

WARD CHIPMAN SR.: AN EARLY NEW BRUNSWICK JUDGE

Patricia A. Ryder*

The story of Ward Chipman is not only that of a distinguished early New Brunswick judge. To a considerable degree, it mirrors the history of the first fifty years of the province — from 1784 to 1824.

From his early appointment as the first Solicitor-General of New Brunswick until his death while President of the Province, Ward Chipman was involved in practically all important affairs of the province. It was Chipman, along with a few associates, who drafted our first provincial laws. It was he, with six others, who petitioned for the first college, later to be named the University of New Brunswick. And it was Chipman who was responsible for establishing the Maine-New Brunswick boundary at the St. Croix in preference to the Magagaudavic as had been proposed by the Americans. It was he, too, who trained some of the finest of British North America's lawyers, including Jonathan Sewall Jr. and Ward Chipman Jr. He may well be called the father of the Bar of New Brunswick. In his declining years, while semi-retired, Judge Chipman played the role of "elder statesman", being the centre of a large party and the constant guide of his prominent in-laws, the Hazens, Botsfords and Murrays.

Ward Chipman Sr. was born in Marblehead, Massachusetts, in July, 1754. His family had lived in America for more than one hundred years and his father, John Chipman, was one of the foremost lawyers of his days. Following John Chipman's death in 1768 while pleading a case in Portland, his colleagues had a monument erected there in his honour.

After John Chipman's untimely death, his family, consisting of a wife and six children, found themselves in comparatively straitened circumstances. Friends of the deceased were quick to lend aid. One in particular, Jonathan Sewall, Attorney-General of Massachusetts and Admiralty Judge for Halifax, later greatly influenced the young Ward Chipman. Judge Sewall realized the worth of the youth and arranged for him to continue his studies at Harvard College.

* Patricia A. Ryder, B. A., M. A. (U.N.B.). Miss Ryder prepared her M. A. thesis on Judge Chipman.

Apart from a reference of Chipman winning a prize, the Harvard College records tell little of his ability as a scholar. It was the custom of the day to list the names of students in order of social prominence rather than in academic order. Ward Chipman was given sixth place in his class roster, following the sons of people such as Governor Hutchinson, but preceding Samuel Adams.

Following his graduation from Harvard in 1770, financial problems plagued the young man and although his thoughts and hopes were with the legal profession, he was forced to teach school for a year. The following year he returned to Boston and began to study law under Jonathan Sewall and the Hon. John Leonard, two of the ablest lawyers in Massachusetts. The influence of these men was to completely change Ward Chipman's way of life.

Until 1775, Chipman had been leading a comfortable life as a member of a distinguished Massachusetts family. His sisters had married well. One, Elizabeth, was the wife of William Grey, a prominent ship builder who later became Lieutenant-Governor of the state. Chipman himself was already beginning to show much promise as a lawyer.

But storm clouds were gathering in North America. Men in high positions in His Majesty's Government found themselves less powerful than formerly. Many were beginning to be ostracized for refusing to sever their allegiance to England. Among these were Jonathan Sewall and the Hon. Daniel Leonard. Ward Chipman, by this time a clerk solicitor in the Boston Customs House, was also in disfavour. Although by the year 1775 he had not definitely decided which side to follow in the growing rebellion against English rule, he became a marked man when he helped Judge Sewall when the latter's home in Cambridge was mobbed by the rebels. Shortly afterwards, Chipman, at the age of twenty-two, signed the Loyal petition to General Gage and sailed to England, determined regardless of hardship to maintain his allegiance to the Crown.

On his arrival in England, Chipman found himself for the first time having to compete with others. He was but one of a group of young men as well qualified in the legal profession as himself. He no longer had position and family influence to help him.

Chipman's stay in England was brief—less than a year. Lawyers were far too plentiful and cases too few. Service to the King was one way to keep from starving and Chipman returned to his native country, joining the King's troops in New York. During the remainder of the war he was employed as Deputy Muster Master General of Loyalist troops in New York with a salary of five shillings per day. In this position he met another man who

was destined to play an important part in the history of New Brunswick. The Muster Master General was Edward Winslow, and the two men formed a friendship which was to last for many years.

To augment his meagre salary, Chipman secured several additional minor positions. He was appointed scribe to the Admiralty Court for Rhode Island and later procured a licence to practise in the Supreme Court of New York. He was also paymaster for the Queen's American Dragoons. These various positions kept him busy at a time when he most needed to be busy. It had been several years since he had seen or heard from his family. Only once during his stay in New York did he see his mother and sisters. This he accomplished by a stealthy visit to his old home behind enemy lines.

