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The Juvenile Advocate Society, 1821-1826: Self-Proclaimed Schoolroom for Upper Canada's Governing Class

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Article abstract

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A preliminary reconstruction of the self-image of members of the Bar, and their perceptions of such concepts as privilege, destiny and responsibility, is attempted through an examination of the early records of the Juvenile Advocate Society. This organization of law students was active in York (Toronto) roughly between 1821 and 1826. Since legal culture - the rhetoric, concepts and self-perceptions of members of the professional community - both reflects and generates social order, the debates of this society offer a suggestive entrée to an emergent professional consciousness.

The Juvenile Advocate Society offered a unique opportunity for senior members of the Bar to inculcate the values which underlay the colony's legal system to its members. Its participants included senior barristers of varied political persuasions, like William Warren Baldwin and Henry John Boulton. The organization was the first of several ambitious attempts to socialize law students, part of an attempt to replicate and expand their highly valued provincial aristocracy.

As an informal schoolroom for the colony's self-proclaimed elite, the Juvenile Advocate Society aped the structures as well as the values of the provincial adminis- tration. Topics for discussion and the rules of procedure underlined the society's role in teaching law students "proper" values. These extended beyond the traditional realm of politics to include the relationship of culture to the constitution, of private and public spheres of activity, and secular social structures to sacredly ordained order. Whether this training was a passport to authority, status and gentility is uncertain, but the efforts to ensure the continuance of this group of ideas in new generations suggest that members of the elite thought it worth the attempt.

The Juvenile Advocate Society, 1821-1826: Self-Proclaimed Schoolroom for Upper Canada's Governing Class*

G. BLAINE BAKER

Résumé

The emergence of professions in Upper Canada has yet to be the subject of detailed examination or in-depth comparative analysis. Work so far has tended to be biographical, institutional or functional in orientation. Thus the emergence of a professional consciousness in the colony is even less well-researched than the whole context of professionalization.

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*The author would like to thank Roy Schaeffer, Research Archivist of the Law Society of Upper Canada, for drawing the records of the Juvenile Advocate Society to his attention, and Kenneth Jarvis, Q.C., Secretary of the Law Society, for providing generous access to this and other material in the private archives of Osgoode Hall, Toronto.

Le développement des professions libérales dans le Haut-Canada n'a pas encore fait l'objet de recherches approfondies ni d'analyses comparatives. Les études entreprises jusqu'ici ont tendance à être biographiques, institutionnelles ou occupationnelles. Par conséquence, l'histoire du sens d'appartenance à une profession est encore moins développée dans la littérature que le sens acquis au fil des ans par le terme professionnalisme.

L'auteur tente d'établir une reconstitution préliminaire de l'image professionnelle qu'avaient les membres du Barreau haut-canadien, et de découvrir leurs perceptions sur des sujets aussi variés que les privilèges, le sens du devoir et celui de la responsabilité en examinant les archives de la "Juvenile Advocate Society". Ce club des étudiants en droit de York (maintenant Toronto) fut fort actif entre 1821 et 1826 environ. Parce que la culture juridique — la rhétorique, les idées et les perceptions qu'ont les avocats d'eux-mêmes — génère tout autant qu'elle reflète l'ordre social, les débats de ce club constituent une source fort intéressante pour saisir l'évolution du sens du professionnalisme des juristes.

Grâce à la "Juvenile Advocate Society" les avocats les plus importants avaient une occasion unique d'inculquer les valeurs fondamentales du système juridique aux nouveaux membres du Barreau. Ces enseignants comprenaient les membres du Barreau les plus éminents, des personnes aux vues politiques aussi diverses que William Warren Baldwin et Henry John Boulton. La "Juvenile Advocate Society" fut la première tentative de la "Law Society of Upper Canada" de faire partager aux stagiaires en droit un même idéal afin de les préparer à devenir des membres de l'élite de la colonie.

En tant qu'école officieuse des futurs meneurs du peuple, la "Juvenile Advocate Society" reproduisait les lourdes structures internes et la procédure officielle du gouvernement colonial du Haut-Canada. Les sujets de discussion et les règles d'étiquette dénotaient clairement la volonté de la société d'enseigner aux apprentis-avocats les valeurs qu'elle considérait comme fondamentales. Ces valeurs comprenaient des éléments plus variés que les simples conceptions politiques et sociales — par exemple, elles pouvaient inclure les relations entre la culture et la constitution, entre les sphères d'activités publiques et privées, ainsi qu'entre la Providence et les structures sociales séculières. Il n'est pas certain que cette formation assurait l'accès au patronnage, à un statut social élevé et à une place dans la haute bourgeoisie, mais les efforts d'inculquer ces conceptions à la jeune génération d'avocats démontrent l'importance de ces idées.

In March of 1823, members of Upper Canada's Juvenile Advocate Society were embroiled in an escalating dispute among themselves about whether they should admit to weekly meetings of their voluntary gentlemen's club and debating society, young persons who were not apprenticing for full admission to the Law Society of Upper Canada.[1] Their disagreement over exclusivity became sufficiently profound that such reform-minded and egalitarian initiates as eighteen-year-old Robert Baldwin and twenty-one-year-old John Fennings Taylor resigned temporarily from their positions as officers of the society, and it was ultimately resolved that formal guidance from prominent members of the provincial Bar should be sought.[2]

Counsel offered on that occasion by scions of the Upper Canadian legal profession like Dr. William Warren Baldwin, James Buchanan Macaulay, Solicitor General Henry John Boulton, Law Society Bencher George Ridout and Simon Ebenezer Washburn affords a unique perspective not only upon the provincial Bar's early recognition of the significance of legal education and law-student camaraderie as socializing forces, but also upon a developing professional selfconsciousness in the

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1. The Juvenile (or Junior) Advocate Society has been noticed by a number of historians of the Upper Canadian legal profession, but no systematic treatment of its organization, membership or activities has been undertaken. Compare G. Blaine Baker, "Legal Education in Upper Canada 1785–1889: The Law Society as Educator," in *Essays in the History of Canadian Law*, ed. David H. Flaherty (2 vols., Toronto 1981–3), Vol. 2, pp. 86–7 and 91–3; Brian D. Bucknall, Thomas C.H. Baldwin, and J. David Lakin, "Pedants, Practitioners and Prophets: Legal Education at Osgoode Hall to 1957," *Osgoode Hall Law Journal* 6 (1968), pp. 137 and 145; and note "A History of Legal Education in Ontario," *Law Society of Upper Canada Gazette* 6 (1972), pp. 35 and 39; William Renwick Riddell, *The Legal Profession in Upper Canada in its Early Periods* (Toronto, 1916), p. 40; Edward Gillis, "Legal Education in Ontario – An Historical Sketch," *Canadian Law Review* 4 (1905), pp. 101 and 102; David B. Read, *The Lives of the Judges of Upper Canada and Ontario, From 1791 to the Present Time* (Toronto, 1888), pp. 450–7; James Cleland Hamilton, *Osgoode Hall. Reminiscences of the Bench and Bar* (Toronto, 1904), pp. 23–4.
2. *Journals of the Advocate Society* (hereafter *Journals*) (9 vols. 1823–6), Vol. 9, pp. 54–5, 59 and 90: Robert Baldwin to Charles Richardson, 5 April 1823; Charles Richardson to Robert Baldwin, 7 April 1823. Available records of the Juvenile Advocate Society are contained in *Journals*; *Docket Ledger of the Red Purse of the Treasury of the Advocate Society* (1823); *Docket of the Committee of Direction of the Advocate Society* (1823–4); *Patent–Role of the Advocate Society* (1823–6); *Docket of the Forum of the Advocate Society* (1823–4); *Docket of the Banc of the Advocate Society* (1823–5); *Ordinances of the Advocate Society* (1821–3); *Journal of Proceedings in the Chamber of the Society* (1823); *Constitutions of St. Michael and St. Hilary with Ordinances (or a Development of the Common Customs of the Advocate Society)* (1823); *Memorandum of the Practice and Rules of the Chamber of the Banc of the Advocate Society 1824*; and in a slim file of correspondence and "patents," all of which comprise approximately four hundred pages and can be found in their unpublished form at Osgoode Hall, Toronto. These records appear to have been late nineteenth century gifts to the Law Society from Chief Justice of Ontario Sir Adam Wilson (who apprenticed with Robert Baldwin in the 1830s and later became a partner in the Baldwin law firm), and from Toronto public librarian James Bain.

fledgling Upper Canadian Bar.[3] Moving from the still-life sketch provided by that episode to an examination of the activities of the York (which later became Toronto) Juvenile Advocate Society between 1821 and 1826, and ultimately to other rites of passage imposed upon student lawyers at an early date by the Law Society of Upper Canada, the picture that emerges in this essay is one of the pre-Union provincial Bar as a self-proclaimed fraternity of Bolingbrokean or Blackstonean statesmen in service of a classical "public good," who were preoccupied with the elaboration of formal and especially informal schoolrooms for future generations of Upper Canada's governing class. Reputed Tories, Whigs and Reformers alike, within and frequently without the legal profession, joined in early approval of this schema for a preliberal, pyramidal social mosaic topped in large measure by a class of legally trained "patriotic courtiers."[4]

In response to formal questions put by York's late-Georgian law students about the appropriate structure and composition of their nascent association, Dr. Baldwin wrote privately in March of 1823 to advise Richard Cartwright Robison, a Kingstonian apprenticing in the York offices of Attorney General John Beverley Robinson and the Bencher (chairman) of the Juvenile Advocate Society, that

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3. While the modes and effects of professional socialization in law in any time period have received surprisingly little empirical attention, the following sources are suggestive of the scope of this theme: Howard S. Erlanger and Douglas A. Klegon, "Socialization Effects of Professional School. The Law School Experience and Student Orientations to Public Interest Concerns," *Law and Society Review* 13 (1978–9), p. 11; Jack Ladinsky, "The Impact of Social Backgrounds of Lawyers on Law Practice and the Law," *Journal of Legal Education* 16 (1963–4), p. 127; Dan C. Lortie, "Layman to Lawmen: Law School, Careers, and Professional Socialization," *Harvard Educational Review* 29 (1959), p. 352; William Miller, "American Lawyers in Business and Politics: Their Social Backgrounds and Early Training," *Yale Law Journal* 60 (1951), p. 66. The professional self-image of early nineteenth century North Atlantic lawyers is treated in a rapidly developing literature. See for example, E. Lee Shepard, "Lawyers Look at Themselves: Professional Consciousness and the Virginia Bar, 1770–1850," *American Journal of Legal History* 25 (1981), p. 1; Maxwell Bloomfield, "Law vs. Politics: The Self–Image of the American Bar (1830–1860)," *American Journal of Legal History* 12 (1968), p. 306; Daniel Duman, "The Creation and Diffusion of a Professional Ideology in Nineteenth–Century England," *The Sociological Review* (NS) 27 (1979), p. 113.

