THE LAW SOCIETY
OF NEW BRUNSWICK

An Historical Sketch

LAW SOCIETY OF NEW BRUNSWICK
FREDERICHTON
1999
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WHAT ARE RULES WITHOUT ETHICS?

At its watershed reorganization in 1846 the Barristers' Society adopted a seal engraved with "the Figure of Justice" and the motto Quid Leges Sine Moribus. In ensuring that New Brunswick lawyers would have before them constantly the probing question "What are laws without morals?" -- or, as we might say, "What are rules without ethics?" -- the founders of 150 years ago recognized the importance of renewing, in every generation, our cultivation of those ethical guides which shape upright professionals and useful citizens. Any collective consciousness evolves from a sense of who we are and where we came from. It is fitting, then, that we mark the sesquicentury of the Barristers' Society by making available to New Brunswick lawyers this first attempt at an historical sketch of our collective past.

On behalf of the Law Society I commend David Bell, who has put the essay together, as well as Wade MacLauchlan and other members of the 150th anniversary committee, for making this the occasion for meeting a long-felt need.

Sherron Dickson
President, 1995-1996
HISTORICAL MEMORANDA

1784 New Brunswick erected; Supreme Court constituted

1785 Supreme Court opens and first lawyers admitted; William Wylly (Saint John) appointed first KC

1786 Students establish Forensick Society (Saint John)

1787 Supreme Court removes to Fredericton

1800 Slavery test case, a cause célèbre

1821 Fatal Wetmore-Street duel

1823 First formalized regulation of attorney admissions

1825 **Law Society of New Brunswick established;** Barristers' Inn opens (Fredericton)

1828 Law Students' Society functioning (Fredericton)

1832 Supreme Court disciplines lawyer for misbehaviour towards client

1834 Bar denounces Judge James Carter's appointment; Chief Justice Ward Chipman imposes lawyer dress code; First edited rules of court; Society publishes catalogue of law library

1835 Law reporting begins, by George Berton (Fredericton)

1836 Separate attorney/barrister oath available to Roman Catholics (ends 1845)

1837 Attorney admission examinations imposed

1838 Landmark statute consolidation, by George Berton
As befits a calling whose role is central to the functioning of government under law, New Brunswick's legal profession originated at the founding of the province itself. Aboriginals had already occupied parts of what would become New Brunswick for about 11,000 years, Acadian French for perhaps half a century, and New England colonists for a generation, but it was the arrival, in 1783, of about 14,000 Loyalist exiles at the close of the American Revolution which brought the sparsely-settled western shore of the Bay of Fundy to a political new beginning. On 18 June 1784 the Privy Council, reciting the "great inconvenience" of resort to Halifax for access to a superior court, ordered Nova Scotia divided. Separation was completed on 21 November, when Governor Thomas Carleton stepped ashore at Saint John and produced the king's commission setting out a constitution for this new colonial jurisdiction. Four days later the judges of the Supreme Court received their own commissions. Under them Chief Justice Ludlow and his brethren were granted jurisdiction equivalent to that of the three common-law courts at Westminster Hall: King's Bench, Common Pleas, Exchequer; Carleton himself was commissioned as chancellor. Two hundred years of New Brunswick statute-making would alter these powers many times, but no Judicature Act has ever essayed to define exhaustively the court's fundamental jurisdiction, which continues to flow from the prerogative grants of 1784.

Among the incidents of court jurisdiction is regulation of those lawyers whose work involves use of court process, including granting and denying the right of audience. At its opening session, on 1 February 1785, the Supreme Court conferred the right of audience on nine of the province's first lawyers. Within a couple of years, the number of legal professionals in the province grew to about twenty, giving New Brunswick at its founding a lawyer/population ratio not to be equalled during the next two centuries. This dramatic influx of Loyalist lawyers made New Brunswick the only Canadian province whose beginning is not marked by an era of professional primitivism. Nova Scotia's bar took 75 years to reach the level of professionalism at which which New Brunswick's
began. In the new colony of Upper Canada, separated from Québec in 1791, there was so little of "learning" and "honour" at the bar that a formal organization was very soon thought necessary to put matters right. The fact that all of the men appearing before the Supreme Court on its inaugural day in 1785 could produce testimonials of former standing at the bars of Connecticut, New York, Massachusetts, East Florida and other jurisdictions goes far towards explaining the unique legal culture of early New Brunswick.

