

# **Lawyers of the Southwest:**

A History of the  
Essex Law Association,  
1884-2009



Written by Patrick T. Brode







## PAST PRESIDENTS

---

1884-8	His Honour Judge Charles R. Horne, Esq.	1958	Helen McTague, Q.C.
1889	Solomon White, Esq.	1959	Arthur R. Jessup, Esq., Q.C.
1890	His Honour Judge Charles R. Horne, Esq.	1960	Charles A. Bell, Esq., Q.C.
1891-92	Solomon White, Esq.	1961	Francis Chauvin, Esq.
1893-94	His Honour Judge Michael A. McHugh, Esq.	1962	Walter L. McGregor, Esq., Q.C.
1895-96	Francis Cleary, Esq.	1963	James A. Holden, Esq., Q.C.
1897	Alfred H. Clarkes, Esq.	1964	Maurice F. Coughlin, Esq., Q.C.
1898	Robert F. Sutherland, Esq.	1965	David I. McWilliams, Esq., Q.C.
1899	John L. Murphy, Esq.	1966	Mr. Justice Thomas G. Zuber, Esq.
1900	H.T. Waring, Esq.	1967	Charles J. Clark, Esq., Q.C.
1901-02	Alexander R. Bartlet, Esq.	1968	Paul B. Burnett, Esq., Q.C.
1903	J. Edward O'Connor, Esq.	1969	Bernard Cohn, Q.C.
1904	Frank D. Davis, Esq.	1970	James Bartlet, Q.C.
1905	John W. Hanna, Esq.	1971	Walter Prince, Q.C.
1906-10	John H. Coburn, Esq.	1972	Murray Yuffy, Q.C.
1911-17	Nobel A. Bartlet, Esq.	1973	Patrick Furlong, Q.C.
1918-20	John H. Rodd, Esq.	1974	Dalton Charters, Q.C.
1921	Alexander R. Bartlet, Esq.	1975	Richard Thrasher, Q.C.
1922	Alexander R. Bartlet, K.C.	1976	William Willson, Q.C.
1923	His Honour Judge John J. Coughlin, Esq.	1977	Edward Dube, Q.C.
1924	Maxfield Sheppard, Esq.	1978	Frederick Knight, Q.C.
1925	Franklin A. Hough, Esq.	1979	Arthur Weingarden, Q.C.
1926	Henry Clay, Esq.	1980	Mr. Justice Anthony Cusinato, Q.C.
1927	Walter G. Bartlet, Esq.	1981	Arthur Barat, Q.C.
1928	Edward C. Kenning, Esq.	1982	Mr. Justice Terrence Patterson
1929	Albert J. Gordon, Esq.	1983	Allan Houston, Q.C.
1930	Charles P. McTague, Esq.	1984	Hugh Geddes, Q.C.
1931	A. Hainsworth Foster, Esq.	1985	Mr. Justice Richard Gates, Q.C.
1932	James S. Allan, Esq.	1986	Mr. Justice John Brockenshire, Q.C.
1933	Edmund A. Cleary, Esq.	1987	Myron Shulgan, Q.C.
1934	Frank Wilson, Esq.	1988	Mary Fox
1935	T. Gerald McHugh, Esq., K.C.	1989	Lawrence Morin, Q.C.
1936	Wilfrid D. Roach, Esq.	1989	John Rossi
1937	E. Carman Awrey, Esq.	1990	Walter Donaldson
1938	Robert H. Wilson, Esq.	1991	Brian D'Hondt
1939	Austin B. Smith, Esq.	1992	Lawrence McRae
1940	T. Walker Whiteside, Esq.	1993	Steve Brockenshire
1941	J. Ernest Zeron, Esq.	1994	Richard Dinham
1942	John B. Aylesworth, Esq., K.C.	1995	Gabriella Bonn
1943	Stanley L. Springsteen, Esq., K.C.	1996	Edward Posliff
1944	John F. Twigg, Esq., K.C.	1997	Lorraine Shaloub
1945	Gordon L. Frazer, Esq., K.C.	1998	John Clark
1946	Alan C. Bell, Esq.	1999	Milan Stipic
1947	James H. Clark, Esq.	2000	Elizabeth Essex
1948	James L. Braid, Esq.	2001	Greg Goulin
1949	Frank K. Ellis, Esq.	2002	Lou Ann Pope
1950	J. Ramsay Morris, Esq.	2003	David Zeriada
1951	William H. MacLeod, Esq., K.C.	2004	James Branoff
1952	Leon Z. McPherson, Esq., K.C.	2005	Kenneth Golish
1953	Achille F. Gignac, Esq., Q.C.,	2006	Joel Wright
1954	Keith Laird, Esq., Q.C.	2007	Michael Drake
1955	George Grant, Esq.	2008	Janice Busch
1956	Benjamin H. Yuffy, Esq., Q.C.	2009	Ted Crljenica
1957	William McK. Wright, Esq., Q.C.		



## FOREWORD

---

The Essex Law Association was founded on April 13, 1884. Its establishment was undertaken by 14 lawyers and judges from the towns of Windsor and Sandwich. Under the leadership of its first President, His Honour Judge Charles R. Horne, Esq., the Essex Law Association fostered and developed the ideals of the legal profession in Essex County. Since its inception, the Association has operated a local County Law Library for the use of its membership; promoted general interest of the legal profession; protected the character and status of the profession while promoting ethical practice; maintained and improved the qualifications and standards of the profession; and, shared and promoted educational and social programs for the benefit of its members.

Building on this proud legal tradition, the Essex Law Association continues today to unite members of the legal profession for the benefit of all citizens of the City of Windsor and the County of Essex. After 125 years, the Association has grown to a membership of over 500 and is administered by an 18 person Board of Directors. The Essex Law Association is not only one of the oldest professional organizations in the County of Essex but right across Canada.

To recognize this milestone, the 125<sup>th</sup> Anniversary Committee of the Essex Law Association was

established. I was pleased to be asked to Chair this committee and would like to thank my fellow Board Members; Past Presidents; and the members of the Judiciary for their hard work in helping to put together an impressive program over the weekend of April 17-18, 2009. I would like to thank Patrick Brode for his work in writing this book illustrating the rich history of the lawyers here in the Southwest.

On behalf of the Essex Law Association, we would like to dedicate the book to the hundreds upon hundreds of volunteers who gave their time to assist in so many different ways over the past 125 years. Without the help of those who came before us we would not be where we are today. We would also like to acknowledge the sponsors for the 125<sup>th</sup> Anniversary celebrations in allowing us to share this story.

We look forward in great anticipation to the stories of the next 125 years and beyond of the “Lawyers from the Southwest” that belong to this great organization.

Michael E. Drake  
Chair, 125<sup>th</sup> Anniversary Committee  
Essex Law Association

April 18, 2009



## LAWYERS OF THE SOUTHWEST: A HISTORY OF THE ESSEX LAW ASSOCIATION, 1884-2009

---

April 13, 1884 was, for most Windsor residents, a particularly average spring day. However, for a tiny group of lawyers and judges it was an auspicious one, for they had taken the final step to register their Declaration of Incorporation as the Essex Law Association. Each of the fourteen original members had subscribed ten dollars and received a share certificate.

This corporate approach (much like any other small business they bought a seal and a daybook) may seem to us to be a peculiar way to start a professional organization. But there was a reason for this level of formality. The “business” of this Association was placed into the care of nine trustees whose main aim was “To Form and Maintain a Law Library for the use of members and others entitled, and to promote the general interests of the legal profession and good feeling and harmony among the members of the Association.” But most importantly, they also used their corporate status to obtain a loan of \$147 from the Law Society to prime the pump for their new library.

King George III is reputed to have said that the usefulness of lawyers lies not in their knowledge of the law but in their ability to *find* it. Even though it was of no use to them, non-Toronto lawyers were being forced to pay for the extensive collection of texts in the Great Library in Toronto. In 1879 Convocation finally gave into demands from provincial lawyers to help fund local libraries. It was agreed that if county lawyers incorporated a “Law Library Association” that the Law Society would help in the building and maintaining of a local collection.<sup>1</sup> According to a special committee, the Law Society should assist in “the establishment and maintenance of branch Libraries in the county towns, for the use of the Courts and Profession.”<sup>2</sup>

As a direct result, law associations began to spring up all across Ontario in the 1880s. The aim

of these small corporations was the spreading of legal information by the establishment of regional libraries. In Ottawa, Carleton county set up its association in 1888 and “from its inception, the Association was preoccupied with its library. One can imagine the difficulty of starting from scratch in an environment in which law books would have been at a premium.”<sup>3</sup> From its inception, the library would reflect the reality that this was a profession steeped in English common law. One of the first actions of the Essex Law Association was the expenditure of \$187 (most of their available funds) on a set of the English Law Reports from 1880 to 1884.

Essex County of 1884 was very different from our current community. Due to the flat terrain and lack of field drainage much of the county was unfarmed and two-thirds was still under forest. The *Tile Drainage Act* would change that and in 1884 Colchester North would pass a by-law to raise \$10,000 for tiles to drain the township’s fields.<sup>4</sup> The main area of commercial activity was in Windsor, but as a result of the bad economic times of the 1870s Windsor’s population had declined to about 6,000; roughly the same size as Leamington.<sup>5</sup> But at least it had an organization for its lawyers and the lawyers had a resource for legal information.

Long before the formation of the Association, there had been an active bar in the southern part of the province. In part, this was due to its judicial organization. In 1788 the western part of the then Province of Quebec was divided into four parts and the western most section (roughly the counties of Essex Kent and Lambton) became the District of Hesse. In 1789, William Dummer Powell, a Boston loyalist became the first trained judge to sit in this area as the sole judge of the Court of Common Pleas. His court sat at L’Assomption (Sandwich) where “he instituted simple procedure and dispensed quick justice, perhaps aided by the fact that he never called a jury.”<sup>6</sup>

One of Powell’s Quebec friends, Walter Roe, became the area’s first lawyer. Roe was an Englishman who had served in the Royal Navy during the American Revolutionary War and was later admitted to the Quebec bar. He also arrived in the area in 1789 and quickly “found his



legal services in constant demand." Most of his work involved "collecting debts, certifying land transfers and attending to the estates of deceased or absentee merchants." The lawyer's job in the late 1700s was primarily, if not exclusively, a solicitor's one. However, Roe was not a diligent solicitor and he failed to prosper. He died in 1800 while on a trip to Amherstburg by tumbling from his horse and into a shallow pond. "There was some suggestion that Roe had become an alcoholic and had fallen off his horse while intoxicated."<sup>7</sup>

By the 1830s, lawyers in what was now the Western District confined most of their activity to the office. Charles Baby, the son of the powerful Baby family worked as an attorney in the still largely French-speaking community east of Sandwich. One lawyer who did venture into the courts was William Elliot who defended three persons on a murder charge in 1833. His method of cross examination seemed to consist of thunderously reminding a witness that they were under oath.<sup>8</sup> More typical was the murder trial the following year of Robert Bird. He had no lawyer at all and after a perfunctory trial was convicted and hanged.

For those lawyers who did attend the assizes or the Courts of Quarter Session, the process was far from sedate. A typical courtroom of the 1850s was described with all the court officials and lawyers:

"Huddled together – the place redolent of tobacco and whiskey-not a few of the suitors dividing their attention between the proceedings in the court and the doings in the bar room."<sup>9</sup>

One Essex County resident was shocked that at an 1838 session of the King's Bench the visiting lawyers had to be put up at "the public Inns, which are usually thronged on such occasions, with rum-drinking, whiskey-swilling, country people of all grades."<sup>10</sup> As for the level of competence, most lawyers were lucky to have a copy of Sir William Blackstone's *Commentaries on the Laws of England* to help them know the principles of law applicable to a case. It was said that most lawyers carried a copy of the *Commentaries* in their saddlebags from assizes to assizes.<sup>11</sup>

Levels of service in the 19<sup>th</sup> Century tended to vary. One day in the 1870s in the Windsor police court a lawyer representing a client on a larceny charge left court just before the case was called. He reappeared after conviction and just as a prison sentence was being pronounced. The lawyer told onlookers that the client had previously stolen a saw from him and that:

"He would do nothing to prevent him being convicted (as) he deserved all the punishment he was likely to receive."<sup>12</sup>

In other cases, local lawyers made more determined efforts on behalf of clients and would team up with Toronto counsel to do so. At the spring assizes of 1878 there was a major dispute between the black churches of Windsor over property and the plaintiff's case was handled by Malcolm Cameron, a Toronto counsel and S.S. Macdonnell of Windsor.<sup>13</sup> The assizes was also very much of a social occasion. At the Sandwich fall assize of 1877, Chief Justice Robert Harrison noted that he dealt with two break and enters (sending both convicts to prison) and later in the evening "back to hotel with the sheriff. The local bar gave me a dinner tonight. There was a large attendance of the bar."<sup>14</sup> Leading that bar was James Colebrook Patterson. Of Anglo-Irish background, Patterson had been born near Dublin but had settled in Windsor in 1875 and become the principal figure of his day. In 1878 he was elected to the House of Commons and served in three Conservative cabinets. In 1895 he accomplished what no Windsor lawyer has done before or since when he was appointed Lieutenant-Governor of Manitoba.<sup>15</sup>

As far as the Police Courts were concerned, the law was largely an amateur affair and it was a rare occasion when a prisoner had a lawyer. It might not have mattered for the first magistrate appointed in 1860, Francois Caron, had no legal training. Neither did his successor Alexander Bartlet who from 1878 to 1908 served a remarkable thirty years as Police Court Magistrate. Indeed, if lawyers had appeared before him it would have been futile for "to Alexander Bartlet precedent meant nothing: common sense was everything. Never did he acquit or convict a man because of



a legal technicality. But one must imagine that he was ignorant of the law.”<sup>16</sup>

The shrewd lawyer of late Victorian times confined his activities to those that made money and most of those concerned commercial affairs. Many commercial lawyers combined law with their own business ventures. Alexander Cameron, one of the most flamboyant practitioners of his day, described his office in 1872:

“My office is like a Governor’s levee every day. I am in town I am likewise constructing two toll gates. I have to be at Chatham. On Wednesday I made an appointment to be at Petrolia ten days & had to break the engagement. I have pressing business urging me to London. I have a fair share of law business, and from daylight to midnight day after day I am found in the treadmill grinding away at one thing or another.”<sup>17</sup>

Cameron ran an active practice that combined business schemes that succeeded one year and failed disastrously the next. One of his techniques was to employ inside informers at the Crown Lands Department to advise him when choice properties were coming up for sale. It was a course of conduct that would not only merit disbarment in the 20<sup>th</sup> Century but likely a term in prison as well. However in Cameron’s time all was fair game and his land developments eventually created the town of Essex in the early 1870s and twenty-three years later, the town of Walkerville.

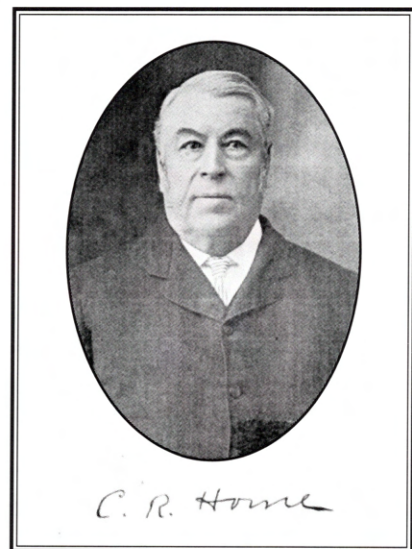
## EARLY YEARS:

At four o’clock in the afternoon on March 29, 1884 a group of nine men, Judge Charles Horne, D. Dougall, Francis Cleary, J.F. Bell, M.A. McHugh, T.M. Morton, H.T.W. Ellis, A.H. Clark and John Hanna met in the Judge’s chambers. Judge Horne announced that the purpose of the get-together was to take “such steps as might eventuate in the establishment of a law Library in the County.” Less than a month later, on 13 April, the Essex County

Law Association was incorporated pursuant to the *Library Associations and Mechanics’ Institutes Act*<sup>18</sup> and registered on title.

The process of forming an association had begun with an exchange of letters between Edward Martin, a lawyer representing the Law Society and Judge Horne. Martin congratulated Essex on forming its own group and he advised Judge Horne that the library could be located in Windsor where most of the lawyers practiced and not in the county town of Sandwich.<sup>19</sup> Martin went on to advise him that the Law Society grant would be based on the number of paid up members and that perhaps rural members should only be charged half-fees. Unfortunately, no immediate action was taken on his suggestion.

Ironically the first president and for its initial years, the leading force in the Association was not a practitioner. From 1877 to 1880 Charles Robert Horne had been Windsor’s mayor and one of the town’s leading citizens.<sup>20</sup> Since 1883, he had also been the Judge of the County Court of the County of Essex. Yet, he had been such an active member of the local bar since he had moved to Windsor in



Judge Charles Robert Horne

1864 and began to work with Alexander Cameron that it seemed almost natural that he should also take the lead in founding the Association.

Significantly, when Judge Horne and his associates formed the Essex Law Association in 1884, they did not style themselves (as Toronto preferred) as a "Library Association" neither did they consider themselves to be a "branch library" of the Great Library. Rather, from the start they considered their library to be very much a local institution.

One thread that has run through the history of a professional group such as lawyers has been the protection of its source of work. That source seemed very threatened in the late 19<sup>th</sup> Century. "Our brethren in the country... are afflicted with a plague, not of locusts but of something almost as numerous, and, in their own way, quite as destructive, to wit 'unlicensed conveyancers' was how one Ontario practitioner described the main threat to lawyers in the late 1800s. In lieu of court work, most lawyers depended on conveyancing and commercial work so the loss of clients to unlicensed persons was hugely resented.<sup>21</sup> Still, there did not appear to be much interest in the Association, or hope that it could assist local lawyers. It took the intervention of Philippe Panet to re-invigorate it for "In 1889 he re-organized the Essex law Association and has ever since been its secretary."<sup>22</sup> Panet was a link to the county's past for not only was he one of the few francophone lawyers in the city, he was the son in law of Charles Baby. Panet frequently appeared in the Association's minutes encouraging new lawyers to join and broadening the base of the organization in the county.

