The LAW UNION NEWS

ISSN 0824-4421 Vo. 2 (N.S.) No. 1 September 1985

Roots The birth and growth of the Law Union

By Robert Martin

The Law Union of Ontario is an attempt by a small group of lawyers in an advanced capitalist society to engage in organized progressive political and legal work. This has not been easy nor has it been entirely successful.

1. HISTORY

The genesis of the Law Union dates back to the summer of 1967, when a group of law students at the University of Toronto joined with a lawyer to form an organization called the Village Bar. The organization offered legal services, which concretelymeant protection against the police, to the large number of young people who had been attracted to Toronto's Yorkville area. The central actors were Paul Copeland and Clayton Ruby, both of who have figured significantly in the affairs of the Law Union. The Village Bar operated Canada's first storefront legal clinic. The legal profession was not pleased. The group was eventually forced to give up the name Village Bar. A number of articling students were discouraged by their firms from taking part. But the end of 1967 the "counter-culture" was beginning to reveal its nastier side, and the Village Bar did not survive the bursting of the Yorkville bubble.

During 1968 and 1969 legal advice was dispensed from a trailer parked in a vacant lot near the Yorkville area. Indeed, throughout its subsequent history, the Law Union has remained attached to this part of Toronto. The trailer project involved Copeland and Ruby, some of the people who had been active in the Village Bar, and a number of law students from the University of Toronto. A significant amount of the work was directed at counselling United States citizens opposed to the Vietnam war, who then were arriving in Toronto in substantial numbers. In 1969 Copeland and Ruby began to practice law together. Thus even before the formation of the Law Union a group of people in Toronto, of generally progressive political inclinations, had acquired experience working together in unorthodox forms of lawyering.

On May 7, 1970, there were major demonstrations all across North America against the United States invasion of Cambodia. One of these was held outside the United States Consulate-General in downtown Toronto. Many people were arrested. Their defence was coordinated by the firm Copeland, Ruby. A degree of cohesiveness began to develop among the lawyers involved, and after a series of meetings during the summer of 1970 it was decided to form the Law Union. The Law Union's first public act was to organize a demonstration in Toronto in October 1970 against the Trudeau Government's invocation of emergency pwoers under the War Measures Act. While critics of that action are plentiful today, the stand taken by the Law Union was far from popular at the time.

The first Law Union did not fare well, and within a year it had disappeared. There seems to have been two reasons for this. First, the Law Union, like many other organizations, fell victim to the infantile leftism them rampant in North America. The second reason is peculiar to the Law Union. While the Law Union was more than just the political arm of Copeland, Ruby, that firm was perceived by many members to be at the heart of the Law Union. But by the second half of 1971 Copeland, Ruby was breaking up, largely because of conflicting perceptions of the organization and direction of a progressive law firm. One result of this was that Clayton Ruby ceased to play an active role in the Law Union.

The first Law Union never was dissolved formally. It just stopped. No further meetings were held. As Charles Campbell, a long-time Union activist, put it in May of 1974: "The Law Union ran out of steam."

The second coming of the Law Union was reminiscent of the birth of the first. They both grew out of progressive political activity. In 1973 a long and unpleasant strike began at the Artistic Woodworking plant in Toronto. Police tactics were particularly vicious. People were arrested on the picket line, and a

Cont'd on p. 8

"Exotic" law

By Murray Klippenstein and Paul Muldoon

Do lawyers and legal workers tire of law talk? We at the LU News are not sure, but after our previous reviews of the state of progressive practice in the private and the public sectors, the News was ready for change. Thus, in this the third part of our look at progressive legal work, the News approached members of the LU's "exotic" element — a journalist, a consultant on organizational behaviour and humour, a non-law school academic, and a researcher/law reform advocate. We asked them about law, and about the careers they had favoured over traditional law.

Phil Stenning is a professor at U of T's Department of Criminology. He decided early, as an undergraduate in law at Cambridge, that "legal practice was not for me. I like to look at problems in depth, which lawyers can't do. And I'm not enamored of the legal profession as a profession. I'm not convinced it exercises power responsibly." Phil also says that "I'm not personally a very political person in the party sense." As an academic, he is able to work on a theoretical perspective and critique of his special interest, policing.

Phil has done three reports on the subject, for the Law Reform Commission of Canada and the MacDonald Commission, and is working on a book on private security forces. He hopes to demonstrate that "a revolution in policing is occurring with the trend toward private security." He is also studying this as

Cont'd on p. 11

Immigration Menu expands to include Sea Food Specialty

By Chris Hurata

Now that Brian, our very own prime-time songster, has switched from star-struck to star-kist, the time has come to apply the fit-for-human-consumption-test to the paper presently being generated by the Immigration bureaucracy. To reassure the reader before continuing further, I am pleased to confirm that at the very least, the Fraser test has been met: sure looks fishy.

