour. Although the FENCO report is presently in the hands of various committees, many people are confident that the town governments will choose the higher costs of the central treatment plant even if it does mean sacrificing 2.5 acres. E. L. L. Rowe, chairman of the Water Resources Commission, put it this way: "I don't think that we would dare to try to add municipal waste to this (Scott's effluent), not because theoretically I don't think it would work, but simply because the outcry from the public - and I would use the word hysteria - would preclude this."

Perhaps the most dangerous aspect of the pollution of the East River is that it is being played against the pollution of Boat Harbour. Nearly every government official concerned has made moves in the little verbal game called "Why-Don't-You-Talk-About-The-East-River-And-Shut-Up-About-Boat-Harbour". Many players - most in fact - have issued statements that should have put them in the penalty box. Instead, there was applause, especially from the media. Dr. M. A. Harquail, a New Glasgow town councillor, said that "New Glasgow has a pollution problem worse than Boat Harbour." No matter how you qualify it, that statement is absurd. Even if the whole of Pictou County poured all their sewage into the East River (pop. about 30,000), it would still be less than 15% of the amount that Scott pours into Boat Harbour (pop. equivalent of 250,000). The *New Glasgow News* gave that two-bit inanity front page headlines.

Similarly, both the Hon. D. R. MacLeod and Mr. E. L. L. Rowe have made a number of statements about the dangers of the pollution of the East River. They were not wrong in pointing out those dangers; they were wrong in suggesting that they are of the magnitude of the dangers of Boat Harbour.

**tom murphy**

# SELF-CONCEPTION OF LAWYERS

## an exploratory study of the legal profession and change in the law

barbara currie (master's thesis university of new brunswick spring 1970)

As current disputes about divorce, abortion, and drug laws in Canada show conclusively, a petrified, unchanging system of law is an unmixed social liability. In a humane legal system—not to mention an effective and workable one—legal change should parallel social change: the attitudes of society concerning population growth in the last third of the twentieth century are hardly comfortable with the laws—regarding birth control and abortion, for instance—of a society which, in order to survive and populate an empty wilderness, had to produce babies to the limit of its capacity.

If our society is to survive, our laws must change to keep pace with social changes like this one, or else we will find ourselves in the position of having legislated ourselves out of existence. A rule applied to a baby forbidding him to cross a street unattended might well, if applied to an adult, cause him to starve to death.

How, then, does the law change? Most people would suppose that the responsibility for change—and indeed the awareness of the need for change—would lie primarily with the legal profession. After all, it is lawyers who apply the law in specific cases, and in most cases lawyers who draft the laws as legislators and interpret them from the bench as judges.

Mrs. Barbara Currie, in a recently completed Master's thesis at the University of New Brunswick, argues, however—on the basis of interviews with 35 of the 64 lawyers active in all areas of the legal profession in a typical community (Fredericton)—that:

The legal profession as a whole is oriented against change in the law;

Frictions among legal groups (judges, practising lawyers, professors of law, employees of the provincial Department of Justice) inhibit the development among individual lawyers of a concern for change in the law;

There exists in the legal system itself inherent restraints (such as delay in legislation, the tendency toward precedent in deciding current cases, and the failure of the Bar Association to use petitionary procedures for change) which inhibit the development among lawyers of a positive orientation toward change in the law.

Individually, then, lawyers feel incapable of acting effectively for change; and as a group—the Bar Association—they are more concerned with maintaining unity and community in the profession than with advocating change.

The implications of Mrs. Currie's results are staggering.

The fact that members of the legal profession tend to view the practice of law primarily as an occupation, only incidentally as an instrument of social change is disturbing,

but explicable—lawyers are limited by the fact that their contact with the law tends overwhelmingly to be at the level of individual cases or individual laws, very few are ever actively engaged in the study of, or in the criticism of, the structure of law per se. More damaging are the other conclusions of her study: for instance, the fact that the structure of the legal system is such that it minimizes the importance and effect of individual initiative, even when that initiative is undertaken by individuals trained at law. Or the fact that the professional community, through its agency, the Bar Association, is more interested in professional solidarity than in the problems of the community-at-large.

As a group, Mrs. Currie concludes, members of the profession tend to emphasize the role of formal and institutional bodies in accomplishing legal changes. If changes are to be made in the law then they must be made by the bodies which have the power to do so—the legislature and the judiciary.

Unfortunately, as the present lag between law and changing social circumstances shows, the legislatures and the judiciary (including a disproportionate number of lawyers) have in fact failed to keep the law relevant to the society it is supposed to serve.