A week after the Association was founded; one of its members would become involved in a fatal criminal case. Solomon White came from old loyalist stock and had combined a career in various business ventures including orchards and vineyards with law practice. He also loved the public eye and had been a Member of Parliament since 1878 and would be the architect of Windsor's incorporation as a city in 1892.<sup>23</sup> On Friday morning 25 April 1884 he was sitting in the assizes court when the case of Luke Phipps was called.

Phipps had been on the ferry boat "Hope" the previous August in Canadian waters when he got into a violent quarrel with his wife that began with him chasing her about the boat firing shots

and ended with him cornering and killing her. Phipps did not have a lawyer and the trial judge asked White, who had no previous involvement in the file, to assume the defence. A reporter from the *Detroit Free Press* gave a vivid account:

A trial for murder in Canada has a solemnity that is altogether lacking in a similar trial in Michigan... There is in Canada a certain dignity of procedure, a sort of old world air, about the stately movement of Justice that rather impresses the American on-looker. The flowing black silk robes of judge and counsel, those white, well laundered arrangements, whatever their name is, that the Judge wears... gives it the resemblance to an old-fashioned George III court act in a play.

The Crown had ample witnesses and White had little to work with. As the *Detroit* reporter noted:

Every objection considered and passed on, all in less than five hours!  
No delay, no hurry, everything decently and in order, justice meted out  
And the fullest hearing given, yet such a case would probably have taken ten days in Detroit.<sup>24</sup>

In less than five hours Phipps was convicted. Six weeks later he was publicly hanged at the Sandwich jail.

## THE EARLY PROFESSIONALS:

---

Unlike the Anglo-Protestant membership that dominated most of the Ontario bar, Essex's legal profession mirrored, at least to a limited extent, the different ethnic and linguistic groups that made up the county. Several lawyers, even those of British stock, could speak French. Solomon White was part Native and fiercely proud of that heritage. Irish Catholic lawyers had also been prominent in the early Association. John O'Connor had come from Essex and eventually succeeded in politics.



Under Sir John A. Macdonald's government he became the first Roman Catholic appointed to the Supreme Court of Ontario. However it was Francis Cleary who carried the Irish banner in the profession. It seems that just like everyone in Essex County he once practiced with Alexander Cameron. Their partnership endured and the firm of Cameron Cleary and Sutherland was one of the first major firms in the county. Its success was due in part to its appeal to all ethnic groups.

Even so, the number of legal practitioners remained miniscule. Windsor's *Municipal Directory* of 1893 listed only sixteen lawyers. Four worked in the Medbury block and four in the Curry Building.<sup>25</sup> There seemed to be a continual movement to attract new members. In 1898 new members were induced to join by purchasing the \$10 shares and getting equal rights with long time shareholders. In 1903 it was suggested that lawyers could join the Association simply upon payment of the annual dues of \$5. Finally, in an attempt to attract rural practitioners, the fees were changed so that county lawyers need pay only \$2.50.<sup>26</sup>

If their numbers were small, a few Essex lawyers were gaining distinction. One of them was Mahlon Cowan, a young man who was called to the bar in 1890. Three years later he undertook the main defence in the trial of the accused wife-murderer, Anderson Veney.

The one day trial (as the Phipps case had shown, not unusual for a murder case in Essex) was conducted in the main courtroom on the second floor of the Essex County Courthouse in Sandwich. The courthouse facade was much as Alexander Mackenzie and his brothers had built it in 1856. However, the interior had been renovated in 1892 and handsome golden oak furniture had been installed. Cowan led medical evidence that Veney was delusional and that he was being directed by voices to kill his wife. The Crown adduced the most eminent psychiatric authority of the day, Dr. R.M. Bucke to try and establish Veney's sanity. As night fell and the jury retired, the courtroom sunk into a gloom relieved only by a few gaslights. Veney was convicted and sentenced to hang. However, despite the fact that he was receiving no remuneration, Cowan stuck with the case. He

petitioned the Minister of Justice for clemency and on the eve of his execution Veney was reprieved.<sup>27</sup> In 1896, Mahlon Cowan was elected a Liberal M.P. from South Essex, one of only many members of the local bar to become prominent in politics. He would also be one of the founders of the Clarke, Cowan, Bartlet and Bartlet firm, one of the most enduring firms in the city's history. It was a fitting result for a man who "upheld the honour of the legal profession by fighting for Anderson Veney's life against so many odds and for so little reward."

Cowan was far from the only Association member to seek public office. Robert F. Sutherland was called to the bar two years after the Association's creation. In 1886 and he began to practice with Cameron and Cleary. Sutherland was a constant presence not only in the Courts but also on City Council, the Library Board and the cricket field. Moreover, he was aware of the tensions that existed at the time. When he was accused of belonging to an anti-Catholic group he responded that he had supported Hotel-Dieu Hospital in their application for an exemption from taxes. For this he had been condemned by radicals as a "half-Catholic and a poor Protestant." Sutherland carefully tried to appeal to both Catholic and Protestant clients and due to his popularity was elected to Parliament in 1900 and eventually served as Speaker of the House of Commons.<sup>28</sup>

Essex County produced another lawyer who had to overcome formidable obstacles to excel in the profession. Delos Rogest Davis had come to Canada with his refugee slave parents and began to teach school and study law in 1871. Despite becoming a notary public, he could not find any lawyer to accept a black articling student. After eleven years a frustrated Davis petitioned the legislature that "in consequence of prejudices against his colour" he had been denied the chance to article. It was not until 1886 that he was called to the bar. Once in practice he did exceptionally well in both municipal and criminal matters.

Davis was a co-counsel with Mahlon Cowan at the Veney trial of 1893. In 1904, Davis defended a black man, James Slaughter, who had killed a white man during a racially charged fight at



"Wade Hill's Tavern" a dive located just outside the city at Tecumseh and Dougall Avenue. Davis conducted a subtle defence at times reminding the jury of the need to live up to Canada's reputation for fairness. He also suggested to the jurors that the victim had died of typhoid fever instead of the blow. Nevertheless, despite Justice Teetzel's compliments on the ability of his defence, a murder conviction resulted.<sup>29</sup> Davis then conducted a vigorous petition for clemency and succeeded in getting Slaughter's death sentence commuted to life imprisonment. In 1910, in recognition of his ability, Davis was given the honour of King's Counsel.<sup>30</sup>

Throughout its early years the Association had difficulty in keeping its numbers up. Membership was still based on the purchase of a share and the payment of dues thereafter. As over the course of time some members had died and left their shares to the Association, it was decided in 1906 to offer shares to new members at \$5, or less than half the original cost, "with a view of obtaining a larger revenue from dues."<sup>31</sup> One would have thought that lawyers would have been willing to pay the dues for these were relatively good times. There was a steady growth in the border cities of Windsor, Walkerville, Sandwich and Ford City that had seen its combined population rise to 28,000 by 1912.<sup>32</sup> Still, the number of practitioners remained small. The municipal directory of 1908 showed eighteen firms in Windsor. In 1910, this figure had declined to fifteen.

The number of lawyers who participated in the Association were even fewer. Only six lawyers attended the annual meeting of 1889. In 1898, twelve of the younger lawyers including Delos Davis, John H. Rodd and G.J. Leggatt offered to join on a reduced payment of two dollars per share and thereafter to pay dues. The Association was relieved to have some fresh blood and the offer was accepted. And yet, the Association remained very much a peripheral affair and its sole concern was the maintenance of the library. This resource was extensively used, especially by Windsor lawyers, and by the turn of the century the library had a wide array of Canadian and English reports. The extensive collection, which included the English Reports going back to Elizabethan

times, was, for a practitioner in the 1890s, an invaluable resource. In addition to the Reports, there were some of cutting-edge texts, such as Alfred Howell's *Naturalization and Nationality in Canada*, a book purchased by the Association in 1886 for two dollars. In a border community this was a well-used reference on naturalization or, as its title suggested, "Aliens, their disabilities and their privileges in Canada." No longer did practitioners have to rely on one badly thumbed copy of Blackstone's *Commentaries*.<sup>33</sup>

By 1910, Robert Sutherland had quit politics and for his services to the Liberals he was appointed a judge of the Supreme Court of Ontario. That year he presided over the Essex Assizes where "with the usual pomp, ceremony and dignity which go hand in hand with British and Canadian law" he presided over "the historic old Sandwich court house which he had known since a boy."<sup>34</sup>

The assizes presided over by Sutherland was reflective of its times. There was only one indictable offence (manslaughter) to be tried and almost all the cases to be tried concerned civil disputes. One trial focused on the issue of whether or not proper notice had been given on a sale under a power of mortgage. It was noted that "The case was an exceptionally troublesome one and lasted from 11:30 a.m. until 6 p.m."; that is, by the standards of the day, an unusually long time! The assizes was also remarkable for the limited number of lawyers who took part. Of the three significant civil cases the Clarke, Bartlet & Bartlet firm acted in two of them. Rodd & Wigle and Sale & Kerby handled the others. The profession was a very close-knit society.

It was also one that had no interest in maintaining a lawyer's association for in the early decades of the twentieth century, the Association was an all but moribund institution. In 1909, the Association's secretary, A. Philippe E. Panet had ruefully noted that the Association's paid membership was down to thirteen. Panet had been the secretary since 1888, "and I think that I have done my share. It might be well to put someone else in my place." In pathetic asides to subsequent annual reports Panet would remark, "I consider I have done my share" and beg someone else to take over.



No one would step forward.

By 1913 the Association was down to eleven members and had a balance of \$30.83 on hand. By 1914, the balance had further shrunk to \$19.19. The library itself was floundering for very often one member of a firm would take out an Association membership and conclude that this enabled everyone in his firm to use the library. Once taken out, receipts were not kept and the books might disappear forever. In utter frustration, Panet declared in 1916, "I have had during the year a lot of trouble keeping tract of the books. They are taken out without my knowledge. I have always had that trouble but this year it was worse..... I regret to say that more interest is not taken in the affairs of this association by the members. It is always hard to get a meeting."<sup>35</sup>

## GREAT WAR:

---

In retrospect, it may be difficult to understand the pressure that existed on members of the bar to enlist in 1914. The presumption that men, especially those with a position in society such as a young lawyer, would volunteer appears to have been overwhelming. By the 1920s, fully twenty-five men, almost a third of the bar had seen service during the war. Nor had it been easy service. Ernest Zeron fought with the Princess Patricia's Canadian Light Infantry, ended the war as a Captain and was awarded the Military Cross. Oscar Fleming Jr. had flown with the Royal Flying Corps. James Clark had volunteered at the outbreak of the war and had not only survived the trenches but risen from private to major. Charles McTague and Neil McPhee had both served in various branches of the army in the front lines. Some were left with lasting scars. Angus MacMillan was only 18 when he joined the First Canadian Expeditionary Force in 1914. He was badly wounded in the knee at the second battle of Ypres and would never be able to walk without pain again.

Before the war, one of the most prominent firms in the city belonged to the brothers Bartlet. Alexander and Noble Bartlet had formed a firm

in 1887 and had become the leading commercial advisors in the city. It was not surprising when Gordon McGregor, the founder of Ford of Canada, and later his brother Walter regularly used the Bartlet, Bartlet and Urquhart firm. In 1917, Walter McGregor formed the 241<sup>st</sup> battalion for overseas service and three men from the Bartlet firm, Edward Kenning, a 44 year old who had been practicing law since 1896, George Urquhart and Walter Bartlet became officers in the 241<sup>st</sup>. Major Kenning took the lead in recruiting, by going to picnics and encouraging men to join up. When that failed to get the required numbers he sent letters to young men in the business community reminding them of their duty to King and Country. If the first letter failed, he followed it up with another that expressed his disappointment. By 1917 the 241<sup>st</sup> was as complete as it could be and it was sent to Europe. It was probably unusual even for those times that most of the lawyers in a firm and their major client went off to war together.

One group of young law students from Windsor joined the 67<sup>th</sup> Battery Royal Canadian Artillery. Among them were Walker Whiteside, Leo Deziel, and J.H. Mothersill. While the young men from this unit returned, one did not survive for long. Talbot Clay had been studying law in the Davis & Healy firm when he joined the 67<sup>th</sup>. Near the end of the war he caught influenza and never fully recovered. After the war he returned to Windsor, was called to the bar and practiced for a short period before he died in the spring of 1924. His death moved Windsor for it seemed to symbolize so many deaths that had occurred in Europe. He was carried to his grave by the soldiers he had served with and in addition to the veterans, "The Essex County Bar Association of which the late Mr. Clay was a member attended the funeral in a body."<sup>36</sup>

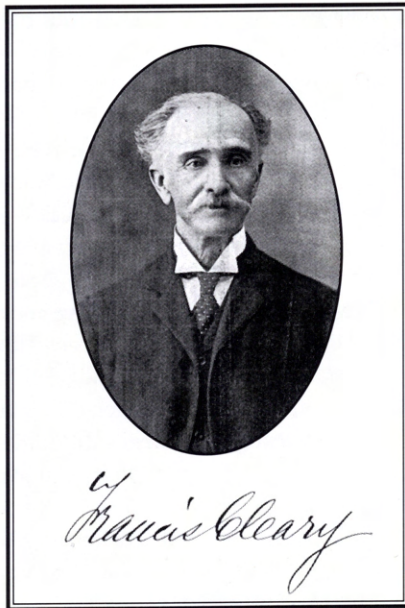
## ROARING LAWYERS:

---

The Association was, first and foremost, a social organization. One of its main functions was to bring lawyers together, not in a confrontational setting, but in one of conviviality. Once there, they



could put aside conflicts or disagreements over a clause in a contract and consider themselves colleagues instead of combatants. To that end, the annual dinner was the main event in which many members took part. Perhaps the entertainment was not very sophisticated, but then, it did not have to be. At one of the annual dinners in the early 1920s, Francis Cleary, then in his eighties, sang an Irish song, "with a voice which lacked the tone and volume of earlier years, but with a spirit eager and willing to contribute its bit to the merriment of the evening."<sup>37</sup> Alexander Bartlet then made his contribution by reciting a poem, "The McSorley Twins." After a rendition of "Auld Lang Syne" the party broke up.



*Francis Cleary*

One issue that consumed the Association throughout the 1920s was the archaic system of keeping the Registry Office and all Court Offices in Sandwich. Downtown Windsor had become the commercial hub of the area and most large firms were located in the core. Despite this, the legal offices were located in the same town that had been the district capital since the 1700s. In 1921, George Urquhart moved a resolution to send a delegation to Toronto to let them know of the importance of moving the court offices to where business was located.<sup>38</sup> The system was unresponsive and in 1924 a bill drafted by Talbot

Clay just before his death to move the court offices to Windsor was to go to the Legislative Assembly.<sup>39</sup> The offices remained in Sandwich and the lawyers (or their students) did the commute.

A law student's life in the 1920s had not changed substantially from that in the 19<sup>th</sup> century. It was usually just simple tedium. Bruce Macdonald, a young law student from Alberta had been attracted to the opportunities available in Windsor. He began articling for Gordon Fraser in 1927 and recalled that the experience consisted of "\$10 a week for searching titles" and that "in Ontario they were still searching back to the date of Methusela."<sup>40</sup> Jim Watson was articulated in 1932 to a criminal firm and his articles were largely restricted to serving documents and appearing in Magistrate's Court.<sup>41</sup> Either way, students did not learn much about the general practice of the law.

Real estate was booming during the 1920s. It was projected that a huge steel mill would be built in the west end and make Windsor the "Gary Indiana of Canada." Vast tracts of land were subdivided to provide worker housing and the Davis & Healy firm name would be on hundreds of deeds sold to gullible Americans who hoped to cash in on the never-ending boom. Still, it was a boom time for the lawyers in many fields. By 1925, the municipal directory showed forty law firms operating in the city, well over double the number from the previous decade.

While most lawyers may have been able to make a good living out of civil matters, a few began to make their name in the criminal courts. As the chief prosecutor, the County Crown Attorney had always been a prominent figure in the community. In the early part of the century John H. Rodd had fulfilled that role and for 17 years as Crown Attorney and Clerk of the Peace he had been the face of justice in Essex. After World War I, George Urquhart succeeded to the position. Urquhart was a strict-letter-of-the-law individual who resisted bail for a resident involved in a traffic accident. When he prosecuted a rape charge in 1924, Urquhart was horrified to note that the parties had brought a bottle of whiskey with them, "The shocking system of 'parties' dancing and drinking indulged in by certain young people should not



be winked at... tolerance of such acts tends to undermine the best foundations of society."<sup>42</sup> It was Urquhart who insisted on taking to court the case of a Mrs. Dubry who charged her husband with "an unmentionable offence." The trial caused a minor sensation with a packed courtroom listening in on evidence of Mrs. Dubry being forced into shocking acts by her husband. The trial judge, Justice Lennox, ordered the courtroom cleared of all ladies and young persons, "as the case was not one for them to hear."<sup>43</sup> The twenties may have been roaring, but in Urquhart's court many Victorian strictures remained.

Other than the Crown Attorney, most lawyers steered away from criminal law. Therefore, the defence of Frank Bianchi in 1922 on a murder charge went to Frank W. Wilson, a counsel who regularly appeared for the indigent. The evidence against Bianchi was circumstantial and Wilson argued in the theatrical manner of the day:

"for British justice for 'the stranger within our gates.'

He referred to Luigi and Amelio's (present at the scene) actions in betraying Bianchi as Judas betrayed Christ.

He asked for a verdict of not guilty to show foreigners that they could get justice in Canada that all who came to these shores expected."<sup>44</sup>

His rhetoric was unpersuasive and Bianchi was condemned. After the Bianchi trial, Wilson went on to have a very public life. He would be elected to Queen's Park from Windsor East and would campaign for, among other things, a system of legal aid, "Many men, the member for East Windsor said, are brought into court, under danger of a jail sentence, who have not the money to engage legal representation. They have no opportunity to prepare a proper defence."<sup>45</sup> It was the beginning of what would be a long struggle to create a system of government sponsored legal assistance.

Urquhart and Wilson were two of the new generation of lawyers who were rising to the top in the 1920s. Matching them in drive and

ability was a former professional baseball player and teacher named Charles McTague. After his family's business had become bankrupt he had left high school and made his way in the world playing baseball and eventually getting a teacher's certificate. After his war service he had gone to Osgoode Hall and then into a partnership with S.L. Springsteen. Together they created a formidable commercial firm. In 1934, McTague would be appointed to the Supreme Court of Ontario and in 1938 to the Court of Appeal.