Only the Loyalist bar's determination to recreate the best of colonial American legal professionalism amid the rocks and stumps of exile can account for the formation, at Saint John in 1786, of the Forensick Society, Canada's first student mooting organization. It was formed by students in the chambers of Ward Chipman sr, who was probably also the originator of elaborate three-year reading programmes devised early in the 19th century for the education of pupils and junior attorneys. These took the student systematically through classics of natural law and international law in Year One to austere black letter in Year Three. The three-year programmes, several of which survive, are a genre of literature apparently unique to New Brunswick. Impressive intellectual élan is reflected in the appearance by seven lawyers in a famous 1800 test case on slavery, each side producing elaborate briefs drawn from philosophy, Biblical and secular history as well as positive law.

Despite these marks of professional ambition, the undeveloped economy of 18th- and early 19th-century New Brunswick could not support the presence of so many lawyers. By the 1790s outmigration of practitioners to other colonies, and discouragement for students, was pronounced. Those who remained were generally lawyers in some public appointment, and their sons, nephews and other male connections. Only protégés of elite lawyers would have access to the private law libraries which fulfilment of the three-year reading programmes presumed. The result was a bar dominated by paternal and fraternal connections. Of 51 lawyers and judges in the legal profession between 1785 and 1820 there were 11 father/son combinations, as well as four cases of two brothers at the bar and one instance of three brothers.

The combination of these factors -- the bar's elite character, small size, and dynastic underlay -- explains why no formal law society was thought necessary in early New Brunswick. As long as the bar was an
intimate connection dominated by powerful dynasts like the first Ward Chipman and Jonathan Bliss and their well-bred, college-educated juniors, the gentlemanly character of the profession was thought to require no artificial safeguards.

Not until the 1820s did the dynamic of the bar change noticeably. Then venerated and feared men whose influence had dominated the profession since the foundation of the province finally died off, and economic prosperity brought a flood of new admissions to the bar. The fatal Wetmore-Street duel of 1821 -- both principals were lawyers and sons of lawyers -- and the appearance at the bar for the first time of numbers of young men of middling parentage and lacking college degrees made it clear that collective respectability must now be safeguarded through resort to formalized controls. Some of the badges of new-style professionalism were the codification (by rule of court) of attorney admission standards (1823), formation of the Law Society (1825) and of a Law Students' Society for mooting (by 1828) at Fredericton; and, in the 1830s, appearance of the first law reports (1835) and of a magnificent edition of consolidated statutes (1838).

Formation of the Law Society at Province Hall on 21 February 1825 by three of the judges and 13 leading lawyers might have been the watershed point in this process of re-orienting the bar towards what would become modern professionalism, though it proved otherwise. The Society's principal aims were two. One was bringing judges and senior lawyers into regular contact with their juniors, so that the polish of the former could rub off on the latter. This was the purpose of its Barristers’ Inn, a boarding house where lawyers visiting Fredericton during term time could mess together and where beds were allocated in order of seniority. The Inn, which stood at about 58 Waterloo Row, was an establishment of considerable ambition, with servant bells in every bed chamber and a "plentiful dinner set of Decanters, Tumblers, Wine Glasses &c". As well, a "privy [was] provided and the key thereof kept at the sole disposal of the Gentlemen of the Bar".

The Society's other undertaking proved more enduring. Although some law books were in the legislative library collection at Province Hall from an early date, the Society formed a provincial law library to serve as a research resource for a bar now populated by lawyers unable to afford extensive private collections. Most of the initial
purchases were English case reports, duly stamped on the spine with the Society's name; soon a large number of treatises was added. In 1834 the Society published a catalogue of its collection.

Ironically, this imprint is the last clear evidence of the Law Society's existence. Professional concerns continued to make visible progress in the 1830s, especially in the development of law reporting and statute consolidation, but the Society's private club atmosphere undercut the role it might have played in policing professional entry. Its aims reflected too much of the old impulse to genteel exclusivity. Membership was voluntary rather than general. The Society had no statutory powers. It asserted no role in the formation of students or the attorney admission process. Not until the crisis decade of the 1840s did exigency call forth a legal organization ordered firmly along professionalising lines.
HISTORICAL MEMORANDA