At the end of the war, Chipman busied himself with the settling of Loyalist emigrants and then returned to England. There were various reasons for this voyage. Many of his friends had found new homes in British North America, but all the important government positions in Nova Scotia, then comprising what is now Nova Scotia, New Brunswick and part of Maine, were filled. There did not appear to be much future in the area for a young lawyer, although it could always be considered as a possibility.

It was at this time that Ward Chipman and some of his fellow sufferers began to agitate for a new province to be carved out of Nova Scotia. Letters began to arrive to Chipman in England from men such as Edward Winslow who had settled in Nova Scotia. The Loyalists were dissatisfied with life under the existing administration. They felt they were not being given the rights they deserved as men who had lost so much. Many were brilliant men who had been leaders in their own colonies and the idea of being governed by people who had played so small a part in the recent war was not to their liking.

As soon as the idea of a new province materialized, Ward Chipman and Edward Winslow began to plan for their future there. They held high hopes that General Fox, a man with whom they were on very good terms, would be chosen as the first Governor. In that event Chipman would be assured of the post of Attorney-General of the new colony; Winslow aspired to be the Governor's secretary. Unfortunately General Fox refused the appointment and Thomas Carleton, brother of Lord Dorchester, became Governor of New Brunswick, the name given the new province. Governor Carleton had his own views regarding his administrative staff. Instead of Ward Chipman as Attorney-General, Sampson Blowers was chosen; Jonathan Odell became the Governor's secretary. Although bitterly disappointed, Chipman decided to cast his lot with his friends and made plans to go to

New Brunswick. Lawyers were not in demand in England and he hoped, with his pension of £91 per annum for his war service, to make a living as a lawyer in the new province.

Chipman arrived with Governor Carleton in November, 1784, and immediately settled in Saint John, or Parrtown as it was then called. At first he still nurtured hopes that he might after all become Attorney General. Sampson Blowers had declined the honour in order to fill the similar position in Nova Scotia. Chipman was Acting Attorney General for six months until Jonathan Bliss arrived to take over the duties. Chipman was then appointed Solicitor-General. Unfortunately this was not a paying position.

Chipman immediately began to acquire clients. He became the representative of various people in England and Nova Scotia who were anxious to protect their property rights in New Brunswick.

Ward Chipman was a hard worker for personal benefit, but he also showed an immediate interest in the welfare of New Brunswick. One of his first tasks was to sign a petition for an Academy. The Loyalists, although unable to afford to send their sons to be educated in the schools and colleges of England, nevertheless desired a good education for them. The Academy was to become the University of New Brunswick, and Ward Chipman was one of its first trustees.

During his first year in New Brunswick, Chipman also became known as an excellent law teacher. One of his first pupils was Jonathan Sewall Jr., whom he had tutored as a child in Boston. Young Sewall was delighted at being sent from England by his father to study under his beloved "Chippy". It is interesting to read an extract from the young man's letter home regarding the law practice of his tutor:

Chipman has as great a share of business as any other practitioner in Saint John - our office hours are from eight in the morning till three in the afternoon.

When, in 1785, Fredericton was chosen as the capital of the province, Chipman was asked to draw up the Charter for Saint John which was being declared a city. Most of this charter was derived from that of the City of New York when it had been under British rule. There were to be aldermen and assistants, who along with the constables would be chosen annually from various wards by the citizens. The Mayor and Recorder and City Clerk were appointed by the Governor. Chipman himself became the first Recorder and City Clerk and Gabriel Ludlow, the first Mayor. When he was sending in the first draft of the Charter, Chipman suggested the new city should be called Saint John, instead of Saint John's as had been originally intended, and this suggestion was adopted.

Chipman was keenly interested in his adopted land and from the first participated in all public affairs. It is not surprising, therefore, that he announced himself as a candidate for the first provincial election. Unlike many of the provincial executive, the Solicitor-General was not a member of the Executive Council and he was eligible to stand as a representative in the House of Assembly.

The first election in the City of Saint John had all the aspects of a rough political campaign. Two parties declared themselves. One, commonly called the "Lower Covers" was regarded by the aristocratic citizens as consisting of undesirables. The other, called the "Upper Covers", comprised the more prominent members of the city. Agreement between the two groups was impossible. On one side was the "Old School Tie" group; on the other, adherents to the new idea of government by the people. In an age when democratic government was unpopular, the "Lower Covers" were considered radicals. Chipman and others who had suffered much from radical ideas in the past wished to avoid repetition of the experience. Before the "Upper Covers" are censured for their ideas, it must be remembered that they were men trained to administer, and the new province had need of their training in its first government.

