

“Social Justice Through Law”:
The Dalhousie Legal Aid Service, 1970-1990

by

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Introduction

When the government of Nova Scotia began funding the provincial legal aid program in 1972, no formal legal aid service existed in the province. As a first order of business, the government appointed a special committee to investigate legal aid on 5 June 1970. Known as the Cox Committee, its task was to consider how best to administer legal assistance to lower-income Nova Scotians. It accepted briefs and comments from a variety of interested parties, each with their own view of the ideal approach to legal aid delivery. Daniel Laprès, a Dalhousie Law School student, was one such contributor. Earlier that year, Laprès was involved in establishing the Dalhousie Legal Aid Service, a student-run summer program. When the Dalhousie Legal Aid Service opened its doors in June 1970, it became the first legal aid office in the province. The committee also received a brief from Professor David Lowry of Dalhousie Law School. Lowry became the first director of the Dalhousie Legal Aid Service after law faculty took over its operations in the fall of 1970. Lowry and his students submitted a brief to the committee entitled “Social Justice Through Law.”¹ In the brief, they described their vision for how the law and legal aid could be utilized to generate social justice.

Social activists and reformers have often envisioned the law as essential to achieving greater social justice. According to Historian Dominique Clément, Canada underwent a “rights revolution” from the 1940s to 1980s, giving Canadians new expectations about their civil and human rights. Because these rights were guaranteed through legislation and courts, Canadians began to privilege law as a site of producing social justice. Reformers came “to think of social

¹ David Lowry and Dalhousie Legal Aid Service, *Social Justice Through Law: A Brief Presented to the Attorney General's Committee on Legal Aid in Nova Scotia at a Public Hearing November 3, 1970* (Halifax: Dalhousie University, 1970).

change as legal change.”² According to legal scholars Michael McCann and Helena Silverstein, this view was especially pervasive among lawyers, many of whom saw “litigation as the preferred means to achieve reform goals.” McCann and Silverstein argued that many lawyers engaged in social reform were “optimistic, even naively romantic” about the potential to create social change through law.³

However, many scholars have questioned the impulse to see the law as the primary tool to generate social justice. McCann and Silverstein described scholarship on litigation, legal activism, and social movements as overwhelmingly critical of the “progressive potential of legal tactics.”⁴ For example, Gerald N. Rosenberg contended that American courts follow rather than generate social change. In his 1991 book *The Hollow Hope*, Rosenberg referenced cases such as *Brown v. Board of Education* to argue that de-segregation resulted from politics and not the courts. Historian Ian Holloway argued that this view also applied in Canada. As an example, he cited arguments prominent in the 1970s against enacting the *Charter of Rights and Freedoms* based on the conviction that social change is not produced through the judicial branch of government.⁵

However, McCann and Silverstein argued that the critical trend in scholarship was often reductive of the various perspectives of lawyers and activists and their visions of how the law can generate social change. To demonstrate this point, they offered an analysis of the “cause lawyer,” which they described as a lawyer working in organizations such as unions or rights

² Dominique Clément, *Canada's Rights Revolution: Social Movements and Social Change, 1937-82* (Vancouver: UBC Press, 2008), 11.

³ Michael McCann and Helena Silverstein, “Rethinking Law’s ‘Allurements’: A Relational Analysis of Social Movement Lawyers in the United States,” in *Cause Lawyering: Political Commitments and Professional Responsibilities*, eds. Austin Sarat and Stuart Scheingold, 261-292 (New York: Oxford University Press, 1998), 265.

⁴ McCann and Silverstein, “Rethinking Law’s ‘Allurements,’” 261.

⁵ Ian Holloway, review of *The Hollow Hope: Can Courts Bring About Social Change?* by Gerald G. Rosenberg, *The Dalhousie Law Journal* 15, no. 2 (1992): 669.

groups. After interviewing 140 cause lawyers, McCann and Silverstein argued that the views and priorities of these lawyers complicate the conventional picture.⁶ They explained that many of their interviewees were cognisant of the law's limitations. These lawyers valued litigation but did not see it "as an exclusive end in itself."⁷ Instead, they generally saw casework as best combined with "other tactics and resources" to promote change.⁸

McCann and Silverstein did not consider legal aid or the role of legal aid lawyers in efforts to generate social change. However, this thesis contends that an examination of the priorities and practices of the Dalhousie Legal Aid Service (DLAS) from 1970 to the early 1990s aligns with their analysis. As DLAS's 1970 brief to the Cox Committee contends, its staff endeavoured to achieve "social justice through law." However, they did not see social justice as primarily achieved through major legislative victories. Instead, this thesis argues that for the lawyers, community workers, and students at DLAS, social justice was generated through a multifaceted approach to legal aid. This included legal services, legal education, and community engagement.