In his most recent sleight of foot, Brian has demoted Walter McLean to Secretary of State for Immigration, whatever that means, and it appears that the only aspect in which Flora MacDonald remains involved is that of refugees. You really have to compliment old Brian on his devoutness. On one side of the House is Reverend Heap patiently labouring to demonstrate why Immigration policies offend God and humanity. On the other side, we now have Reverend McLean explaining why God doesn't mind at all one way or the other.

Since the Standing Committee's report in April, which recommended a relaxed policy toward assisted relatives, there has been no indication from the folks at the top that the Standing Committee's advice has been heeded. Instead, in July, the financial requirements for family class sponsorship were substantially upped, thus restricting the only Immigration category the Liberals left more or less intact and reinforcing the existing commitment to family non-reunification. I don't approve.

To whom do we complaim, Flora or Walter? Well, only time will tell. One hopes that there is a liberalization in the policy-makers' briefcases and that, in the minds of the back-lashed tories, Walter got the booby prize. On the other hand, if there is to be liberalization but only on a patronage-oriented case-by-case basis, then it looks as if Walter won a permanent place in the hearts of ethnic Canadians. Always one to whimper at the mere thought of a lack of political integrity, I none the less continue to hope that the Tories will learn the secret of Liberal longevity: make a whole generation of New Canadians grateful for their place in the sun.

As for Flora, it must have become evident along the line that I have struggled with a personal inclination toward respecting her as a political figure. It's hard not to like someone who, while in opposition, had such vitriolic criticism for the hands-on treatment Immigration officers hand out. In my dotage, I have come to believe that there is an element of decency in people that occasionally has the potential of transcending politics. I hope I'm right in Flora's case.

On September 28, 1985, the Standing Conference of Canadian Organizations Concerned for Refugees convened a Special Consultation session in Montreal at which Miss MacDonald attended. She confirmed that she will retain the "refugee file" and preside over the creation of the new refugee regime. For the first time in my memory, there was a real unity among the participating organizations and individuals, no doubt because they had read my last article and recanted. The Minister was met with a genuinely solid front.

In her address to the Standing Conference Saturday morning, there were some rather disturbing palabras. She indicated that she was seeking "not a concensus, but a full airing of our different points of view" and that the system which emerges must be a "balance between a fair and a workable system". She also conveyed the message that the policy makers "must be certain to avoid the pitfalls in our present system" and that the new legislation "must take into account the opinions of Canadians as a whole". With respect to Bill C-55, the sneaky little move made in June to increase the membership of the Immigration Appeal Board (among other things), the Minister said very clearly that the move must be made to "make the system less attractive to non-refugees." At the same time, we were asked to believe that Bill C-55 is primarily directed toward clearing up the IAB sponsorship backlogue so that angst-ridden families can be told in a more expeditous manner that they cannot reunificate. Yet, on a more hopeful note, the Minsiter concluded by saying, "I don't have final answers."

Meanwhile, in the refugee-servicing community, a new courage seems to be taking hold. Rabbi Plaut's capitulation to political expediency over procedural fairness is no longer being embraced as the only available option. The debate is gradually coming around to a firm commitment to a two-tiered front-end-loaded system: a hippy van over a Model A. To translate, we voluntary types are now possessed of sufficient pluck to fight for a three-person oral hearing at the trial level with an appeal to a specialized tribunal and judicial review. In other words, individuals and groups across Canada have formed the intention, both jointly and severally, to resist the unnatural justice that will grant a refugee's life slightly less importance than Small Claims Court would accord a contract for a magazine subscription.

Another model, proposed by the ever-maverick Montrealers, is also being seriously discussed. The Montrealers, who agreed in principle with a two-tiered system with accessibility to judicial review, proposed an initial decision-making body composed of only two male members with the benefit of the doubt to be resolved in favour of the

Cont'd on p. 8

If you've got an issue you want others to know about, or are interested in finding out about interesting stuff other left-leaning right-thinking legal types are doing and reporting it, give the News a call and come to the collective meeting on the next issue. It will be held November 10, 1985 at the home of Murray Klippenstein, 469 Broadview Avenue, Toronto, 465-1531.

The deadline for articles, ads, news items, and letters to the editor for the next issue is November 29, 1985.

LAW UNION NEWS

The Law Union News is published periodically by the Law Union of Ontario, a group of socialist and progressive lawyers, law students and legal workers The News is sent to all Law Union members. Queries involving membership should be sent to:
Law Union of Ontario
2 Bloor Street West
No. 100203
Toronto, Ontario
Canada M4W 3E2

Articles, news items and letters are welcome. Address all editorial inquiries to:
Law Union News
808 Carlaw Avenue
Toronto, Ontario
Canada M4K 3L2

The News is produced by Our Times Publishing Ltd., a unionized collective.