Elections were held over several days and were not by secret ballot. The ballot box was moved from one part of the city to another and it was known daily how the votes were cast. All males of age who had been in the province for three months were eligible to vote. To add to the confusion taverns were open and riots frequent.

When the results were finally announced, the furore was accentuated. Apparently the Upper Covers (Chipman and his running mates) had demanded a recount, and as a result were declared the victors. The opposition then claimed that 1089 ballots had been discarded. In reply they were told they had neglected to provide a scrutineer during the recount and their protest was invalid. The "Lower Covers" protested to the House of Assembly when it met in January, 1786, but the House decided in favour of the "Upper Covers", and Chipman took his seat in the House. Later the Colonial Secretary, Lord Sydney, agreed with the House's decision, and a petition by the losers to dissolve the House only led to a statute providing that no more than twenty persons could sign a complaint or petition to the Governor, Council or Assembly for altering matters established by law in church or state except with the consent of three or more County Judges, or a majority of the county grand jury. Chipman had won a victory, but it was not complete. The matter was not forgotten by his enemies for many years, and he was never again to win an election in Saint John City.

As soon as the House had assembled, Chipman indicated his desire to participate actively in the government. He and others prepared the reply to the speech from the throne, drew up the rules of the House, and were on a committee to prepare better roads and to confer with the Provincial Council. A perusal of the first pages of the Journal of the House will show how hard the young Solicitor-General worked for the Province and how valuable he was to the administration.

In 1786 Chipman married Elizabeth Hazen, daughter of William Hazen, a member of the Provincial Council and a pre-loyalist of high standing. This connection with the Hazen family resulted in his being related to other prominent New Brunswick families including the Murrays and Botsfords.

Soon after his marriage Chipman had a house built in the middle of a plot of land extending 200 feet on Union Street and four hundred feet back. The house was located approximately where the Saint John Public Library stands now. From this position, Chipman expanded his holdings to an area which at his death was a vast estate.

On July 10, 1787, a son, Ward Chipman Jr., was born, who was to be his only child. Chipman began to work even more energetically in his practice in order to provide for the child whom he hoped would follow in his footsteps.

One of Chipman's first cases was that of *Finucane v. Stelle*, the first ejectment trial in New Brunswick. In 1783, Chief Justice Finucane of Nova Scotia had visited New Brunswick, supposedly to aid the Loyalists. He became interested himself in fertile Sugar Island, about eight miles above Fredericton. The land had already been allotted to the disbanded Prince of Wales Regiment who had taken possession. Finucane's heirs protested. The dispute was not only one over ownership of excellent land; it also involved the rights of the pre-loyalist absentee landowners and the new settlers. Judge Allen decided in favour of Stelle, but Bliss and Hardy, Finucane's lawyers, appealed and the decision was reversed. Chipman then appealed on behalf of Stelle to the King in Council and the original decision was restored.

Cases of this kind gave Chipman a reputation as one of the finest lawyers in New Brunswick. His opponent, both in business and politics was often Elias Hardy, and the courtroom as well as the House of Assembly reverberated with their battles for nearly fifteen years. Jonathan Bliss, although he shared the same political views as Chipman, was also a court-room opponent and rival.

Law did not give Chipman a sufficient income. He and the Hazens became involved in a grist mill to supplement their income. In this they were aided by Chipman's brother-in-law,

William Gray of Boston. Since Chipman's sister had benefited from property rights he had lost in Massachusetts, it was only natural that she should help him in time of need. The Navigation Acts were another aid in the grist mill project. The lifting of the embargo on grain enabled Gray to send Chipman the Indian corn he required. Until the Act was repealed, the business flourished. Chipman was also interested in the Society for Propagating the Gospel. The aim of the group was to educate Indian children. As secretary of the Sussex School, Chipman earned £50 per year, a help to the struggling lawyer.

These side-lines were financially necessary. For some cases he received little or no remuneration. In others he was paid in kind. Of these may be mentioned a debt case in which his clients, cabinet makers, repaid Chipman with furniture made during their stay in the Fredericton gaol.

In spite of hardships, Chipman took a stand in the House of Assembly against paying members. His reasons were three: (1) only those who could afford it should enter politics; (2) payment would induce the poorer and more radical elements to enter politics; and (3) the British House members being unpaid, the colonials should not demand payment. The debate on payment lasted for a considerable time. Twenty-three motions were made in three days. Only the Saint John group, who had campaigned for non-payment at election time, opposed the idea. Following a hard fought battle, those who favoured payment succeeded.