4. Even in such other settings as nineteenth century England or America, where the status of the Bar as a politically favoured gentility is less clear than in pre-Confederation Canada, the thrust of some recent studies of the emerging legal profession has been to treat lawyers as public trustees or stewards whose sphere was the production of culturally controlling ideas like contract or property, the ordering of social relations and the rationalization of existing patterns of human interaction. Compare Robert W. Gordon, "The Ideal and the Actual in Law: Fantasies and Practices of New York City Lawyers, 1870–1910," in *The New High Priests: Lawyers in Post-Civil War America*, ed. Gerard W. Gawalt (Westport, Conn., 1984), p. 51; Avner Offer, *Property and Politics 1870–1914. Landownership, Law, Ideology and Urban Development in England* (Cambridge, 1981); David Sugarman, "The Legal Boundaries of Liberty: Dicey, Liberalism and Legal Science," *Modern Law Review* 46 (1983), p. 102.

> human society is formed of so elegant a web that every violence done it makes a breach which however repaired will long remain a blemish. In all [society's] rich tapestry distinction is necessary; this is nature or more properly speaking the order of providence. Every institution built without this caution must fail.... As the division of labour tends to improve and perfect an art so the division of Society tends to polish and perfect mankind in those arts which embracing religion, morals, and science are as it were the machinery of progressive embellishment and happiness of a people.... The profession of the Law...is guarded by particular statutes and decrees from indiscriminate admission to its honour which, as well as its emoluments, are confined to those who by education and a course of study qualify themselves to fulfill its duties.... In opening the door to indiscriminate admission the [Juvenile Advocate] Society will lose all the incentive which distinction gives. The barrier placed by [the existing rule which restricts membership to students-at-law and articled clerks], like the statute in respect of the Law Society, gives a sort of legality to that necessary distinction....[5]

Thus Dr. Baldwin advised that nature and a divinely decreed vertical social mosaic were indissociable. Providential distinctions were said to provide incentive for personal advancement and general improvement which, in turn, were possible only when a hierarchical social structure was maintained.

Similarly concerned about the intimacy of distinction and social order, J.B. Macaulay cautioned the juvenile advocates that

> one great evil to be dreaded from an indiscriminate assembly such as is proposed would be the abandonment of legal discussions...in favour of promiscuous topics alone agreeable to or indeed comprehensible by the newcomers.... Besides, I apprehend that as numerous an assembly of young men as the new system would in all probability produce might be apt to lead to confusion, disorder or uproar and to shut the door against all decorum or improvements....[6]

Solicitor General and Law Society Treasurer H.J. Boulton preferred to elaborate upon the achievement of parity within castes through the promotion of occupational solidarity:

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5. *Journals*, Vol. 9, pp. 67–74. Dr. Baldwin was an expatriate Irish physician who obtained an executive licence to practise law in Upper Canada in 1803. He was the province's most popular principal of apprenticed law students through the 1820s and 1830s, a dominant voice in the early Law Society and, although not in office when these remarks were penned, its treasurer (president) for eleven years. He also served from time to time as judge of the Home District Court, Master in Chancery, and member of the Legislative Assembly. See J.M.S. Careless, "Robert Baldwin," in *The Pre-Confederation Premiers: Ontario Government Leaders, 1841–1867*, ed. J.M.S. Careless (Toronto, 1980), pp. 93–121.
6. *Journals*, Vol. 9, pp. 83–6. Macaulay had been educated by John Strachan, and called to the Bar in 1822. He later served as puisne justice of the Court of King's Bench, chief justice of Common Pleas, puisne justice of the Court of Error and Appeal, and treasurer of the Law Society. See Patrick Brode, "The Portraits of the Law Society: Sir James Buchanan Macaulay 'Most Excellent Man and Lawyer'," *Law Society of Upper Canada Gazette* 18 (1984), p. 254.

> Gentlemen studying the same profession and bound together by that Esprit du Corps which persons in the same pursuit are naturally activated by, and moreover acquainted with each other by frequent communication in the course of their daily studies, form pleasant as well as entertaining Societies. They feel themselves upon an equality and no idea exists that some persons are admitted that are inferior to the rest. There is a community of interests, of ideas and of objects. . . . [B]ut when [such Societies] are formed. . . of persons who have no common tie . . . they are productive of no good. . . . By such means ill blood is engendered and the peace and harmony of the Society, and with those the Society itself, are broken up and destroyed. . . .[7]

For Boulton, equality was not a universal concept. It apparently meant only equality as between men of the same rank, and was thus contingent upon the presence of common ties. This is the antithesis of an atomistic conception of society, since membership in a rank was said to have a feel and spirit which were not reducible to individual actors.[8]

In sum, the juvenile advocates were told by their mentors that providence ordains an orderly, hierarchical, supervised and benign social structure in which one's standing is largely determined by literacy, occupational status and habits of life. In view of the fact that training for admission to the Law Society effectively provided the only opportunity for "advanced education" then available in the province, the implications for law students of a social hierarchy based on character, intellect, erudition and professional achievement must have been clear. The immediate result was that York's aspiring lawyers agreed that it was "altogether inexpedient" to be anything other than exclusive, and promptly affirmed their society's rule that "no person who is not admitted as a Student at Law upon the Books of the Law Society shall on any pretence whatsoever be admitted as a member of this Society."[9]

These elite-building urges of the 1820s were clearly foreshadowed, one might say mandated, by the Law Society's legislative conception in 1797 as a "learned and honourable body" whose members' responsibility was "to assist their fellow subjects as occasion may required, and to support and maintain the constitution of the said Province." The Society was given a monopoly with respect to the practice of law, and exclusive control over admission to the profession.[10] Admittedly, one should not unduly emphasize formal organization as a yardstick of professionalism. However, one

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7. *Journals*, Vol. 9, pp. 64–7. See also William Renwick Riddell, *The Bar and the Courts of the Province of Upper Canada or Ontario – Pt. I, The Bar* (Toronto, 1928), pp. 64–6. Boulton had been educated by John Strachan and studied law at England's Middle Temple. Following service as solicitor general, and later attorney general, of Upper Canada he was appointed chief justice of Newfoundland in 1833, but returned to law practice in Toronto in 1838. See Hereward and Elinor Senior, "Henry John Boulton," in *Dictionary of Canadian Biography* (hereafter *DCB*) (Toronto, 1976), Vol. 9, p. 69.
8. See also *Journals*, Vol. 9, pp. 77–82.
9. *Journals*, Vol. 1, p. 2; *Journals*, Vol. 9, pp. 56 and 90.
10. *An Act for the better Regulating the Practice of the Law*, 37 Geo. III (1797), c. 8 (UC), ss. 1, 5. See generally William Renwick Riddell, *The Bar and the Courts*, pp. 34–57.

feature of the Law Society Act which helped build self-perceptions of privilege and purpose was its political anointment of a group of twelve or fifteen "backwoods" lawyers as an autonomous, monopolistic body. This designation took place at a much earlier date than such statutory elevations of lawyers or other "professionals" elsewhere in British North America.[11] The Law Society thus stands alone in Canada as one of the North Atlantic world's oldest selfgoverning occupations with statutory mandates. Its organic law predates the English Apothecaries' Act of 1815, which is thought by many historians to have provided the model for nineteenth century professional organizations.[12] The Law Society's legislative imprimatur emerged from a congeries of influences and ambitions, not least of which was the desire of such late eighteenth century colonial civil servants as chief justices William Osgoode and John Elmsley, Attorney General John White, Solicitor General Robert Isaac Dey Gray, Lieutenant Governor John Graves Simcoe and President Peter Russell to encourage the rapid emergence of a provincial aristocracy.[13]

A second key component of the Law Society Act which anticipated elite-building initiatives was its specification of the maintenance of the provincial constitution as one of the society's chief responsibilities. Understood in early-modern parlance, "the constitution of the said Province" was not the set of positive or customary rules that defined its formal organs of government but rather the unwritten, and often unspoken, political and spiritual premises upon which the community was to be based.[14] No distinction was yet drawn between society and government, or culture and constitution.

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11. Compare *An Act to incorporate The Bar of Lower-Canada*, 12 Vict. (1849), c. 46 (CAN); *An Act to incorporate the Law Society of Newfoundland*, 4 Wm. IV (1834), c. 23 (NFLD); *Law Society of Prince Edward Island Act*, 40 Vict. (1876), c. 24 (PEI); *Barristers' Society Act*, 22 Vict. (1858), c. 85 (NS); *An Act respecting the Barristers' Society, and Barristers, Attorneys, and Students-at-Law*, 10 Vict. (1846), c. 48 (NB). See also Elizabeth MacNab, *A Legal History of Health Professions in Ontario* (Toronto, 1970); Michael Bliss, "The Protective Impulse: An Approach to the Social History of Oliver Mowat's Ontario," in *Oliver Mowat's Ontario*, ed. Donald Swainson (Toronto, 1972), p. 174; Barbara Tunis, "Medical Education and Medical Licensing in Lower Canada; Demographic Factors, Conflict and Social Change," *Histoire sociale/Social History* 14 (1981), p. 67; Colin D. Howell, "Reform and the Monopolistic Impulse: The Professionalization of Medicine in the Maritimes," *Acadiensis* 11 (1981), p. 3.
12. See, for example, W.J. Reader, *Professional Men: The Rise of the Professional Classes in Nineteenth Century England* (London, 1966), pp. 51–2; Magali Sarfatti Larson, *The Rise of Professionalism. A Sociological Analysis* (Berkeley, Calif., 1977), pp. 87–9.
13. See G. Blaine Baker, "Legal Education in Upper Canada," pp. 58–67. See also Gerald M. Craig, *Upper Canada. The Formative Years 1784–1841* (Toronto, 1963), pp. 25–6, 33–4 and 38–40; William Colgate, "William Osgoode, Chief Justice," *Canadian Bar Review* 31 (1953), p. 270; Edith G. Firth, "John Elmsley" *DCB* (1983), Vol. 5, p. 303; Edith G. Firth, "John White" *DCB* (1979), Vol. 4, p. 766; William Renwick Riddell, "Robert Isaac Dey Gray, The First Solicitor General of Upper Canada," *Canadian Law Times* 41 (1921), pp. 424 and 508; Edith G. Firth, "The Administration of Peter Russell, 1796–1799," *Ontario History* 48 (1956), p. 163.
14. Compare J.G.A. Pocock, *The Machiavellian Moment. Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, 1975).