Lawyers would inevitably figure in several aspects of the 1920s, one of the most notable being Prohibition. As a result of the illegal trade in liquor many laws were relaxed in border communities such as Windsor. A 1927 provincial enquiry found that Windsor had become "The Monte Carlo of the North" where after-hours clubs, gambling dens and bordellos were common in certain parts of the city. Windsor had become such an open city to vice that Chief of Police Thompson, who had been condoning such activity, was fired.

A year after being called to the bar, Bruce Macdonald became involved in a liquor case. He defended a bootlegger who was making a delivery from Quebec to Detroit when an O.P.P. officer attempted to stop him. The bootlegger turned his high-performance roadster onto side roads in the hope of shaking his motorcycle pursuer. When the officer attempted to close in, the bootlegger swung his car out and knocked him into a ditch. Macdonald had the charges dropped on the basis that the officer could not identify the driver. He later learned that his client had admonished the officer for his overly zealous attention to duty and offered him payment for the accident and his injuries.<sup>46</sup>

At least the liquor laws provided work for some lawyers. There were still substantial restrictions on alcohol consumption in Ontario after the 1920s. Angus MacMillan defended a companionable individual who had supplied homebrewed beer to two associates. MacMillan pointed out that brewing the beer was legal and that the accused "had been drinking so much homebrew himself that he gave his visitors beer without knowing what he was doing." Even though the Magistrate



declared, "he was ignoring that defence" he acquitted the accused on the basis that simply giving away beer was not a crime.<sup>47</sup>

The Windsor area was expanding rapidly through the 1920s. Not only was Ford manufacturing cars at record pace, the "Universal Car Agency" was the largest auto retailer in the country. Windsor was now the centre not only for manufacturing but also for a web of sales and repairs.<sup>48</sup> One historian found, "Between 1911 and 1921, census figures reveal almost a ten fold increase, from 24,888 in Windsor and Walkerville to 47,763 in Windsor, Walkerville, and Ford City."<sup>49</sup> Windsor was an auto town and increased traffic inevitably led to traffic accidents. By 1923, Judge Coughlin thought that auto crashes "occupy much time of the courts."<sup>50</sup> Those coming from outside the community were sometimes shocked at this new world. Presiding in 1924 over a case of a child hit by a car, Justice Mowat expressed his amazement at Windsor, "there were more (automobiles) here than in any other place of its size. He said that he had seen only one horse-drawn vehicle since coming to Windsor... he referred to the motor as an adder and a snake which is liable to sting at any time."<sup>51</sup>

One of the main preoccupations of the Association remained the maintenance of the library. As of 1920, when Philippe Panet finally gave up in disgust at the lack of interest, the law library was located in storage on the top floor of the Heintzman Building in a dark, airless room. If a lawyer wanted to use the library, he had to go to John Sale's office on the ground floor and ask if the key was available. In February 1921 the library was moved to the second floor of the current Capitol Theatre Building. The new site was directly across from the offices of Twigg, Wright & Mackinnon. The Association Secretary, Roscoe Rodd, asked a young, academically inclined lawyer from that firm, William McKay Wright, if he would take over supervising the library. Wright agreed, "The reason for my appointment was purely geographical."<sup>52</sup> He inherited the Panet catalogue to the collection that noted that the Association possessed the Law Journal Reports from 1843 to 1906, the English Law Reports in full, Halsbury's Laws of England and all Ontario and Upper Canada Reports. He

concluded that, "our predecessors chose well for a foundation of a good library." For his services Wright would be paid the modest amount of \$400 per year. However, he must have been satisfied, for he remained the association's librarian for the next forty-three years. On occasion the Association would buy new texts or pick up used volumes from estate sales. A vaguely automotive entry in 1924 noted that the library books had been "oiled and repaired."<sup>53</sup>

Beginning in 1923, the Association dropped the need to purchase shares and instead adopted a simple fee arrangement for membership. Oddly enough, in an organization of lawyers, no one thought to amend the constitution to that effect. It would not be until 1938 that this omission was noticed and at an annual meeting a resolution noted, "And whereas in recent years the Association has been conducting its affairs in a manner not strictly in accordance with the Declaration of Incorporation and the By-laws" the bylaws were amended to reflect the actual practice of the Association.

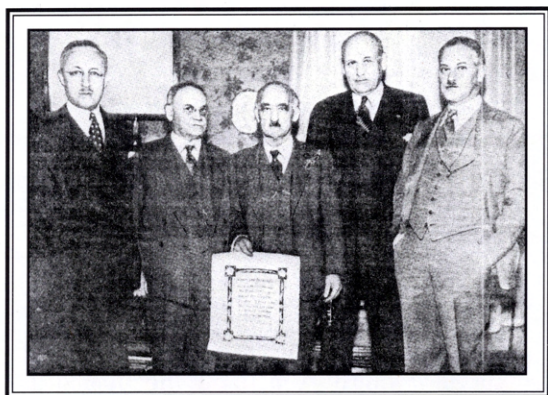
The Windsor area had been undergoing remarkable economic growth during the decade after the war and this translated into prosperity and optimism. New names began to appear on the law lists and they including veterans and the newcomers who were making the city more diverse. One young French-Canadian, Paul Martin, came to Windsor in the late 1920s. At first, he was interested in joining with a well-known firm headed by Norman McLarty and Gordon Fraser. However in the end he felt that Charles McTague's firm had a wider breadth. While he was not a renowned courtroom lawyer McTague had already established a substantial commercial practice. Martin recalled, "From the seventh floor of the Security Building, Charles McTague, K.C. directed Windsor's most promising law firm."<sup>54</sup>

In a remarkable snapshot of the profession in 1929, the *Star* published a Who's Who of the Essex County bar. Of the 83 members profiled, 60 were of British stock and Protestant. Nineteen were Catholic and about half of these lawyers were French-Canadian. But there was an interesting diversity among the members. Five Jews were



practicing law in Essex in the 1920s, a number out of all proportion to the size of the Jewish community at the time. As well, there were three females.<sup>55</sup> This was a remarkable change from the pre-war era when the local bar had been for the most part, white, male, British and Protestant.

Of course, there were several senior lawyers who went back to Victorian times. Alexander Bartlet the son of the famous magistrate of the same name had been practicing law for 42 years and remained as senior partner of what was now Bartlet, Bartlet Barnes Aylesworth and McGladdery.<sup>56</sup> Oscar Fleming Sr. had been in practice since 1885 and was the "dean of the bar." On his eightieth birthday in 1936 Maxfield Sheppard was awarded the Association's first life membership. Sheppard had been practicing in Windsor since 1890 and showed no signs of stopping. However he was going slowly for his son reported that he never drove his car over ten miles an hour, "and that is one of the reasons, he said, why he is 80 years old."<sup>57</sup> In 1929, the sole survivor of the original nine founders of the Association was "Squire" H.T.W. Ellis. From time to time, Ellis would park his giant police dog "Ripper" in a side room and preside over the Magistrate's court.



*Maxfield Sheppard, first lifetime member  
of the Association: 1936  
l to r: W.D. Roach, John H. Rodd, M. Sheppard,  
E.S. Wigle, A.J. Gordon*

Despite these venerable figures, the bar had substantially evolved during the 1920s. For one thing, it was far larger. The industrial growth that buoyed up the Border Cities made it a highly attractive place for young lawyers to relocate. Of the 1929 practitioners, fully 59 of them came

from somewhere else and only 24 were native to the county. The Association's President, Albert J. Gordon came from Highgate and one of the emerging commercial lawyers, George Richardes, came from Strathcona Ontario. According to the *Star*, the growth of the Association was directly related to "the expansion of business handled by Essex County Courts which has grown within the past ten years to a volume second only to that of York County, including the City of Toronto."<sup>58</sup> The annual meeting of 1928 reflected this prosperity when the Association's members packed the dining room at the Essex Golf and Country Club to hear Ontario's Attorney general W.H. Price give a speech.

To some extent, Windsor's treatment of Jewish applicants to the legal profession may have differed from that in the rest of the province. Christopher Moore has noted that, "Early Jewish lawyers were Canadian-born and highly educated, and they tended to article in established firms..." although they certainly encountered "genteel as well as undisguised anti-semitism."<sup>59</sup> However in Windsor a few foreign-born individuals with no previous education but with drive and intelligence did succeed in entering the profession. Chief among them was David Croll. Born in Moscow in 1900, he had aggressively pursued business ventures and used the money to study law. Croll was called to the bar in 1925 and that same year became an active member of the Association. In March, 1929 he acted for the purchasers of the La Belle building at the corner of Ouellette and London (University) Streets who bought the structure for an amazing \$7,000 per square foot. However, Croll's enduring love was politics and by 1930 he became Windsor's mayor. As historian Larry Kulisek observed, Croll's rise, "symbolized the diverse and multi-ethnic community Windsor was becoming."<sup>60</sup> In the small Windsor Jewish fraternity of lawyers, Croll was joined by Chicago-born Bayre Levin, Louis Swartz, Alex Solomon and Bernard Cohn.

In 1891, a young schoolteacher named Clara Brett Martin had applied for membership in the Law Society. Convocation rejected her request, but due to her pressure the Law Society's ruling legislation was amended to allow the admission



of women. It was a long, arduous struggle until she was finally called to the bar in 1897.<sup>61</sup> Still, even after this time, the number of women in the profession was minimal. However, in Essex, three enterprising women had made their way into the bar. Lovedy J. Campeau came from Harrow. In an age when women were discouraged from higher education, she had graduated from the University of Toronto in 1916 and began practice in 1919 with the Bartlet firm. Even as the first female lawyer in Essex County, it was thought that women were best seen in the office, not the courtroom. Lovedy Campeau broke that barrier as well when in January 1922 she put on a gown and appeared in Sandwich at the general sessions of the peace. "It gives me great pleasure to see a daughter of our own county practicing before the bar," Judge J.J. Coughlin observed.<sup>62</sup> Since then, she had "successfully maintained the practice of a highly competitive profession."<sup>63</sup> Miss Campeau (she would never use her married name) remained a member of the Law Society from 1916 to her death in 1980. Eventually, her fellow female lawyers included Emily Lynch and "One of the Border's successful women lawyers" (and Charles' brother) Helen McTague.<sup>64</sup>

The Association of the 1920s seemed more aggressive than former years. They regularly petitioned the government to appoint more county court judges to handle the county's growing volume of litigation. As well, they even petitioned that one member of the bench, Judge George Smith, was infirm, incapable of doing his duties and should be dismissed.<sup>65</sup> There were other things to complain about. The Sandwich courthouse had received so little maintenance that during the 1929 winter assizes Justice Jeffrey ruled that the main courtroom was unusable, "The northerly winds of the past few days playing on the exposed front of the Supreme Court chamber and leaking through crevices in the long window frames" had made it too cold to conduct the court's business.<sup>66</sup>

In March of 1929 the *Star* proclaimed, "Employment is at its peak in the Border Cities" Major undertakings had brought good times and good times meant paying fees for lawyers. The Ambassador Bridge, one of the greatest engineering works in the area and soon to become

an economic artery between the U.S. and Canada, generated more than its share of litigation. Twenty-three civil actions were started against the bridge arising out of the blasting to sink the caissons for the bridge towers. The newspaper noted that the case was being advanced "by an imposing array of legal counsel" who included John Sale, R.H. Wilson and Charles Sale. The bridge company had its own legal heavyweights in R.S. Rodd and S.L. Springsteen.<sup>67</sup>

No one anticipated that in a few months everything would change. When the economic disaster of the depression hit the area everything, including making a living at the law, would become a grim struggle to survive.

## DEPRESSION:

The bad times of the thirties affected lawyers just as much as everyone else. By 1936 almost a tenth of the Law Society's members could not pay their \$20 yearly fee. Given the times, suspensions for non-payment were postponed.<sup>68</sup> Some gave up the law, at least for a while. Lorne Cumming, for one, abandoned his practice and got manual work in a factory until he was able to get back into the profession. Eventually, he would become Chairman of the Ontario Municipal Board.<sup>69</sup> Bruce Macdonald had become Windsor's City Solicitor in 1930. When the Depression took full effect and there were few paying clients to be had he recalled, "I was very much envied."

Macdonald sat on an Association committee in 1931 to provide "assistance to certain of their members who were in less fortunate circumstances."<sup>70</sup> Even at this early stage of the Depression, it was apparent that it would be a struggle for many lawyers simply to hold their heads above water. Everyone was at risk and one Windsor lawyer, Charles McTague became a leading figure on the Central Relief Committee to try and relieve the suffering caused by the depression.

Angus MacMillan, the young man who had sustained the crippled knee at Ypres had been



called to the bar in 1926. Attracted to Windsor by the good times he began work with Neil McPhee Sr. However he was practicing by himself in 1930 when the Depression set in. With little money and a pregnant wife, MacMillan suddenly faced grim prospects. Files were few and those that did come in offered meager compensation. His wife went to live with her parents while MacMillan slept in his office and sporadically paid rents. Keeping a secretary was out of the question so he typed his own documents on a used Underwood.<sup>71</sup>

If conditions were not bad enough, lawyers were being hard-pressed by the Law Society which was increasing its fee structure and planning for additions to Osgoode Hall. This outraged many non-Toronto lawyers. Local reaction was expressed by J.F. Twigg at the annual meeting in 1933 where he expressed the indignation that was felt by many in the Association. When times were difficult it seemed unconscionable that the Law Society was making it more difficult to practice law and:

Mr. Twigg moved that the Secretary inquire why the larger fee had been charged this year and that the Association go on record to protest to our local Benchers... we co-operate with other associations outside the County of York in an endeavour to reduce the fees.<sup>72</sup>

There was a distinctly anti-Toronto air to the proceedings. Lawyers in Toronto at least had access to the Great Library. Those outside the capital did not have this access but still had to finance the library. John H. Rodd, the dean of local lawyers and benchers from 1916 to 1936 felt the ire and he ceased to run for the position.<sup>73</sup> He remained as a life benchers but there was increasing discontent with Law Society rule.

One luxury many people felt they could do without during the depression was lawyers. In 1935, the border cities were amalgamated into the City of Windsor and this meant that smaller municipalities such as Sandwich were withdrawn from the county. Reeve James Gow of Leamington proposed that the negotiations between Sandwich

and the County to sort out assets and liabilities be conducted without lawyers, for:

"I submit that if the solicitors are kept out of this entirely, we won't have any difficulty at all in settling the financial angles in connection with Sandwich's withdrawal. We paid mighty dear for the legal aid when East Windsor withdrew"<sup>74</sup>

The same kind of animosity towards paying for lawyers arose when the Border Cities (except for Walkerville) defaulted on the debts they had accrued during the expansion of the 1920s. They were ordered to go before the Ontario Municipal Board in 1937 to set up an acceptable refinancing scheme. After a lengthy set of hearings a system was established that allowed for the long-term retirement of the debt. This was, as Bruce Macdonald recalled, "The first large municipal debt refunding in the history of Canada. There had been only one before that, and that was in St. Boniface Manitoba. So we didn't have a great deal to go by..." But after the hearing Macdonald submitted a bill that was eventually taxed at \$17,500. While this bill was appropriate it so outraged the Council of the day that it ended his career as City Solicitor.<sup>75</sup>

For its part, Walkerville had no qualms about hiring top quality legal representation. When that town fought its proposed amalgamation with Windsor in 1935, they hired John Sale, one of the outstanding authorities on municipal law. Sale had originally practiced since 1894 with J.C. Patterson and since then he had represented as many as 28 municipal bodies including La Salle, Sandwich and the Essex Border Utilities Commission. He represented Walkerville going as far as an appeal to the Privy Council in London, in their stubborn but ultimately doomed fight to retain their autonomy. It was said of John Sale, "In the courtroom hearings, he was never spectacular, but his facts and briefs were deadly in their power to convince."<sup>76</sup> Windsor was represented in the amalgamation battle by John H. Rodd and his "involvement in upholding the decision to amalgamate was taken very badly by members of patrician families in Walkerville."<sup>77</sup>



If there was any silver lining to the hard times it was the ease with which the Association's library could be re-located. Since 1921 it had been kept in Loew's Capital Theatre Building. In 1936 it was decided to re-locate and prospective landlords eagerly attended the Association's committee in the hopes of getting a paying tenant.<sup>78</sup> Hugh Graybiel of the Canada Building attended in person and made a successful plea to house the library.

Despite the times, or perhaps as a result of them, people still needed legal advice. Mortgages were falling into arrears, debts had to be collected or avoided. David Croll, Windsor's mayor through much of the Depression, ordered City Solicitor Macdonald to set up an impromptu legal aid system for people who were in trouble and could not afford a lawyer. Together with two young law students, Leon McPherson and Larry Deziel the City's offices handled several thousand cases, and:

I think we were able to do a very good job in maintaining morale for these people who felt completely helpless, they couldn't get any legal assistance any other way... and it was the first legal aid as far as I know anywhere in Canada.<sup>79</sup>

The Association, however, had a different view on the Mayor's legal aid project. A motion was put to the 1938 annual meeting:

That this society go on record as being opposed to the practice of the City Solicitor giving free legal advice to those who apply at his office in the City Hall for the same, as the City Solicitor is a public servant of the City of Windsor, under salary from the City and that his duties should be confined strictly to City business.

The same annual meeting also warned the medical profession against handing out legal advice "as it frequently results in grievous loss."<sup>80</sup> With so little legal work available, the profession was anxious to keep as much as possible within its own walls.

Even the nature of legal work was changing. Walker Whiteside found himself acting for a number of pharmaceutical firms and increasingly he was handling labour problems with their employees. During the thirties some lawyers would become increasingly involved in employment and labour disputes.

Even as late as 1931, the minimum qualification for admission to Osgoode Hall was only Grade 13. However, in reality most law students had been university graduates. As a result "few Ontarians could afford the fees and costs of studying law."<sup>81</sup> There were a few exceptions. Jim Watson was a young black man who graduated from University College in Toronto and was called to the bar in 1937. In order to survive during his articles he had worked as a porter on the railways between semesters. Even after he started practice he was making so little money that he continued to work as a porter.