In spite of politics and business, Chipman found time for his old friends — the Winslows, Botsfords, Leonards, the Sewalls and even the Benedict Arnolds. It was Chipman and Jonathan Bliss who supported Benedict Arnold in his defamation action against Munson Hoyt. The case, although won by Arnold, was not a complete victory; instead of the £5000 damages demanded, the Judge awarded the General two shillings, six pence.

The years passed quickly. Chipman still hoped that his luck would change and his practice improve. In 1793, he wrote:

I never yet have business enough to employ half my time and this to me of my indolent turn will be a perpetual source of procrastination; while I was a student I could apply myself without intermission, since that I have scarce had business to retain what little I then learnt. When my business was most lucrative which was at New York, great fees were received for very little and without the smallest variety in the objects. I look forward to business to employ me sometime or other, but it is much like my dependence for many years upon a state lottery and will not happen. ¹

1. Raymond, W.O., *Winslow papers* A.D. 1766-1826 (printed under the auspices of the New Brunswick Historical Society, Ed. by Rev. W. O. Raymond, M.A., Saint John, N. B., the Sun Printing Co. 1901, p. 401.)

In 1793 Chipman even lost his interest in politics. His seat in Saint John was won by the "radicals". He was instead elected as a representative from Northumberland County. He was also disappointed in not being chosen speaker. In that year, his request for the office of pay-master of the New Brunswick Regiment was refused and he was forced to ask the House of Assembly for an allowance as Clerk of the Circuit. To his surprise, he was granted £75 a term.

In spite of continued financial difficulties, Chipman was still firm in his views regarding life under British rule. Although his sister, Elizabeth Gray, offered him a fine future in Massachusetts, he refused a life of ease and the influence of William Gray because it involved living in the republic.

Ward Chipman's New Brunswick in-laws could not promise him wealth, but could provide him with business. One case in which Chipman represented the Hazens lasted for twenty-five years! This was the famous Simonds, Hazen and White fisheries dispute. The firm claimed the sole right to fish opposite its land at Portland Point. This area situated between the harbour and the river was also fancied by other townsmen, and the company having refused to relinquish its rights, litigation arose. Ward Chipman, as William Hazen's son-in-law, was chosen to represent the firm. As early as 1792 he began to work for legislation to benefit his clients. Bills to regulate fisheries became quite prevalent in the Assembly. One amendment of interest stated that any British subject with property on a river, cove or creek had the sole right to fish as far as the low water mark. No unauthorized person could infringe on these rights. The vote of the Assembly went 9-9 (Chipman voting yea). The speaker of the House, Amos Botsford, another Hazen son-in-law, cast the deciding vote in favour of the amendment.

Although the dispute was to continue for some time, there were quicker methods of temporarily settling it. It will be remembered that Chipman was the Saint John Recorder. Apparently in 1795 he decided to resign. The Governor did not favour this as a suitable successor could not be found. In April 1795, Jonathan Odell, Provincial Secretary, wrote:

He (the Governor) was pleased with Mr. Campbell's declaration on that subject when I added the information of your having consented to remain in office on condition of ending the fishery dispute as had been proposed and provided some reasonable salary was allowed by the Corporation, he expressed satisfaction and highly approved the idea.²

This ended the dispute for a few years.

2. N. B. Museum, Hazen Collection, Volume II, April 6, 1795.

During this time, Chipman experienced a great personal satisfaction. In 1794, he was host to the Duke of Kent, later Queen Victoria's father. Chipman was delighted although his American sister wrote that in her country people were freed from such cares as entertaining royalty since "all are Princes alike".

By 1796 Chipman, at 42, was in despair; instead of being at the peak of his career, he had yet to find reasonably remunerative employment. He even considered moving to another British colony and applied for the position of Chief Justice of Upper Canada, but it was granted instead to an English lawyer, William Osgoode.

Chipman's disappointment did not last long. Soon he was compensated by a post which, although temporary, was rewarding. Since 1784 there had been Anglo-American disputes regarding the Maine-New Brunswick border. Following the Revolutionary War, loyalists from Northern Massachusetts had crossed the Passamaquoddy Bay claiming the international boundary was the Scoddiac (as the present St. Croix was then called). The Americans protested that the Magaguadavic River was the boundary.

In an effort to settle the question, a commission was formed of representatives of Britain and the United States. When Governor Carleton was asked to choose a representative, he selected Ward Chipman ". . . in whose abilities and talents I have reason to confide from the long experience I had long had of his services in this province. Services for which he has hitherto received very little emolument" (*sic*).³

The honour came to Chipman at an opportune time. At last he could prove his capabilities and add to his income. He immediately accepted the offer and stated he would devote his full time to the problem. The salary must have looked most generous to him. He was to receive £960 per year plus expenses. At the same time he was still allowed to claim the £91 yearly half-pay allowances for war service.

