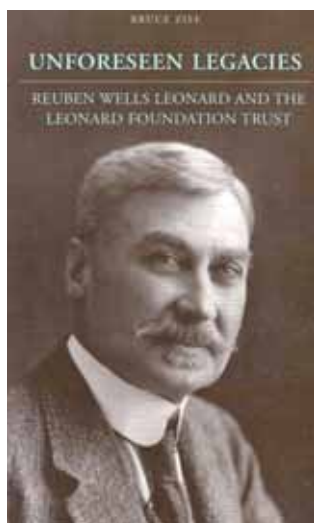
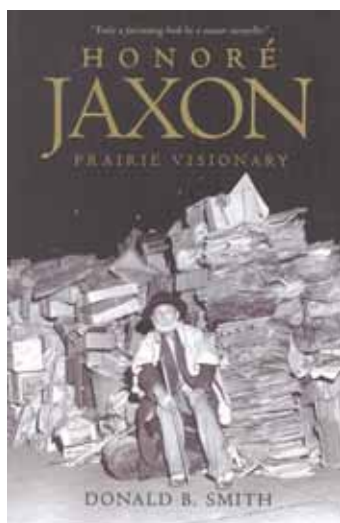


ARCHITYPES

Legal Archives Society of Alberta Newsletter

Volume 17, Issue I, Fall 2008

HISTORICAL CHARACTERS COME TO THE 2008 HISTORICAL DINNERS



Canadian history is full of interesting characters which helped shaped our society. Two such figures will be discussed at this year's historical dinners.

In Edmonton, Bruce Ziff, Professor in the Faculty of Law at the University of Alberta, will speak about the Leonard Foundation trust deed, which created a scholarship for Canadian students. Created in 1923, the trust was limited to students who were white Protestants of British nationality or parentage. In fact, the deed for the trust begins with a statement of Reuben Leonard's belief that the "White Race is, as a whole, best qualified by nature to be entrusted with the development of civilization and the general progress of the world along the best lines." The trust operated along those lines until the Ontario Court of Appeal, in 1990, determined that the discriminatory qualification were unlawful. Ziff will explain Canada's response to issues of race,

discrimination, tolerance and respect for difference, then and now.

In Calgary, Donald Smith, Professor of Canadian history at the University of Calgary, will talk about the subject of his final volume in a biographical trilogy of three men who re-invented themselves as North American Indians in the late nineteenth and early twentieth centuries. William Henry Jackson was born an Anglo-Saxon Methodist in Southern Ontario. Leaving behind that identity, he served as Louis Riel's secretary during the 1885 Resistance as "Honore Jaxon." Professor Smith will explain that by reinventing themselves, "pretenders," like Jaxon, contributed a great deal to society. For example, he became a champion for Aboriginal peoples in North America when few in mainstream society did so. Smith's talk will focus on Jaxon's role as Riel's secretary in Riel's

(con't on p. 5)

CAN YOU HELP?

We are currently looking for donations to include in our silent auction at Edmonton's Historical dinner. Do you have a special or unique contribution you are able to donate to our cause? In the past, popular auction items have included passes to sporting or cultural events, weekend get-aways, catered dinners etc. We are interested in a wide range of selections! Please contact our office at 403-244-5510 or email us at legalarc@legalarchivessociety.ab.ca with the details! Proceeds raised from our silent auction go towards supporting LASA's ongoing programs and preserving the legacy of the Legal Profession in Alberta. Thank you for any help you are able to provide!

SMALL TOWN BOY MADE GOOD

Justice Moshansky and his impact from aviation to political ads

by Leanne Thompson, LASA Contract Archivist

With the appointment of the Honourable Virgil P. Moshansky, QC to the Supreme Court of Alberta Trial Division in 1979, an excellent small town lawyer was called to the Alberta High Court. During his time on the bench, first at the Trial Division and after 1979 at the Court of Queen's Bench, Moshansky influenced issues from constitutional rights to political advertisement to how we fly. LASA is pleased to highlight the judicial papers of Justice Moshansky recently donated to the archives.