1843 Student admission examinations imposed
1846 **Barristers' Society incorporated**
1850 First disbarment
1861 Legislature delivers first of several rebukes to Barristers' Society attempts to tighten professional entry
1867 Barristers' Society restructured, with David Kerr (Saint John) as first president; Public controversy over articling vs university legal education, triggered by Jeremiah Travis (Saint John); Legislature, without consulting bar, makes New Brunswick first Canadian jurisdiction to recognize value of LLB
1870 Pierre-A. Landry (Dorchester) becomes first Acadian lawyer (made first Acadian judge in 1890)
1874 Judge James Stevens publishes massive digest of NB case law
1875 Chief Justice William Ritchie translated to new Supreme Court of Canada (made chief justice of Canada in 1879)
1876 David Kerr publishes pamphlet denouncing incompetence of NB Supreme Court
1878 Saint John Law Society re-formed
1879 Law Students' Society formed (Saint John)
1881 Abraham Walker (Saint John) becomes first Afro-Canadian lawyer
1882 Jeremiah Travis publishes constitutional treatise denouncing incompetence of NB Supreme Court
1888 Moncton newspaper editor gaol for contempt of Judge James Fraser
1889 First attempt to adopt "My lord" form of judicial address (Supreme Court accedes, finally, in 1930)
1892  King's College Law School opens (Saint John)

1893  Saint John newspaper editor gaol for contempt of Judge Henry Tuck; Judge George King translated to Supreme Court of Canada; Edith Hanington (Saint John) becomes first female student-at-law

1894  Judge Acalus Palmer, threatened with impeachment for corruption, resigns and flees to US

1900  Judge James Vanwart, threatened with impeachment for financial impropriety to clients, resigns and flees to US
THE UNCERTAIN PROGRESS OF PROFESSIONALISM

1840s - 1900s

The mid 19th century was the most unsettled, and creative, period in New Brunswick history. Imperial imposition of free trade (1846) and its political complement, the concession of Responsible self-government to most remaining British American colonies (1848), energized a generation of wholesale institutional reform: rationalization of the law, equity, divorce and appeal jurisdictions; County courts; statute consolidation; secret ballot; prohibition of liquor; common schooling; married women’s property protection; abolition of residual Anglican privileges; secularization of King's College into UNB; county councils; town incorporation; colonial union. In this spirit of institutional renovation, the legal profession's leaders recognized that a new style of collective enterprise was needed to police a large bar (184 resident lawyers by 1851) in which the gentlemanly constraints of an earlier day were all but extinct and the formal mechanisms for screening would-be lawyers plainly inadequate. The result was reorganization of the defunct (or nearly so) Law Society into the Barristers' Society, inaugurated in the Law Library at Province Hall on 12 June 1846.

The Barristers' Society's act of incorporation did not confer extensive powers; notably, it did not make membership compulsory. Still, the refashioned organization was a giant step away from the gentlemen's club which the old Law Society had resembled. Its greatest power arose not from the act of incorporation but, in those days of loose draughting, from the distinctly broader bye-laws promulgated under it in 1847, which the judges bolstered by making rules of court. Through this mechanism the Supreme Court virtually handed the Society control over professional admission. Thereby, a group with voluntary membership was given compulsory power over boys seeking entry as students-at-law, over students seeking admission as attorneys, and over attorneys seeking graduation to the rank of barrister. Practically, the Barristers' Society was made gate-keeper of the profession.

Despite some episodes of initiative, its performance in that role for the rest of the 19th century was unsatisfactory. Examinations of would-be students-at-law and attorneys soon became tame formalities,
the articling system went unpoliced and no systematic educational programme was offered students-at-law. Under the leadership of Saint John lawyer David Kerr, an unsung hero of professionalization, something of a reformation was attempted in 1867. New bye-laws replaced the nominal leadership of attorney and solicitor general with the elective office of president (the first was Kerr himself) and created a Council to govern the affairs of the Society between general meetings. However, an attempt to compel articling students to work exclusively in their principals' offices and to increase student fees by 400% was overruled by a provincial Legislature determined to keep the profession highly accessible to boys from non-privileged backgrounds. The student regulation fiasco highlighted starkly the lack of reciprocity between the stringent changes sought in the articling system and the bar's inability to provide students with a coherent legal education.