Charlie's Charter Chatter

All for Nuns and Nuns for All

by Charles Campbell

A Charter chariot full of chiefs and charmers dumped a mighty load on the Ontario Court of Appeal all about Catholic school funding. A rumoured forty-seven lawyers appearing for a Noah's Ark of political interest groups set up camp on UnAve to tell all about it. A.G. Ian Scott, appearing for himself as a client — remember what they say — told the court total funding was a good thing and that Charter equality must give way to other constitutional considerations. J.J. for the public boards said no way. Equality is everything.

Very elevated stuff! But is this a Court or a political conference? Remember years ago when Charter Charlie told you the Charter would make the Courts into openly political institutions? Remember? Sure you do. Well, see, I told you so! Didn't I? Didn't I?

Hey gang, let's get at it! Let's elect the judges. There's no other way.

Charter Swan Song

Charter chanters Clay and Marlys, together with legal heavy big Mike Code, hurled themselves dauntless into the black hole (Osgoode Hole) in round three of "the Swain affair". They were trying to persuade three of the high black ones to save Owen Swain from compulsory residential shrinkage under Criminal Code section 542 on the compulsory committal of the acquitted but insane. Round two was lost when County Court Judge O'Connell ruled against Ms. Marlys Edwardh and Charlie the Charter Chatter in Swain's County Court trial. They took up the cause from Law Union regular Eva Ligeti when the Crown got down and dirty in Swain's assault trial.

Swain, it must be said, did some serious no-no's to his wife and baby in a psychotic episode for which no excuse could be offered except freak-out. He was arrested and forthwith installed in an Oak Ridges maxi-pad, treated with heavy drugs, but eventually discharged to the care of a Toronto shrink. He progressed well by *all* accounts, reconciled with his and made a big peace treaty with the CAS. An admirable rehabilitation.

But when the trial thing came down almost two years later Mr. Crown raised and proved, over the objections of successive counsel, that Swain was insane at the time of the offense. Insanity is a defense, you thought. Back to first year. Do not collect two hundred dollars.

The Charter chanters all said, in a magnificent oratorio of logic and justice, that compulsory committal to the care of the Lieutenant Governor (read Edson Haines) without a hearing on the merits and necessity of that committal was a violation of Charter rights. Which one? Take your pick! (P.S. this argument failed when argued under the Bill of Rights).

Perhaps by the time you wrap your garbage with this page the three high black ones will have spoken the truth.

Just think of it! We regard it as a major triumph in this era to have a judicial hand on the cell key rather than a shrink. How our vision has shrivelled. But, go team, go.

Charter Cheques

Charter cheques are coming but all tied up with strings from the Canadian Council on Social Development. The CCSD will dole out the pennies on behalf of the federal government to finance equality cases under the Charter. There will be no direct funding to the fiery wild-eyed radicals of the Women's Legal Education and Action Fund and the Coalition of Provincial Organizations of the Handicapped. Decisions on which cases to fund will be made by a panel of "highly regarded human rights people — Stephen Lewis types", says a CCSD spokesman. Isn't such stereotyping discrimination on the basis of cooptability? (Nine million for cases and two million for administration!!!!) Rest assured no trouble-making types will get close to the honey pot. No doubt the administrators will have indexed pensions.

Charter Checkers

Charter chanters gasped and gagged when Charter Choker Justice Steele trashed the equal protection section of the Big C. Justine Blainey wanted to play boys hockey, you see. As Rights Regulars know the provincial Code (the Little C) by section 19(2) exempts sexual discrimination by athletic organizations from the prohibitions against sexual discrimination. Justine's lawyers Anna Fraser and Tory Tory Mary Eberts argued the Little C violated the Big C.

For cognoscenti the very height of Charter challenge is to litigate Big C vs Little C. Grab for greatness, Charter chasers. On appeal, each side needs at least two law professors and seventeen pounds of righteous indignation well indexed. Justine was just what the tenure committee ordered! By the time this kid has been analyzed to the full extent of available funding, she'll be divorced in Wawa with grandchildren, but famous!

Not only did Steele J. say that Little C was a reasonable limit within the meaning of Big C section 1 but he also chopped up section 28 into atomic dust and blew it in the wind. Section 28 you will remember (won't you) was the entrenched sexual equality section. It was added to the Big C after intensive lobbying by womens groups in order to prevent the guarantees of sexual equality from being rationalized away in section 1. But Steel J. said section 28 must be subject to section 1 notwithstanding. "If this were so there could be no limits of any sort prescribed by law upon the equality of the sexes." Public decency would be threatened. And affirmative action despite section 15(2). What will Big Bertha say about that, boys and girls. What will she say!

Somehow, the Campbells knew very early that Junior would grow up to be a Law Union lawyer.