Born in 1928 at Lamont, Alberta, Moshansky received a B.A. in 1951, followed by an LL.B in 1954, from the University of Alberta. After articling with W.O Parlee, QC of the Smith, Clement, Parlee and Whittaker firm, he was called to the Alberta Bar on May 31, 1955. Settling in Vegreville, Moshansky practiced law for 21 years specializing in criminal and civil litigation before being called to the bench.

The inquiry into the Air Ontario F-28 crash at Dryden, Ontario in 1989 is perhaps Moshansky's most well known contribution to Canadian Justice. His thorough investigation was one of the first system wide inquiries of an air crash, studying all aspects from the flight crew to the air carrier to the nation's regulation system. Based on his recommendations steps, such as research into anti-icing measures for aircrafts, better training for air staff, and greater government regulation of the aviation industry, have become the norm. Moshansky continues to guard against air tragedies, testifying before Parliament in 2007 regarding the dangers of cutting Transport Canada funding and regulatory responsibilities. Records relating to this Commission have been relocated to the Aero Space Museum by agreement between LASA and the museum, ensuring the Commission's role in aeronautic history will continue to be appreciated.

On the bench, Moshansky has long sought to uphold the fundamental constitutional rights of all citizens. One year into his tenure, Moshansky set precedent in the case of *Alder and the Queen*. Ordering illegally obtained documents by the Calgary Police returned, Moshansky detailed the requirements for sufficient particularity of search warrants for materials to be valid in court. This was followed in 1986 by an incident involving police behavior termed by Moshansky as a 'shockingly flagrant violation' of fundamental rights when two police detectives illegally entered a motel room. As a result of Moshansky's decision, an internal police inquiry was held into the detectives' behavior. Lastly, in the 1995 case of *R v. Northcott*, Moshansky again emphasized the requirement for proper police behavior with his interpretation of "given" in s.258(7) of the Criminal Code being the requirement of police officer to physically hand Certificate of Analysis directly to the accused, or render it inadmissible.



The Honourable Virgil P. Moshansky, QC
Has recently donated his archival
records to LASA.

A year after *Alder and the Queen*, the case of *Woelk v. Halvorson* (1979) saw Moshansky again set precedent, this time for the first award of damages for deprivation of society and comfort of a spouse under s.35 of the Domestic Relations Act. In the case, Marjorie Woelk won damages resulting from the physical and emotional difficulties of her husband arising from an automobile accident. The case was overturned by the Alberta Court of Appeal, but the Supreme Court of Canada reaffirmed Moshansky's judgment.

Judgments from the cases of *Amerada Minerals Corporation of Canada v. Mesa Petroleum* and *Morrison Petroleum v. Phoenix Canada Oil Company* are of particular significance for oil and gas law. In *Amerada* (1985), a dispute over processing charges resulted in a precedent setting decision regarding the definition of 'production' of petroleum. In *Morrison Petroleum* (1995), Moshansky interpreted a standard of negligence that suggested operators proposing drilling operations in a particular locale may be held to a higher standard if the locale is considered more difficult.

In the *Reform Party of Canada v. Canada*, Moshansky declared federal regulations limiting the air time of political parties unconstitutional as it discriminated against new or emerging parties. The case initiated a new policy for the interpretation of the Elections Act by the Broadcast Arbitrator. A modified statutory formula became commonplace, allowing all registered parties a percentage of broadcast time.

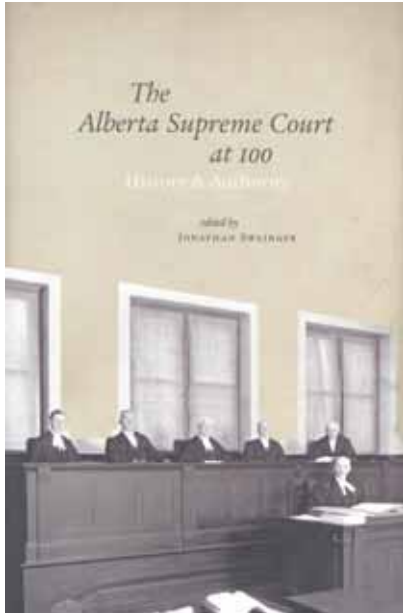
Justice Moshansky's donation to LASA provides the background story to these cases and many others all of which will be preserved for future research. This valuable donation includes judicial notebooks, reasons for judgments and research files.