Expressed more bluntly, religious, political and social order were regarded as one. In a sense, the Bar was thus ordained as a guardian of the closely knit, ordered, content and secure community that the province's early statesmen hoped would follow from the introduction of a graduated social structure, discouragement of republican or democratic tendencies and the promotion of strong internal communications and civil authority.[15]

A third aspect of the Bar's organic law which commands attention is the continuity of goals, forms and personalities to which it gave rise. Conceding that no rigorous inquiry into the ebb or flow of provincial antilegal sentiment has yet been undertaken, it is nonetheless noteworthy that over the course of two centuries no major assault upon the Law Society's statutory prerogatives appears to have been launched, and that the traditions associated with law training under its auspices enabled that discipline (unlike medicine, divinity, dentistry, teaching or engineering) to avoid association with Ontario's universities until the midtwentieth century.[16] Traces of the society's venerable political prominence and pedagogical effectiveness abound.[17]

Lay commentary of the early nineteenth century affirms the plausibility of the Law Society's grand plans to establish its admission and training programmes as portals to status and authority, and suggests that statements which might otherwise be downplayed as the self-interested, rhetorical and conventional exhortations of lawyers reflected sentiments with a currency beyond the legal profession. According to John Strachan, the powerful, omnipresent head of the provincial Church of England, and unofficial "prime minister" of the province,

> [law] must, in a country like [Upper Canada], be the repository of the highest talents. Lawyers must, from the very nature of our political institutions — from there being no great landed proprietors — no privileged orders — become the most powerful profession, and must in time possess more influence and authority than any other. They are emphatically our men of business, and will gradually engross all the colonial offices of profit and honour. It is, therefore, of the utmost importance that they should be collected together. . . become acquainted with each other

15. See generally Terry Cook, "The Canadian Conservative Tradition: an historical perspective," *Journal of Canadian Studies* 8 (1973), p. 31; S.F. Wise, "God's Peculiar Peoples," in *The Shield of Achilles. Aspects of Canada in the Victorian Age*, ed. W.L. Morton (Toronto, 1968), p. 36; William E. de Villiers-Westfall, "The Dominion of the Lord: An Introduction to the Cultural History of Protestant Ontario in the Victorian Period," *Queen's Quarterly* 83 (1976), p. 47.

16. See C. Ian Kyer and Jerome E. Bickenbach, *A Clash of Principle: "Caesar" Wright, The Benchers and Legal Education in Ontario 1923–1957* (forthcoming, Toronto, 1986); Robin S. Harris, *A History of Higher Education in Canada 1663–1960* (Toronto, 1976).

17. See generally G. Blaine Baker, "The Reconstitution of Upper Canadian Legal Thought in the Late-Victorian Empire," *Law and History Review* 3 (1985), p. 81; Curtis Cole, "A Learned and Honourable Body: the professionalization of the law in Ontario, 1870–1930," Ph. D. diss., University of Western Ontario, 1986; Mark M. Orkin, "Professional Autonomy and the Public Interest: a study of the Law Society of Upper Canada," D. Jur. diss., York University, 1972.

> and familiar, acquire similar views and modes of thinking, and be taught from precept and example. . . .[18]

Such missives, and the unqualified approval of the "establishment" they represent, stand in stark contrast to the acrimony and rivalry that characterized relations between the Bar and other putative social elites like the clergy, merchants and landed gentry in numerous British North American colonies.[19] Perhaps most important, the equation of lawyers, landed proprietors, men of business and colonial officials is an intriguing notion which suggests a social order not yet fractured into intensive social specialization or even into public and private spheres of influence.

John Strachan also taught, as a private and grammar-school tutor at Kingston, Cornwall and York in the first decades of the last century, many of the young people who later participated in the Juvenile Advocate Society, and a majority of the early Upper Canadian Bar.[20] In 1824 Strachan himself quipped that "[a]lmost all the young men of eminence in Upper Canada and many in Lower Canada have been my pupils," and one of his recent biographers has concluded that the indefatigable archdeacon "deliberately set out to train [these students] as potential rulers of the next generation."[21] The walk of life favoured by this notorious oligarch and most prominent Family Compact Tory for personal advancement and ultimate social status was the law. Indeed, Strachan overrode the protests of his sons and piloted all three of them into the legal profession: his eldest, James McGill Strachan, was a member of the Juvenile Advocate Society.

Strachan's prototypical protogé, J.B. Robinson, who was treasurer of the Law Society and Attorney General for much of the period during which the juvenile advocates were organizing, was the architect of a number of early nineteenth century

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18. Archdeacon John Strachan to Lieutenant Governor Sir Peregrine Maitland, 10 March 1826, reproduced in *The University of Toronto and its Colleges 1827–1906*, ed. W.J. Alexander (Toronto, 1906), pp. 149–50.

19. Compare A.G. Roeber, *Faithful Magistrates and Republican Lawyers: Creators of Virginia Legal Culture, 1610–1810* (Chapel Hill, 1981); John M. Murrin, "The Legal Transformation: The Bench and Bar of Eighteenth-Century Massachusetts," in *Colonial America: Essays in Politics and Social Development*, ed. Stanley N. Katz (Boston, 1971), p. 415; Milton Klein, "From Community to Status: The Development of the Legal Profession in Colonial New York," *New York History* 60 (1979), p. 136; Alan F. Day, "Lawyers in Colonial Maryland, 1660–1715," *American Journal of Legal History* 17 (1973), p. 145; Gary B. Nash, "The Philadelphia Bench and Bar, 1800–1861," *Comparative Studies in Society and History* 7 (1965), p. 203.

20. Compare *Patent-Role* with H. Patton, *A Sermon on the Life, Labours, and Character of the Late Honourable and Right-Reverend John Strachan* (Montreal, 1868), pp. 28–30 and with Archives of Ontario, John Strachan Papers, MS 35.

21. John Strachan to Bishop William Howley, 7 June 1824, reproduced in F.H. Armstrong, "John Strachan, Schoolmaster, and the Evolution of the Elite in Upper Canada/Ontario," in *An Imperfect Past: Education and Society in Canadian History*, ed. J. Donald Wilson (Vancouver, 1984), p. 154; G.M. Craig, "John Strachan," *DCB* (1976), Vol. 9, p. 753.

refinements in legal training. Robinson also longed for a local aristocracy, partly as a buttress against rampant American egalitarianism:

> It is to be remembered that there is in Canada no counteracting influence of an ancient Aristocracy, of a great landed interest or even of a wealthy agricultural class; there is little in short but the presumed good sense, and good feeling of an uneducated multitude...to stand between almost universal sufferage and those institutions, which proudly and happily distinguish Britons from...Citizens of that Great Republic, where..."the Executive power of government is a mere Nullity".... When we behold [such] an indifference to the observance of the Laws and a restless diligence to evade them — a want of reverence to Magistrates and Superiors, a disrespect to stations, ranks, and orders of persons...we may consider these as symptoms fatal to the true liberty of [the inhabitants of the United States].... Everyone carves out his own method of redress, and prosecutes his designs by the dictates of his own corrupt will — To prevent these evils a love of Order becomes necessary by which we are induced to conform to the Laws and to promote the welfare of the community.[22]

Law Society Bencher and Solicitor General Christopher Alexander Hagerman was similarly fearful of such "levelling systems," and "considered [an aristocracy] essential to the happiness and good government of any people."[23]

The elite craved by Robinson, Hagerman, Strachan and other early statesmen was to be a meritocracy, each member of which was to be a "most worthy, intelligent, loyal, and opulent inhabitant...a gentleman of high character, of large property, and of superior information."[24] In the absence of a provincial university or other ready vehicles of cultivation, Robinson and Hagerman, again like Strachan, naturally fixed upon the Law Society as a principal means for the production of such local aristocrats.[25] In provincial lawyers, not always acting *qua* lawyers as their functions are understood in the late twentieth century, they saw the Bolingbrokean statesmen, men of ability and

22. John Beverley Robinson to Lord Normanby, 23 February 1839, reproduced in *The Arthur Papers*, ed. C.R. Sanderson (3 vols., Toronto, 1957–9), Vol. 1, p. 62; John Beverley Robinson to the Grand Jury of the Western District, 1836, reproduced in Patrick Brode, *Sir John Beverley Robinson: Bone and Sinew of the Compact* (Toronto, 1984), p. 176. See also John Beverley Robinson, *Canada and the Canada Bill, Being an Examination of the Proposed Measure for the Future Government of Canada* (London, 1840), p. 122; *McNab v. Bidwell* (1830), *Draper's Reports*, pp. 144, 146–52 (King's Bench).

23. *Christian Guardian*, 29 January 1831, reproduced in Gerald M. Craig, *Upper Canada*, p. 208. See also S.F. Wise, "The Rise of Christopher Hagerman," *Historic Kingston* 14 (1965), p. 12.

24. John Beverley Robinson, *Canada and the Canada Bill*, pp. 144–5. See also Terry Cook, "John Beverley Robinson and the Conservative Blueprint for the Upper Canadian Community," *Ontario History* 64 (1972), p. 79.

25. See *Mandamus in re Lapenotière* (1848), 4 *Upper Canada Queen's Bench Reports* (NS) 492, 495; Patrick Brode, *Sir John Beverley Robinson*, pp. 38, 166–7 and 230; *Journal of Proceedings of the Convocation of Benchers of the Law Society of Upper Canada* (hereafter *Minutes*), Vol. 1, p. 119 (unpublished; a copy can be found at Osgoode Hall, Toronto).

talent rather than birth that they regarded as an urgent political priority.[26] Thus Robinson in particular relished the involvement of his colleagues at the Bar in government, and especially their pursuit of essential material growth through the promotion of public improvements such as canals, roads, harbours and bridges.[27] Since there was little to conserve in the "boundless wood" of early nineteenth century Upper Canada, a capital responsibility of its emergent (and not resurrected) "Tory" aristocracy was to preside patriotically over measured, centralized and publicly planned progress.[28]

This vernacular synthesis of "Court" and "Country," old-world Toryism and Whiggism, tradition and development, is a commanding feature not only of the province's developing legal culture, but also of its general political orientation. The Benchers' attitudes towards constitutional balance reinforced by and mirrored in social ranks, for example, were widely embraced by other reflective Upper Canadians, and thus should not be characterized as the mere schemes of a cabal of lawyers, colonial bureaucrats and High Church clerics. Susanna Moodie, the well-known midnineteenth century author and poet, deplored democratic tendencies and longed impatiently for the crystalization of a graduated social order. Like her sister and literary comrade-in-arms, Catherine Parr Traill, Moodie observed approvingly that education, occupational status and manners were the qualities upon which the gradual emergence of Upper Canada's much-needed aristocracy was turning, since land was so easily acquired and commercial opportunities were few.[29] Another contemporary observer of this situation concluded wryly that

26. Compare Harvey C. Mansfield, *Statesmanship and Party Government. A Study of Burke and Bolingbroke* (Chicago, 1965); Isaac Kramnick, *Bolingbroke and his Circle; The Politics of Nostalgia in the Age of Walpole* (Cambridge, 1968).

27. See John Beverley Robinson, *Canada and the Canada Bill*, pp. 51, 52–3 and 56; J.P. Merritt, *Biography of W.H. Merritt* (St. Catharines, 1875), pp. 125, 166–7, 177 and 243–5; Patrick Brode, *Sir John Beverley Robinson*, pp. 58–9, 66, 99, 120–1, 130, 153–4, 177 and 252–5. See also L.S. Fallis, "The Idea of Progress in the Province of Canada," *The Shield of Achilles*, ed. W. L. Morton (Toronto, 1968), p. 169.

28. On the public service of Upper Canadian lawyers and their "patriotic involvement" in internal improvements see, for example, Hugh G.J. Aitkin, "The Family Compact and the Welland Canal Company," *Canadian Journal of Economics and Political Science* 18 (1952), p. 63; F.H. Armstrong, "Toronto's First Railway Venture, 1834–1838, *Ontario History* 58 (1966), p. 21; Peter Baskerville, "Donald Bethune's Steamboat Business: A Study of Upper Canadian Commercial and Financial Practice," *Ontario History* 67 (1975), p. 135. See also H. Pearson Gundy, "The Family Compact at Work: The Second Heir and Devisee Commission of Upper Canada, 1805–1841," *Ontario History* 66 (1974), p. 129; Douglas Leighton, "The Compact Tory as Bureaucrat: Samuel Peters Jarvis and the Indian Department, 1837–1845," *Ontario History* 73 (1981), p. 40.