In no capacity, then, as practitioners, as members of the department of justice, as judges, as legislators, have lawyers, individually or collectively made a concerted effort to relate the law to the society it supposedly regulates. Only when controversial, and sensational social issues are raised—such as that concerning drugs and the law currently being debated—is the question even considered.

Mrs. Currie goes on in her study to examine the attitudes of law students toward change in the law. She finds, for instance, that students tend to become less concerned with humanitarian ends and more with monetary ends as they proceed through law school, that they recognize a gulf between what they are taught in the classroom and what they learn articling. ("There's a conflict between ethics and practice") and that some describe law school as "a dehumanizing experience." Students at law school tend to be physically isolated from students at University—they form, as Marvin Mayer, the author of *The Lawyers* says, "a separate caste", and their isolation and dependence on their professional colleagues is reinforced by the power of the Bar Association to license its members.

As Mrs. Currie argues "Completing the academic and articling requirements do not guarantee a place at the Bar. A student who is not considered suitable may not be granted admission". In fact acceptance to the Bar after completion

of requirements is very much a formality however, the threat that it may not be encourages students to conform to professional norms and to soft-pedal crusading zeal. (Note for instance, what happened to the zeal of the UNB law school students about legal aid when the professionals frowned.)

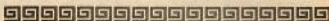
In general, both in law school and after, students at law and legal professionals are continually bombarded with the importance of 'a sense of community.' This tends to inhibit the individual and professional concern with legal change and to reinforce the loyalties of lawyers to each other and to their professional organization.

One can only remark that the vast chasm which exists between legal practices and social circumstances is explicable, given the approach of the legal profession to the law -- but inexcusable just the same.

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## CANADIAN LITERATURE 46

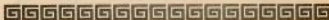
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# reaction



Gentlemen:

Somewhat like Leacock's lout who leaped on his horse and rode off in all directions at once, I find myself vainly trying to keep up with the flow of letters necessary to carry out my obligations under the Boycotters Guide Letter Writing Marathon.

With the aim of making letter writing easy I am enclosing a suggested guide.

Yours very truly,  
A.R.W. Lockhart,  
Managing Director.

1	2	3	4	5	6	7
Dear	<i>K.C. Irving Louis Robichaud Al Zinck Gerry Regan Admiral O'Brien Mary Barker Joey Smallwood Derek Oland E.S. Fellows Finlay MacDonald Colonel Sanders</i>	My	<i>Swami Confessor Pal Barber Girlfriend Ouiji Board 4th Estate Guru Shrink Pusher Viscera Probation Officer Gynecologist</i>	told me to write about your	<i>Damn Lousy Stinking Beautiful Erotic Hairy Stopy Jolly Infected High Priced Low Down Deviate Bloody Awful Finger Lickin Cotton Picken</i>	<i>Politics Sex-Life Manners Boat Sheep Bad Breath Piles Refinery Ale Wrestler Jungle mouth Underwear Hen Telephone number Wife scolding</i>
8	9	10	11	12	13	14
and inform you that the	<i>tired taxpayers Vicious veterinarians Mercenary MT &amp; T Undercover RCMP Bra-Less Women's Liberation Front Suave Societe Des Acadiens Queer corners Groovy girl next door Why Wrestlers Incredible IEL Wild Colonial Boys Raunchy ram Confused CFHQ</i>	are	<i>hysterical sad glad tickled pink starry-eyed P.O. 'd grabbed strung up hung up putdown frightened silly bored stiff overdue off the pill smug</i>	will you therefore please	<i>shape up ship out get smart knock it off drop dead remit cool it share the wealth explain smile a while close it buck up quit send a specimen use penecillin</i>	<i>Sincerely yours Fraternally hugs 'n kisses Wiedersehn Good luck Bye Now Bod Seth Sorry 'bout that Yours in beagling Farewell write soon Adieu With Passion</i>

© BOB  
LOCKHART

Dear Sirs:

The re-print about grass and oxygen on the inside rear cover of your August issue illustrates wonderfully the great myth about pollution -- that we will survive given "clean" air and water.

Not so. If you take the trouble to study carefully the respiration and photosynthesis of a plant -- the carbon dioxide-oxygen cycle, in a good modern botany text -- you will discover that over its entire life -- from dust to dust, whether algae or redwood the plant uses up no carbon dioxide or gives off any net oxygen.

The plant produces  $\text{CO}_2$  continuously throughout its life, night and day, winter and summer (though reduced in winter) in the process of respiration. In photosynthesis, oxygen is produced only in green cells and in light. The greater rate of photosynthesis allows plant growth, but the excess oxygen produced (over  $\text{CO}_2$  produced simultaneously in respiration) is used up in the final decomposition of the plant, whether by simple decay, as food or being burned. This biochemical (growth) process must be subject to chemical laws of "action equals reaction", "chemical equilibrium", "totality of matter", and "reversibility". There is no profit in nature.