LASA Welcomes Leanne Thompson to the Legal Archives Society of Alberta

Leanne Thompson, a recent graduate from the Archives and Library Science Masters program at the University of Toronto, joined LASA in May 2008 for a limited term summer contract position. We are excited to extend Leanne's working term and look forward to having her stay on for the next few months to help out with both archival and administrative office duties.

Swainger, Jonathon, ed. *The Alberta Supreme Court at 100: History and Authority*. Toronto: University of Toronto Press, 2007



2007 was a monumental year for the history of law in Alberta. The legal community, and Alberta-at-large, celebrated the centennial of the Law Society of Alberta. The province also marked the 100th anniversary of the Supreme Court of Alberta (now known as the Court of Queen's Bench of Alberta).

This compilation of essays starts by detailing the early years of the court, providing a much needed historical context to readers who may not be wholly familiar with the court's history and its place in Alberta's legal and social landscape. This chapter will especially appeal to individuals with a keen interest in Alberta's court history.

Editor Jonathon Swainger brought together a number of experts in their respective fields to examine the relevance of many key issues which the court faced during its first one hundred years. These include cases involving religion, Native rights, the Charter of Rights and Freedoms, family law, energy law and gender equality. Each author illustrates the importance of each case to the development of Alberta. Though the focus of subsequent chapters is less historic than the first chapters, they will appeal to individuals interested in legal and historical scholarship. Each author does an inspired job in demonstrating the historical significance of some of the province's legal developments.

Though several of the cases discussed played a key role in Alberta's development, this book also appreciates their lasting significance. For example, the chapter dealing with Alberta's energy law by Alastair Lucas points out the value of historical understanding for contemporary society.

One theme that is present throughout is that of judicial independence. This criteria is fundamental to the proper functioning of the legal system. Without the guarantee of an independent judiciary, access to justice and the quality of justice would be severely compromised. The book illustrates the importance of maintaining an independent judiciary and it illustrates that independence is key for reasonable and fair access to justice for all. Compromising judicial independence undermines one of the fundamental elements of Canadian democracy.

The book, however, is not without some flaws. First, as with all edited compilations, the material tends to repeat on occasion. However, Swainger divides the volume nicely between overview and chapters dealing with specific issues. In doing so, the book has a reasonable flow between the historical and legal elements.

Second, although there is good historical context, there is little detailed background about the major changes to the court in 1921 and 1979. Historian Lou Knafla considers the history of the court from its inception to 1921. However, subsequent – 1922 to 1979 and 1980 to the present – periods are not contextualized to the extent that Knafla gives to the earliest period.

The book contains several illustrations, many of which come from LASA. In addition, Swainger includes an appendix highlighting judicial appointments to the Court.

This volume is one of the first detailing the history of law in Alberta. That history is now only 101 years old and remains in its infancy. There is so much more to examine and uncover about Alberta's legal heritage, Swainger's book is a good beginning. ❖

(con't from p. 1)

1885 trial in Regina. He will review his later life in the United States and Canada, in particular his friendship in Chicago with the young American architect, Frank Lloyd Wright. Finally, reference will be made to Jaxon's extraordinary visit to Alberta in 1909.

The Edmonton dinner will be held Wednesday, September 24th at the Fairmont Hotel Macdonald and the Calgary dinner will be held on Thursday, October 2nd at the Fairmont Palliser Hotel. Both evenings begin with a reception at 6:00 pm when guests can enjoy a glass of sparkling wine and live music. Dinner will begin at 7:00 pm. There will be a silent auction in both cities with proceeds going towards maintaining LASA's many historical programs such as displays, oral histories, publications, research services and of course the archives. Tickets are \$110 each or \$800 for a table of eight and can be purchased by contacting LASA at (403) 244-5510 or via email at legalarc@legalarchivessociety.ab.ca.