Perhaps the Barristers' Society's greatest achievement in the 19th century was its stewardship of the library inherited from its predecessor. Even here there was a well-publicized brush with disaster. So few lawyers joined the Society that by 1859 its indebtedness caused the sheriff of York County to seize the library in execution of a judgement debt. It was spared the indignity of public sale only when the Legislature intervened grudgingly to require all lawyers (whether Society members or not) to contribute annually to library upkeep on pain of being barred from Supreme Court practice. The practical effect of this extraordinary measure was to put the library into the black and allow for considerable acquisitions including law reports from Maine, Massachusetts and New York, perhaps the only US jurisdictions thought worthy of notice.

The Society also processed, not very rigorously, a number of ethical complaints against both student and practising members; as early as 1850 it moved that a lawyer be struck from the Supreme Court rolls. The general verdict on the Society, however, even after the reorganization of 1867, was that it was unequal to the demands of disciplining what was in formal terms a highly accessible profession, and one which was becoming ever more far-flung geographically. In consequence other organizations sprang up to fill the vacuum. One of the most important was the Saint John Law Society (founded 1862; reorganized and incorporated 1878) and library, in which, unlike the Barristers' Society, membership was compulsory. Another was the Law
Students' Society, founded at Saint John in 1879. It was the LSS's almost annual sponsorship of evening lectures for the benefit of law students which demonstrated that Saint John had the talent to staff a law school. In the absence of corresponding interest from the Barristers' Society, however, nothing was accomplished along these lines until 1892, when the University of King's College (of Windsor, NS) joined with leading Saint John members of bench and bar to open what was the common-law world's second university law school.

Though the Saint John Law School was staffed by many of the province's leading lawyers and judges, it was by no means a project of the Barristers' Society, which hardly knew what to think of the new institution. It is true that by the 1880s Saint John had more practitioners with degrees in law (American, mostly from Harvard) than any other Canadian city and that several prominent city lawyers -- such as Silas Alward, Allen Jack, Alfred Stockton, Richard Quigley, George Burbidge, Charles Masters, Abraham Walker and Charles Skinner -- sought to be taken as intellectuals. It is true, as well, that New Brunswick had been the first province to recognize, in 1867, the value of a law degree by shortening the articling period; but this had been forced on an unwilling Barristers' Society by the Legislature. In the 1890s the bar as a whole was still unpersuaded of the value of a law (or any other academic) degree. Only in 1901 was it willing to admit as attorneys graduates of the King's College Law School without further examination, effectively substituting time in school for service in a law office. Changing law office technology lessened resistance to the move. The advent of the typewriter, requiring a skilled (female) operative, had rendered obsolete the ancient practice of using articled students as copyists.
HISTORICAL MEMORANDA

1903  Landmark revision of Barristers' Society Act, making membership compulsory

1906  Barred by the Society and the Supreme Court, Mabel French (Saint John) becomes, through legislative intervention, NB's first female lawyer

1909  NB adopts Judicature Act civil procedure

1915  Canadian Bar Association established

1923  King's College Law School amalgamates with UNB (relocates to Fredericton in 1959)

1926  Two years of university required for admission to Law School (raised to three years in 1950)

1928  NB law reports end

1930  NB branch of CBA established

1932  Judge Oswald Crocket translated to Supreme Court of Canada

1943  Ivan Rand appointed to Supreme Court of Canada

1947  UNB Law Journal founded (as Oyez! Oyez!)

1949  Arthur Carter (Saint John) made president of CBA

1950  George McAllister and William Ryan become NB's first full-time law teachers; Society makes a law degree compulsory

1955  Society makes CBA-NB membership compulsory; Lord Beaverbrook awards first law scholarships

1966  Chancery Division of Supreme Court abolished

1969  NB law reports resume; Fredericton newspaper reporter gaoled for contempt of Judge Paul Barry

1971  Graydon Nicholas (Fredericton) becomes first aboriginal lawyer in eastern Canada (made first aboriginal judge in 1991)
1972 Government-funded criminal legal aid begins, administered by Society; Society establishes bar admission course (bilingual from 1981)

1973 Revised statutes published in bilingual format; Neil McKelvey (Saint John) made president of CBA

1974 Society makes professional liability insurance compulsory; Society appoints full-time librarian (Zora Kusec)

1975 NB Law Foundation established

1978 Université de Moncton opens law school

1981 Society appoints full-time secretary (Paul LeBreton)

1982 New, bilingual rules of civil procedure promulgated; Society rejects requiring future lawyers to be bilingual

1983 Society joins with CBA-NB to appoint full-time director of continuing legal education (Shauna MacKenzie); CBA-NB establishes Solicitor's Journal