Chipman was in the unusual position of being a colonial representative for the British government at a time when colonial representatives were not common on international commissions. For this reason, although he was just as well educated as his fellow members, Chipman knew he would have a hard time proving his worth. That he was able to do so is a tribute to his ability.

Chipman's first step was to collect all the data possible concerning the St. Croix as described by St. Croix in his voyage there. The Americans were using as evidence Mitchell's map of 1744, which they claimed had been used in the 1783 treaty negotiations.

3. N. B. Museum, Boundary Papers, Carleton to Portland, April 30, 1796.

This map listed the Magaguadavic river as the true St. Croix. It was up to Chipman to prove by even earlier material that this claim was false and that the Scoodiac was the St. Croix. In 1797 Chipman's search was rewarded. A map of St. Croix Island was sent to him. He promptly sent it to Robert Pagan of St. Andrews with instructions to compare the islands on the map with Douchet's Island in the Scoodiac. They were found to be the same. With this evidence it was certain that the Scoodiac was the true St. Croix. As a result the Americans lost an area of land 200 miles long and 30 miles wide. Chipman always believed that the judgment of that part of the dispute was won by diligent research. He wrote, "I claim no merit than industry and when I look back, I wonder how I have been able to collect so much on the subject."⁴

The Boundary Commission had given Chipman some of the recognition he had been seeking. The King and the Duke of Portland were very pleased. Complete success was still elusive, however, and Chipman returned home still seeking a large practice to keep him busy.

The Boundary dispute did result in some new business interests for Chipman, although they were not in the professional line. The recent work had necessitated occasional trips to Boston. There Chipman renewed his family ties. Since William Gray, his brother-in-law, was a wealthy ship owner, Chipman grew interested in the subject. By 1796 he had found enough money to invest in the Gray cargoes.

Ward Chipman Jr. was also making the acquaintance of his American relatives at this time. He had been sent to Cambridge to study there. Like his father and grandfather, he was to receive a degree from Harvard. The youngster also followed his father's political beliefs. His feelings regarding his British citizenship were as strong as the older man's.

Apart from the Boundary Commission, Chipman did not often seem to receive remuneration for his cases. He took a great interest in test cases that offered nothing more than personal satisfaction. For this reason he was one of the two lawyers who defended the slave, Nancy Morton, in the first slave trial in 1800. The case offered, instead of monetary reward, the opportunity to try his legal skill on an international question that was just beginning to become controversial. Although two judges decided for, and two against Chipman's contentions, Chipman distinguished himself. He once more proved his capabilities and showed that, given the opportunity, he was one of the best men in his profession. A review of Chipman's brief states:

4. Lawrence, J. W., *Judges of New Brunswick and Their Times*, Saint John, A. A. Stockton, 1907, Chipman to Jonathan Sewall, p. 194.

. . . It forms a conspicuous proof of the standards of knowledge of law attainable by American Colonists and in a department somewhat outside the routine of a regular practitioner . . . Surely had Shakespeare ever heard of so large an excellent piece of gratuitous work by a member of the bar he would never even have insinuated that "the breath of an unfied (*sic*) lawyer is valueless."⁵

The case did not arouse much interest among the colonists. The *Royal Gazette* barely mentioned it. In fact, that particular issue was more concerned with George Washington's obituary and the evacuation of Holland than with local affairs. It is small wonder that Chipman's abilities were not appreciated by the local citizens. The press neglected to mention them, and his enemies were anxious to give biased accounts.

Cases, free or otherwise, were few at the beginning of the 19th century. Chipman, very disheartened by the situation, wrote:

There are not nor have there ever been many of them (lawyers) at any time in the province and so far from accumulating fortunes, not one of them has obtained more than a moderate subsistence by his practice, most of them have been and are poor and most of the young gentlemen educated to the bar in New Brunswick have been obliged to quit it for want of business . . . A very great proportion of the debts in this province is under £20.

I had hoped to leave a successor in the same path in the province, but if the situation of things remain as at the present, I shall entertain other designs with regard to his future destination. ⁶

Chipman's hopes of finding a better situation continued. He strove for the position of British Consul in Boston. This would be an ideal compromise. He would return to his home and its wealth and still live under the British flag. But this hope was shattered; he was not appointed.

His son's education was another important matter in the family finances. It is probably safe to assume that the William Grays assisted during the youth's stay in Cambridge, but his father had even greater ambitions for the boy and these could only be realized by further expenditure. The solution was that both father and son decided to save their money so that Ward Jr. could attain both his and his father's ambition to study at the Inns of Court in London.