29. Susanna Moodie, *Roughing it in the Bush; or, Life in Canada* (London, 1852), p. 140; Catherine Parr Traill, *The Backwoods of Canada; Being Letters from the Wife of an Emigrant Officer, Illustrative of the Domestic Economy of British America* (London, 1836), pp. 3–4 and 81–2. See also Samuel Strickland, *Twenty-Seven Years in Canada West; or, The Experience of an Early Settler* (2 vols. London, 1853), Vol. 1, p. 81. See generally Robin Mathews, "Susanna Moodie, Pink Toryism, and Nineteenth Century Ideas of Canadian Identity," *Journal of Canadian Studies* 10 (1975), p. 3; S.F. Wise, "Sermon Literature and Canadian Intellectual History," in *Canadian History Before Confederation: Essays and Interpretations*, ed. J.M. Bumsted (Georgetown, 1979), p. 249.

> in lieu of devoting themselves to agricultural and commercial occupations [by far too large a proportion of the Canadian gentry youth] blindly seek, in an undue ration, to qualify themselves for those of a professional nature: because, from the fallacious notions in which they have been reared, they conceive, or affect to consider, the two first to be beneath them.[30]

The Law Society was thus in tune with diverse strains of early provincial opinion when it repeatedly admonished its members, and especially its students, that "education, principles, and habits of life" distinguished the Upper Canadian gentleman.

Perhaps as a result of these admonitions and such informal schooling programmes as the Juvenile Advocate Society by which they were accompanied, Governor-in-Chief and Lord High Commissioner of British North America John George Lambton, Lord Durham was able to report in 1839 that

> Upper Canada . . . has long been entirely governed by a party, commonly designated throughout the province as the Family Compact. . . . The Bench, the magistracy, the highest offices of the Episcopal Church, and a great part of the legal profession are filled by the adherents of this party: by grant or purchase they have acquired nearly the whole of the waste lands of the Province: they are all-powerful in the chartered banks, and till lately, shared among themselves almost exclusively all offices of trust and profit. . . .[31]

Twentieth century historians have qualified Durham's forceful but somewhat impressionistic remarks in numerous ways, not least by drawing attention to the concentration of the legal mandarinate in the provincial capital and to its relative absence from the web of smaller local compacts operating out of early district towns.[32] The significance of the Juvenile Advocate Society lies in the fact that it was the first in a series of organized efforts by York lawyers or their senior students to socialize initiates from across Upper Canada en bloc, and thus reproduce and expand the Bar for York and

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30. T.R. Preston, *Three Years' Residence in Canada, from 1837 to 1839* (London, 1840), cited in S.D. Clark, *The Social Development of Canada: An Introductory Study with Select Documents* (Toronto, 1942), p. 276.

31. Lord Durham, *The Report and Despatches of the Earl of Durham, Her Majesty's High Commissioner and Governor-General of British North America* (London, 1839), p. 105. See also Robert E. Saunders, "What was the Family Compact?" *Ontario History* 49 (1957), p. 165.

32. See, for example, R.J. Burns, "God's Chosen People: The Origins of Toronto Society, 1793–1818," *Historical Papers* (1973), p. 214; Robert Lochiel Fraser, "Like Eden in Her Summer Dress: Gentry, Economy, and Society; Upper Canada, 1812–1840," Ph. D. diss., University of Toronto, 1979; J.K. Johnson, "The U.C. Club and the Upper Canadian Elite, 1837–40," *Ontario History* 69 (1977), p. 151; Frederick H. Armstrong, "The Oligarchy of the Western District of Upper Canada, 1788–1844," *Historical Papers* (1977), p. 86; H.V. Nelles, "Loyalism and Local Power. The District of Niagara 1792–1837," *Ontario History* 58 (1966), p. 99; Elva M. Richards, "The Jones of Brockville and the Family Compact," *Ontario History* 60 (1968), p. 169; Michael S. Cross, "The Age of Gentility: The Formation of an Aristocracy in the Ottawa Valley," *Historical Papers* (1967), p. 105.

district postings in the image of the sought-after provincial elite. It was also used in the 1830s and 1850s as a model for more ambitious and structured initiatives in law training and élite reproduction undertaken directly by Convocations of the Law Society filled with former juvenile advocates.

Upon the urging of Daniel Sullivan, a third year student-at-law in the York offices of his maternal uncle Dr. Baldwin, Richard Robison, Alexander Chewett, John Solomon Cartwright, David William Smith, Thomas W. Radenhurst, Horace Ridout and Robert Baldwin met in the elder Baldwin's rooms on the evening of 14 February 1821 to "form themselves into a Society to be called the 'Juvenile Advocate Society'." This "little Seminary of Law and Eloquence" was to be "an Institution for the increase and cultivation particularly of Legal and Constitutional but generally of all useful knowledge," and was "to take the form of a debating Society, but not entirely such."[33] Robison, Cartwright, and Chewett were apprenticed to Attorney General J.B. Robinson, Radenhurst and Ridout were clerking for George Ridout, Sullivan and Baldwin were apprenticed to Dr. Baldwin, and Smith was articled in the offices of Solicitor General H.J. Boulton.[34] This meeting, which was chaired by Horace Ridout, selected Sullivan as Bencher of the new Society, while his cousin Robert Baldwin was designated "Secretary and Treasurer." A nucleus of eight charter members eventually expanded into an association of approximately fifty students who met, except during several summer months when the quorum of five was not present, more or less once a week for the next six years. Despite periodic differences of policy with other members of the group, Robert Baldwin quickly became its driving force.[35]

Sullivan's motivation for this initiative, "his favourite plan, upon which his whole heart was set," was both pedagogical and fraternal.[36] Although there were rough precedents in his native Ireland for the sort of organization Sullivan spearheaded, it is more likely that masters of the legal apprentices who joined him, like Attorney General Robinson, were influential in the inauguration of a law students' society.[37] A dozen

33. *Journals*, Vol. 1, pp. 1–3; *Journals*, Vol. 4, p. 19; *Journals*, Vol. 6, p. 5; *Journals*, Vol. 8, pp. 9–10; *Journals*, Vol. 9, p. 82; *Patent–Role; Constitutions of St. Michael.*

34. *Minutes*, Vol. 1, pp. 45–60.

35. See *Journals*, Vol. 7, pp. 5 and 23–4; *Journals*, Vol. 8, p. 13. Baldwin, the eldest son of Dr. Baldwin, was educated by John Strachan and later practised law with his father and his Sullivan cousins in Toronto. He served several terms as member of the Legislative Council, and was appointed solicitor general and executive councillor in 1841. He was "prime minister" of the United Canadas from 1842 to 1843 and 1848 to 1851, and several times treasurer of the Law Society. See Michael S. Cross and Robert L. Fraser, "'The waste that lies before me': The Public and Private Worlds of Robert Baldwin," *Historical Papers* (1983), p. 164; J.M.S. Careless, "Robert Baldwin," pp. 89–147.

36. See *Journals*, Vol. 4, pp. 18–22; Simon Washburn to Richard C. Robison, 17 March 1823, *Journals*, Vol. 9, pp. 9–10 and 82.

37. See V.T.H. Delany, "History of Legal Education in Ireland," *Journal of Legal Education* 12 (1959–60), p. 405. See also Gerard W. Gawalt, *The Promise of Power. The Legal Profession in Massachusetts 1760–1840* (Westport, CT., 1979), pp. 19, 26–7 and 92–3; Paul M. Hamlin, *Legal Education in Colonial New York* (New York, 1939), pp. 16 and 96–7; Alfred Zantzinger Reed, *Training for the Public Profession of the Law* (New York, 1921), pp. 205–6.

years earlier Robinson, as student-at-law in the York offices of Solicitor General D'Arcy Boulton Sr. (and later under Attorney General John Macdonell), had written enthusiastically to his Kingston friend, John Macaulay, of his own participation in the "Friendly Society" of John Strachan's protégés who were then law clerks in the provincial capital, and who met regularly for good company, discussion and the exchange of books.[38]

Such other leading members of the York Bar as James Edward Small, George Ridout, H.J. Boulton and Dr. Baldwin, as well as Speaker of the Legislative Council and Chief Justice William Dummer Powell, also took an early and active interest in the affairs of Sullivan's juvenile advocates. Small's "handsome conduct in permitting the Society to use his office to meet in" was praised on several occasions, as was that of Boulton for "allowing [the society] to sit so long in his apartments at Russell Abbey" and for "using his influence in obtaining leave for [it] to sit [in its own permanent clubroom] in the Court House." Other assistance from the "gentlemen of the Bar resident in York, by whom the Society in its infancy had been so warmly cherished" was regularly acknowledged, and an official liaison with the Convocation of Benchers (governors) of the Law Society seems to have been effected by its erstwhile treasurer, Dr. Baldwin. "Graduate" juvenile advocates like Robert Baldwin, Andrew Norton Buell and Donald Bethune continued to attend the society's meetings after their calls to the Bar. Other members of York's legal community praised "the spirit of friendship" which they hoped would "ever exist between the Barristers of this Province and the members of [Sullivan's] very meritorious and praiseworthy Society," and also undertook to provide "any advice or assistance [the society] may require in furtherance of so laudable. . . an undertaking."[39]

The situation of law training in 1821, to which Sullivan and by implication his supporters in the Law Society and the Legislative Council were responding, was the result of such formal provisions as sections 5 and 6 of the 1797 Law Society Act, and Convocation's rules 7 and 9 of 1800. These regulations required that prospective barristers spend five years following their sixteenth birthday apprenticed to a member of the Bar; the period of clerkship for aspiring attorneys was three years. Neither bar admission examinations, intermediate tests, term-keeping duties, formal lectures or classes, nor any of the other components of structured legal education in nineteenth century Ontario was to be introduced for another decade. Again, it would be upon Robert and Dr. Baldwin's initiative that such pedagogic reforms were later undertaken.[40]

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38. Samuel Peters Jarvis, Jonas Jones and Archibald McLean, all of whom became prominent Family Compact Tories, were also members of this group. See Patrick Brode, *Sir John Beverley Robinson*, p. 9; W. Stewart Wallace, *The Family Compact; A Chronicle of the Rebellion in Upper Canada* (Toronto, 1915).
39. *Journals*, Vol. 1, pp. 6, 16 and 18; *Journals*, Vol. 4, pp. 23–4; *Journals*, Vol. 5, pp. 26–7; *Patent-Role*; *Journals*, Vol. 9, p. 64.
40. See generally G. Blaine Baker, "Legal Education in Upper Canada."