The combustion of fossil fuels, of whatever kind, then must always raise the  $\text{CO}_2$  level in the atmosphere. Such fuels and the present  $\text{O}_2$  in the atmosphere exist solely because millions of years ago submergence interrupted the normal decay cycle leaving organic material unoxidized and oxygen in the atmosphere. We are now merely completing the cycle. The original process, millions of years ago, extracted  $\text{CO}_2$  and  $\text{H}_2\text{O}$  from the atmosphere, modified

the climate, and allowed our food plants to develop. We are now busy changing the climate ourselves, raising  $\text{CO}_2$  levels very noticeably, putting out huge quantities of super fine particulate matter which inhibits normal precipitation, resulting in longer cloud life times -- hence more total cloud cover, reflecting more and more heat and light back into space.

Our food plants were, largely, bred for the climate of ten to fifty years ago. Only slight changes are needed in the climate -- late planting, flooding, rains, etc. -- you get the picture, to put us out of business, permanently, in a very few years.

We are in fact having climactic changes. Paul Erlich has referred to this aspect of the pollution problem recently.

There is, incidentally, absolutely no danger whatsoever that we will run out of  $\text{O}_2$ . If every plant died tomorrow, we would just starve.

I do however, much prefer grass to concrete. Though it is not likely ever to become a regular diet for humans. Best converted into something called beef.

Sincerely,  
William S. Ibbotson  
Saint John, N.B.

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watch for more on the  
state of the law in  
December

Jud

# Back of the Book

## THE SQUARE DEAL

Everywhere you look, citizens are doin' it themselves. *The Square Deal* is the newest opposition paper in the Atlantic Provinces - published monthly from 294 Richmond Street, Charlottetown, P.E.I. The editors describe it as a "viewsmagazine", and the issue we have deals with the Island's Development Plan, the local Youth Hostel, the Tenants' Union conference, phosphates, the arts, life-style, schools, museums and provincial politics. Marc Gallant, who works on the paper, says he was inspired by the success of *The 4th Estate* - which is booming out 28 pages a week during the provincial election campaign and just seems to be getting better and better - and *The Square Deal* in some ways resembles *The 4th Estate*. Circulation is about 2000; the price is 15¢.

And rumours of a new paper called *The Eighth Day* starting in Saint John's, Newfoundland. More on that when we hear more ourselves.

The last few months have also seen the growth of a new weekly in Moncton, *The Moncton Free Press* - much less of a shoestring venture, better backed, with equipment and salaries and all those splendid luxuries.

Why don't you start one in *your* town? The do-it-yourself press is on the verge of becoming an absolute fad - but one of the most heartening fads one can imagine.

## PREGNANT REMARK

It's unlikely that anyone would accuse the federal government of being overly sympathetic to the Women's Liberation Movement. The several times over the summer that Prime Minister Trudeau has encountered Women's Lib members requesting abortion on demand for all women, he has had some pretty harsh things to say about the women and their request.

But compared to Charles M. Drury, the Treasury Board President (who is responsible for the federal civil service,) Trudeau seems positively enlightened. Mr. Drury said recently in response to a question from a member of Parliament that although a male in the civil service received a day off with pay when his child was born a woman received no such government benefit. Does the government intend to extend the courtesy to women? Mr. Drury was asked. "No," he replied.

## BOYCOTTERS' GUIDE AT WORK

Pamela Mullen shops at Sholten's Discount Supermarket in Fredericton. She also reads *The Mysterious East* and she read the "Boycotters' Guide". So when she noticed Lindane vapourizers hanging all over the store, she decided not to buy her groceries that week. Parking her shopping by the check-out, she carefully explained to the check-out girl that the vapourizers were dangerous and that she wasn't going to buy food there. Then she left.

When she got home at noon, her husband Sam agreed with what she'd done, but he thought she should have told the manager. So he phoned the manager.

Yes, said the manager, the check-out girl had told him, and he had phoned the Department of Health, which had confirmed that the vapourizers were dangerous. He'd therefore had them taken down - and, moreover, he'd taken them off the shelves; Sholten's wouldn't be selling them any more.

Surprised and very pleased, Mrs. Mullen phoned us, suggesting that Sholten's deserved a round of applause. They certainly do, and we're just as pleased and impressed as Mrs. Mullen - who is presumably once again a happy Sholten's customer.

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