5. Jack, I. A. *The Loyalists and Slavery in New Brunswick* (Transactions of the Royal Society of Canada, 2nd series 1888-89) Vol. IV, Section II, pp. 146-147.

6. N. B. Museum, Hazen Collection, Vol. IV, Various letters from Chipman to Jonathan Odell in 1802.

During this dark period of Chipman's life, there seemed very little hope. He had lost the Saint John election again, and Judge Ludlow had re-opened the fisheries question. Chipman's position was precarious. He could point with pride to his thirty years' service for the province, yet although a member of aristocratic circles, he was not included in the safest and innermost government circle, the Legislative Council. Chipman, who was viewing with alarm the behaviour of the growing radical elements of the province, wanted the security of membership in the Council. Having witnessed the destructiveness caused by this new radicalism in two revolutions during the past thirty years, he wanted to be in a position where he could take a definite stand against it.

Although a judgeship would have been an even better appointment, Chipman would not even consider the position in 1806. He felt the salary of £300 per year insufficient and thought he could earn more on his own. Winslow, who had no legal training, was appointed to the bench in his place. Chipman accepted a position on the Council.

Ward Chipman had become a member of the Council at a very interesting time. Governor Carleton's leave of absence in England had been extended to four years and he showed little inclination to return. As a result the province was left in the hands of various officials. Politics played an even greater part in the administration and since Judge Ludlow, who had been named President of the province, preferred to live in seclusion, affairs were apparently controlled by the judges. Chipman did not approve of the situation and was most vehement concerning it in his personal letters. Duty was stronger than personal dislikes, nonetheless, and Chipman proved this during these first trying years. He exerted himself on various committees and his abilities were recognized by his fellow councillors. At last he was receiving some recognition.

Life became easier. First there was the Council appointment, then came an annual allowance from his sister, Mrs. William Gray. Last, but not least, Chipman Jr. finally returned home to study under his father. There had been other offers to instruct the youth in law, but his father and he agreed they would rather work together. One of the aspiring teachers was Jonathan Sewall, Ward Chipman Sr.'s first pupil. Sewall had become the Chief Justice of Quebec and was anxious for the boy to study under him. Perhaps the realization that in 1807, according to Sewall, an English lawyer needed a thorough knowledge of English Common Law, French Civil Law, French history and the French language did not appeal to the youth. At any rate, the deep affection between father and son was strong enough to keep the youth home.

During the next few years, Chipman began to realize his hopes. President Ludlow died and Edward Winslow, Chipman's

close friend, was appointed temporary President. Owing to Chipman's persuasion, Winslow's first action was to recall the militia which had been summoned by Ludlow who feared war with the United States. The recall enabled many young men to return to their occupations and a satisfactory New Brunswick economy was once more revived.

At this time, Chipman began to aspire to a judgeship. The salaries had been raised to £500 per annum. Although Chipman was apparently making more than this, he decided it would be wiser at his age to procure a seat on the bench. Two vacancies—the Chief Justiceship and a puisne judgeship—arose in 1809. Chipman and Jonathan Bliss were both considered for the higher honour, but Bliss received it. Since Chipman had originally applied for the puisne judgeship, he had to be content.

The new position had its disadvantages. Relatives and total strangers began to seek his patronage. He was asked to find positions for Hazens and even asked to recommend a Boston bookshop to his friends. Chipman's ambitions were not for these people, however; his one anxiety was to establish his son.

The younger Chipman had already begun to show signs of becoming as great a lawyer as his father. This ability the older man fostered by recommending his son to his former clients. Finally, the great ambition of the family was realized; its financial position had improved to the extent that the young man was able to study in England.

Before the young man could travel, there were many arrangements to be made. A leave of absence from his official duties had to be granted by the Governor. Ward Chipman Sr. had a strange request to make to his friend Sampson Blowers, now Chief Justice of Nova Scotia:

... from all the information I can procure, I think it probable that he would derive great advantage in point of time if he could obtain the degree of Master of Arts at some University on the British domains of Royal Foundation before entering himself at any of the inns of Court, he has already taken (Ileg) degree at Harvard College, of which he has sent a diploma, and the object of this application to you is to know whether he can be honoured with this same degree at Kings College at Windsor upon producing such diploma . . . 7

Whether or not the youth received this degree from Kings cannot be said. Inquiry has failed to reveal any record.