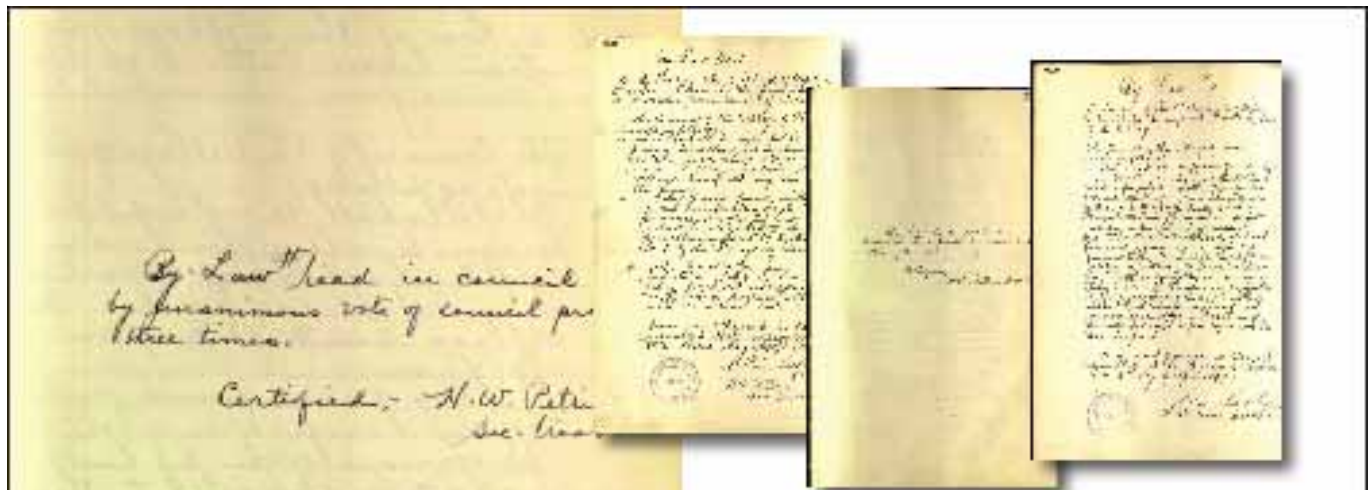
Please join us to support the Legal Archives Society of Alberta while enjoying an historical evening celebrating Canadian history.

Casino Thanks

LASA would like to acknowledge and thank all those who volunteered their time at our recent fundraising Casino held at Casino Calgary on April 24 and 25, 2008. LASA is indebted to the following individuals who gave graciously of their time to support LASA's programs:

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Is your neighbour's mule munching your marigolds?
Find how this could be resolved if it was 1927 and you were living in Airdrie!

Check Out More of Alberta's Municipal Bylaws at
www.ourfutureourpast.ca/bylaws/

Part of Our Future, Our Past: The Alberta Heritage Digitization Project

The Municipal Bylaws of Alberta website is brought to you by The Alberta Law Foundation, Libraries and Cultural Resources at the University of Calgary, and the Lois Hole Campus Alberta Digital Library.

MEMORIES OF AN OLD FASHIONED PRAIRIE LAW OFFICE

Cairns Ross Wilson & Wallbridge
1946-1952

by Justice William E. Wilson

Part II - An Old Fashioned Prairie Law Office

The following is Part II of a IV part feature series written by the Hon. Justice W.E. Wilson, son of the late Justice Ernest B. Wilson. In the following segment Justice Wilson recounts his early recollections of the law firm office.

L. Y. Cairns preserved a practice for my father during the whole of the war, and he did it on the basis that he was only a caretaker, after making necessary payments to the Tighe estate.

My father returned from overseas in December, 1945, and shortly after that he was invited to join L. Y. Cairns, K.C., Stanley Ross, K.C. and James Wallbridge in partnership to continue his interrupted legal career. That is the office that I remember from my youth as the “old fashioned office”. The Tighe & Wilson office certainly also fit that category, but I was not as familiar with it as I was with the later office.

Before the war, I was a frequent visitor in the Tighe office. It was, I thought, a delightful place to play, full of interesting things like paper clips, and rubber bands, brad staplers, upright typewriters and adding machines. Best of all was an old Dictaphone of the type that recorded on wax cylinders through a mouthpiece that resembled a vacuum hose. The cylinders had to be specially scraped to remove the old message and prepare for the new, a tedious process that had to be carefully done. I spent many happy hours in that office, often on a Saturday morning, while my mother shopped at the old market across the street. I think it influenced my later choice of career.