1985 Judge Gerard La Forest translated to Supreme Court of Canada

1986 Society resumes the name "Law Society of New Brunswick"

1987 L'Association des juristes d'expression française du N.-B. founded

1989 Centre international de la common law en français established at Université de Moncton

1990 Wayne Chapman (Saint John) made president of CBA; Stewart McKelvey Stirling Scales (Saint John) becomes first interprovincial law firm

1992 Patricia Hughes appointed to Mary Louise Lynch Chair of Women and Law

1994 Canadian Bar Review locates at UNB Law School, edited by Edward Veitch

1995 Sherron Hughes (Fredericton) becomes first female president of Law Society
THE TRIUMPH OF DISCIPLINE
1900s - 1990s

The turn-of-the-century climate of Progressive-era innovation, marked by legislation on public ownership of utilities, employee safety, mechanic's liens, worker's compensation, juvenile reformatories, arbitration, female enfranchisement, commission government for Saint John and the Empire's first department of health, stimulated developments of great importance to the organized bar. After a quarter-century of hesitation in the legal community and false starts by government, New Brunswick enacted England's Judicature Act reforms from the 1870s, together with new rules of court, effective from 1909. Following some amendment to the scheme, the Supreme Court was organized into distinct appeal, king's bench and chancery divisions. The judge who emerged, in 1913, as first chief justice of the King's Bench was Pierre-Amand Landry. Already the first Acadian to become a lawyer (1870) and federally-appointed judge (1890), Landry had become, in 1893, one of the few members of the County Court ever to be elevated to the Supreme Court. His further appointment as CJKB can be viewed, in retrospect, as laying the groundwork for the practice of alternating chief justiceships between French and English-speaking appointees.

Another professional landmark at the opening of the new century was a fundamental reworking of the Barristers' Society Act in 1903. In the 19th century the Legislature had shown marked lack of sympathy for what members saw as the self-interested concerns of the organized bar. By century's end, however, multiple cases of misconduct by both lawyers and judges focused attention on a new and more sensational form of lawyer misbehaviour -- theft from clients -- and coincided with something of a 'moral panic' in North America over the rise of commercial crime generally. The flight to Boston, in 1892, of Herbert Lee, one of Saint John's best-connected lawyers, after multiple misappropriations to cover losses in commodities trading, and the forced resignation, two years later, of Supreme Court judge Acalus Palmer for accepting a bribe to allow a cotton mill to emerge from receivership, sharpened perceptions that the public required urgent protection from professional predation. It was this sort of concern which disposed the Legislature, in 1903, to give the Society powers it had withheld for 50 years. Under the new legislation
membership at last became compulsory and the Society's role as gatekeeper of the profession -- long exercised, but with inadequate statutory foundation -- was made explicit. The legislation also set out, for the first time, the grounds and procedures for discipline. Such changes laid the basis for an ever increasing peer scrutiny that became the central thread of the organized bar's subsequent history.

The first impulse of the Barristers' Society, when organized in 1846, had been to foster the respectability of the profession by making more rigorous the standard of student entry. The crisis of confidence in the profession at the turn of the century provoked a similar response. The bar's decision, in 1901, to bolster the Saint John Law School by admitting its graduates to attorney status without further examination created an incentive to undergo the three years of group socialization and deference reinforcement which attendance at law school entailed. Yet the standard for admission to law school was still the same as for admission as a student-at-law, requiring something less than high school graduation. Thus, even after law school became the favoured path of entry, the profession remained highly accessible. John Baxter (the future chief justice), Louis Ritchie (Exchequer Court judge), and Wendell Ferris (chief justice of British Columbia) are three of many would-be lawyers whose modest family circumstances kept them out of college but who qualified nevertheless for entry to the Saint John Law School. So accessible was the profession in the early years of the century that several women and a significant number of Jews were able to attend the Law School; and its very first student was black. Among the women was Mabel French, an ex-secretary rejected for membership by the Society and allowed to become the first female lawyer in eastern Canada only through legislative intervention. Yet in the scramble to demonstrate to a sceptical public that lawyers were ethical and could be trusted to police themselves, the bar asserted a link between securing more honest lawyers and imposing higher pre-law qualifications. Ironically, it was John Baxter himself who gave most forceful voice to the notion the bar was being infiltrated by undesireables. "The great corrective", he urged, "is to close the door firmly ... to a certain class of applicants to the Bar, who never can become, and never will become, ethical in any respect. Instead of letting a man pass his final examination the thing to do is to stop him at the outset." The way to "stop him at the outset" was to raise the preliminary
educational threshold, thereby imposing more rigid economic selection. Effective from 1926, no applicant could become a student-at-law or be admitted to the Law School without having passed at least two years in college. This shift away from professional accessibility ranks as probably the most formative influence on the bar in the 20th century.