Jack Stuart and Desmond Deneau shared an office in the Guaranty Building at Victoria and London (University) Streets. By 1938 they continued to come into the office even though there were no clients and nothing to do. One morning they gazed down at the White Tower restaurant next to the Capitol Theatre and wondered if they should display their solvency by buying a nickel cup of coffee. They concluded they could not afford it.<sup>82</sup> Other lawyers used the slow down in the economy to improve themselves. Paul Martin had left McTague's in 1931 and become a friend of Keith Laird. Without clients besieging their offices the young men would frequently go to the Wyandotte Hotel where they would review the law reports and "discuss articles in *Revue des deux mondes* and generally comport ourselves as educated young men."<sup>83</sup> There was little else to do.

## WORLD WAR II:

At the Association's executive meeting held on 11 September 1939, Walker Whiteside noted that they should have a dinner "in honour of those members who have enlisted."<sup>84</sup> A substantial



number of Association members would serve in the Second World War. Much more so than World War I, the Second World War brought Essex county lawyers into prominence. Chief among these was F.K. Jasperson, a Kingsville lawyer and long time militia officer. He would command the Essex Scots on the Dieppe raid and be captured along with most of his regiment. J.H. Mothersill would then take over and re-group the Scots until yet another Windsor lawyer, Bruce Macdonald, would lead the unit into Normandy in 1944.

The prominent role of Windsor lawyers in the military is remarkable and is perhaps related to the fact that so many of them were involved in the militia in the 1930s. The Officers Mess at the Windsor Armouries was more in the nature of an elite social club and at the close of business many lawyers would drop into the mess for a drink. One young French-Canadian lawyer, Larry Deziel, had enjoyed the social nature of the Officer's Mess and upon the outbreak of war he felt obliged to volunteer for active duty. In due course he would be recognized as a capable staff officer and rise to the rank of Colonel.

Others lawyers served in less exalted ranks. Ralph Sheppard, the son of Maxfield Sheppard, had come into his own during the First World War when as a Signals Officer at the battle of the Drocourt-Queant line he had directed the laying of telephone lines. For his courage in keeping communications open during this crucial battle he was awarded the Military Cross.<sup>85</sup> However, even as a member of his father's firm he could not cope with the demands of the post-war world. By the 1930s, "he ran into a bit of tough going"<sup>86</sup> usually a euphemism for alcoholism. When war broke out again in 1939, he enlisted as a private. He seemed to respond to the military and by the end of the conflict he had risen to Lt. Col. and was awarded the Member of the British Empire decoration for his services.

Other lawyers mixed their military service with civilian enthusiasms. Frank Ellis came from a family of lawyers that included his grandfather, J.C. Patterson. Windsor born and raised, Ellis had practiced law since 1924 would eventually be President of the Association. When not practicing

law, Frank Ellis could be found sailing on Lake St. Clair and once war was declared, it seemed natural that he would join the Navy. He served much of the war at sea on escort duty and commanding Q boats.<sup>87</sup> Many others saw distinguished service. Bill Cowan would serve during the heavy fighting of 1944 and would be captured in 1945. Upon his release he was awarded the U.S. Bronze Star for bravery. Bill Willson had started at Osgoode Hall in 1939 and had only completed part of his education when he began his military service in the Signals Corps. After the war, he would be highly decorated by the Belgian government for his services.

The disastrous raid on Dieppe France in August 1942 was keenly felt in Windsor for almost the entire battalion, 550 men, of the Essex Scottish Regiment was lost. Walter McGregor, the son of the commander of the 241<sup>st</sup>, was a Captain and an assistant beach master on the assault. He recalled hearing automatic weapons fire long before they hit the beach and knew that any element of surprise was lost. There was some relief when it became known that the vast majority of the men had been captured and from that point on every effort was made to help them. One prisoner from Windsor, Captain J.R. Turnbull, became a student at the Commonwealth Law School and wrote his second year law school exams from a German prisoner of war camp. Walter McGregor asked his mother to send law materials and "under the watchful eye of the camp education officer" he completed the second half of his first year and the first half of second year of the Osgoode Hall course.<sup>88</sup>

On the home front, there was little that non-combatant lawyers could do other than contribute to the "Soldiers Smoke Fund." In 1942 a "Wartime Legal Services Committee" was formed by Carm Awrey, Leon McPherson and Col. E.S. Wigle to provide "free professional assistance to men in the Armed Forces and their dependents in proper cases."<sup>89</sup> The Committee seemed to be another step towards providing a rudimentary form of legal aid. Such experiments had already been tried during the Depression and this Committee was a further attempt to make legal services available to a broader public.



The Association was also becoming a more outward looking organization. Sid Springsteen was instrumental in bringing the Ontario Section of the Canadian Bar Association to Windsor in January 1940.<sup>90</sup> In 1943, J.C. McRuer was invited to speak to the Association. He talked about the changes in government structure that were to have a profound impact on the practice of law. Administrative boards such as the Workmen's Compensation Board had been growing in importance for the past few decades and due to the regulation required by the war in prices and wages, such quasi-judicial tribunals were sure to become even more prominent. More and more, "every individual whose rights and liberties are affected by the decisions, orders and judgments of administrative officers and tribunals"<sup>91</sup> would be looking to lawyers for advice.

After the end of the war, Lt-Col. Bruce Macdonald was appointed Canada's Chief Prosecutor for war crimes. He personally conducted the trial of S.S. General Kurt Meyer in December 1945 for the murder of Canadian prisoners of war in 1944. Meyer stood accused of ordered his men to shoot captive Canadians just outside his headquarters building. It was a sensational trial that was front-page news across Canada. Just before the trial began in December 1945, a nervous Macdonald confided to his wife that he had better "convict this bird" or all hell would break loose. Meyer was convicted (although of lesser charges) and spent the next seven years in a Canadian prison.<sup>92</sup>

## POST-WAR UNEASINESS:

Many senior lawyers moved seamlessly back into their law practices after the war was over. Perhaps benefiting from his notoriety after the Meyer trial, Bruce Macdonald became a very prosperous sole practitioner. On the other hand, Col. F.K. Jasperson never seemed to quite recover from the privations he had endured. He had spent two years and nine months as a prisoner of war and the years of captivity and the forced marches of the final months of the war had sapped his strength. In 1946, he retired back to his farm near

Kingsville. However, in 1953 he took on a position of "Magistrate on Circuit" acting in courts across Ontario and continued to serve as a magistrate for many years.<sup>93</sup>

Shortly after the war a number of veterans completed their legal training. Both Bill Willson and Walter McGregor continued their war-interrupted educations and were called to the bar in 1947. Before the war, Willson had worked for the City of Windsor registering tax certificates and he recalled that the Registry Office was a quiet place, "real estate was not moving."<sup>94</sup> The Land Registrar, a medical practitioner and political appointee, Dr. Paul Poisson, let the regular staff run the operation. However, prospects were changing in Windsor and there was an explosion of housing starts in the late 1940s. Nosanchuk & Buttery Construction was building houses for returning veterans and auto workers. There was an expansion in employment and more opportunities for new lawyers.



*Registry Office - Photocopying 1950s*

However, the role of women in the Association had not changed. Shortly after the war's end Windsor's Mayor Arthur Reaume had issued pleas for women to give up their factory jobs and return to domestic duties. He felt that homecoming veterans needed the work and women should make way for them and go back to their traditional functions. One female professional, Lovedy Campeau, remained very much in the work force and she attended



many of the Association's executive meetings in the early 1950s. However, few women (Helen Carefoot being a notable exception) had followed her into the profession.

While the post-war world can be seen as a retrenchment of old values, some things were slowly changing in Windsor. James Watson was a courtly man whose conduct, while always civil, could be resolute. During the war he had been denied advancement in the army because of his race. His reaction was to insist on a transfer to the R.C.A.F. where he was commissioned an officer and trained as a bombardier. After his military service, he returned to Windsor and worked at the Yuffy firm for a short period. In the late 1940s he applied for a position with the City legal department. The City Solicitor, Lorne Cumming, explained to him that "while he was quite satisfied that I had the necessary educational qualifications to do the job" that it was out of the question. When Watson pressed him for a reason "He was very forthright in telling me that he did not think the people of Windsor were ready to accept a black man in the position of Assistant City Solicitor."<sup>95</sup>

A few days later Watson met with Windsor's Mayor Arthur Reaume. Reaume was an individual of more progressive ideas (at least so far as race relations were concerned) and who had more confidence in the fairness of the average Windsor citizen. Reaume saw that Watson got the job. In 1950 when Cumming went on to the O.M.B. James Watson became the city's chief lawyer, the first black lawyer to hold that post in Canada. He would remain City Solicitor until 1975.

If Watson's appointment was an indication that the 1950s was not entirely a period of complacency, other changes were slowly taking place. Legal education was still very much as it had been in the time of Henry VIII, with students expected to pick up the law by working for a senior. However once Caesar Wright became dean of Osgoode Hall in 1948, he determined to make an "Honest to God law School" and provide the academic foundations for a legal education.<sup>96</sup> However, the benchers disagreed and in 1949 they instructed Wright that only the Law Society was to provide training in law and practice. This debate trickled

down to the local level and 15 March 1949 a special meeting of the Association was held to consider Wright's proposals. On a motion by Bruce Macdonald the Association voted 20-3 in favour of a full time law school. However there was still a strong skepticism about turning legal education over to the academics and Macdonald's subsequent motion that this school be under the jurisdiction of a university barely passed 12-10.<sup>97</sup> Nevertheless, by the 1950s the movement towards a university based legal education system was irresistible and the universities assumed control of the three-year degrees while articling fulfilled the practical requirement.

There remained an air of gentility to the practice of law in the late 1940s. By agreement, offices closed at 4 p.m. during July and August. In deference to the needs of war, legal fees had not increased since the 1930s and in 1946, the Association's executive committee recommended an increase of 26% to reflect cost of living increases. County members protested that their clients were not inclined to pay the tariff rates that city residents could afford. While some felt that it was time for an increase others feared post-war inflation and the tariff increase should be put on hold, as "lawyers should give leadership against increasing prices."<sup>98</sup> At a special meeting called for January 1948 and "attended by a very large majority of the members" the tariff was hotly debated and a modest increase was passed. The special meeting also dealt with recent intrusions on law practice. In 1943, Chief Justice McRuer had warned about the impact of new administrative bodies and now lawyers were faced with non-professionals appearing before labour boards, retired police officers acting in Magistrate's Court and even accountants handling income tax litigation. There was every reason for lawyers to defend their turf and seek to expand the pool of clients.

Under the direction of the local registrar, Col. Charles Sale, a legal aid plan was begun in 1951. This was a very rudimentary plan that relied upon members who were willing to volunteer their services to sit on *ad hoc* panels. It was far from effective and by 1954; most of the persons availing themselves of the criminal panel seemed to be repeat offenders. In May of that year, the



executive of the Association discussed "The burning question of a majority of criminals abusing the assistance provided through the Legal Aid Clinic to the extent of almost having our Profession subsidize crime."<sup>99</sup> Legal aid was not working efficiently anywhere in the province, but it seemed to be a special problem in Windsor where there was so much criminal defence work to be done.

The growing strength of the defence bar in Windsor seemed to be one of the key changes from earlier years. John Whiteside was recently discharged from the Navy and after completing his studies, had started work as an assistant Crown Attorney in 1950. He recalled that the criminal calendar in Windsor was especially heavy and that, "we would quite literally try half a dozen fairly important cases a day... the instance of crime in Windsor, being a border town, was fairly high... and we had, as you would expect, probably the best criminal bar in the province."<sup>100</sup> There were a number of vigorous practitioners such as Cecil Croll and Morris Kamin. One of the most effective criminal lawyers was Barney Cohn. Whiteside recalled that he would:

"prepare his cases meticulously. And he had a sixth sense, he could always identify that element of the Crown's case which was the weakest, and witness after witness would be called, and Barney would not cross-examine. And then the one witness who would be called to give evidence on a matter about which there was uncertainty Barney would stand and ask a few questions and expose the weakness almost immediately."<sup>101</sup>

To Harvey Strosberg, Barney Cohn "was an unbelievable Damon Runion type character who used to have his fedora, and his cigar, and his racing form under his arm" as he walked to Court. On one occasion when a rape charge was before Judge Clunis, the Judge advised Cohn that "I am giving you a great deal of latitude, Mr. Cohn." To which he replied, "With the greatest respect Your Honour, you give me nothing, the law gives me this latitude."<sup>102</sup>

Several of the senior criminal defence counsel were achieving renown not only in Windsor but across the province. James Clark was known as an especially stubborn lawyer who often got results. In 1944, he had defended Frank Scibor accused of murdering his girlfriend's husband. When the police alleged that a brake handle was the murder weapon, Clark invited one of the officers to show the jury how it fit into the brake mechanism. The handle did not fit and Clark's client was freed. In a series of widely publicized trials from 1946 to 1947, Clark defended the "Windsor Slasher" Ronald Sears. Sears' first trial in 1946 before Justice Dalton Wells had resulted in a conviction and death sentence. The Star not only gave wide coverage of the case, editorials began to call for strong measures to be taken against all homosexuals for "Perverts were a menace."

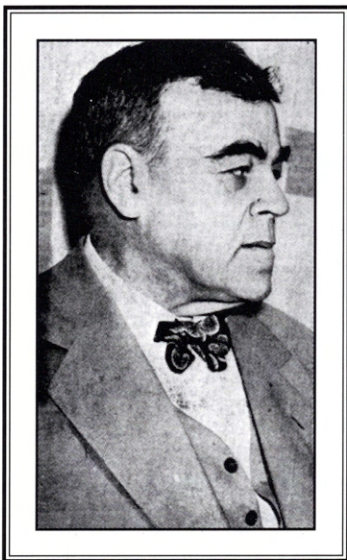
When the conviction was overturned, a new trial was held for attempted murder. Sears came from a working class family and they simply had no money to pay for further proceedings. Clark ended up acting in the subsequent trials (before now Mr. Justice George Urquhart, the former Essex County Crown Attorney) for free. While the evidence against Sears was questionable he was convicted on one count of attempted murder, a result that an infuriated Clark deemed a "newspaper conviction." Significantly, Sears' 1947 trial, which included an extended *voir dire* over the admission of a confession, took only four days to complete. By mid-century, justice still moved with remarkable speed.

There was certainly a great deal of fodder for the criminal bar. Windsor was still very much the open city that it had been during Prohibition and the war years. However, all that came to a sudden halt on January 1, 1950 when an O.P.P. squad raided the operations of the "King of the Bootleggers" Joe Assef on Howard Avenue. The raid yielded not only crates of liquor and beer but also a record book on Assef's payoffs to certain officials including Windsor police officers. The subsequent provincial investigation resulted in the firing of the Police Chief, the Deputy Chief as well as the end of Carm Awrey's tenure as Crown Attorney. Awrey had done a competent job over the preceding ten years but Attorney General



Dana Porter was determined to make a clean sweep of it. Bruce Macdonald took over as Crown Attorney and head of the Police Commission.

In addition to the criminal bar, some of the litigation counsel who had become prominent as early as the 1920s were still active. Gordon Fraser, probably one of the finest trial lawyers ever to work in Windsor was still practicing law into the 1950s. Fraser had an outstanding legal mind as well as a fondness for the bottle. This last attribute soured him with Prime Minister W.L.M. King who refused to consider Fraser for a position on the bench. As Bruce Macdonald recalled, "Gordon did drink quite a lot, but because of his eccentric manner of walking and talking, nobody could be quite sure whether he was tight or not."<sup>103</sup>



Gordon Fraser

In 1951 Fraser was defending a man on a rape charge and noticed in the Crown's evidence that the victim's panties had the day of the week written on them. When he enquired why she stated that she usually wore the same panties as per the day inscribed on them. Fraser then triumphantly paraded the undergarment before the bemused jurors proclaiming that the crime had allegedly been committed on a Thursday when the panties were clearly marked as Tuesday. That got momentum going for further hilarity and Fraser suggested that this couple had gone to Yawkey bush, "sitting in the park on one of the

fallen monarchs of the forest, and he put his arm around her and she put her arm around him, and they kissed and unlike the plumber, he had not left his tools at home." The jury acquitted.

R.M. Harrison of the *Daily Star* found this to be an outrage and in his "Now" column he reported how lawyers were lining up to get copies of the evidence and furthermore:

Despite 20 (count 'em) 20 Crown witnesses, including four eminent medical practitioners from both sides of the border- Gordon L. Fraser, Q.C. got up the other day, groaned, grunted, growled and with devastating wit laughed a rape charge out of court.<sup>104</sup>

Justice R.W. Trevelean was not laughing and in his view Harrison's article was a triumph of bad taste. He had both Harrison and the newspaper's publisher, W.F. Herman, brought before him the next day on charges of contempt of court. Harrison was fined \$100 and the *Daily Star* was forced to pay \$1,000.

Gordon Fraser was only one of several lawyers who dominated the mid-century. Achilles "Archie" Gignac had been a leading lawyer since the early 1930s. In 1933, when he was the township solicitor for Sandwich West, he had achieved fleeting notoriety by challenging an archaic requirement that owners of a radio obtain a license. By that time, radios were widespread and it was nonsense to require everyone who owned one to also pay a fee to the government. The charges against Gignac were dismissed and the Magistrate noted, "A proper amendment to it (1913 legislation) would cure this difficulty."<sup>105</sup>

An avid outdoorsman, Archie Gignac would continue in practice for many decades and was remembered by Harvey Strosberg as, "A Frenchman from Essex County, and he was wonderful, he was about 5'1", and he was rotund, and he always wore a bowtie." Much of his practice concerned estates and his foyer was always filled with waiting clients, as he liked to spend so much time talking with whoever was in his office. When not in practice he could be found at his shack by



the lake drinking whiskey neat, as it was his firm opinion that "you never let water or soft drinks spoil it."<sup>106</sup>

Smaller cases were handled in the "Division Court" presided over by the County Court judge in various locations throughout Essex County. Bill Willson recalled attending before Division Court in Maidstone during the 1950s where the "courtroom" was barely more than a garage and he and the presiding judge, A.J. Gordon, had to start a fire to get some heat. In a Belle River hearing of the Division Court before Judge Legris (a francophone from Haileybury) the attending lawyer, Max Mousseau and all the witnesses were French-speaking. Whether the rules of the day permitted it or not, Judge Legris proceeded to hear the entire case in French.<sup>107</sup> In the smaller communities of Essex County it was not unusual for one lawyer to serve the town. Through the 1940s, Charles Sylvestre was the solicitor in Belle River until Max Mousseau arrived in the 1950s. Fees were modest and it was unlikely that they could support more than one lawyer per town. Even after he began his city practice, Mousseau continued to go out to Belle River on Saturdays to meet with rural clients. He advised a huge number of farmers, handled estate matters and acted on behalf of the county townships.