The Cairns firm carried on business at 24 Dominion Bank Chambers, which was located on the south west corner of 100th Street and Jasper Avenue in Edmonton. The red stone building was built on a 33 foot lot facing on Jasper Avenue, with a depth of about 150 feet, and had three floors. The building was solid and old fashioned, occupying about 100 feet of the lot, the back being devoted to a minuscule parking lot for tenants, enclosed by a brick wall.



Alan Fraser MacDonald, Brigadier Coleman, and Brigadier Ernest Brown Wilson (standing left to right).

Taken at Buckingham Palace on the day of their investiture in the OBE, on 11 May 1945. Each of them was a Colonel of the Loyal Edmonton Regiment during the war. Wilson and MacDonald were both graduates of the University of Alberta in Law, and Brigadier Coleman received his LLB from Dalhousie university.

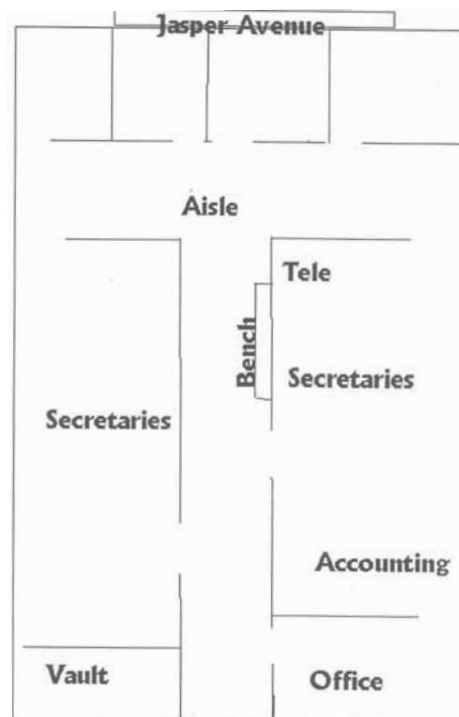
The bank occupied the ground floor. The entrance to the bank was on Jasper Avenue. The two other floors were reached through a gigantic waste space staircase at the back of the ground floor, the door to which was on 100th Street. The address was 10076 - 100th Street, but it was always referred to as 24 Dominion Bank Chambers. There was no elevator. The second floor contained the dark and dingy offices of the firm. The washrooms were on the third floor, where there were other small offices, sometimes occupied by small businesses. There were other small office spaces on the second floor, as the Cairns office did not take up all of

that floor. Wainwright Gas, operated by Mr. Campbell¹, was on the third floor at that time, and James Kellas maintained an insurance brokerage office. Later on that floor was Lyle Malden, a real estate agent and mortgage broker, later an oil landman, widely known as “the Farmer’s Friend”, who was a client of the firm. The Cairns firm had been in these premises for many years, I think since early in the 1900’s but had not taken over the whole of the second floor. The space they did occupy measured about 70 feet by 33 feet, filled with offices, a large walk in vault with heavy steel door, filing cabinets, several secretarial desks that measured about 2 feet by 4 feet, an accounting desk, and a walk-in aisle with waiting benches. There were none of the popular modern amenities such as rest rooms or coffee rooms or conference rooms, the space was crammed with the machinery of practice, with very little room for comfort, and no waiting room at all. The attached floor plan will give some idea of the layout, which was decidedly cramped. There was no such thing as a retiring room for the female staff, no lunch room, and little space for the storing of coats and personal items of staff or clients.

In 1948 I managed, I am sure, through the kind offices of my father, to land the position of office boy with the firm for the summer. I am sure the other partners did not think they needed such a luxury. My memory of that summer is of stifling heat, (no such thing as air conditioning, open a window), exhaust fumes rising from the busy intersection one floor below, stamps and the letter book. During the summer I visited many adjoining office buildings, delivering letters and documents to lawyers and accountants, as well as to the Court House, the post office and the Companies Branch, which were all in regular receipt of documents from Cairns Ross Wilson and Wallbridge, many delivered by the office boy. All of these offices with the exception of the Companies Branch, were within easy walking distance. The Companies Branch was usually visited by street car, easily caught on Jasper Avenue, and right on the route that I regularly took to my home on the south side. The price of a ride for one of my age was, I believe, a nickel.

Footnotes

- 1 The father of Robert Campbell, later an Edmonton lawyer, who articulated with the Cairns Ross Wilson and Wallbridge firm.