In 1950 the pre-law requirement was raised to three years, and a law degree itself now became compulsory. Articling was not actually abolished, since time spent in law school was counted as time in articles, but from 1950 onwards the bar could assume that no new lawyer had spent significant time in a law office. This was also the point at which Law School instruction became dominated by "men" (there were no female law professors in New Brunswick until 1976) whose qualifications were academic rather than practical. The school's removal from Saint John, where it had long been the project of the local bar, to Fredericton in 1959, and to the UNB campus proper in 1968, underlined the emergence of academia as a separate order within the profession, with a perspective distinct from that of practitioners. In 1972 the Society responded to the perceived need to strengthen the practical aspect of student preparation by establishing a bar admission course; subsequently it increased greatly the time articling students spent in actual attendance at a law office. In 1920 a New Brunswick student might have become a lawyer with about Grade 11 plus three years of law school; by 1980 the same process required Grade 12 and at least seven years of further study and practicum.

In 1931, after well-publicized episodes of dishonesty by lawyers in Fredericton, Newcastle and Saint John, the Society won legislative approval to replace the barebones discipline procedures of 1903 with the detailed code that endured, with much amendment in 1974 and 1986, for the rest of the century. It was here that the Society first asserted the right to sanction not merely professional misconduct but also conduct "unbecoming" a member of the bar. Relaxation in bar admission standards in the 1940s to accommodate returned soldiers led predictably a few years later to further occasions for soul-searching over the image and probity of the profession. "The moral tone of the legal profession in Moncton has been notorious for years", declared the Society's president in 1957; but Moncton was not alone. As early as 1947 the Society debated creating a fund to compensate clients of defalcators; it passed in 1953. One of those who opposed this measure, Thomas McGloan of
Saint John, seems nevertheless to have been the first to propose that the Society engage an accountant for routine auditing of trust accounts. The more this measure was discussed in the 1950s and 1960s the more intense became the opposition. A future attorney general thought that such a measure would suggest dishonesty on the part of members; a law professor condemned it as a threat to civil liberties. In 1963 Horace Hanson of Fredericton brought forward detailed audit regulations which, after many strictures on the folly of legislating ethics and the burden on rural practitioners, were condemned chapter and verse and remained out of favour for many years. Perhaps the most important development of the century as regards protection of the public was professional liability insurance. After a 1971 report revealed that only 27% of sole practitioners carried such insurance, an alarmed Society made it compulsory from 1974.

The converse of the bar's various disciplinary strategies was an impulse to enhance its monopoly. In the 19th century, when the essence of the legal function was conceived of as preparation of pleadings and advocacy in court, this was a matter of no great concern. By the time the exclusive right of audience was first asserted formally, in the legislation of 1903, the real ground of contention had already shifted considerably. Beginning at the Saint John bar in about the 1880s, the torch of prestige practice passed from advocates to what came to be called "solicitors", a new order of lawyers servicing the needs of financial institutions and business corporations. As soon as lawyers came to regard the paradigm of practice as what went on in a law office rather than what went on in a court room, they came to assert that almost every form of office business should be reserved to lawyers exclusively. In this way the definition of "practising law" was expanded enormously and the Society was drawn into repeated attempts, successful beginning in 1931, to have the new notion entrenched in legislated monopoly. The long campaign to curb and then suppress the "solicitorial" role of justices of the peace -- performed since the foundation of the province but never formerly considered as practising law -- is but the best known of these efforts. At various times judges of probate (not necessarily lawyers), collection and real estate agents, registrars of deeds (searching titles), accountants (incorporating companies), insurance agents, trust companies and arbitrators fell foul of this expansive territoriality.
Ironically, though it was the practice of elite lawyers which propelled solicitorial practice into prominence, the campaign to assert a corresponding monopoly was fought most vigorously by small town practitioners, whose protest against "encroachments" was an annual feature of Society meetings in the middle third of the century. Yet lawyers outside of Saint John and Fredericton always thought that the Society had little time for their concerns. One perennial idea for making the body more representative was to rotate the annual meeting around the province. For upwards of a century, beginning in 1825, it was always held in Fredericton; after that, with perhaps a half-dozen exceptions, it was held at St Andrews. Canvass of this question in the 1950s always elicited the response that lawyers' attendance was determined largely by their wives, and the wives would attend only at St Andrews.