While they got very little press coverage, it is likely that the only contact most people in Essex County had with the legal system was through Division or Magistrate's Court. Sometimes these were the only forums where lawyers could display their talents. In 1956, Joe McMahon was defending on a case of careless driving and he suggested to the police officer that he was mistaken on the location of the traffic lights. Magistrate Angus MacMillan adjourned to court to allow the officer to check his statement. He returned to advise that McMahon was correct and the case was dismissed.<sup>108</sup>

In addition to the litigators, the real estate bar was getting by. In 1953, over \$40 million in property changed hands in Essex County, about 25% more than in the previous year. In these paper intensive times, "the documents which register land sales and other legal transactions piled up at a rate of close to 70 a day, straining the Registry Office's

fire-proof vault." The Registrar of Deeds, Paul Poisson estimated that the R.O. only had five more years of storage remaining.<sup>109</sup> By the 1950s, most lawyers were still generalists. Larry Deziel had returned after the war to the McTague firm where he regularly handled criminal and civil litigation, real estate and commercial matters. In due course, McTague's would attract other capable practitioners including Kenneth Ouellette and Doug Lawson. Significantly, practices such as Lawson's would become specialized and more focused on commercial dealings.

Gordon Fraser may have kept up his practice but few new lawyers were entering the community. After the Ford strike of 1945 that saw the creation of the "Rand Formula" for collective bargaining, work stoppages continued to plague Windsor industries. There were a series of strikes, both legal and illegal, at the major auto plants going into the 1950s. A *Toronto Globe & Mail* report in April 1957 noted that the city was in the economic doldrums and that many retailers were giving up on the downtown core. In 1943 at the height of war production, 41,566 persons worked in Windsor's factories. In 1949 this had shrunk to 39,126. While manufacturing was growing in other parts of Ontario, Windsor's industry was effectively stagnant.<sup>110</sup>

This stagnation was represented in the number of law firms. While in 1940 there had been 73 firms in Windsor, by 1956 this number had grown by only two.<sup>111</sup> In 1952, the Supreme Court Registrar, Col. Charles Sale bragged that the county efficiently handled all cases brought forward for litigation while across the river in Wayne County there was a 17-month backlog in cases "The litigant in Essex County can expect to have his case dealt with by the court almost as soon as the necessary legal preliminaries are completed."<sup>112</sup> On the average, civil claims were disposed of in three months. During the winter assizes of 1952, there were three charges of motor manslaughter and ten civil cases, most of them being actions resulting from automobile crashes. Ironically, in Windsor as a center of car manufacturing, much of the legal work also seem to be connected in one way or another to the automobile.



Although Col. Sale did not reflect on it, perhaps the efficiency of the court system was related to the relatively small number of cases to be handled; itself a result of bad economic times. Yet, in only a few years there was new growth both in manufacturing and in the legal profession.

Social events remained very much at the centre of the Association's activities during the 1950s. The minutes for 1952 detail the preparations for the dinner dance at Beachgrove Golf and Country Club (\$7.50 per couple) an event that even managed to yield a profit of \$52.56. In October 1956, the Association hosted an address at the Elmwood Casino from Patrick Kerwin the Chief Justice of Canada who gave a speech on the new procedural regulations of the Supreme Court. But one matter of serious concern began to absorb the Association's attention. The existing courthouse facilities in Sandwich had long outlived their usefulness and if new ones were to be built it was felt they should be built where most of the lawyers did business, in downtown Windsor.

In September 1953, Leon McPherson proposed that both the City and the County notify Attorney General Porter of their concerns. By so doing, the Association would make their problem a local problem and enlist civic politicians to the cause of adequate court facilities.<sup>113</sup> In 1957 the pressure was firmly applied when a brief from the Association revealed that, with the exception of York County, there was more criminal law work in Essex than in all other counties in Ontario. As the *Star* reported:

These startling facts were revealed by the Essex Law Association in a seven page brief presented to a joint subcommittee of city and county councils which has been set up to study the necessity of building a new courthouse.<sup>114</sup>

Benjamin Yuffy, the Association's President, conceded that the high crime rate was nothing to be proud of, but the necessity of dealing with it was apparent and he warned, "Delay in construction can only result in ultimate higher costs to be shouldered by later generations." Encouraging

local municipalities to construct the new courthouse would not be an easy process. Helen McTague, the Association's first female President in 1958 reported that a downtown Windsor site seemed a probability. County practitioners did not object to a Windsor location so long as the courthouse and registry office were together. Land transactions required clear certificates from the sheriff and his offices were usually adjacent to the courthouse. The annual meeting of 1958 noted in a machiavellian aside that:

The profession is open to the attack of acting in its own self-interest and would be in a much better position if the City of Windsor could take the initiative and we remain alert for the best opportunity for effective support.<sup>115</sup>

David McWilliams emerged as the individual to advance the Association's position and in the end result; he devoted many hours to the courthouse move. By the spring of 1959 the County was wavering in its support of a Windsor site, and the City's plans to annex surrounding towns had further muddled the issue. But by applying enormous reserves of patience, McWilliams would over the next few years see a new centralized courthouse and registry office in Windsor.

For most practitioners, whether there was a courthouse in Sandwich or Windsor was not the issue. The great difficulty was the lack of clients. During the 1950s, "real estate was the backbone of the profession" and many if not most practicing lawyers relied upon title searching, and real estate closings as a basis for their incomes.<sup>116</sup> Clifford Sutts had joined Archie Gignac in a modest office in the Canada Building in 1957 where they handled real estate files in Windsor and the County. In the depressed conditions in Windsor during the 1950s this was an uncertain base. In 1959, Helen McTague reported that there were 153 active members of the Association, a figure that had not grown significantly since the forties.

In 1963 a newly called to the bar Leon Paroian was talking to a colleague, Gabe Courey about their future prospects. "We looked around and we thought that Windsor was the place to be...



Windsor had gone through an economic doldrums, but we had done a little bit of an economic study..” What they found was that while in places such as London there was a ratio of about one lawyer for every 1,000 persons, in Windsor that ratio was about 1 to 2,500. Lawyers had been leaving or retiring and were not being replaced.<sup>117</sup> Windsor seemed to be a place of opportunity and they determined to seize it.

## THE SIXTIES: OUT OF SANDWICH

In February 1963, the elite of Ontario’s legal community came to Windsor for the mid-winter meeting of the Ontario branch of the Canadian Bar Association. In addition to a series of socials and tea parties there were a few conferences that reflected growing concerns over civil rights. Austin Cooper and Peter Cory sat on one panel that considered the rights of a person taken into police custody. They noted that there was very little protection and no sanction to inhibit the conduct of the police. Interestingly enough, the Toronto head of the Ontario branch of the C.B.A. warned that while the Cleary Auditorium was fine, that there did not exist adequate hotel facilities. Delegates were scattered among a number of small downtown hotels. He warned that if Windsor hoped to host future events it would have to improve the facilities it offered to the delegates.<sup>118</sup>

None of the delegates would have a chance to see the new courthouse, for the process of moving the court facilities from Sandwich was painfully slow. In 1954, a grand jury had reported that the county courthouse was, “extremely overcrowded, poorly ventilated and very noisy.” Remodeling was not practical and a new facility was required. In 1956, the province agreed to fund a new courthouse.<sup>119</sup> Despite this resolve, it was not until March 1962 that David McWilliams could unveil to the Association executive the plans for the new courthouse. In these draft plans, the registry and sheriff’s office, two of the most traveled parts of the structure, would be on the proposed third floor. It did not seem to make much sense and in

any case the third floor idea was shelved.<sup>120</sup> But the project was now well underway and by the summer of 1963 the new building was reaching completion. In June, McWilliams reported that the Association’s furniture could be re-located to the new barrister’s lounge, but that the Architect warned that it “would look a little antiquated in the new premises.” Undismayed, funds were allocated to at least refurbish the existing furniture and hopefully a fresh coat of varnish would compensate for its vintage appearance. New carpeting was purchased and the library’s books were given a dusting. On November 30, 1963 the new courthouse, described in the *Star* as a “\$1,000,000 monument to the community”, was opened to the public.

By the spring of 1964, McWilliams could reflect on the big move and he noted that negotiations had been ongoing between the province, the city and the county since 1958 to move the court facilities and build an adequate structure and that “developments have come only with considerable difficulty at each step.”<sup>121</sup> Even so, the registry office itself remained in Sandwich. As late as 1974, Dalton Charters (who had taken over from McWilliams) was reporting that the Ontario government was considering a third floor to the Essex County courthouse. He also reported that the Registry Office might be relocated to the Steinberg’s store but, “The question was presently in the hands of civil servants in Toronto and we could do nothing until we heard further from them.”<sup>122</sup>

There were other changes afoot. In September 1963, William McKay Wright stepped down after 41 years as librarian and was replaced by a full-time librarian, Murdena MacDonald. To a very limited extent, the Association was part of the radical changes of the 1960s. Of course, the day-to-day efforts of most lawyers were focused on making a living out of the law and the Association kept up its usual round of annual golf tournament, dinner dance and reception for visiting judges. But occasionally, the Association stepped out of its staid role and made itself heard.

In 1964 the provincial government decided that organized crime was spreading and presented



a danger to the province. They introduced a bill that significantly reduced an accused's rights in the event they were accused of being part of a criminal syndicate. This bill became a source of concern at the Association Executive meeting in March 1964. Pat Furlong, seconded by Reg Burnell moved that the Association was strongly opposed to "the enacting of any legislation that might or could be construed as infringing upon any right or liberties of any citizen existing to date by virtue of the common or statutory law."<sup>123</sup> In the context of the times the Association's position was in tune with popular sentiment for there was opposition to any movement to restrict liberties. The bill was quietly shelved.

The social aspect of the Association was also taking a different turn. In 1960 the usual dinner/dance was planned for Essex Golf Club. There was an even more informal but regular meeting of lawyers downtown in the King Edward Hotel where a corner table in the basement restaurant became a common table. There they could exchange news and gossip and even exchange ideas on troublesome issues. In addition to socializing, a young group of male lawyers asked the Association executive if it would help cover the costs of a lawyer's hockey team. A heated discussion ensued and Pat Furlong, for one, thought that it was "outside of the legitimate aims of the Essex Law Association" to be sponsoring hockey. However, most executive members (including Helen Carefoot) supported it.<sup>124</sup>

In due course, the lawyer's hockey team would have both home and away jerseys with a scales of justice insignia on the left shoulder. There were many pickup games with insurance adjusters and bankers and as Gord Nisbet recalled on occasion "with teams from the Industrial League. These were by and large U.A.W. outfits who regarded themselves as pretty tough & tended to look down on the lawyers as a bunch of softies. We might not have been the best... but we were smart and we had some *talent* among our numbers including Jim Bartlet, Tom Zuber, Gus and Bill MacMillan, and Owen Spettigue."<sup>125</sup> Al From, a former pro lacrosse player, was a rock on defence. Perhaps the standout was a former Red Wing prospect Tony Cusinato whose slap shot was so hard there

had to be a "Cusinato Rule" to limit when he could use it. Usually encouraging the team from behind the bench and puffing on a huge green cigar was Morris Kamin. The end of season parties for the hockey squad were rarely sedate affairs, ending on at least one occasion with a wager about whether one individual could manage a walk along the dining table without spilling any drinks. He could not, and the resulting chaos led to the permanent banishment of the lawyer's hockey team from that bar and grill.

Practice in the county was more relaxed than that in the city. Property closings could be done by courier of documents in lieu of face-to-face meetings and cheques were not required to be certified. There were several fine real estate lawyers including Edgar Dyck of Leamington and Harold Wilson. The South Essex Bar Association would meet for golf in the summer and the running joke was that whoever failed to pay the \$10 fee was automatically deemed to be President.

The Sixties were also remarkable for a certain irreverence that had crept into the usually staid proceedings of the Association. In the preceding decades the members had been conscious of their social rank and other than reciting the "McSorley Twins" at the annual dinner they were as conventional as possible. Now, the monthly newsletter, the "Caveat" contained, in addition to changes to the Rules of Practice and notices of upcoming lectures, an occasional column on handwriting analysis by one "Thelma Partridge" in which she provided searing Freudian commentary on the inner lives of selected senior practitioners, gleaned only from their autograph. One example of her handwriting analysis is as follows:

The subject's pronounced symbolic projection in his signature is a diabolic darting deliberate ARROW... all of which symbolizes the subject's sado masochistic ravaging drive and force... The arrow is a proclamation of impending violence, domination, tyranny and devastation of the unwary, the weak, and the susceptible.<sup>126</sup>



Paroian's and Courey's earlier optimism in Windsor's future was vindicated by later events. The Auto-Pact revived the automobile industry in Windsor. General Motors announced a major transmission factory. Employment and hope returned to the community and this gave a huge boost to local firms. Paroian recalled that by 1965, "Houses started to increase in value... people were building apartments, they were growing them like carrots, you couldn't stop working, you almost had to fight to get off on Christmas Day." At Gignac Sutts, they had reached a state in 1963 where they could afford to take on Lloyd Henriksen to handle real estate and free up Cliff Sutts to concentrate on his expanding number of commercial clients. Soon after that they hired Carl Zalev, who had been studying and then practicing law in England, to handle litigation. Within a short space of time the firm had doubled and lawyers had moved on to specialized areas.

There were two other movements at work in the 1960s that might have been considered radical in previous decades. The first was to introduce a provincial legal aid system. No longer would clients of limited means have to depend on a lawyer's good will or go without a lawyer at all. In the fall of 1964 a major criminal trial was looming, one which threatened to last all of four weeks. Col. Charles Sale who was then the Director of the "Essex County Legal Aid Plan" advised that he could not find any member of the Association who "was prepared to offer his services free of charge for such an extended period of time."<sup>127</sup> Three years later a provincially funded legal aid system was getting started under the guidance of Audrey Rosenthal. She briefed lawyers on how they could be funded from the program and in due course, Charles Sale applauded her for her efforts for thanks to her "Essex County has the best run legal aid system in the Province."<sup>128</sup>

Another major figure in helping refine the legal aid program, not only in Windsor but across the province, was Bob Barnes. Described by a colleague as a "tenacious litigator" Barnes would devote himself to the advancement of legal aid and be awarded the Law Society Medal for his services.

The other significant change was the creation of the Windsor Law School. In 1965, the University of Windsor President, Dr. J.F. Leddy notified the Association of the possibility of a new law school and requested the help of local practitioners. Already, the Association had a thriving continuing legal education committee. That year Arthur Barat instructed on the new legislation covering chattel mortgages and conditional sales. Shortly thereafter he would become one of the first instructors at the new Law School where for decades he would lecture on real property and future interests.

## CIVIL CHANGES:

---

For the most part, the profession welcomed the new Law School. Books were contributed to their library and the staff was encouraged to join the Association. Prof. Ron Ianni was a particularly welcome addition to the Association executive for he took an enthusiastic approach towards legal education in the community. In 1973 he became chairman of the "Law Forum Committee" that held sessions on legal developments for the general public. It was his suggestion that the Association assist High School teachers in preparing courses on Canadian law.

Already in 1971 the Association and the Windsor Star had sponsored the first "The Law and You" forum which attracted almost 900 persons to the Cleary Auditorium. A four-lawyer panel handled a number of questions, most of them related to personal disputes. One man related how he had taken his car back to the dealer to be repaired only to discover seven months later that the car was no longer on the lot. "I think the dealer stole your car" panelist David McWilliams dryly observed.<sup>129</sup> By the end of the evening, many persons had the opportunity to vent their frustrations but it was questionable how many were enlightened about the legal system.

When it came to instructing the public, the Association drew the line when there appeared to be encroachments on professional work. A suggestion in 1974 that the Law School establish



a legal clinic to be staffed by students drew resolutions of concern from the Association.<sup>130</sup> Four years earlier, the association had censured the local real estate board for referring clients to notaries as if they were competent to handle real estate transactions. Reg Burnell was assigned to send a strongly worded letter to the real estate board that they not refer anyone to a person who was not "a duly qualified solicitor."<sup>131</sup>

It appeared a sign of the times that one of the main concerns of the Association through the 1970s was overcrowding at the Registry office. Lawyers and title searchers were spilling out into the hallways and there were so many requests for tax certificates that the City's Finance Department could barely cope. In November 1971, the Caveat reported that the registry office was being so intensively used that there were requests that it remain open for one or two evenings a week.<sup>132</sup> The request was denied. All this made closing real estate files difficult, but they were also a measure of good times and a healthy market for real estate and lawyers. During the 1970s, the old R.O. in Sandwich was a crowded but vital place. The title searchers and lawyers all knew each other and there was a sense of community.

For a select few lawyers, commercial practice was strong and seemed to be getting stronger. Charles Clark had taken over many of the clients that Charles McTague had represented in the 1920s and 30s before his elevation to the Supreme Court and eventually the Court of Appeal. Clark, in a quiet and understated way would have a huge influence on Windsor and be a ready counsel to many of the area's major businesses. Harvey Strosberg would remember him as a man who "gave very sound commercial advice, he was a very kind person who got along with virtually everyone."<sup>133</sup> Not only was Charles Clark a consummate commercial lawyer, he integrated his client's labour and employment needs into his services and this also became a major part of his firm's practice.

Also practicing at McTague's was John "Buck" Holland, a Navy veteran who ran a large insurance practice. He explained to his juniors that the object of a good practice was to make a fair settlement, "not the highest amount, not the lowest amount,

but that you made money by settling cases, and that you had to be fair with people."<sup>134</sup> Even with the presence of several competent commercial lawyers, Windsor was never a "head-office" city and legal services would be restricted to the smaller, local companies. The major auto plants would continue to seek their main counsel in Toronto.