It is exceedingly difficult to discern, from the distance of 160 years, whether these early Upper Canadian legal apprenticeships were organized in any manner by provincial principals, whether there were patterns of learning to them, or whether they were wholly ad hoc. Records of this experience which are known to have survived from the early nineteenth century are fragmentary and unrepresentative.[41] For its part, the Law Society seems to have regarded its members' offices as the "regional colleges" of its educational enterprises: thus, early petitions to Convocation for award of the "Diploma of Barrister-at-Law" routinely recited the name of the office in which a student received his "professional education." The Law Society was founded as a "legal university" and was habitually so described in the literature of the late eighteenth and early nineteenth centuries. Such characterizations may have been more than pious posturing in an era when future principals introduced their apprentices-to-be to Convocation individually and "pledged" that the student, of which no regular practitioner could have more than two (four after 1807) at a time, was "qualified by principles, education, and habits of life to become a member of the Society."[42] This was a small (about twenty in 1800, and approximately 180 by 1840) and closely knit fraternity where one's student-at-law was typically a relative or the son of a neighbour or friend, and normally lived in his master's household throughout the apprenticeship. Consistent with the patriarchal quality of such relationships, early nineteenth century Upper Canadian lawyers seem to have read law, natural philosophy and political economy with their apprentices from time to time.[43]

Yet young law students often must have been overwhelmed by the tasks assigned to them during their apprenticeship. John Beverly Robinson, admittedly an extreme case, was appointed acting Attorney General and Bencher of the Law Society in the final year of his clerkship. Apprentice John Alexander Macdonald opened and ran a branch office thirty miles distant from his principal in Kingston, and later took charge of another provincial law practice while the lawyer to whom it belonged travelled abroad. Other students decried the intellectual difficulty, onerous responsibility and

41. See, for example, William R. Teatero, "John A. Macdonald Learns — Articling with George Mackenzie," *Historic Kingston* 27 (1979), p. 92; Charles Durand, *Reminiscences of Charles Durand, of Toronto, Barrister* (Toronto, 1897), p. 74 *et seq.*; Patrick Brode, *Sir John Beverley Robinson*, pp. 8–9. Compare Charles R. McKirdy, "The Lawyer as Apprentice: Legal Education in Eighteenth Century Massachusetts," *Journal of Legal Education* 28 (1976–7), p. 124; Jack Nortrup, "The Education of a Western Lawyer," *American Journal of Legal History* 12 (1968), p. 294.

42. See, for example, Jacob Farrand to Convocation and Angus Macdonell to Convocation, 13 April 1801, *Minutes*, Vol. 1, pp. 6–7 and 133; *Rules of the Law Society of Upper Canada* (Toronto, 1859), p. 53.

43. See James Cleland Hamilton, *Osgoode Hall* 151; Patrick Brode, *Sir John Beverley Robinson*, p. 8; Donald G. Creighton, *John A. Macdonald: the Young Politician* (Toronto, 1952), p. 22; Charles Durand, *Reminiscences*, p. 6.

long hours associated with early law-office work.[44]

After 1800, judgements of admissibility to this five-year training programme were made by the Benchers of the Law Society sitting in full Convocation at York. These decisions followed the recommendation of one Bencher or two members of the society, "properly known" to the applicant, who provided "particulars of the family residence and connections" so that Convocation could make "necessary inquiries" into the applicant's "habits of conduct and character." The treasurer also prepared "reports" on petitions for admission, and published lists of applicants to facilitate "objections" to a candidate's initiation from members of the Bar.[45] Prospective students were obliged to show that they were at least sixteen years of age, that they had engaged a willing principal (who was often paid for his tutelage), that they would devote all of their time to apprenticeship and law study, that they could pay the £10 student fee, and that they intended to remain in Upper Canada as "resident practitioners."[46] Such were the screening mechanisms through which most charter members of the Juvenile Advocate Society had passed to become students-at-law.

Several of the younger juvenile advocates also had to give Convocation "proofs of their liberal education" by doing written translations of parts of Cicero's *Orations* and by demonstrating their "acquaintance" with Latin and English composition in any way the Benchers specified. Promoted by Attorney General Robinson, Solicitor General Boulton and Dr. Baldwin, the testing of such "acquirements" was announced in 1819 by Convocation to be "absolutely indispensable" to determinations of suitability for law study. Designation of the first Monday and Friday of each judicial term as "examination days," attendance of all Benchers and strict adherence to rules was intended to "excite a feeling in the minds of students, of the necessity of study, as well as correct conduct; and tend materially to raise the general character of the profession."[47] A majority of Sullivan's juvenile advocates easily leapt these educational barriers to Law Society entry on the basis of preliminary instruction at the hands of John Strachan. However, numerous private academies and common schools scattered

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44. See E. A. Cruikshank, "John Beverley Robinson and the Trials for Treason in 1814," *Ontario Historical Society, Papers and Records* 25 (1929), p. 191; Patrick Brode, *Sir John Beverley Robinson*, pp. 17–26; William R. Teatero, "A Dead and Alive Way Never Does: the prepolitical professional world of John A. Macdonald," M.A. diss., Queen's University, 1978; *In re Holland* (1842), 6 *Upper Canada Queen's Bench Reports* 441; *Journals*, Vol. 4, pp. 18–22; *Journals*, Vol. 5, pp. 4–8; *Journals*, Vol. 6, pp. 3–5; *Journals*, Vol. 9, pp. 6–24.
45. See *Minutes*, Vol. 1, pp. 133, 207–9 and 227; Robert Baldwin, *The Rules of the Law Society of Upper Canada* (York, 1833), pp. 59 and 61.
46. See *Minutes*, Vol. 1, pp. 36, 90, 94–5, 100, 123 and 146–7; *An Act to repeal part of and amend the Laws now in force respecting the practice of His Majesty's Court of King's Bench in this Province*, 2 Geo. IV (1822), c. 1, s. 44.
47. See *Minutes*, Vol. 1, pp. 51 and 387–91; Robert Baldwin, *Rules of the Law Society*, p. 59.

across the province were capable of providing such rudimentary skills to less privileged students even at this early date.[48]

Similarly indicative of developing self-images of gentility and political elitism were the membership procedures adopted by the Juvenile Advocate Society itself. In spite of the "levelling tendencies" of Robert Baldwin and Robert Baldwin Sullivan, the first qualification for induction into this organization throughout its existence remained admission "as a student at law upon the books of the Law Society," a condition satisfied by the production of a "certificate" to this effect from the "guardian" of the Law Society's Common Roll.[49] Following such delivery, and upon "the motion of any member, the name of any student applying to be admitted as a member of the Society [was] entered on the Minute Book. . . [and] on the next meeting after such entry [typically one week later] the Society [would] go into Committee and ballot for his admission and. . . on their rising report the Candidate elected or rejected." In one case the juvenile advocates confided to an applicant that "we have been advised of your worth and honour;" another aspirant was deemed "right trusty," and thus admitted. Equally effusive remarks often were made by the applicants themselves: one petitioner allowed that he was "well aware of the great advantages to be derived from an institution which has for its end the Instruction of those who may hereafter become members of the Bar of Upper Canada," while another thought that the society was "from its nature calculated to inspire emulation amongst its members — a constant incitement."[50] Most candidates were admitted unanimously, and approximately 80 per cent of Convocation's law students in the relevant period ultimately were members of the society.

Neither the Law Society nor the Juvenile Advocate Society seems to have had much difficulty attracting "suitable" members. Indeed, Dr. Baldwin speculated that if these organizations relaxed their conditions of entry "in a Society so small as that of York every youth whatever his morals, his manners, or condition in life may be, would be more or less desirous of admission to hear or be heard or at all events to be noticed." Alexander Chewett thought that this was because in Upper Canada, unlike England, "no professional man however mean his abilities may be, meets with disregard altogether." It was also the view of Methodist preacher Egerton Ryerson, the long-tenured Chief Superintendant of Education for Upper Canada, that even failing a liberalization of entrance restrictions or training programmes in law, "with [the province's] high opinion of the respectability and importance of the *legal* profession, it may be sub-

48. Compare F.H. Armstrong, "John Strachan, Schoolmaster"; George W. Spragge, "The Cornwall Grammar School Under John Strachan, 1803–1812," *Ontario Historical Society, Papers and Records* 34 (1942), p. 63; George W. Spragge, "The Upper Canada Central School," *Ontario Historical Society, Papers and Records* 32 (1937), p. 171; R.D. Gidney, "Elementary Education in Upper Canada: A Reassessment," *Ontario History* 65 (1973), p. 169.

49. See *Journals*, Vol. 1, pp. 2, and 6. Eventually the Law Society provided the juvenile advocates with a copy of the Common Roll and access to its minutes to facilitate assessments of eligibility.

50. See *Journals*, Vol. 1, pp. 7–8 and 14–5; *Patent-Role*; *Journals*, Vol. 3, pp. 20–1.

mitted whether the fees of clients and the prospects for promotion are not . . . an ample encouragement for its pursuit."[51] For their part, the juvenile advocates were especially keen to know whether each candidate for membership was "a Gentleman bachelor," and were careful to note applicants' places of origin. By 1823 they were able to boast that the society "is composed of students residing in most parts of the Province."[52] Naturally, members who were apprenticed to lawyers in the outlying districts attended meetings sporadically, but many back-country students articled in York before their return to district towns and therefore could be regular participants.

Following a positive membership vote, formal letters of admission and diploma-like "patents" were prepared under the Juvenile Advocate Society's seal and heraldry for delivery to new initiates, and an inauguration fee of five shillings, together with a term fee of two shillings six pence, was collected. Rejected applicants were prohibited from launching further petitions for admission for two judicial terms. Members could be expelled on a three-quarter vote of the society for "base, ungentlemanly crime" and no person once expelled would "ever be admitted within the walls of the Society." Conduct that was merely "indecent and improper" led to strong reprimands, fines or placement in the custody of the sergeant-in-waiting. Members also were prohibited from withdrawing "except by giving one day's previous notice to the Banc and then appearing publicly at the Bar of that Chamber and, all business ceasing, openly withdrawing himself in the face of the Chamber." Barristers who renounced or resigned their membership in the Juvenile Advocate Society were "to be treated as dead."[53]

51. William Warren Baldwin to Richard Robison, 23 March 1823; *Journals*, Vol. 9, pp. 67 and 72; *Christian Guardian*, 1 October 1831, reproduced in *The Town of York, 1815–1834. A Further Collection of Documents of Early Toronto*, ed. Edith G. Firth (Toronto, 1966), p. 169. See also *Journals*, Vol. 9, pp. 13, 75–6 and 86. Note that the Methodist Ryerson spoke of clients' fees and prospects for promotion, rather than distinction and honour, as inducements to law study.

52. *Journals*, Vol. 9, p. 59; *Patent-Role*. Novitiates from rural areas and small urban centres included William Z. Cozens, George Stephen Benjamin Jarvis and Henry Sherwood from Brockville; Marshall Spring Bidwell, Thomas Kirkpatrick, John Low, John Samson and James Hunter Samson from Kingston; David Lockwood Fairfield, John McDowall and Alexander McDowell from Hallowell in the Midland District; James Boulton and Marcus Fayette Whitehead from Port Hope in the District of Newcastle; Robert Easton Burns, Warren Claus and Alexander Stewart from Niagara; George Rolph from the London District; and Charles Richardson of the Western District. Members admitted from Toronto (and not yet mentioned in this essay) included Charles Baby, Henry Ricketts Baldwin, George Morss Jukes Boswell, William Alexander Campbell, William Dixon, James Okill Doyle, David B. Ogden Ford, James Givins, Philo Hawley, Joseph Kerley Herchmer, Henry Heward, Richard Phillips Hotham, James King, John Lyons, George Macaulay, James Buchanan Macaulay, William Notman, John Ridout, François-Xavier Rocheleau, John Godfrey Spragge, William Wallis and Alexander Wilkinson.