When Chipman Jr. returned from England in 1813, he undoubtedly found many changes. His father's property now included thirty-four acres of land extending from what is now Carleton

7. N. B. Museum, Hazen Collection, Chipman to Blowers, Sept. 6, 1810, Vol. III.

Street at the head of Wellington Row, past St. Paul's Church, northwest to Cedar Grove Crescent and south again to Stone Church. The war of 1812 had wrought changes. He found his father involved in many interesting cases arising out of the war. One of these was *The General Smythe v. The Reward*. The Reward was an American ship which had been intercepted by the General Smythe for her cargo valued at \$14,500., although the victim carried a letter of safe passage to Portugal. Judge Chipman had to seek the advice of the Governor in this case. It was finally decided the owners were to deliver up the cargo to the Master who would dispose of it as he saw fit.

Cargoes such as these were needed in the City of Saint John which was suffering greatly from the war. Because of this, many unarmed American ships were allowed to enter the harbour. The Hazen family profited from the prize vessels by selling the cargoes and Chipman profited by his direct contact with the sellers.

Upon Ward Jr.'s return from England, Chipman began to keep in the background in order to further his son's career. In return the youth helped his father. When the judge was ill with gout (from which he frequently suffered), Ward Jr. wrote his business correspondence. As the judge grew older, his gout grew worse. At times he had to refuse to preside over very interesting cases in which he would have delighted if he had been in good health.

In 1816, Judge Chipman was once more drawn into boundary disputes. The Treaty of Ghent required further settlement of the Maine-New Brunswick boundary, and Chipman was once more chosen as agent. This time age prevented him from becoming overly active in the settlement, and the story belongs more properly in a biography of Ward Chipman Jr., who with his father was created agent "jointly and separately".

Age was not to be a complete deterrent to the judge. He continued to work actively for New Brunswick's welfare. It was he who suggested that the negro immigration problem be settled by a grant of land at Loch Lomond. Each negro would have his own twenty acres and at the same time be close enough to Saint John to provide a needed labour force.

It was unfortunate that age was beginning to curtail Chipman's active participation in provincial affairs. In 1818 a great controversy was raging between the Governor, General Smythe, and the government. General Smythe had issued a tax of twenty shillings per thousand feet on pine timber. The revenue was for the benefit of the Legislative Council. The Assembly was dissolved when it refused to approve the tax. The Chipman family was directly involved in the dispute. William Botsford, a brother-in-law of the judge, had openly stated his feelings against the measure and young Ward Chipman, who was making his first appear-

ance in provincial politics, became known for his stands against the Governor. The judge remained publicly out of the scandal, but it can safely be assumed that he played the role of "elder statesman" — discussing the case and stating his views among his circle of family and friends.

Gout and age began to exact their toll on Chipman Sr. He became more concerned with spiritual matters, and in 1822 this concern took a practical turn. There had been much debate whether to build the new Anglican Church in Saint John on land adjoining the Loyalist Burial Ground. The qualifications attached to this plot were considered too great and the idea was discarded. Instead Judge Chipman offered part of his land. The only qualification to the gift was that a pew on the ground floor and one in the gallery be reserved rent free for the use of the Chipmans. The judge's gift was accepted and Saint John's (Stone) Church was built. Unfortunately, the judge died before he could take his "Squire's" pew, but Ward Chipman Jr. was a regular attendant until his death.

In spite of apparent inactivity, old Ward Chipman still showed the interest and far-sightedness that had been his life-long characteristics. He even concerned himself with a matter that is still debated in New Brunswick politics. In 1822, he chaired a meeting that drafted several resolutions in favour of the Chignecto Canal and wrote that the best way to enlarge the City of Saint John was by the construction of such a canal!

At the age of 68, Judge Chipman decided to retire. He longed to replace the years of service with the peace of his home and garden. Public duty was to prove too strong for him, however, and in 1823 he became more involved in provincial affairs than ever. Indeed he was not to be known as "the retired Judge Chipman", but as "Ward Chipman, President and Commander in Chief of the Province of New Brunswick."

The honour did not come easily to Chipman. Just as he had struggled in his early life with rivals, so he did in his last years. In fact the final controversy surpassed any of Chipman's earlier battles.

On March 27, 1823, Governor Smythe died. It was the custom in such a case for the senior member of the Legislative Council to undertake the position of President until a new Governor arrived from England. George Leonard was the senior member, but he refused to serve because of advanced age. Christopher Billop, the next in seniority, was approached and accepted on condition that he be sworn in at Saint John as ill health would not permit him to travel to Fredericton. The Council did not approve of this and Judge Chipman was approached. He accepted and the controversy began.