Legal practice could be a great opportunity and with an expanding file load and relatively few lawyers to share it, times were good. By the early 1970s, Harvey Strosberg was "working as hard as you could work" at McTague's when Carl Zalev's appointment to the bench made an opening with the Gignac, Sutts Nosanchuk and Zalev firm. Strosberg was offered a partnership. This was a very attractive proposition, but he did not have the means to buy in. It is a measure of the availability of business at the time that he was granted a partnership for nothing and thereafter: "I tried more cases than anybody could believe."

One threat to this otherwise rosy picture came from organized labour. Since at least the 1940s, Windsor had been a union city and many workplaces, most of them industrial, had been organized. In September 1974 there was a new and unwelcome development to many when the two secretaries at the Weingarten Hawrish firm joined the Office and Professional Employees International local and began to picket the front of the Canada Building where the firm had its office. It was the first law firm strike in Ontario, if not in Canada and it drew the worried attention of the profession. The firm issued a press statement that, "the nature and size of our business operation does not make a union shop practicable or beneficial to all those concerned."<sup>135</sup> In the meantime, the lawyers' wives filled in on secretarial duties. The strike quickly petered out and since then no further attempts were made to unionize the support staff at any Windsor or Essex County firms.

One of the dramatic changes to the face of Windsor was the post-war immigration. Many immigrants came from southern and eastern Europe, and one of the most cohesive and dynamic groups was Windsor's new Italian community. Back in the 1920s, Clarence Ferrari had been the first Italian-Canadian to practice law in the community. Born



in Windsor in 1899, Ferrari was active in the Knights of Columbus, sat on the Separate School Board and belonged to "The Border Cities Italian Club." By the 1960s, the Italians in Windsor had become a much larger community and several of them, notably Armando DeLuca, Alfredo Gatti and Frank Montello had emerged as leading counsel. But they did not forget their roots. Roland Baldassi helped run talks at St. Angela Merici Church helping newcomers learn about the way things were done in Windsor.

One son of a construction family, Frank Fazio thought that he would try his hand at law and he applied and was accepted at the newly inaugurated law school. The first classes were held in the very unacademic old Driver's Examination building on University Avenue. Of all the professors he recalled Tom Zuber who, while not an academic, spent considerable time explaining to the students how a law school functioned, what expectations were to be put on them and how to study and analyze cases.

Once in practice, the relationship between lawyer and client in the Italian community seemed to differ from the norm. Often, there was a close bond, that the client saw his lawyer as a confidant and would seek his opinions on family or work matters that had little to do with the law. The lawyer would be a respected figure who understood the labyrinth of Canadian society and how to survive in it.<sup>136</sup>

In these good times, the Association kept up its modest social schedule. The golf day and the annual dinner dance were usually well attended. When John Deziel tried an evening Detroit River outing in 1974 the turnout was modest. Still, the county bar in the 1970s was not large and Deziel recalled, "there was good camaraderie in those days... everyone knew one another." It was another sign of the times that John Deziel had to advise the younger lawyers that the year's dinner dance did not require black tie. Standards were slipping. On occasion, it had been a problem to get lawyers to support social functions. Perhaps the confrontational nature of law practice did not lend itself to suddenly setting smoldering resentments aside and meeting colleagues in a relaxed atmosphere. When provincial attorney general Ian Scott (who had recently abolished

the honorific of "Queen's Counsel") was asked to address the Association it was difficult, even with the addition of spouses, to get a suitable crowd.

Murdena MacDonald, the librarian through the 1970s had overseen the continued accumulation of reports and texts in what remained a vital source of information for lawyers and judges. Few firms could approach the resources available in the law library for research. In 1980, Anne Matthewman took over as librarian and kept the shelves stocked with the latest texts. Queen's Park was rapidly changing many areas of the law and publishers were more than eager to supply texts to educate legal professionals. The library's books were so heavily used by the 1980s that a special section of reserved books had to be created to insure that selected heavily used texts were readily available. In 1979, one ominous new development appeared. The Law School was displaying a computerized legal research system and "One major objective of the project is to familiarize the practicing bar with the potential and the limitations of this kind of research."<sup>137</sup>

In December 1979, the Association President, Arthur Weingarden mused on the continuing relevance of the organization:

Nevertheless, other than the maintenance of a library, the occasional social function and the occasional educational program, the association has perceived its function as one in which it remains relatively inactive until such time as action is required by its membership (we) do not carry on a broad scope of functions which normally involve lawyers.<sup>138</sup>

Within a few years, the Association would become more active and more involved with its members than it had ever been in its past.

There were legislative changes through the late 1970s and early 1980s that would radically impact on how many lawyers practiced. *The Family Law Reform Act* of 1978 would alter the way in which family assets were divided upon the dissolution of a marriage. It was a growing area and to be



fully informed on the latest developments the Association sponsored a number of seminars. One in the Fall of 1978 featured lectures from Bob Barnes and Al Houston as well as from Prof. Edward Veitch on the implications of the new family law. A poll of Association members found that these information sessions should be one of the executive's main goals, "Sports and social events assumed some importance from our members, but seminars and educational programs seemed to be what they wanted."<sup>139</sup>

Almost since the invention of the automobile, the legal profession had made money from the results of car accidents. Some assizes in the 1930s seemed to deal with little else. Going into the 1980s, many lawyers had depended upon resolving the consequences of motor vehicle accidents as a source of income. Even those lawyers who looked upon it as a sideline viewed motor vehicle accident claims as an easy source of billings for usually the issues could be solved by a series of exchanges with insurance adjusters. The parameters for settlement were usually well known to all concerned so it was not difficult to resolve without the drain of court proceedings.

Then came No-Fault. By the 1980s it was argued (by insurance companies) that insurance premiums were soaring. This made insurance coverage too expensive and even caused insurers to withdraw some kinds of coverage. On 15 September 1989 Ontario introduced a system whereby insureds would be generally immune from suit and instead would be indemnified for losses by their own insurance company regardless of fault in how the accident occurred. This substantially reduced tort recovery for smaller claims and only permitted tort recovery in fatality or other "threshold cases."<sup>140</sup> In November 1989, the Canadian Bar Association Insurance Committee circulated a memo to the Association decrying this legislation that "takes away fundamental rights of justice from innocent motor vehicle accident victims."<sup>141</sup> But the Province was determined to proceed.

The Ontario Motorist Protection Plan had a devastating effect on many practices. Many lawyers had specialized in motor vehicle legislation and the very basis of their practice was

at an end. Others found that a few motor vehicle files were the difference between a profitable and an unprofitable year. Lawyers in this predicament had to be flexible and many moved into family law or "took up a life of crime" and developed a criminal law practice. For these professionals, it meant not only becoming thoroughly familiar with a new branch of the law but developing a clientele and contacts in that area.

Then to make matters worse, there emerged another source of competition from an unexpected source. In 1984, the United Auto Workers negotiated a benefit to provide its members with basic legal services such as wills and real estate deals at no charge. Members and their families would qualify for reduced rates on more complicated legal matters. Under the direction of Joe Comartin, a legal clinic was established to provide these services to U.A.W. members. Those members who wanted to use their usual lawyer were warned that they might not be reimbursed beyond a fixed union tariff and they were urged to use a staff lawyer from the U.A.W. clinic instead. This appeared to violate an understanding between the Union and the Law Society that members were still free to choose their own lawyer. The Association was quick to react.

In November 1985 the *Caveat* featured a prominent notice for a meeting to discuss the implications of the U.A.W. clinic. Richard Gates took the lead on the issue and warned members that participation in this plan could conflict with the rules of professional conduct. It seemed to be a crucial question. Were these plans to usurp the rights of a lawyer to advise a client without having to respond to a third party labour organization?

That November the Association initiated a lawsuit against the U.A.W.<sup>142</sup> As it was questionable whether the Association could sue, Derek Revait became the plaintiff. For once; the actions of the Essex Law Association were front-page news. Headlines in the *Star* proclaimed: "Law Group suing over UAW plan".<sup>143</sup> According to the newspaper, lawyers were "worried the \$60-an-hour rate set by the UAW plan will drive legal prices down." Other law associations began to send money to cover the costs of the litigation. A



U.A.W. representative pointed out that, "We're not expecting every lawyer in Canada to join our pool. They're free to accept it or not."<sup>144</sup> The controversy sputtered on for some time but soon lost its initial urgency. In 1987 the lawsuit was quietly settled and Richard Gates reported that the Association had preserved "the traditional freedom of choice of the client" and as well had acknowledged that the U.A.W. clinic was "a new era in the delivery of legal services."<sup>145</sup>

Family law reform, No-fault insurance, and the growth of pre-paid clinics were all new challenges that had to be addressed by the profession. But there were even greater social changes happening within the legal community.



*Women Lawyers 1953*

*l to r: Helen McTague, Harriet Clark, Lovedy Campeau*

In 1979, the entire executive of the Essex Law Association was male. In 1969 as the chart below indicates, of the 143 practitioners in Windsor (a number that had not changed significantly in decades) there were three females, the ageless Lovedy Campeau, Helen McTague and Helen Carefoot.

Year	Practitioners	Women	Women as a Percentage of the Bar
1969	143	3	2%
1983	290	22	7.6%
1996	245	49	20%
2006	392	114	29% <sup>146</sup>

However, within a short period of time there would be a huge influx of women into the profession. Their way was not always easy. Women law

graduates would have difficulty finding articling positions and once called to the bar they would frequently be confronted with questions on why they wanted to be lawyers when in due course they would be fully occupied with raising a family. "How do you manage with a family?" would be a politically incorrect but frequently asked question in the 1970s. Firms would balk at hiring married women as articling students due to the fear of what could happen when they were sent on trips with male staff. No major firms would take on female lawyers and it was apparent that they would have to rely on sole practices to survive. Nevertheless, the law schools were producing an increasing volume of female graduates and many of them were beginning to make a mark in the law.

In a condescending but probably well-intended gesture, the Association had provided for a position of "Lady Director" on the executive. After 1980 that was no longer necessary as many women began to advance quite on their own. By 1985 the antiquated position of Lady Director had been abolished and three women, Anita Berecz, Mary Fox and Chris O'Rourke were serving on the executive in various capacities.

When women went into law they were no longer staying in the office. Many women were becoming prominent in the criminal bar including Lisa Carnelos, Elizabeth Papp, Laura Joy and Elizabeth Craig. As well, there were a number of exceptional civil litigators including Shirley Linton, Gabriella Bonn and Mary Fox. By 1989, Fox had an active law practice in family and litigation and had recently become President of the Association. In addition to raising two children, she would also be heavily involved in the court reforms of the late 1980s.

The re-organization of the Ontario courts on a regional basis had been a result of the Zuber Report of 1987 to completely restructure Ontario's court system to join the County Courts with the Supreme Court. In May 1989, the Province introduced a plan to unify all trial courts in Ontario into a single trial court. It was the first major overhaul of the court system since 1881.

As President of the Association for that year, Mary Fox would work with the Southwestern sub



committee including Larry Morin, George King and Harvey Strosberg to implement these changes to create our modern system of civil litigation. As well, she would be involved in the introduction of case flow management to try and speed up the glacial pace of civil litigation. It was not uncommon by the late 1980s for a civil case to take up to two years to come to trial. It was little use trying to explain to exasperated clients that the system did not work. It was in the Association's best interest to develop a case management system to try and speed up the process. Pilot case flow projects would be implemented in Windsor, Toronto and Sault Ste. Marie to try and set deadlines for litigation to move along at a steady, predictable rate.

To some extent, there has always existed a measure of friction between the local profession and the governing body in Toronto. This friction emerged in the early 1970s when it was announced that the Benchers intended on using "agents provocateurs" to investigate lawyers' practices. The Association responded indignantly "To be subjected to a "spy" system seems to be a serious reflection on the integrity of the profession."<sup>147</sup> By the early 1980s there had arisen a far more profound feeling that lawyers needed better representation than the Law Society could offer.

The Presidents of the County and District Law Associations were now meeting on a regular basis and this informal group had emerged as a powerful rival to the Law Society. They had become, in the words of Al Houston, the Association President for 1984, "a very special organization which probably is the only Ontario association that in fact represents the rank and file."<sup>148</sup> The Presidents group was agitating for an adjustment in the legal aid tariff as well as growing concerns that the law schools were producing too many lawyers. While the Law Society seemed only interested in addressing concerns from Queen's Park or disciplining lawyers, the Presidents group was acting on behalf of the profession. As for the Essex Law Association itself, there seemed to be a "steady shift toward a service-oriented association with regular continuing education seminars... a well managed library... We have not abandoned the odd social fling"<sup>149</sup> but the latter were definitely on the wane.

By the following year, 1985, the new Association President, Hugh Geddes was even more emphatic that the County and District Association "was providing the bulk of the protection for the profession from the public while the Law Society protects the public from us." This spurred a response from local benchers Pat Furlong that the Law Society was still relevant. It levied discipline but only when it had to and by doing so it preserved the integrity of the profession. Its critics failed to give it credit for the ongoing continual legal education program as well as the "errors and omissions plan" that was "studied and copied in other jurisdictions."<sup>150</sup>

## CRIMINAL CHANGES:

The December 1971 daylight robbery of \$1.2 million from the downtown Royal Bank of Canada was one of the largest and best planned robberies in Canadian history. Eventually, five persons stood trial in late 1972 before now Judge Bruce Macdonald. Macdonald could be forthright in his comments and he advised jurors that one of the accused, Donald Derosie, had an unusual appearance "I think quite frankly that Derosie looks something like our Prime Minister, Mr. Trudeau."<sup>151</sup> Most were defended by Toronto or Montreal counsel but Larry Morin represented Edna Lefebvre. He stressed that reliable witnesses placed her in Toronto at the time of the robbery and as for the \$11,000 found in her apartment, she had not tried to hide it "as she would had she known it was stolen." The jury did not accept this and Lefebvre was convicted of possession of stolen goods. The principal bank robbers, Derosie and Danson were convicted and given twenty years. In an unusual move, Macdonald recommended that they be ineligible for parole until all the monies were returned, "It must be made certain the accused will not have an opportunity to enjoy the fruits of this robbery."<sup>152</sup> On appeal, his sentence was upheld.

The Royal Bank robbery trial, one of the most significant in Windsor's history, had taken eight weeks and heard from 120 witnesses.



Two years later, Windsor was the site to another equally innovative if somewhat less well-publicized attempt at change. Frank Montello, the son of an Italian immigrant, was defending a hair salon owner who was accused of the attempted rape of one of his employees. Montello had resisted his mother's urgings to become a priest as well as his father's preference that he take over the family restaurant. He wanted neither and explained, "I took the easy route out. At that time, if you had \$400 and weren't convicted of anything, you could go to law school."<sup>153</sup> He returned to Windsor and opened a successful criminal defence practice where he soon found himself facing off against the then assistant Crown Attorney Ray Houlahan. Houlahan, unlike many lawyers, enjoyed the prosecutorial side of law and never sought to switch to defence work. In September 1974, Houlahan and Montello found themselves in chambers with Justice Edson Haines discussing the charge of attempted rape. Montello considered Haines "very pro-Crown" and instead of trying the case was anxious to get a plea bargain. After an agreed statement on facts, Haines issued a ruling in which he expressed his outrage at an employer taking sexual advantage of a vulnerable female employee. Nevertheless, he found that as "Imprisonment would be of no assistance to the accused" he suspended sentence and instead ordered the accused to pay the victim \$1,000 forthwith.<sup>154</sup> It was a radical idea that restitution between parties was an acceptable way to resolve a criminal charge. It was a concept ahead of its time, probably too far ahead for subsequent court decisions have been reluctant to apply it.

A tsunami of change was headed to the criminal bar when the *Canadian Charter of Rights and Freedoms* came into effect in April 1982. One of the first cases to deal with the impact of the Charter, particularly on its effect on police power, came from Windsor in the *Duguay, Murphy and Seigny* case. In June of 1982, barely a few weeks after the Charter had come into effect, a Windsor couple had returned to their house to find it had been broken into and ransacked. Two Windsor detectives located three suspects and hauled them into the backseat of a cruiser where one of the officers asked, "You guys save me a trip back and tell me where the stereo is."

The young men confessed and led police to the stolen property.

Their subsequent conviction was overturned by the Court of Appeal as being a violation of the Charter. The police conduct was harshly condemned as indicating "a somewhat incipient Star Chamber attitude." One judge dissented. Thomas Zuber, former Windsor lawyer and hockey player, now a Justice on the Court of Appeal, went through the evidence and noted that the guilt of the accused was manifest. He observed, "a person untutored in the law but believing the primary purpose of the criminal law is the protection of the public would find the result in this case difficult to understand." As for the homeowner, he had co-operated with the police and was willing to testify at trial. Justice Zuber concluded, "However his recourse to the law yielded him nothing. He, no doubt, has some interesting impressions as to the course of these proceedings."<sup>155</sup>

Zuber's restrained approach towards applying the Charter would find little favour and the following years would witness an explosion of Charter litigation. Criminal cases would frequently focus on Charter issues in lieu of the facts to dispose of cases. Charter motions, particularly on the effect of delay after the *Askov* decision or the manner in which evidence was obtained, would be regular features of the criminal courts.

This was a growing field and Windsor Law School provided a number of practitioners who taught the coming generation of defence counsel. For years, Saul Nosanchuk would teach the criminal procedure course. Many recall his gangly frame draped precariously over a podium as he went through the mechanics of procedure and answered questions by reaching into his encyclopedic knowledge of the field. Eugene Ewaschuk, a former Crown and a member of the full time teaching staff also mentored a number of new lawyers including Pat Ducharme and Guy Cottrell. The latter was a brilliant but fiery individual whose glass eye (the result of a college hockey accident) seemed to have a mind all its own. Cottrell was a fierce advocate whose combativeness did not always stop in the courtroom. On one occasion, he was reputed to have hurled a chair



through an office window and on another to have sent pizza wagons to the house of judge who had annoyed him. In order to distract a jury during important portions of the Crown's evidence he was reputed to have removed and polished his glass eye.