53. Fees later were raised to half a guinea for admission and a quarter guinea per term. See *Patent-Role*; *Journals*, Vol. 1, pp. 7 and 14–5; *Journals*, Vol. 2, p. 26; *Journals*, Vol. 4, pp. 23–6; *Journals*, Vol. 5, pp. 14 and 24; *Journals*, Vol. 6, p. 14; *Journals*, Vol. 7, pp. 1 and 23–4; *Journals*, Vol. 8, pp. 11, 13–5 and 24; *Docket of the Committee of Direction*, p. 3.

Meetings were held every Friday evening, commencing at 6 p.m. and conformed to a format standardized in the fall of 1822. Pursuant to the "Constitutions of St. Michael and St. Hilary," the Juvenile Advocate Society was divided into three branches. "Executive power" was concentrated in the first stratum, the Patron, who was to be a barrister-at-law chosen by the other two chambers and was empowered to appoint all officers of the society. The second tier, the Banc, shared "legislative power" with the Patron and with the lower chamber (the Forum), but was obliged to follow the procedures of the courts of justice and to restrict its debates to points of law. Proceedings in the Forum were regulated by "parliamentary usage," and extended to "constitutional and other general subjects and not points of law." Officers of the society appointed by the Patron included the treasurer, the secretary, the prothonotary, the keeper of the Great Seal, the Advocate, the Bencher, and the Vice-Bencher. The treasurer, in turn, was empowered to appoint the society's paid servants, namely the sergeant-in-waiting, the commissioners of the Board of Exchequer, and the commissioners of the Board of Fees. Standing committees of the Banc and the Forum dealt with furnishings, privileges, the society's papers and direction.[54] The inspiration for this structure is patent, and is highly suggestive of the missions for which these young people thought they were preparing. Rather like Lord Sydenham's municipal councils of the 1840s, the Juvenile Advocate Society was designed in part to provide a valuable political training for later life in provincial government.

In practice, the Juvenile Advocate Society was not quite as stuffy as it might appear to have been on paper. On the resignation of Stephen Gwynn as sergeant-in-waiting, the juvenile advocates dutifully recorded that he had been replaced by John Doe, and when funds did not permit the retention of commissioners of the Board of Fees "Messrs. Little and York" provided gratuitous service. The accused in a mock prosecution for usury was named by the juvenile advocates Grinder, and in another moot-court action against the tailor of a coat with holes in its pockets through which money fell, the defendant was Thimble. On one occasion the juvenile advocates had to be reminded to keep their "minds free from all boisterous passions" and urged to abandon "foolish pleasures and other unnecessary pursuits which too frequently keep the mind in a continual ferment and are the destroyers of all reflection."[55] A well-known and embarrassing public antic of the juvenile advocates was their June 1826 destruction of William Lyon Mackenzie's printing press, which led to the recovery of damages by Mackenzie in a civil suit against several leaders of the Family Compact.

Discussions in the Forum covered a wide range of political and topical issues. Questions for debate would be selected, and debaters assigned sides, one week in advance. Elaborate rules specified seating arrangements, the order in which members could speak, the allotment of time to each speaker, and opportunities for rebuttal and

54. *Memorandum of the Practice and Rules*; *Constitutions of St. Michael*; *Journals*, Vol. 1, pp. 9 and 26; *Journals*, Vol. 4, 1; *Journals*, Vol. 5, p. 24; *Journals*, Vol. 8, pp. 10–4 and 20–5.

55. See *Journals*, Vol. 4, p. 1; *Journals*, Vol. 7, p. 1; *Journals*, Vol. 9, pp. 21 and 24. Compare G. Blaine Baker, "Legal Education in Upper Canada," p. 89; William B. Wells to William Wells, 20 May 1833, reproduced in *The Town of York*, pp. 174–5.

surrebuttal.[56] Within this framework, and upon the urging of Alexander Chewett, Richard Robison and Robert Baldwin, the juvenile advocates canvassed such theoretical issues as whether civil or political liberty is most necessary for the happiness of mankind, whether a law that gives an individual absolute power over the lives, limbs and liberties of his fellow creatures can ever be just, and whether the right of inheritance by primogeniture is a natural or civil right. On other occasions they turned their attention to more practical issues in political economy. Thus, at the suggestion of Alexander Chewett, Horace Ridout and Robert Baldwin, they debated the merits of annual and septennial parliaments, compared the mode of trial by jury in England to that practised in North Britain, and tried to decide whether "a monarchical government like that of Great Britain is more conducive to the liberty and happiness of a nation than a republican form of government like that of the United States." An apparent interest in international and imperial relations led the juvenile advocates to ask whether the law of nations is the law of the world, whether the legislature of a mother country has any right to tax a colony which sends no representatives to that legislature, and whether the 1793 interference of Great Britain in the affairs of France was against the law of nations. "Original productions" like John Cartwright's "essay on the Feudal System and the effects of its introduction on the Constitution of England" also were read aloud and commented upon.[57]

Such proposals for political debate as whether the law which deprives the Roman Catholics of Ireland of the rights which belong to their Protestant brethren is just were rejected, and students like Chewett and Robison eventually came to favour the abolition of animated "political" discussions. Although the juvenile advocates were said to have debated theoretical issues "with an ingenuity and precision which even at this early period does them infinite honour, and shews the dawning of those talents which will one day grace that profession which they are so ambitious of becoming worthy members," a strict regard to "decorum and a gentlemanly and forbearing conduct" had to be urged upon them on several occasions to "smooth away the acrimony that will always arise upon a difference of opinion." They also had to be cautioned to employ "gentleness and politeness on all occasions to every Gentleman of this Society." "Coolness and presence of mind," they were told, "mark the difference between the Gentleman and the Clown, between the man of sense and the Fool." Through the adoption of such attitudes it was hoped that discussion might encompass more than one question an evening. Most important, the ability to maintain civility and general adherence to the gentle code were thought to be qualities whose early cultivation was crucial to the achievement of gentility.[58]

56. See *Journals*, Vol. 2, pp. 16, 19 and 26; *Journals*, Vol. 6, p. 5; *Journals*, Vol. 8, p. 22.
57. See *Journals*, Vol. 1, pp. 19 and 23; *Journals*, Vol. 2, pp. 2, 8, 9–10 and 15; *Journals*, Vol. 3, p. 6; *Journals*, Vol. 4, p. 8; *Journals*, Vol. 7, p. 2; *Docket of the Forum*.
58. See *Journals*, Vol. 2, p. 8; *Journals*, Vol. 3, p. 21; *Journals*, Vol. 4, pp. 2, 6, and 14; *Journals*, Vol. 5, pp. 5–7; *Journals*, Vol. 6, p. 3; *Minutes*, Vol. 5, p. 281. Compare Richard A. Jarrell, "The Social Functions of the Scientific Society in Nineteenth-Century Canada," in *Critical Issues in the History of Canadian Science, Technology and Medicine*, eds. Richard A. Jarrell and Arnold E. Roos (Kingston, 1981), p. 31; George C. Brauer, *The Education of a Gentleman: Theories of Gentlemanly Education in England, 1660–1775* (New York, 1959).

Since detailed minutes of proceedings in the Forum were not kept, it is difficult to appraise their quality or to know how these young people equipped themselves to debate such questions. William Blackstone's ubiquitous *Commentaries on the Laws of England* (4 vols., Oxford, 1765-69) seems to have been widely available in Upper Canada, and was studied by the juvenile advocates at their weekly meetings. Matthew Dawes' *Essay on Crimes and Punishments, with a view of, and commentary upon Beccaria, Rousseau, Voltaire, Montesquieu, Fielding and Blackstone* (London, 1782) also was read aloud in the Forum.[59] Yet the question of reading habits must remain open: the juvenile advocates took great care to preserve the minutes of their own meetings, and borrowed money to acquire such furnishings as chairs, desks, inkstands and candle snuffers, but no record of books that they bought, exchanged or lent seems to have survived.[60]

Legal issues canvassed in the society's other chamber, its Banc or "Legal Sitting," divide into three broad categories: elementary commercial problems of the sort that presumably arose in the local economy; questions about the passing of real property from one generation to another; and moral concerns.[61] The interests reflected in the framing of such questions are roughly consistent with the apparent cultural and economic situation of a provincial capital like York circa 1820.

Basic commercial-law skills were cultivated by "mooting" questions such as: whether "the carriage of A, standing at a livery stable, can be distrained for rent by C,

59. See, for example, *Journals*, Vol. 4, pp. 8, 15 and 21; *Journals*, Vol. 6, p. 4; *Journals*, Vol. 9, pp. 9 and 20. Other political tracts of-the-day like F.S. Sullivan's *Lectures on the Constitution and Laws of England* (Portland, 1805), Robert-Joseph Pothier's *Treatise on the Law of Obligations, or Contracts* (2 vols., trans. W.D. Evans, London, 1806), Jean Domat's *Civil Law in its Natural Order* (trans. W. Strahan, London, 1722), William Paley's *Principles of Moral and Political Philosophy* (London, 1785), and David Hume's *History of England* (10 vols., London, 1818) certainly were available in the libraries of some of the lawyers with whom the juvenile advocates apprenticed. See "Registry of Donations to the Law Society of Upper Canada, 1832–5" unpublished mss.; a copy can be found at Osgoode Hall, Toronto; ed. George Ridout, *A Catalogue of Books, Belonging to the Law Society of Upper Canada* (York, 1829); Metropolitan Toronto Central Library, Baldwin Room, William Warren Baldwin Papers, Unbound, Miscellaneous, L–11, "Spadina Library." See also Canada. Public Archives (PAC), MG 23 H15, John White Papers and PAC, RG1 E3, Provincial Secretary's Office, p. 56, "War of 1812 Losses Claim."

60. Compare *Journals*, Vol. 1, p. 23; *Journals*, Vol. 2, pp. 7, 11, 13–4, 22 and 26; *Journals*, Vol. 3, pp. 5, 18 and 21; *Journals*, Vol. 4, pp. 6, 8, 15, 17 and 25; *Journals*, Vol. 5, p. 28; *Journals*, Vol. 8, p. 5; *Docket of the Committee of Direction*.