A parallel concern was composition of the Society's council. So long as elections were held on an at-large basis, the Society was dominated by lawyers from a very few centres. For years the campaign to reform this "abominable situation" was led by Mark Yeoman of Moncton, whose proposal for regional election, approved finally in 1960, produced an immediate and dramatic shift in representation, including election of francophones. However, it was only after the opening of a French-language law school at the Université de Moncton in 1978 that members began to ponder seriously the implications for the Society of life in an officially bilingual province. In 1982 the bar rejected requiring that future lawyers be bilingual, citing deficiencies in the province's educational system as well as the issue of personal choice. Instead, they opted to bilingualize the Society as an institution, a process underway already. In 1981 Paul LeBreton was engaged as the first full-time secretary, the bar admission course was offered in French as well as English from that same year, and the Society's own records became bilingual in 1986.

Another positive development for the Society in the last quarter of the century was formation of the New Brunswick Law Foundation, established in 1976 and funded from interest on lawyers' mixed trust accounts. Much of the Foundation's bounty was devoted to scholarships and to subsidizing the province's chronically-underfunded legal aid scheme, but its first major project was rescuing the law libraries. For most of the 20th century the three law libraries -- at some point one was established in Moncton, joining those in Saint John and Fredericton --
merely limped along, and by the early 1960s conditions at the Fredericton library, at least, were deplorable. In the 1970s the Department of Justice came to the rescue by subsidizing the library operation on an impressive scale, enabling the hiring of the first full-time librarian. The price of this support was regional expansion, and within a space of five years new law libraries opened in Bathurst, Edmundston, St Stephen, Woodstock and Newcastle. When the provincial subsidy was then withdrawn, it fell to the Foundation to step into the breach, at first committing its entire disbursements to library support. Whether the Foundation should, whatever its legislation permitted, continue sustaining an elaborate library network for the practising bar was a question which, in the 1990s, had still to be finally worked out.

* * *

In the space of a 'sketch' aiming at something like balanced coverage across two centuries, it is impossible to notice all of the major developments of more recent times. The changing place of judges within the profession, the rise (and atrophying?) of the Department of Justice, the professionalization of prosecutions, law reform, information technology, the concerns of women in law, the relationship between the Society and the CBA-NB, and the changing profile of professional recruitment are some of the stories which future explorations of professional history will address. Despite such gaps, it is evident that the broad concerns of the organized bar -- formation, discipline, books -- remain constant, and that the Society's insistent motto -- What are rules without ethics? -- is a perennially relevant summons to reflection.
OF RELATED INTEREST


D.G. Bell,  Legal Education in New Brunswick: A History (1992)
- "Maritime Legal Institutions under the Ancien Régime, 1710-1850", (1996) 23 (1/2) Manitoba Law Jl 103


<table>
<thead>
<tr>
<th>Author</th>
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<tr>
<td>J.W. Lawrence</td>
<td><em>The Judges of New Brunswick and their Times</em> (1907)</td>
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McKelvey, Macaulay, Machum: *The First Thirty Years* (1985)

Manners, Morals & Mayhem: *A Look at the First 200 Years of Law and Society in New Brunswick* (1985)
At a General Meeting of the Barristers Society of New Brunswick, held in the Law Library at Fredericton on Tuesday the sixteenth day of June, A.D. 1846.

Mr. E. J. Roberts, Alded, and Mr. W. H. Myer, Solicitor.
Mr. L. R. Wet 2.C.
Mr. J. H. Vellez, 2.C.
Mr. George S. Haller.
Mr. George L. Cummer.
Mr. W. H. Stirling.
Mr. W. H. Nettie.

The Hon. the Attorney General is called to the Chair.
Interior of Street-Davidson Law Office, Newcastle (about 1907) courtesy NB Museum, Saint John

L’intérieur de l’étude Street-Davidson, Newcastle (vers 1907) avec la permission du musée du N.-B., Saint John
Legal secretary,
Street-Davidson Law Office, Newcastle (about 1907)

Sécretaire juridique :
étude Street-Davidson,
Newcastle (vers 1907)