**Floor plan of the 'old fashioned office'
Cairns, Wilson, Ross & Wallbridge LLP**

Located on the south west corner of 100th Street and Jasper Avenue in Edmonton.

The oil boom had just started the previous February, with the discovery of oil at Leduc. The office employed, usually, at least two students, and they were occupied almost exclusively with land titles matters, as the searching of titles at the old Land Titles Building, attached to the old court house, was a frantic activity, with searchers and applicants for registration often stacked three and four deep at the counter, clamoring for attention. This was not my bailiwick. This was for the students and lawyers. My future wife, Jean Lees, had just begun her work there, and has many stories to tell of these frantic days of the oil boom. I was not part of that.

The students were my friends, but they were very busy. I remember seeing at the office, Paul Matas, Bob Low, Bob Campbell, Larry Pilon, Frank Leiber, Al Dubensky and Louis Lebel, among others, who articulated there. Many of the students were returned servicemen. My father always had a lot of time for returned men.

The office was very busy and very crowded. The layout allowed for four offices across the front of the building, on the Jasper Avenue side, and three offices stretched along the 100th street side with secretarial and accounting offices in between. The offices across the front of the office were about eight feet by ten feet, which allowed room for an oak desk, a chair, and facing the desk, two chairs for clients. Some of the offices had book shelves against one wall, and other books were accommodated about the office on shelving. There was no library as such.

My father's office was the corner one, overlooking Jasper Avenue and 100th Street. It had east and north facing windows, which allowed for a cross draft of sorts, but the traffic was but one floor below, and the dust and exhaust fumes were bothersome when the windows were open. My father's desk faced south so that he had at his back the window on Jasper Avenue, and to his left the window on 100th Street. On the wall facing him was a set of shelves for law books, and in front of them, two client chairs of upright oak. Beside one of the chairs was a wooden box filled with sand, as many of the clients who occupied that chair indulged in chewing tobacco, and needed a place to deposit the result. In addition to that nearly everyone in the office was a smoker, and the sand was a convenient extinguisher. Cairns smoked a pipe and was very disciplined in its use. Everyone else smoked cigarettes.

At that time Cairns occupied the office to the east on the Jasper Avenue side. It was about the same size, but enjoyed only two windows overlooking Jasper Avenue. His office was full of interesting memorabilia, which I found fascinating, including a marvelous collection of fountain pens of various kinds. No one in the office but L. Y. Cairns, and sometimes Ross, used a Dictaphone. Cairns used it only occasionally. The practice was to dictate directly to the secretary. The only piece of electronic equipment in the individual offices was the telephones. At the time I worked there in 1948, these were of the old fashioned stand-up "candlestick" two piece design, with the mouthpiece being held to the mouth with one hand, or left on the desk to be spoken into, and the ear piece to the ear with other. The office

had a switchboard, with an operator, who plugged the calls into the correct line after receiving them, and who was on call to provide the user with a line out when the receiver was lifted. My father, with recent long experience of field telephone use overseas, always shouted into the mouthpiece so loudly, that he could be heard all over the office. Cairns would often put both pieces of the phone down on his desk and continue to dictate, when talking to (or more accurately, listening to), one of the many lawyers in town who were inclined to be wordy and waste his time on the telephone. Cairns had a great many clients, and was constantly being interrupted by the telephone. He would often take his work to an empty office on the third floor of the building, and work there. His secretary, Miss Pirie, could then quite truthfully tell the caller that Cairns was out of the office. Little white lies were not at all tolerated in the office.

Stan Ross, who was one of the few lawyers in Alberta practicing labour law at that time, was in another Jasper Avenue office, and had by far the most attractively decorated offices of them all. Wallbridge, who supervised the staff and office management, and did the mortgage conveyancing, had an office on the 100th Street side. The students were accommodated in various warrens on the rest of the floor, and often did their work in the general secretarial bull pen. When Erik Lefsrud and I worked there together during our articling year we occupied side by side offices, with one entrance onto the hall, so that it was necessary for one of us to go through the office of the other to get in or out, and our clients had to follow the same procedure.

