

NOTES ON THE LAW SCHOOL HISTORY

PROFESSOR H. O. McINERNEY, K.C.

Well over half a century ago, a law school was established in the City of Saint John. The first lecture was delivered in October, 1892, by the late Sir John C. Allen, then Chief Justice of New Brunswick, and Patron of the School. Appropriately enough, the editor and chairman of the Managing Board of the University of New Brunswick Law School Journal, "Oyez Oyez," also largely responsible for the establishment of the Journal, is a great-grandson of a former Judge of the Supreme Court, the late Honourable Daniel L. Hanington, who was one of a few interested in higher legal education in this Province, and who was instrumental in establishing the law school. Another who is credited with a large part in the school's founding was the late Very Reverend Dean Partridge, then a leading Church of England clergyman, and a member of a distinguished Fredericton family.

The Senate of the University of New Brunswick, not then being interested in a law faculty, the Governors of King's College, at that time located at Windsor, N. S., were approached and consented to father the school. At a public meeting called in Saint John, the matter was discussed by judges, lawyers and other educationally minded citizens of the Province, and the project was launched.

As all who constituted the first faculty have passed away, I shall refrain from calling them "the late." They were: Dean, Dr. Allen O. Earle, Mr. Justice Palmer, Judge B. Lester Peters, Mr. Justice King, subsequently a Justice of the Supreme Court of Canada, Dr. I. Allen Jack, Dr. A. A. Stockton, and Mr. Thomas Millidge. Of these, Drs. Earle and Stockton, were the only ones lecturing when I first attended lectures, ten years after the founding of the School. Dr. Earle lectured on Evidence, and Dr. Stockton on Admiralty and Constitutional Law, in both of which he was regarded as an authority. Dr. Earle was known as the "learned Earle," a man of recognized legal scholarship, though not suited to advocacy. Perhaps, without too much disrespect, he did not "suffer fools gladly." At the same time, he was most helpful and indulgent when young practitioners approached him for assistance in resolving what seem to them formidable problems.

In 1902, Dr. Earle resigned as Dean, and Dr. Silas Alward was chosen to succeed him, continuing as Dean for fourteen years. Upon Dr. Alward's resignation, Honourable H. A. McKeown, then Chief Justice of the Supreme Court, King's Bench Division, succeeded him. In that year, 1916, Mr. J. F.

H. Teed, afterward K. C., and I, joined the faculty, he lecturing on Practice, and I, on Torts. Other lecturers then were, in addition to Chief Justice McKeown, who lectured on Contracts; Judge J. R. Armstrong, K.C., who lectured on Evidence, Wills and Executors; Dr. T. D. Walker, Medical Jurisprudence; Mr. F. R. Taylor, K.C., Equity and Admiralty; Sheriff A. A. Wilson, K.C., Procedure; Dr. J. B. M. Baxter, K.C., afterward Chief Justice, and Dean, Domestic Relations and Companies and Partnerships; Dr. W. B. Wallace, K.C., Practice, and Dr. J. R. Campbell, K.C., Real Property; J. King Kelley, K.C., Bills and Notes; Dr. Alward, Roman Law and Constitutional Law; Mr. F. J. G. Knowlton, Insurance; Mr. A. H. Hanington, K.C., Sales. Of those who lectured only thirty-two years ago, but two remain, Mr. Teed and I.

Others who had lectured in the intervening years, included Mr. E. P. Raymond, K.C.; Mr. W. H. Trueman, now retired from the Appeal Division of the Manitoba Supreme Court; Mr. George V. McInerney, K.C.; Mr. H. A. Powell, K.C.; Mr. M. G. Teed, K.C.; Judge E. T. C. Knowles, K.C., and Mr., now Justice and acting Chief Justice, Harrison, who is also presently Dean. In 1911, Mr. Justice Harrison was also lecturing on Evidence. His services on the faculty were interrupted by his service in the armed forces of the First Great War. Following his appointment to the Supreme Court Bench in 1935, he rejoined the faculty, lecturing, as he now does, on Equity and Trusts. Other lecturers have been: Mr. C. F. Inches, K.C.; Mr. J. D. P. Lewin, K.C.; Mr. H. A. Drummie, K.C.; Mr. H. A. Porter, K.C.; the late Mr. E. C. Weyman, K.C., and Dr. W. W. White, who lectured for some years on Medical Jurisprudence, succeeding the late Dr. Walker. To complete this sketch of the faculty, Chief Justice McKeown continued as Dean until his appointment as Chief Commissioner of the Railway Commission in 1924, when he was succeeded by Chief Justice Sir Douglas Hazen, who continued as Dean until 1938, when he retired, and was succeeded by Chief Justice Baxter, following whose death in 1946, the present Dean, Mr. Justice Harrison, was selected in 1947.

At a meeting of the faculty held on January 23rd, 1923, a communication from Dr. Boyle, President of King's College, was read. It was a result of the amalgamation of King's with Dalhousie University under the Carnegie plan. Several proposals were submitted, the last of which was the only one considered by Dr. Boyle "as the only proper course open in the circumstances." It was that the law school be continued as a school of law of the new university, in which case it should have its own governing council, the new university granting

the degree. The faculty felt that without sufficient time for consideration no definite decision could be reached; but "the present opinion of the faculty is that the school should be continued in Saint John, if necessary on its own basis, with possible legislation giving it degree conferring powers." The Governors of King's submitted to a meeting of the faculty held August 13th, 1923, several alternate proposals, including a generous one to continue the grant of \$350.00 for the years 1923-1925 inclusive, and leaving the faculty free to discontinue the school after the students already enrolled shall have completed their courses, or to affiliate the school with any other university in Nova Scotia or New Brunswick before June 1st, 1928, or to establish the school on an independent footing before June 1st, 1925.