61. Compare Thomas L. Shaffer, "David Hoffman's Law School Lectures, 1822–1833," *Journal of Legal Education* 32 (1982), p. 127. Issues in the Banc were always "drawn in the form of cases" and "proceeded with according to the practice of the court in which [they were] laid." In practice, sessions of the Banc were governed by the rules set out in William Tidd, *Practice of the Court of King's Bench* (2 vols., London, 1790–4) and Baker John Sellon, *The Practice of the Courts of King's Bench and Common Pleas* (2 vols., London, 1792–6). See *Memorandum*; *Journals*, Vol. 1, p. 9; *Journals*, Vol. 4, p. 15; *Journals*, Vol. 8, p. 24.

the lessor of the premises;" whether A, who "being indebted to B in a sum certain for the security of the payment thereof, assigns his interest in a mortgage over to B, [is thereby relieved] from an action to be brought by B;" whether "an action [lies] for seducing a servant from his master who had paid the penalty stipulated in his articles for leaving him;" whether a "promise to pay Adam Boyle £8 15 S Currency on St. Yetmos Day for value received" could count as an instrument enforcable in law as a promissory note; and when "A steals a horse and sells him to B and B afterwards to D and so on to H and the proper owner of the horse comes and demands his property... what sort of action lies against G by H and so forth through all those who had sold the horse?"[62]

Issues arising from the descent of real property were debated extensively through hypothetical cases, again often drawn from Blackstone's *Commentaries*.[63] Dawes' *Introduction to the Knowledge of the Law on Real Estates* (London, 1814) and his *Epitome of the Law of Landed Property* (London, 1818) also were relied upon in this connection. In any case, when it came time to dissect hypothetical realty-related fact patterns, Horace Ridout asked patriarchically,

> If a man has two sons by two different wives and makes his will in favour of the eldest son and his issue, if this son dies before his father leaving issue a son and the grandfather does not alter the will, to whom does the property descend?

In a similar vein, Robert Baldwin promoted discussion of testamentary dispositions in the absence of male heirs:

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62. *Trover* for the return of a pair of horses delivered under an ambiguous contract, *assumpsit* for the provision of necessities in the form of work and materials, *conversion* of a quantity of staves, *trespass vi et armis* following the collision of farm wagons being driven on the wrong side of the road, false imprisonment for the incarceration of a judgement debtor as a result of procedurally irregular steps by an execution creditor, sales in a *market ouvert*, *trespass* for the shooting of a dog that had destroyed poultry, and actions on bail bonds were other commercial problems canvassed in the Banc. See *Journals*, Vol. 4, p. 17; *Journals*, Vol. 6, p. 9; *Journals*, Vol. 7, p. 1; *Journals*, Vol. 8, p. 1; *Journals*, Vol. 9, p. 1; *Docket of the Banc*. Compare T.W. Acheson, "The Nature and Structure of York Commerce in the 1820s," *Canadian Historical Review* 50 (1969), p. 406; Mary Quayle Innis, "The Industrial Development of Ontario 1783–1820," *Ontario Historical Society, Papers and Records* 32 (1937), p. 104; W.N.T. Wylie, "Instruments of Commerce and Authority: The Civil Courts in Upper Canada 1789–1812," in *Essays in the History of Canadian Law*, ed. David H. Flaherty (2 vols., Toronto, 1981–3), Vol. 2, p. 3.

63. For discussions of Blackstone's influence elsewhere in the early nineteenth century "common-law" world, and especially of the political perspective likely to be imbibed as a result of close reading of the *Commentaries*, see Dennis R. Nolan, "Sir William Blackstone and the New American Republic: A Study in Intellectual Impact," *New York University Law Review* 51 (1976), p. 731; S.F.C. Milsom, "The Nature of Blackstone's Achievement," *Oxford Journal of Legal Studies* 1 (1981), p. 1; Duncan Kennedy, "The Structure of Blackstone's Commentaries," *Buffalo Law Review* 28 (1978), p. 205; John W. Cairns, "Blackstone, an English Institutist: legal literature and the rise of the nation state," *Oxford Journal of Legal Studies* 4 (1984), p. 318.

> A dies possessed of a freehold estate of 300 acres of land leaving two daughters [B and C]. He devises to B 100 acres and to C 100 acres in fee. His widow, without registering the will, conveys the remainder to D. Can the daughters of A, B and C, maintain ejectment against D after the death of E the widow of A?[64]

From the first years of United Empire Loyalist settlement, the acquisition of real property and its passage from one generation of Upper Canadians to the next was viewed by provincial statesmen as another important component in the crystalization of their local aristocracy. Much like political power, ownership of real estate was to be concentrated and not dispersed. Land policy administered both publicly and privately therefore was seized upon at an early date as a symbol and instrument central to processes of social stratification.[65] Even the technical skills of conveyancing and land finance were of capital importance in this world. These features of the Upper Canadian community, combined with the near-fixation of early-modern common-law publicists upon real property, help to account for the juvenile advocates' considerable interest in patrimonial questions viewed through the lenses of land law and conveyancing practice.[66]

The use of Upper Canadian courts for the reformation of a prevailing "abominable state of morals" was another predominate concern of early nineteenth century Tory lawyers and judges.[67] Perhaps as a result, the juvenile advocates mooted cases of seduction and criminal conversation, as well as one where the defendant had "adulterated" the plaintiff's cup of tea to make him "insensible, so that the defendant could

64. See *Journals*, Vol. 1, p. 23; *Journals*, Vol. 2, p. 9; *Journals*, Vol. 4, pp. 9, 10, 13 and 15; *Journals*, Vol. 6, p.17; *Journals*, Vol. 7, p. 17. Compare Beamish Murdock, *Epitome of the Laws of Nova Scotia* (4 vols., Halifax, 1832); Jos. Fr. Perrault, *Questions et réponses sur le droit civil du Bas-Canada* (Québec, 1810); Justin McCarthy, *Dictionnaire de l'ancien droit du Canada* (Québec, 1809); William Wright, *Advice on the Study and Practice of the Law* (London, 1825); David Hoffman, *A Course of Legal Study: Respectfully Addressed to the Students of Law in the United States* (Baltimore, 1817).

65. See generally Leo A. Johnson, "Land Policy, Population Growth, and Social Structure in the Home District 1793–1851," *Ontario History* 63 (1971), p. 41; David P. Gagan, "The Indivisibility of Land: A Microanalysis of the System of Inheritance in Nineteenth-Century Ontario," *Journal of Economic History* 36 (1976), p. 126; Graeme Wynn, "Notes on Society and Environment in Old Ontario," *Journal of Social History* 13 (1979), p. 49. Compare Morton J. Horwitz, "The Transformation of the Conception of Property in American Law, 1780–1860," *University of Chicago Law Review* 40 (1973), p. 248; Eileen Spring, "Landowners, Lawyers and Land Law Reform in Nineteenth Century England," *American Journal of Legal History* 21 (1977), p. 40.

66. Compare J. N. Adams and G. Averley, *A Bibliography of Eighteenth-Century Legal Literature* (Newcastle-upon-Tyne, 1982); Jenni Parrish, "Law Books and Legal Publishing in America, 1760–1840," *Law Library Journal* 72 (1976), p. 355.

67. See generally J. Jerald Bellomo, "Upper Canadian Attitudes Towards Crime and Punishment (1832–1851)," *Ontario History* 64 (1972), p. 11; John D. Blackwell, "Crime in the London District 1828–1837: a case study of the effect of the 1833 reform in Upper Canadian penal law," *Queen's Law Journal* 6 (1981), p. 528; Michael S. Cross, "The Shiner's War: Social Violence in the Ottawa Valley in the 1830s," *Canadian Historical Review* 54 (1973), p.1.

lie with the plaintiff's wife." On other occasions they asked whether one should be punished more severely for brawling in a church yard than elsewhere, whether the chief justice of Upper Canada was protected from slander by statutes applicable to English peers, and whether bastard sons could inherit in the absence of other issue of a deceased father.[68]

As an adjunct to the discussion of legal questions in the Banc, members of the Juvenile Advocate Society were urged to

> attend the courts constantly and observe the manner practised there of arguing points and other particulars of practice which are all necessary to give . . . a general idea of the proceedings in a suit and of points on which many of the questions mooted [in the Juvenile Advocate Society] turn. By this they will gain experience, which is the soul of all reasoning with regard to facts . . . .[69]

Other mentors encouraged the students to adopt a "scientific method" in their treatment of legal questions, with a view to reaching conclusions which would not be unduly "vague and imperfect and make but a feeble and transient impression on the memory." To this direction, Dr. Baldwin added that the juvenile advocates' legal studies should be "a science of the first order; the science of law is the science of human nature not in the abstract but in all the diversities of active life."[70] Like the study of natural history and other aspects of early nineteenth century science, the study of legal rules and doctrine appears to have been regarded largely as a process of discovering, categorizing and linking emanations of the divine in patterns of human experience.

Upper Canada's juvenile advocates of the 1820s conceived themselves to be "attracted to a particular profession the most honourable in its nature and, notwithstanding the criticisms of the Ignorant, the most useful to society." Their professional destiny meant to them that they had "most assuredly a common interest to support [and] a reputation to acquire and maintain in many respects peculiar to themselves." They also contemplated the Juvenile Advocate Society "flourishing for many years to come," taking into account "the ease and benefit of those students who may come after . . . that they may be obstructed as little as possible by the same difficulties and obstacles which we have encountered."[71] Indeed, York's juvenile advocates felt complimented in 1822 that "the Students at Law in Kingston have also established an Advocate Society, and

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68. See *Journals*, Vol. 1, p. 21; *Journals*, Vol. 4, p. 10; *Journals*, Vol. 5, p. 10; *Journals*, Vol. 9, p. 1; *Docket of the Banc*. Compare J. F. Perrault, *Questions et réponses sur le droit criminel du Bas-Canada* (Québec, 1814).
69. *Journals*, Vol. 8, pp. 14–5.
70. *Journals*, Vol. 4, pp. 18–9; *Journals*, Vol. 8, p. 68. See also Hon. J. Sewall, "Inaugural Address to the Quebec Literary and Historical Society, 31 May 1824," *Transactions of the Literary and Historical Society of Quebec* 1 (1829), p. 2. Compare Carl Berger, *Science, God and Nature in Victorian Canada* (Toronto, 1983); Jacques Bernier, "François Blanchet et le mouvement réformiste en médecine au début du XIXe siècle," *Revue d'histoire de l'Amérique française* 34 (1980–1), p. 223.
71. *Journals*, Vol. 4, p. 19; *Journals*, Vol. 5, p. 5; *Journals*, Vol. 6, p. 3.

have already found the benefit of it."[72] Yet the momentum of the York organization seems to have been dissipated by 1826 or 1827 when most early members had been admitted to the Bar or departed the capital for positions in their home towns.[73]

The late 1820s did, however, see two new initiatives in Upper Canadian law training, namely the 1828 introduction of a requirement that students "keep four [judicial] terms at the least" during their apprenticeships attending court in York, and the construction of Osgoode Hall to accommodate out-of-town law students, house a communal library and facilitate entrance examinations and other meetings of the Law Society's Convocation. Such Benchers of the day as H.J. Boulton, George Ridout, Simon Washburn, James Small, J.B. Robinson and Dr. Baldwin, who had taken early interest in the Juvenile Advocate Society, together with former juvenile advocates already elevated to Convocation like J.B. Macaulay and M.S. Bidwell, presumably took these steps in an effort to perpetuate certain features of their early association.