The secretarial area was literally, a pen. The secretaries each had a small oak typewriter desk and chair, and that was it. They were crammed side by side, and pounded away on their Underwoods and Royals with great dedication all day. They were for the most part marvelous typists, accurate and fast, and seldom made use of erasers, for a mistake correction was a time consuming matter of hard erasers and repairs to the original and two copies. Miss Pirie, who was the main secretary for L. Y. Cairns and my father's faithful old secretary, Miss Moses, were the seniors, and both were in the excellent class, generally having little time for office

boys. The old fashioned switchboard was just outside my father's office, and I became proficient at its operation, which pleased the secretaries, who otherwise had often to take turns answering it and welcomed the relief from that interruption.

The letter writing practice in the office was for the secretaries to make three copies of every letter with carbon paper. The original was on letterhead bond, the second on canary yellow, for the file, and the third on onionskin paper punched with two holes in the margin. This latter was the Letter Book copy, and at the end of the day those copies were all collected in a wire basket from each secretary. It was then the job of someone, (me, while I was there) to number each page by hand, and index each letter in an index, alphabetically by addressee. When a sufficient number of these had been collected to make a book of about 3 and ½ inches deep, they were bound together with the index pages to form a book identified with the relevant dates on the spine cover. This practice had been carried out by the firm since the senior Mr. Wallbridge founded the firm with Mr. Henwood in the early 1900's, and the scores of volumes of letter books occupied shelves all around the office and in the vault and in every spare nook. There was never any suggestion that this activity should be discontinued, or that any of the books should be destroyed. The compilation of these books was very time consuming, but there were occasions when a letter could only be found in this way and in no other. Mr. Cairns insisted upon the retention of this system. I was given a desk upon which to organize this activity, and spent many hours at it, interrupted for errands which were welcome. I developed a fair hand with my old blue fountain pen in the preparation of the many pages of the index.

These books were all carefully moved to the Bentall Building when the firm moved there in 1957, but I imagine they were soon after that destroyed. When the office was moved, I was completing my articles with the firm, and Erik Lefsrud had just been called to the Bar.² He and I and some of the younger lawyers were given the job of sorting out what was to be thrown out, and what was to be kept, in dusty files going back over 50



Early examples of law firm office equipment, 1920's

Taken from the Legal Archives collection
-cheque writer, calculator, corporate seals

years. We were not the right persons for the job. We considered most of the material to be useless, and I am afraid we destroyed many interesting and useful files without really knowing what they were. Cairns took no interest in this exercise, and shortly after the move to the Bentall building he went to the District Court Bench.

The office also contained a letter press, a large heavy metal plate with a film of gelatinous material on it, which could be spread with ink, much as an old mimeograph machine would use. It was equipped with a big wheel and screw arrangement that made it possible to press a letter in to ink, and make a form of copy with it. It was messy and inconvenient, and not often used, but it sat there for years as the old form of copying machine. I did not see a more modern form of copying machine until the middle 1950's when I began to practice law, at that time an old thermograph machine that was almost as painful to use as the letter press, and made an equally poor copy. ❖

Footnotes

- 2 I had gone to British Columbia on the completion of my final year of University to work for the summer on the Westcoast Transmission pipeline for the Bechtel Corporation. I was a few months behind my classmates as a result.

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(up to July 31, 2008)

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Mac Walker
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Neil Watson
Hon. Judge L.S. Witten

Mark Your Calendar

● September 24, 2008 - LASA Historical Dinner at the Fairmont Hotel Macdonald in Edmonton. Professor Bruce H. Ziff from the Faculty of Law at the University of Alberta will discuss the life and times of Reuben Wells Leonard and the Leonard Foundation Trust.

● October 2, 2008 - LASA Historical Dinner at the Fairmont Palliser Hotel in Calgary. Professor Donald B. Smith from the Department of History at the University of Calgary will talk about the Prairie Visionary, Honore Jaxon.

In Memoriam

LASA extends its sympathy to the family of friends of Robert Barron, QC who passed away May 15, 2008 in Calgary at age 91. Barron, the second son of J.B. and Amelia Barron, was born in Calgary on Nov. 29, 1916. A lifelong Calgarian and a member of the city's highly influential Barron family, he graduated with the Chief Justice's Gold Medal in Law and other awards from the University of Alberta law school in 1938.

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