At the same meeting of the faculty, a communication was read from the Chief Superintendent of Education, to the effect that the Senate of the University of New Brunswick would meet at three o'clock on Tuesday, August 14th, and that the faculty are invited to be present. Those present were,—representing the University, Chancellor Jones, Sir J. Douglas Hazen, Dr. Murray MacLaren and Dr. W. W. White; for the faculty,—Chief Justice McKeown, Mr. J. Roy Campbell, Judge H. O. McInerney and Mr. J. F. H. Teed. The following resolution was adopted: "That the Senate of the University of New Brunswick be asked to constitute a faculty of law in Saint John, that the present Dean of the King's College Law School be Dean of said faculty and that the appointment of said faculty be left to the Chancellor, the Dean and Executive Committee of the present King's College Law School faculty."

It was further moved by H. O. McInerney, seconded by Dr. MacLaren, and carried, "that the Chancellor, Mr. J. Roy Campbell and Mr. J. F. H. Teed be a sub-committee to frame and block out a scheme for organizing and running the law school and submit it to this committee."

At a further meeting held on August 22nd, Mr. Teed moved a resolution which carried, "that the University Senate appoint a full Professor of Law, and that in such event some revision of the faculty may be necessary." This done the faculty stood as follows:—The Chancellor of the University (ex officio); Hon. H. A. McKeown, Chief Justice, Kings Bench Division, Dean of the Faculty; H. O. McInerney, M.A., B.C.L., K.C., Professor of Law; Hon. J. R. Armstrong, D.C.L., K.C., Wills, Executors and Intestate Estates; Hon. J. B. M. Baxter, D.C.L., K.C., M.L.A., Domestic Relations and Legal Ethics; J. R. Campbell, LL.B., D.C.L., K.C., Roman and Common Law;

A. N. Carter, M.A., B.C.L., Sales and Evidence; J. H. A. L. Fairweather, B.A., LL.B., Insurance; A. B. Gilbert, M.A., B.C.L., Statutes and Rules of Interpretation; G. A. Henderson, Judge of Saint John City Court, Inferior Courts Procedure; C. F. Inches, LL.B., B.C.L., K.C., Partnerships and Corporations; Daniel Mullin, K.C., Crimes; H. A. Porter, B.C.L., Bills and Notes; Fred R. Taylor, B.A., LL.D., D.C.L., K.C., Admiralty; J. F. H. Teed, B.A., B.C.L., Practice; W. B. Wallace, D.C.L., K.C., Crown and Exchequer Practice; E. C. Weyman, M.A., LL.D., Equity; W. W. White, M.A., M.D., LL.D., Medical Jurisprudence.

The Senate on September 4th, 1923, appointed me as Professor of Law, and, accordingly, on that date this year I shall have completed twenty-five years as a "full professor," though I have always been regarded as a tee-totaler! The School will have been for a like period a faculty of the University of New Brunswick, and will almost but have completed fifty-six years of existence. It has graduated with the degree of Bachelor of Civil Law, and accordingly, upon call by the Supreme Court, qualified to practice law in New Brunswick, about four hundred young men and women. And, by the way, my chief claim to distinction, as a law student, is that I was a member of a class in which was the first woman to receive the B.C.L. degree, and the first woman to be admitted as an Attorney of the Supreme Court of New Brunswick. She could not persuade the Court that she was a "person" under the rules for admission.* After an adverse finding by the Court, the Regulations were changed to permit her admission. She was then Miss Mabel P. French. At that time, one had to be an Attorney for one year, before being admitted to practice at the Bar. Miss French was admitted an attorney on April 21, 1906, and to the Bar on November 21, 1907, and shortly afterward proceeded to British Columbia.*

The most distinguished student is now Lord Beaverbrook, Chancellor of the University of New Brunswick, who has munificently befriended the University, who made another native New Brunswicker Prime Minister of England; who was perhaps the most trusted adviser to Winston Churchill in England's trying days, and who himself contributed so notably to the winning of the war. He once remarked that if the then Dean had been a little more indulgent, he might have persevered in law;—only modesty prevented his adding what an empire calamity that might have been; though there can be little doubt that if he had gone on in law, he would have been writing "Chancellor" after "Lord."

One B. C. L., Honourable John B. M. Baxter, became a Minister of the Crown at Ottawa, Premier of his Province, and finally its Chief Justice.

Others have gone to the Supreme and County Court Bench in other Provinces, as well as in this Province, to be leaders of the Bar, deputy attorney generals, to parliament, and to the legislatures of this and other Provinces. So far as I know, none has yet gone to his senatorial reward. Perhaps, I am not trespassing too much on prophetic preserves, when I hazard a guess that this may come soon too.

The Faculty is now much smaller than it was twenty-five years ago, due largely to the elimination and combination of courses.

Ours is one of the small law schools, but with our limited facilities,—are there those who would write that “faculties”?—we trust that we are doing what a representative of the Carnegie Foundation once described in his report as “a very useful work.”

* See article on “*Women Are Not Persons.*” —Page 39

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