By the recession of the early 1980s, many young lawyers were eager to do a little bit of criminal law just to get out some billings. These lawyers became, in Don Tait's words "Ten Percenters" to reflect the amount of their practice devoted to criminal law. Tait was a Hundred Percenter, one of the most formidable defence lawyers in the country. He had come to national attention in 1995 when in a case of sexual assault against a hockey player; Tait had revealed the complainant's name. He argued that it was unfair for the accuser to enjoy anonymity while the accusations against his client were all over the media.<sup>156</sup> Tait also fought a continual battle against alcoholism that came to a head with his sudden disappearance in January 2000. The Windsor Star developed an ongoing obsession with his affairs and when "Windsor's most celebrated criminal lawyer and as such its most notorious runaway" was discovered in Costa Rica, it resulted in banner headlines.<sup>157</sup> Lost in the glare of this publicity was the fact that not only was Don Tait an effective counsel but for many years he had been a generous mentor and guide to younger lawyers trying to establish themselves at the criminal bar.

On occasion, the Association's bulletin *Caveat* could be a forum for a discussion about the radical changes affecting criminal law. In 2004, Crown Attorney, Brian Manarin used it as the sounding board about the state of criminal justice. He discussed the *Saameh* case in which a cab driver went on a rampage, ran down a babysitter and three children and then smashed into a police cruiser. By discharging his counsel on the eve of trial *Saameh* managed to create a 22-month delay between the offence and the trial date. Manarin was convinced that the delay eroded the quality of the prosecution's evidence and he used the pages of *Caveat* to argue that the justice system had failed to properly deal with abhorrent behaviour. In this case, he "had to spend countless hours explaining why the process was accused-centric...

never assume that justice will in fact be found in the halls of justice."<sup>158</sup>

## TOWARDS THE ELECTRONIC OFFICE:

---

Change did not always come easily. The Case Flow Management program was implemented in September 1990 and one of the architects of the program, Mary Fox observed that, "Lawyers are expected to proceed when their cases are called" and adjournments would no longer be routine for "the judicial directive is to clear the backlog and to move the cases."<sup>159</sup> Ray Colautti produced intricate case flow charts that made NASA computer systems seem elementary by comparison. Among the rank and file there were rumblings about this new system. To many the process seemed to add a new and unnecessary level of complexity. Furthermore, the time restraints seemed to be artificial and inflexible.

On April 3, 1990 the Association held a contentious meeting in Courtroom Number 2 to discuss whether or not case flow management would continue. There was enough discontent for a majority of the members to vote to dismantle and discontinue case flow "as soon as practicable." Yet the system had its defenders. Peter Hrastovec commented in his "Notes from the Middleground" column that it was supposed to be given a two year try and not be thrown aside after six months. Brian D'Hondt, the Association's President for 1991, pointed out that the Province had no intention of abandoning the experiment and like it or not, Essex County would continue to have case flow. One of the problems with implementation was that there was never the commitment from the Province of computers and staff to make it viable. There was no point in establishing time limits for discoveries and pre-trial motions if there was insufficient judicial staff to hear trials in a timely manner. It became a matter of "hurry up and wait" and the profession's impatience was understandable.

For better or worse, the days of apathy in the Essex Law Association were over. The summer golf day



in 1991 brought out a record crowd (top golfer Sante Salvador) and the talk was of the crisis's of the recent past, the furor over the C.A.W.-U.A.W. pre-paid plan, the re-organization of the courts and the impact of case flow "It all seemed put aside for a day of golf" Peter Hrastovec observed, "as an Association we should always draw together regardless of the circumstances."<sup>160</sup>

One thing most lawyers could agree on was that Toronto was the source of all difficulties. This might not have necessarily been the case in Essex, for it was one of the few counties that sent two benchers, Pat Furlong and Harvey Strosberg to Toronto. The one boast of the Law Society was that it offered its members a reliable malpractice insurance plan. However, in 1994 when it appeared that the E. & O. plan was in dire trouble the Law Society came in for even more criticism.

By the early 1990s the Association as well as the rest of the Law Society was consumed by the errors and omissions, the "E & O" crisis. In order to compensate for the millions of dollars that the profession found itself owing to insurance companies premiums had been drastically raised. An editorial in the *Caveat* warned:

This isn't about the old boy's network or turning a blind eye to a few excesses of the past. This is about integrity... This is about restoring integrity to a profession teetering on the edge of an abyss.<sup>161</sup>

A special Law Society task force on the problem was headed by Windsor's Harvey Strosberg. At a meeting of Convocation in October 1994, Strosberg went through the figures. While in the late 1980s the insurance program had been in a surplus by 1992 it had accumulated a deficit of \$23 million. In fact, this figure was substantially understated and Strosberg calculated that the deficit stood closer to \$154 million. He then proceeded to lay out a plan that provided for a series of supplementary insurance levies that would build up capital reserves and new manner of levying premiums against lawyers who had been the subject of successful claims. Painful as they were, these reforms cleaned up the insurance mess.<sup>162</sup>

By the 1990s, the face of Windsor was changing. By 1992, the provincial government was willing to loosen restraints on public gaming and Windsor's Mayor Mike Hurst seized the opportunity by offering to open a casino in the downtown. Not only would this project provide needed employment diversification, it offered prospects for downtown revitalization. Trouble arose when the site selected for the permanent casino included the Ferry Seed Building, a heritage structure built by Alfred Kahn. The owners hired Leon Paroian to resist expropriation. Paroian had already built up a reputation as a crusader for standing up to the federal government in a dispute over a farmer's rights next to the Chatham airport and for the inquest into the killing of Bernard Bastein by an O.P.P. tactical squad. Yet, on this occasion he was unsuccessful and the Court of Appeal upheld the taking of his client's lands. A major business came to the downtown albeit at the loss of heritage structures.<sup>163</sup> At one point during the controversy, Paroian was caricatured in the *Star* as "Leonzilla" a behemoth crushing those who opposed him. When he complained to his wife Sandra that the cartoon hinted at his graying hair, she responded that he should be grateful the artist credited him with more hair than he had. Leon Paroian was remembered as "a blustering, fearless advocate, who was a brilliant tactician and a masterful manipulator of fact and evidence."<sup>164</sup> It seemed that at one time or another almost all the young lawyers of Windsor had either articulated or been a junior lawyer at Paroian Courey Cohen and Houston.

In the summer of 1997 Windsor's Harvey Strosberg became Treasurer of the Law Society, the first Jewish lawyer to hold that position. One of the issues that came to his attention was a proposal to merge the Law Society with CDLPA. It was not a welcome proposition to many as even the Association's President, John Clark noted that the Law Society exists "in the public interest" but CDLPA "exists for lawyers."<sup>165</sup>

In the last decade of the 20<sup>th</sup> Century, the library remained the heart of the Association. But by 1988 the cost of buying texts and keeping up with the reporting services had become an unconscionable burden. The total cost was about \$50,000 a year



and the Association no longer had the funds. The acquisition costs for the library exhausted the existing resources and in November 1988 the Treasurer, Brian D'Hondt noted simply, "We are now out of money."<sup>166</sup> Fees would have to be increased and the library collection would have to be slashed. All non-essential journals and reports were discontinued. Paper had simply become too expensive.

After the crises of the eighties, the 1990s seemed positively sedate. One of the pressing topics of conversation at executive meetings was the determination of the location for the fine bust of Judge P.I.B. Staniszewski. However, profound changes were imminent.



*Land Registry Office celebrates 200 years in costume 1995  
l to r: Lucinda Morris, Rob Barichello, Jennifer Innocente*

For more than a century, the land registry office had been the destination for land transactions and a social centre for those lawyers who did not do litigation. Deals would be closed, lawyers or their staff would stand in queues to obtain abstract books, to hand in the chits to pull instruments or have documents checked prior to registration. It could be a tedious process that left lots of time for gossip. On the last Friday of each month the tedium would be replaced by hysteria as hundreds of deals were closed on one day. Floyd Zalev would appear with boxes of between fifty to a hundred files to be closed. Tempers would rise when people tried to cut in the lines to get documents registered before the close of business. There was a sense of relief when 4:30 came and no further documents could be registered.

All that changed with "E-reg."

Wayne Patterson, the Land Registrar since 1983 estimated that in 1983 the registry office was taking in about 33,000 registrations a year. By the 1997 this was up to 58,000 a year and the flood of paper threatened to overwhelm the storage capacity of the registry office. Fortunately, the 1984 reforms in the *Land Registry Reform Act* greatly simplified the form of deeds and mortgages and eliminated the enormous affidavits and standard terms that added bulk but not substance to these documents. With the new forms and the conversion of almost all properties into land titles, the volume of paper to be stored would be dramatically reduced. Then, on 8 January 1996, Essex County moved "from quill tip to microchip." Paper documents were still received, but they were now entered into the Polaris system. Property descriptions were simplified and "Property Identification Numbers" PINs were now required since almost all entries would be entered on computer instead of by hand. After this conversion, properties were steadily moved into land titles.

By the spring of 2003 the first electronic registrations were being accepted and that September all land titles registrations had to be made electronically. The following month, the registry office moved to a new "out of the way" location down McDougall Street. The entire nature of doing real estate had drastically changed. Those offices that were licensed with Teranet and handled E-reg could do title and sheriff's searches as well as document registrations directly from their office computers. The location of the registry office was irrelevant and for the most part many practitioners did not have to go there at all. E-reg had resulted in significant efficiencies in practice. Searches were now simple PIN printouts and a few documents instead of the bulky, expensive searches of before. Lawyers could search title and even register documents in other counties; all by computer. Yet it was also a major disruption. Lawyers who only did a few transactions a year could find the new system daunting. Many of them would simply give up doing any real estate at all. Many title searchers saw their work evaporate and the registry office itself became a quiet backwater.

The computerized age would have an even more fundamental effect on the Association.



As a result of the Internet, there has been an astounding increase in the number of persons who represent themselves. Many of them are not indigent, but rather are computer-literates who feel that they have access to legal resources that enable them to present their own case as well as any lawyer could. As judges are invariably lenient with laypersons there is an encouragement to many persons to simply bypass the profession and handle their own cases.<sup>167</sup> By 2008, Tamara Stomp noted that judges had to cope with increasing number of unrepresented litigants, but perhaps this was to be expected, "With the complexity (and resultant cost) of some cases and the disrespect with which jurists treat lawyers, it is small wonder that educated and internet-savvy masses see self-representation as an alternative."<sup>168</sup>

One of the areas Stomp focused on were the delays in the family law system where, she noted cynically, "The family lawyers only deal with minor matters, such as the breakup of families, shattering of lifelong hopes..."<sup>169</sup> By 2006 there were significant delays in scheduling case conferences in family law matters. A pilot project near the end of 2006 headed by Justice Patterson to deal with the glut of cases met with some success but was not continued. Perhaps in light of this, there has been an increasing tendency to handle matters outside the court system by way of arbitration. Arbitration can be a far less expensive and faster way for many clients to move their disputes along towards resolution. It also enables counsel to maintain greater control of the process and pace of proceedings.

By 2006, there were an unprecedented number of lawyers and all major law firms had several female staff handling both commercial and litigation matters. Many of them had come from non-traditional backgrounds. Colleen Caza had grown up in Tilbury from a blue-collar background and before going into law she had worked in a truck assembly plant. As the married mother of two children she also had to balance family with law practice, a directorship in the Association and teaching civil trial advocacy at the Windsor Law Faculty, "You obviously need the support system in place in order to be able to do the give and take that's required."<sup>170</sup> In her case, she had benefited

from the guidance of a senior female practitioner, Shirley Linton, who had already been in practice for 27 years and who "has faced many of the challenges Caza is running up against." Whereas in the past the profession had largely been the enclave for male Anglo-Protestants and kept very much as a family business, by the 1990s it was wide-open to all groups, all sexes and all classes. But in this increasingly diverse bar, there were no guarantees to any of its aspirants of success and if anything an increasingly crowded bar made it difficult for many to emerge and establish profitable firms.

Perhaps one of the most outspoken of the new generation of women lawyers was Tamara Stomp. In her *Caveat* column, "Bitch's Corner" she held forth on problems affecting lawyers (male and female) and particularly the conduct of the judiciary. Some of her more acerbic editorials were felt to be overly critical if not unprofessional. Still, they were light-years removed from the decades when the profession meekly accepted judicial criticism without response.

There were sufficient female lawyers that an "Essex County Association of Women Lawyers" had been formed. Perhaps one impact of this change was that the annual dinner was no longer the main event of the social season and that the summer family barbecue seemed to have grown in importance. The importance of "black-tie" events seemed to be diminishing and instead, there were family outings to parks. Even the perennial golf tournament became oriented toward charity and the 2005 edition raised \$2,000 towards the Cancer Centre Foundation.

Where were all these young lawyers working? The *Caveat* reported in September 2005 that, "An official tally on September 2005 shows our membership at 493. This is an impressive number considering that less than 600 persons in Essex County are lawyers." Many had gone into immigrant or refugee assistance work. Forty-three lawyers were working for the government or legal-aid clinics. In contrast to the 1940s where a newly minted lawyer would usually start off in an established firm and spend several years working with experienced lawyers, the rookie lawyer of the 21<sup>st</sup> century



would not usually have that option. Instead, they might have to open up a sole practice and face new challenges alone. In light of this, in 2004 the Association president, Jim Branoff proposed that there be a mentorship program so that younger sole practitioners would be able to informally discuss problems with senior lawyers.<sup>171</sup>

The lack of an opportunity to start practice with experienced lawyers was not the only handicap facing new members of the bar. As early as 1998, the *Caveat* warned that "Essex County has seen an explosion of Paralegal persons... they are not licensed; they carry no liability insurance."<sup>172</sup> There were only so many files to go around and there was concern in the profession that paralegals were poised to seize some of the simpler work and get it done at cut-rate prices.

In some ways starting up a firm seemed relatively easy for new lawyers for they needed comparatively little infrastructure. They invariably have computer skills and the ability to produce forms and pleadings without the need of a trained legal secretary. Moreover, they do not necessarily need libraries and a wealth of statutes and cases can be found on their computers. On the other hand, there is a dearth of work for the amount of files or fees has not been increasing at the same rate as the number of lawyers. In 1980, a real estate file might have brought in a fee of about \$500. In 2009, the fee for this work is about the same or perhaps even less. Adjusted for inflation, a lawyer could have made a good living off of real estate in 1980. In 2008 it was a more marginal proposition.

Commercial practices were not immune to the winds of economic change. For the last three decades of the 20<sup>th</sup> Century Windsor had seen tool and die shops and mould makers prosper by supplying parts to the major auto assembly plants. Some of these operators made huge amounts of money and they hired local lawyers to handle their personal and business affairs. However, by about 2005 it became apparent that they could not compete with offshore suppliers and there was a substantial constriction in the number of these firms in Windsor. When they left, they took their legal work with them.

By the first decade of the 21<sup>st</sup> Century, the Association still looked to the County and District Law President's Association (CDLPA) as a platform in which practitioners could speak about issues that troubled them. As an example, by mid-2004 the Ontario Realty Corporation (the post-Mike Harris company that had assumed ownership of the courthouses) had decided unilaterally to halve the Association's library space. It took lobbying by the Association and CDLPA to reinstate it and gain additional storage space in the courthouse basement.

Some questions were being raised about the need for any library at all. In March 2007, a *Caveat* editorial pointed out that, "As long as you are connected to the Internet you can have an essential legal research at your fingertips for free. You do not have to subscribe to a costly service like QL or Lexis/Nexis, nor is it necessary for you to hike down to the association library."<sup>173</sup> This also meant that there was no need for firms to be located downtown. If documents could be filed electronically at the Land Registrar's Office and with the Superior Court Registrar's office, why pay downtown lease rates? Many firms had moved out of the core area to suburban locations where their clients could have easier access to the office. This may have been an inevitable sign of the times, but it also meant that the collegial meetings that had occurred in the basement of the King Edward Hotel were, like the hotel itself, a thing of the past.

## 125 YEARS:

Even if the *raison d'être* for the Essex Law Association, the maintenance of a law library, is fading into the cyber mist, there remains a real need for the continuation of the institution. There are few organizations in this area that can say that they have been in continuous operation since 1884. If anything, the Association has become a far more active organization in recent decades than it was at the start. In its first years it was the meeting place for a few score lawyers in a Victorian backwater. They were all men of similar



background who handled simple real estate and commercial transactions.

It is unlikely that the Association's founders would recognize the industrial metropolis that has grown up along the Detroit River or the vast and diverse bar of the 21<sup>st</sup> Century that deals with problems that did not exist in the 1880s. That is why even though we may be intensely occupied by the present, it is appropriate to care about the past and recognize the changes that have taken place. While the present fills us there is a need to consider what has gone on before, for the events and circumstances that created the Essex Law Association are as relevant to our understanding of the legal profession as ever.

At times, the Association has been an active and creative organization providing legal education to professionals and reaching out on occasion to the general public. Especially in the 1980s, it was the focus of a volatile debate in the profession over the nature of what it means to practice law. Even when it was simply a social club, the Association

has provided a way for individuals who shared an engagement with the law to meet and share the experience of being a lawyer.

Above all, the Essex Law Association has been a reflection of the community it has served. It grew as Essex County has grown and it suffered when the Border Cities went through the trauma of the Great Depression. When Canada went to war, lawyers would be leaders in the military and many individuals would carry the effects of the war with them in later life. In an increasingly sophisticated, bureaucratic age when statutes could change with alarming frequency, lawyers would sometimes have to abandon some areas of practice and pick up new ones. In an electronically connected age, lawyers would often have to make radical changes to their practices just to survive. They would face challenges to make services more effective and offer new services that may not have existed when they attended law school. Change has been an enduring element of the Association's history and it promises to remain so into the future.