Billop decided to maintain his rights. There ensued a fierce battle. Judge Chipman would issue proclamations only to have Billop issue conflicting orders. The administration was in a turmoil and since overseas communication was slow, the question could not be settled immediately. On April 22, 1823, placards in Saint John advertised a public meeting in support of Christopher Billop. When the group gathered, they discovered they were not to have any say in the matter. A loyalty petition had already been devised and only awaited a vote of approval. Whether those present were disgruntled about this or whether they were Chipman's followers present to hear the opposition is difficult to say. At any rate, instead of Billop emerging victorious, a congratulatory letter was sent to Chipman.

In spite of this vote of confidence, the struggle was not finished. Billop continued to issue proclamations and Chipman was faced with the added problem that if the conflicting orders were discovered by the Americans, they could be used to his disadvantage. He decided to call a Council meeting to obtain their support. Billop did likewise and called a meeting at Saint John. Odell, the Provincial Secretary, ignored Billop and on April 30, the group met in Fredericton. There were a few dissenters, including William Black, Billop's son-in-law, but they were not strong enough to overcome Chipman's followers.

George Leonard, the senior member, complicated the matter further. He decided that if he were to take the office of President, Billop could not dissent. He would hold the title but Chipman could transact the business as his deputy. Before this idea could be carried out, official word was received from England. Chipman was reprimanded for his behaviour, but appointed President.

Although this honour was the greatest received by Ward Chipman Sr., he could not fully enjoy it as most of his contemporaries had died and there were few left to share his glory. As the year passed the death toll mounted. When his favorite sister, Elizabeth Gray, died and another sister began to decline, Chipman himself, although in excellent health, became preoccupied with thoughts of death.

The fall and early winter of 1823 found Chipman Sr. busy with provincial affairs. The Colonial Office was evidently satisfied with his administration, for it postponed the arrival of the new Governor, Sir Howard Douglas, until spring.

This presented new difficulties. The Assembly had been postponed too long and Chipman would have to call a meeting for January. This would necessitate his moving to Fredericton for the session. There were some compensations. Ward Chipman Jr., a member of the House, and his wife would keep him company. In January 1824, the trio moved into a house on the corner of Queen and St. John Streets in Fredericton. Mrs. Chipman Sr. remained in Saint John.

The House met on January 21, 1824. It was a day of triumph for the Chipman family. William Botsford had resigned as Speaker of the Assembly and Ward Chipman Jr. "being a man of Superior Abilities and well-acquainted with the orders and usages of the House and well-qualified for so great a trust"⁸ was chosen to take his place. Once Ward Chipman Jr. had been established in his seat of honour, it was his father's turn. After years of struggling to attain renown, the first Solicitor-General had succeeded. His loyalty and intense patriotism were rewarded. As he stood before the House as its temporary leader, his thoughts no doubt reverted to the first days of the province and his life-long struggle for personal and provincial advancement.

The presidential speech was characteristic of Chipman. It pledged loyalty and patriotism to New Brunswick and England and stressed the growing importance of the province in its relations with the other British North American colonies. And it did not fail to give credit to the group of which President Chipman was one of the few remaining members — the United Empire Loyalists — the men who had founded New Brunswick and helped it grow from a barren wilderness. The speech also stressed two of Chipman's favourite projects, road-building and the Academy at Fredericton. It ended on a note of good will with Chipman promising to co-operate with the House.

After years of political activity, Chipman had reached the highest office in the province. But he was only allowed a few days of authority, for on February 9, 1824, he died in his sixty-ninth year.

Ward Chipman was given a burial worthy of his rank. Newspapers gave fitting epitaphs to the man who had spent fifty years in the service of the province. He was esteemed as "great by reason of his public conduct and brilliant talents" by the *Saint John Gazette* and a "real benefactor to the province" by the *Saint John Star*. The funeral itself was worthy of a governor. The troops, the Academy students, the members of the Bar, the civic and public officials as well as the members of the Council paraded, with many others.

Unfortunately, Chipman's body was not to rest in peace. He was buried first in Fredericton. In the spring he was taken to the Loyalist Burial Ground in Saint John. Then he was removed in 1840 to the Church of England cemetery on the Westmorland Road. When Fernhill Cemetery was opened in the late 1840's, Chipman was once more moved. His body has remained in Fernhill. The lengthy inscription on his monument there includes the following words: "Distinguished during the whole of his varied

8. Journal of House of Assembly, 1824-1827, p. 1.

and active life for genuine integrity and singular humanity and benevolence."

As Ward Chipman Jr. died without issue, there are no direct descendants of the first Solicitor-General, yet the great family's legal abilities were carried on. His son distinguished himself by becoming Chief Justice of New Brunswick and among the long line of nephews and grand-nephews of Ward Chipman Sr. may be found the famous John Chipman Gray, professor of law at Harvard University, and Ward Chipman Hazen Grimmer, Judge of the Supreme Court of New Brunswick.