The force of this shared desire to reproduce the Juvenile Advocate Society is confirmed by Convocation's creation in 1832 of the "Trinity Class" of law students, the activities of which were to consist in

> the reading of Essays composed by the Students themselves; in the discussion of points of Law either in the shape of cases or of questions; in the discussion of questions of general, constitutional and international Law; in stated examinations of the Students in standard Authors in different branches of the Law; and in the pursuit of any other branch of useful knowledge, which may be appointed in the Order of Convocation.[74]

Attendance at weekly meetings of this class was obligatory for all law students apprenticed within ten miles of York. Robert Baldwin, its originator and Convocation's inaugural appointee as president of the class, thus recreated the Juvenile Advocate Society as the Law Society of Upper Canada's first formal, school-related effort in law teaching a decade after the older association's inception by his since deceased cousin, Daniel Sullivan. Baldwin was to remain a leading force in the Law Society's educational programmes for another three decades, particularly during his terms as treasurer in the 1850s. This pattern repeated itself in the activities of such other juvenile advocates as R.E. Burns who spearheaded yet another provincial law students' organization, the Osgoode Club, in the late 1840s and early 1850s.[75] J.G. Spragge also

72. *Journals*, Vol. 6, p. 3. Compare Maréchel Nantel, "The Advocates' Library and the Montreal Bar," *Law Library Journal* 27 (1934), p. 85; Stanley B. Frost, "The Early Days of Law Teaching at McGill," *Dalhousie Law Journal* 9 (1984), p. 150; André Morel and Yvan Lamonde, "François-Maximilien Bibaud," *DCB* (1982), Vol. 11, p. 70; John Willis, *A History of Dalhousie Law School* (Toronto, 1979), pp.19–26; Jean-Roch Rioux, "Gonzalve Doutre," *DCB* (Toronto, 1972), Vol. 10, p. 248.

73. Because records of the Juvenile Advocate Society remain incomplete, it is impossible to say with precision what ultimately happened to it.

74. Robert Baldwin, *Rules of the Law Society*, pp. 12–3, 33, 68–9 and 71; *Minutes*, Vol. 1, pp. 327–9 and 412.

75. See G. Blaine Baker, "Legal Education in Upper Canada," pp. 86–100; Brian H. Morrison, "Robert Easton Burns," *DCB* (Toronto, 1976), Vol. 9, p. 108.

organized significant reforms in Upper Canadian legal education in the 1850s, and M.S. Bidwell was a founder, trustee and perennial lecturer at Columbia Law School in New York City in a period when, under Theodore Dwight and Francis Lieber, Columbia was preeminent among American law schools.[76]

It remains to be seen what later became of John Strachan's other "young men of eminence" who frequented meetings of the Juvenile Advocate Society in the early 1820s. Forty-three of fifty-three juvenile advocates can be accounted for a decade after their "graduations" from that association. Two were practising law in the Western District of Upper Canada, one had located in the District of London, six were barristers in the District of Niagara, two were in the Gore District, thirteen remained in the Home District, two were practising law in the District of Newcastle, six had returned to the Midland District, ten could be found in the various eastern judicial districts of the province, and three were deceased.[77] Several were Benchers of the Law Society, at least three had become magistrates, M.S. Bidwell was speaker of the Legislative Assembly, R.B. Sullivan was mayor of Toronto, treasurer of the Law Society and executive councillor, R.E. Burns was Niagara District court judge, Henry Sherwood was the province's Law Reporter, George Jarvis was judge of the Ottawa District and member of the Legislative Assembly, Donald Bethune was a budding transportation magnate, and J.S. Cartwright was a prominent Kingston banker. Later in life other former juvenile advocates also became district court judges, mayors, members of the Legislative Assembly, puisne justices of the superior courts and Law Society Benchers. J.G. Spragge was appointed chancellor and later chief justice of Ontario. J.B Macaulay became chief justice of Common Pleas and ultimately puisne justice of the Court of Error and Appeal. Robert Baldwin, "premier" of the United Canadas from 1843–4 and 1848–51, was arguably the province's most effective government leader of the nineteenth century.[78] Intermarriage among the juvenile advocates' families also began to occur in their own generation, and became extensive as second and third generations

76. See G. Blaine Baker, "Legal Education in Upper Canada," pp. 98–101; Columbia University Foundation for Research in Legal History, *The School of Law Columbia University* (New York, 1955), pp. 45 and 388–9; Theodore W. Dwight, "Columbia College School of Law, New York," *Green Bag* 1 (1889), p. 150.

77. See *Patent-Role*; W. C. Keele, *The Provincial Justice* (Toronto, 1835), appendix.

78. See G. M. Craig, "Marshall Spring Bidwell," *DCB* (Toronto, 1972), Vol. 10, p. 60; David B. Read, *The Lives of the Judges of Upper Canada*, pp. 237–62; "Henry Sherwood," in *The Macmillan Dictionary of Canadian Biography*, eds. W. Stewart Wallace and W. A. McKay, (Toronto, 1978), p. 766; J. K. Johnson, "George Stephen Benjamin Jarvis," *DCB* (Toronto, 1972), Vol. 10, p. 379; Adam Shortt, "Founders of Canadian Banking. John Solomon Cartwright, Banker, Legislator and Judge," *Journal of the Canadian Bankers' Association* 30 (1922–3), p. 475; Brian H. Morrison, "John Godfrey Spragge," *DCB* (Toronto, 1982), Vol. 11, p. 845; Patrick Brode, *Sir John Beverley Robinson*. See also Peter Baskerville, "Donald Bethune," *DCB* (Toronto, 1976), Vol. 9, p. 48; Leo A. Johnson, "Andrew Norton Buell," *DCB* (Toronto, 1972), Vol. 10, p. 109; M.L. Magill, "Thomas Kirkpatrick," *DCB* (Toronto, 1976), Vol. 9, p. 431; William Renwick Riddell, *The Legal Profession*, p. 30; W.C. Keele, *The Provincial Justice*; *Rules of the Law Society*, pp. 1–3; H.J. Morgan, *The Canadian Legal Directory: A Guide to the Bench and Bar of the Dominion of Canada* (Toronto, 1878), pp. 33–6; J. Rordans, *The Upper Canada Law List and Solicitor's Agency Book* (Toronto, 1856).

were spawned later in the century.[79]

Yet it remains inadequate merely to characterize such early Upper Canadian initiatives in law training and professional socialization as the Juvenile Advocate Society as aristocratically inspired or apparently successful elite-building projects, not least because these labels do not reveal how the relevant actors themselves conceived of social status, gentility or the cultural situation of "law" and its stewards. When viewed from the alternative standpoint of contemporary context or meaning, three themes emerge from the private exchanges of the juvenile advocates and their mentors. A first theme is the perceived identity of culture and constitution, and the felt necessity to achieve and reproduce a graduated social structure through the maintenance of distinction as an inducement to personal betterment. General improvement was seen to be contingent upon individual advancement in the categories of education, social status and habits of life, and this was in turn dependent upon beating back all efforts to level a social structure hierarchical in orientation. Yet such a vertical mosaic seems to have been bona fide regarded not only as a matter of political and pedagogic exigency, but also of providential decree.

A second and closely related theme has to do with provincial lawyers' early and deliberate use of informal schooling programmes and other rites of legal passage as breeders of values and procreators of an aristocracy of merit for dissemination across Upper Canada's five-hundred-mile-long east-west axis. The intermingling of private and public prerogatives and the homology of culture and constitution are reflected in the self-proclaimed mission of the province's young legal aristocrats to be simultaneously landed proprietors, men of business, governors, colonial officials and conventional lawyers. The achievement of elite status for the legal profession was not to pivot upon its members' technical mastery of the intricate, mysterious ways and means of adjudication alone, but upon their Bolingbrokean, patriotic participation in diverse modes of social ordering and development.

A final theme which emerges from the activities and apparent commitments of the juvenile advocates is that even when these students did turn their attention to legal rules and doctrine, they thought they were transcending the details of time and place, since such studies were understood to consist in the discovery and celebration of "the science of human nature. . . in all the diversities of active life." Common to all three themes is a striking unity of the secular and the divine, private and public spheres of activity and opportunity and obligation. It bears emphasis that such equivalences proceeded from different assumptions about the criteria of social and professional identity than those which came to prevail in late nineteenth and early twentieth century Ontario.[80]

79. See generally Edward Marion Chadwick, *Ontarian Families: Genealogies of United Empire Loyalists and Other Pioneer Families of Upper Canada* (Lambertville, N.J., 1970).

80. Compare R.C.B. Risk, "Sir William R. Meredith C.J.O.: The Search for Authority," *Dalhousie Law Journal* 7 (1983), p. 713; Jamie Benidickson, "Private Rights and Public Purposes in the Lakes, Rivers and Streams of Ontario 1870–1930," in *Essays in the History of Canadian Law*, ed. David H. Flaherty (2 vols., Toronto, 1981–3), Vol. 2, p. 365; James Forbes Newman, "Reaction and Change: A Study of the Ontario Bar, 1880 to 1920," *University of Toronto Faculty Law Review* 32 (1974), p. 51.

Much more research obviously would have to be done before persuasive conclusions could be offered about the Law Society's realization of its desire to establish its formal and informal pre-Union schoolrooms as gateways to status, authority and gentility. Although Convocation carefully updated lists of names and numbers of persons licensed to practise law in Upper Canada and Ontario throughout the nineteenth century, little is known about what these barristers, especially the rank-and-file, did following their law training and "certification." Indeed, almost nothing is known about the nature, organization, or extent of the practices of most nineteenth century provincial lawyers. Information about their "public" lives is being reassembled slowly, but remains incomplete and disorganized. Because the social origins of the Upper Canadian Bar are similarly undocumented, modern observations about the sort of class mobility or reproduction provided by membership in the Law Society are also little more than mere impressions. Moreover, it is not obvious that such informational gaps ever could be filled to everyone's satisfaction.

The self-image of Upper Canadian lawyers and *their* perceptions of prominence, destiny and responsibility are different matters. One of the goals of this essay has been to let the junior Bar of the 1820s and their advisors speak for themselves, on the theory that such commentary and the inclinations it reveals provide a unique modern point of access to an emergent professional consciousness. A further effort has been made to commence description of the intellectual and social forces that apparently participated in the genesis of Upper Canadian ideas about "lawyering" and the modes of induction appropriate to it. Since the conclusions that should eventually emerge from such an enterprise are much more satisfying, modest and defensible than those to which the established sociology and history of the professions aspire, priority should be given to sustained examination of the professional and political debates of early provincial lawyers themselves.[81] Perhaps most important, to the extent that one can reconstitute these lawyers' conceptions of what they were doing, such reconstructions promise to serve as vital checks upon functional or quantitative descriptions of Upper Canadian law and society. Culture, namely ideas and self-perceptions, is largely generative rather than merely reflective of social order. Yet discrepancies between ideas and actual behavior, which can be assessed by juxtaposing ideology and the organizational structures delimited by empirically minded social historians, may also be highly instructive of meaning.

81. For a pioneering monographic study of the English Victorian Bar which proceeds along these lines, see Raymond Cocks, *Foundations of the Modern Bar* (London, 1983). For more detailed examinations of the justification for such an alignment of legal and intellectual history see Clifford Geertz, *The Interpretation of Cultures: Selected Essays* (New York, 1973); Peter Winch, *The Idea of a Social Science and its Relation to Philosophy* (London, 1958); Michael Oakeshott, *Experience and its Modes* (London, 1933).