*Windsor and County lawyers consider annexation issue, 1962.*

*l to r: Leon McPherson, James Watson, Frank Walsh, James Holden, Maurice Coughlan, William Willson*





*back row: Lloyd Henriksen, Edgar Dyck, Bill Hall, Jim Golden, John Taylor  
front row: George Brett, Marcel Baillargeon, Margaret Sale, Charlie Hickey, Morris Kamin*



*A.F. Gignac Q.C., Charles Sale Q.C., Margaret Sale, George Brett Q.C.*





1984 Centennial

*l to r: David McWilliams, Frank Montello, Ben Yuffy*



1984 Centennial

*l to r: Mary Jo Nolan, Rod Godard and Marilyn, Joe and Anita Berecz*



Lawyer's Hockey 1987

*front row l to r: Jim Brown, unidentified, Joe Quinn, Bill Salem*

*back row l to r: Jim Oxley, Don Gordon, Tony Cusinato, Bill Wright, unidentified, unidentified, Rod Godard*



## ENDNOTES

- <sup>1</sup> Christopher Moore, *The Law Society of Upper Canada and Ontario's Lawyers 1797-1997* (Toronto: University of Toronto Press, 1997) p. 139
- <sup>2</sup> as quoted in A. Rosemary McCormick, "The Libraries of the Law Society" (1972) vol. 6 *Law Society Gazette* p. 55
- <sup>3</sup> David W. Scott, "County of Carleton Association the Early Years: 1888-1914" vol. 22 *Law Society Gazette* (1988) p. 146
- <sup>4</sup> *Detroit Free Press*, 17 April 1884 "Windsor News"
- <sup>5</sup> On the early history of Windsor see, Trevor Price and Larry Kulisek, *Windsor 1892-1992 A Centennial Celebration* (Windsor, 1992)
- <sup>6</sup> S.R. Mealing, "William Dummer Powell" vol. 6 *Dictionary of Canadian Biography*, p. 607
- <sup>7</sup> D.R. Farrell "Walter Roe" vol. 5 *Dictionary of Canadian Biography*, p. 722
- <sup>8</sup> *Sandwich Canadian Emigrant* 17 August 1833
- <sup>9</sup> *Upper Canada Law Journal* (1856) vol. 2, p. 73
- <sup>10</sup> *Sandwich Western Herald* 4 September 1838
- <sup>11</sup> see Daniel Boorstin, *The Mysterious Science of the Law* (Cambridge, Harvard U. Press, 1958) : "Blackstone's work, copied in the handwriting of the American law student was diffused throughout the West, and was to provide a foundation of legal ideas for the American hinterland." At p. 4
- <sup>12</sup> *Essex Record*, 20 September 1877
- <sup>13</sup> *Essex Record*, 18 April 1878; *Harvey v Coleman*
- <sup>14</sup> Peter Oliver ed., *The Conventional Man: The Diaries of Ontario Chief Justice Robert A. Harrison, 1856-1878* (Toronto: Osgoode Society/University of Toronto Press, 2003) 593
- <sup>15</sup> see obituary *Border Cities Star*, 18 February 1929
- <sup>16</sup> D.B. Shepherd, "Magistrates Past and Present: Short Sketches of three who have held office since Windsor's incorporation as a town- Records of a Zealous Effort" *Windsor Evening Record* 23 May 1917
- <sup>17</sup> Ontario Archives, Buell Papers: Cameron to A.N. Buell 9 November 1872
- <sup>18</sup> R.S.O. 1877, c. 168
- <sup>19</sup> Minute Book of the Essex law Association, letter Martin to Horne 5 September 1884
- <sup>20</sup> entry for "Charles Robert Horne" in the *Commemorative Biographical Record of Essex County* (Toronto: J.H. Beers, 1905) p. 1
- <sup>21</sup> *Supra*, Christopher Moore, *The Law Society*, p. 147
- <sup>22</sup> entry for "A. Philippe E. Panet" in the *Commemorative Biographical Record of Essex County* (Toronto: J.H. Beers, 1905) p. 11
- <sup>23</sup> Patrick Brode, *Solomon White and the Incorporation of the City of Windsor* (Essex County Historical society, Occasional Paper)
- <sup>24</sup> *Detroit Free Press* "To Be Hanged" 26 April 1884
- <sup>25</sup> *Windsor Municipal Directory*, 1893 (Ingersoll: Union Publishing)
- <sup>26</sup> Minutes Board of Trustees meeting, Essex Law Association, 12 January 1903
- <sup>27</sup> Patrick Brode "Murder in Amherstburg: The Anderson Veney Case of 1893" in *High Victorian Windsor: Essays on Windsor and Area: 1880-1895* (Windsor: Essex County Historical Society, Occasional Paper No. 6, 1994)
- <sup>28</sup> Patrick Brode, "Robert Franklin Sutherland" vol. 15 *Dictionary of Canadian Biography*, p. 988
- <sup>29</sup> see an account of the trial at *Windsor Evening Record*, 5 to 7 October 1904
- <sup>30</sup> Julius Isaac, "Delos Rogest Davis, K.C." 24 *Law Society Gazette* (1990) 293- 301; and Owen Thomas, "Delos Rogest Davis" *Dictionary of Canadian Biography* vol. XIV (Toronto: University of Toronto Press, 1998)
- <sup>31</sup> Minutes of Board of Trustees Meeting, Essex Law Association, 9 January 1906
- <sup>32</sup> *Windsor Evening Record*, 9 December 1912
- <sup>33</sup> on law libraries in Ontario, see Wendy Hearder-Moan, "Courthouse Libraries of Rural Ontario in the Late 19<sup>th</sup> Century" (summer 2008) 33 *Canadian Law Library Review* 304
- <sup>34</sup> *Windsor Evening Record*, 13 October 1910
- <sup>35</sup> Report of the secretary, Essex law Association 14 January 1916
- <sup>36</sup> *Border Cities Star*, 10 May 1924
- <sup>37</sup> "The Story of the Essex Law Association" unnamed source: in the collection of the E.L.A.
- <sup>38</sup> Annual Meeting of the Essex Law Association, 13 January 1921
- <sup>39</sup> Minutes of Special Meeting of the Essex Law Association, 28 March 1924
- <sup>40</sup> author interview with Bruce Macdonald for the Osgoode Society, September 1984, p. 6
- <sup>41</sup> author interview with Jim Watson for the Osgoode Society, December 1989
- <sup>42</sup> *Border Cities Star*, 19 January 1924
- <sup>43</sup> *Border Cities Star*, 3 November 1922
- <sup>44</sup> *Border Cities Star*, 2 November 1922
- <sup>45</sup> *Border Cities Star*, editorial "For Justice Sake" 2 March 1929
- <sup>46</sup> author interview with Bruce Macdonald for the Osgoode Society, September 1984, pp. 6-7
- <sup>47</sup> *Border Cities Star*, 6 January 1933
- <sup>48</sup> *Border Cities Star*, 19 April 1924
- <sup>49</sup> David Roberts, *In the Shadow of Detroit: Gordon M. McGregor Ford of Canada and Motoropolis* (Detroit: Wayne State University press, 2006) p. 262
- <sup>50</sup> *Border Cities Star*, 13 June 1923



- <sup>51</sup> *Border Cities Star*, 8 May 1924
- <sup>52</sup> note of William McKay Wright attached to the Annual Minutes of 5 March 1964
- <sup>53</sup> Minutes of Board of Trustees Meeting, Essex Law Association, 23 February 1923
- <sup>54</sup> Paul Martin, *A Very Public Life: Vol. 1 Far From Home* (Ottawa: Deneau, 1983) p. 100
- <sup>55</sup> *Border Cities Star*, 2 March 1929
- <sup>56</sup> Law Society of Upper Canada Archives, entry for Alexander Robert Bartlet
- <sup>57</sup> *Border Cities Star*, 25 February 1936
- <sup>58</sup> *Border Cities Star*, 2 March 1929
- <sup>59</sup> Moore, *The Law Society...*, pp. 179-80
- <sup>60</sup> Larry Kulisek, "Never a Yes Man" 30 June 1999 Windsor Star; and see: Jonathan V. Plaut, *The Jews of Windsor, 1790-1990* (Toronto: Dundurn Press, 2007) 94-103
- <sup>61</sup> Constance Backhouse, *Petticoats and Prejudice: Women and Law in Nineteenth Century Canada* (Toronto: University of Toronto Press/Osgoode Society, 1991) 306-8
- <sup>62</sup> *Border Cities Star*, "First Woman lawyer in Essex County Appears" 31 January 1922
- <sup>63</sup> *Border Cities Star*, entry for Lovedy Campeau, 2 March 1929
- <sup>64</sup> Law Society of Upper Canada Archives, entry for Helen Mary McTague
- <sup>65</sup> Minutes of the Annual Meeting of the Essex law Association, 9 January 1925
- <sup>66</sup> *Border Cities Star*, 9 March 1929
- <sup>67</sup> *Border Cities Star*, 22 March 1929
- <sup>68</sup> Moore, *The Law Society...* p. 209
- <sup>69</sup> Patrick Brode interview with Bruce Macdonald for the Osgoode Society, September 1984 p. 18
- <sup>70</sup> Minutes of the Special Meeting of the Essex Law Association, 16 July 1931
- <sup>71</sup> A.R. MacMillan, unpublished biographical sketch of Angus W. MacMillan, 21 April 2004
- <sup>72</sup> Minutes of the annual meeting of the Essex Law Association 17 January 1933
- <sup>73</sup> Law Society of Upper Canada archives, entry for John Henry Rodd
- <sup>74</sup> *Border Cities Star*, 23 January 1935
- <sup>75</sup> author interview with Bruce Macdonald for the Osgoode Society, December 1984, p. 20-2
- <sup>76</sup> see obituary Windsor Star 19 May 1959
- <sup>77</sup> author interview with John Whiteside for the Osgoode Society, 18 September 1993
- <sup>78</sup> Minutes of the Special General Meeting of the Essex Law Association, 11 December 1936
- <sup>79</sup> author interview with Bruce Macdonald for the Osgoode Society, December 1984, p. 17
- <sup>80</sup> Minutes from the annual meeting of the Essex Law Association, 26 January 1938
- <sup>81</sup> Moore, *The Law Society...* p. 219
- <sup>82</sup> author interview with William Willson, February 2, 2009
- <sup>83</sup> Paul Martin, *A Very Public Life...* p. 102
- <sup>84</sup> Minutes of the Executive of the Essex Law Association, 11 September 1939
- <sup>85</sup> *Detroit Free Press* "Lieut. R. Shepherd Is Awarded Cross" December 1918
- <sup>86</sup> *Windsor Daily Star*, "Now" Column 3 January 1945
- <sup>87</sup> see obituary Windsor Daily Star, 8 March 1956
- <sup>88</sup> Sandy Antal and Kevin R. Shackleton, *Duty Nobly Done: The Official History of the Essex and Kent Scottish Regiment* (Windsor: Walkerville Publishing, 2006) p. 543
- <sup>89</sup> Minutes of the Executive of the Essex law Association, 14 October 1942
- <sup>90</sup> Minutes of the Executive of the Essex law Association 4 January 1940
- <sup>91</sup> Meeting of the Essex Law Association, 26 November 1943
- <sup>92</sup> Patrick Brode, *Accidental Judgments and Casual Slaughters: Canadian War Crimes Prosecutions, 1944-1948* (Toronto: University of Toronto Press/Osgoode Society, 1997)
- <sup>93</sup> *Windsor Daily Star*, 1 October 1959 "Magistrate on Circuit"
- <sup>94</sup> author interview with William Willson, February 2, 2009
- <sup>95</sup> author interview with James Watson for the Osgoode Society, December 1989
- <sup>96</sup> C.Ian Kyer and Jerome Bickenbach, *The Fiercest Debate: Cecil A. Wright, the Benchers, and Legal Education in Ontario 1923-1957* (Toronto: Osgoode Society/University of Toronto Press, 1987)
- <sup>97</sup> Minutes of the special meeting of the Association, 15 March 1949
- <sup>98</sup> Special Meeting of the Essex law Association, 8 January 1948
- <sup>99</sup> Minutes of the executive of the Essex law Association 5 May 1954
- <sup>100</sup> author interview with John Whiteside for the Osgoode Society, 18 September 1993, p. 32-3
- <sup>101</sup> *Ibid.*, p. 37
- <sup>102</sup> draft of interview with Harvey Strosberg for the Osgoode Society, 27 May 2005
- <sup>103</sup> author interview with Bruce Macdonald for the Osgoode Society, December 1984, p. 29
- <sup>104</sup> *Windsor Daily Star* 10 May 1952
- <sup>105</sup> *Border Cities Star*, 19 January 1933
- <sup>106</sup> draft interview with Harvey Strosberg, for the Osgoode Society, 27 May 2005 p. 65
- <sup>107</sup> author interview with William Willson, February 2, 2009
- <sup>108</sup> *Windsor Daily Star* "City Constable Sees The Light" 6 September 1956
- <sup>109</sup> *Windsor Daily Star*, 16 January 1954
- <sup>110</sup> *Toronto Globe & Mail* 30 April 1957 "City's Troubles Are Plain Enough- Question Is: Can They Be Cured?"
- <sup>111</sup> Windsor Municipal Directory, 1940 and 1956
- <sup>112</sup> *Windsor Star* "Slow, Dignified Courts Outpace U.S." 3 January 1952



- <sup>113</sup> Minutes of the Special Meeting of the Executive of the Essex law Association, 29 September 1953
- <sup>114</sup> Windsor Daily Star, 2 February 1957
- <sup>115</sup> Minutes of the annual meeting 4 March 1958
- <sup>116</sup> authors interview with Clifford Sutts, 17 October 2008
- <sup>117</sup> author interview with Leon Paroian for the Osgoode Society, 27 May 1998
- <sup>118</sup> Windsor Daily Star, "Convention Hotel Seen Windsor Need" 2 February 1963
- <sup>119</sup> see Windsor Star "Urges New Courthouse" 15 September 1954; and "City Hails Court aid" 5 September 1956
- <sup>120</sup> Minutes of the Executive of the Essex Law Association, 9 March 1962
- <sup>121</sup> Minutes of the Executive of the Essex law Association, 5 March 1964
- <sup>122</sup> Minutes of the Executive of the Essex law Association, 30 May 1974
- <sup>123</sup> Minutes of the Executive of the Essex Law Association, 23 March 1964
- <sup>124</sup> Minutes of the Executive of the Essex law Association, 6 October 1960
- <sup>125</sup> Gord Nisbet letter to the author, 11 September 2008
- <sup>126</sup> Caveat, April 1968
- <sup>127</sup> Minutes of the Executive of the Essex Law Association, 25 August 1964
- <sup>128</sup> Minutes of the Executive of the Essex Law Association, 29 May 1967
- <sup>129</sup> Windsor Star 1 December 1971
- <sup>130</sup> Minutes of the Executive of the Essex law Association 25 April 1974
- <sup>131</sup> Minutes of the Executive of the Essex law Association, 14 October 1970
- <sup>132</sup> Caveat November 1971
- <sup>133</sup> draft interview with Harvey Strosberg for the Osgoode Society, 27 May 2005, p. 53
- <sup>134</sup> *Ibid.*
- <sup>135</sup> Windsor Star, "First Law Firm Strike Launched" 19 September 1974
- <sup>136</sup> author interview with Frank Fazio, 26 August 2008
- <sup>137</sup> Caveat, 15 June 1979
- <sup>138</sup> Caveat, 15 December 1979
- <sup>139</sup> Caveat, 5 January 1979
- <sup>140</sup> see Stephen E. Firestone, *Ontario Motor Vehicle Insurance Law and Commentary* (Toronto: Butterworths, 2004) p. 1-3
- <sup>141</sup> Ian D. Kirby to CBAO Member, November 1989, in ELA Minutes, November 1989
- <sup>142</sup> Caveat, February 1986
- <sup>143</sup> Windsor Daily Star, 15 November 1985
- <sup>144</sup> Star, 15 November 1985- comments of Steven Ginsberg
- <sup>145</sup> Caveat, June 1987
- <sup>146</sup> Canadian Law List
- <sup>147</sup> Caveat, March 1972
- <sup>148</sup> Caveat, February 1984
- <sup>149</sup> Caveat, April 1984
- <sup>150</sup> Caveat, Pat Furlong to Hugh Geddes 15 January 1985 in the February edition
- <sup>151</sup> Windsor Star, "Jury Begins Deliberations" 7 December 1972
- <sup>152</sup> Windsor Star, 9 December 1972; Macdonald's sentencing was upheld on appeal: *Regina v Davison, DeRosie and MacArthur* (1974) 20 C.C.C. (2d) 424
- <sup>153</sup> Constance Backhouse, *Carnal Crimes: Sexual Assault Law in Canada, 1900-1975* (Toronto: University of Toronto Press/Osgoode Society for Canadian Legal History, 2008) p. 268
- <sup>154</sup> *Ibid.*, p. 280
- <sup>155</sup> *Regina v Duguay, Murphy and Sevigny* (1985) 50 O.R. (2<sup>nd</sup>) p. 75 at p. 394
- <sup>156</sup> National Post, Alan Borovoy, "The Anguish of Double Standards in Sex Assault Trials" 5 April, 1995
- <sup>157</sup> Windsor Star, "Love, Money drove lawyer to Costa Rica" 10 March 2000
- <sup>158</sup> Caveat, Summer, 2004
- <sup>159</sup> Caveat, December 1990
- <sup>160</sup> Caveat, May-June 1991
- <sup>161</sup> Caveat, January 1995
- <sup>162</sup> Moore, *The Law Society*.. pp. 330-3
- <sup>163</sup> *Legoyeau Holdings Ltd. v City of Windsor* (1994) 52 L.C.R., p. 241
- <sup>164</sup> comments by Peter Hrastovec in Caveat September 2008
- <sup>165</sup> Caveat, June/July/August 1998
- <sup>166</sup> Minutes of the Executive of the Essex law Association, 6 November 1988
- <sup>167</sup> I am grateful to Mary Fox for her comments on these issues
- <sup>168</sup> Caveat, September 2008
- <sup>169</sup> Caveat "Bitch's Corner" 5 January 2007
- <sup>170</sup> Law Times, 6/13 October 2008 p. 2
- <sup>171</sup> Caveat, Summer, 2004
- <sup>172</sup> Caveat, September/October 1998
- <sup>173</sup> Caveat, 8 March 2007, editorial of Kenneth Golish p. 9



THIS BOOK WAS MADE POSSIBLE BY THE GENEROUS  
SUPPORT OF THE FOLLOWING

---

*Baker Busch*

*Anita Berecz*

*Chodola Reynolds and Binder*

*Mario Carnevale*

*Clark's Barristers & Solicitors*

*Collins Barrow*

*Paul Courey*

*Goldstein DeBiase Manzocco*

*Greg Monforton and Partners*

*Kamin Fisher*

*Kirwin Partners*

*McWilliams and McWilliams*

*Mousseau DeLuca McPherson Prince*

*Lou Anne Pope*

*Tamara Stomp*

*Gutts Strosberg*

*Andrea M. Thielke*

*Title Plus*

*The University of Windsor*