This thesis traces the history of DLAS's program in three parts. It first examines the historical context that underlies the development of DLAS, exploring the contributions of Dalhousie students, faculty, and members of the Barristers' Society of Nova Scotia. It next analyzes the legal aid model that DLAS prioritized, which emphasized its role as a community and university-based legal service. Lastly, this thesis examines DLAS's operations, demonstrating what it meant in practice for the clinic to endeavour to promote "social justice through law."

⁶ McCann and Silverstein, "Rethinking Law's 'Allurements'," 261.

⁷ McCann and Silverstein, "Rethinking Law's 'Allurements'," 269.

⁸ McCann and Silverstein, "Rethinking Law's 'Allurements'," 267.

In examining DLAS's goals and operations, this thesis offers a historical analysis of the program from the 1970s to the early 1990s. To do so, it utilizes various sources that provide insight into DLAS's institutional history. It examines archival collections from the Dalhousie University Archives such as DLAS's administrative records and client case files. It considers available materials on the service written by former DLAS staff and directors, and professors at Dalhousie Law School.⁹ It also reviews information from three personal interviews conducted by the author. These include interviews with two former DLAS directors, Archibald Kaiser (1979-1982) and Rollie Thompson (1982-1985; 1991-1994), as well as Daniel Laprès, a student involved in founding the service. Additionally, this thesis analyzes secondary source material that sheds light on the context of DLAS's establishment. It considers sources on legal aid in Canada and the United States, and the poverty law movement of the 1960s. It also references scholarship on the political and social environment of Canada preceding DLAS's development, including the rise of the welfare state, the New Left, and anti-poverty activism.

This thesis places scholarship on legal aid and social change in Canada in conversation. Much of the existing scholarship on legal aid in Canada focuses on the legal profession and government actors to the exclusion of social and political factors.¹⁰ Moreover, many analyses of poverty and social change in Canada's 1960s and 1970s do not examine the development of legal aid.¹¹ This thesis considers scholarship in both areas to demonstrate how the historical

⁹ This includes: John Willis, *A History of Dalhousie*; Macdonald, *Dalhousie Law School* (Toronto: University of Toronto Press, 1979); Rollie Thompson, "Dalhousie Legal Aid Services Turns 35: A Short History," *The Society Record* 23, no. 1 (2005); Joan Dawkins, "Living to Fight Another Day The Story of Dalhousie Legal Aid," *Journal of Law and Social Policy* 3 (1988); Harvey Savage, "The Dalhousie Legal Aid Service," *Dalhousie Law Journal* 2, no. 2 (1975).

¹⁰ See: Dieter Hoehne, *Legal Aid in Canada* (Lewiston/Lampeter/Queenston: The Edwin Mellen Press, 1989); Dale H. Poel, "Determinants of Legal Aid in Canada: Actors, Policies, Programs, and Futures," in *The Politics of Canadian Public Policy*, eds. Michael M. Atkinson and Marsha A. Chandler, 69-91 (Toronto: University of Toronto Press, 1983); Mary Jane Mossman, "Legal Aid," last edited December 16, 2013.

¹¹ See: Bryan D. Palmer, *Canada's 1960s: The Ironies of Identity in a Rebellious Era* (Toronto: University of Toronto Press, 2009); Will Langford, *The Global Politics of Poverty in Canada: Development Programs and*

development of legal aid was impacted by its social and political environment. Additionally, many works on Canadian legal history focus on significant legal decisions to understand societal change. For example, James W. St. G. Walker's *'Race,' Rights and the Law* and Constance Backhouse's *Legal History of Racism in Canada* examine legal history through the lens of cases considered to be social justice victories or losses. Instead, this thesis analyzes legal history from a different perspective. It examines how a community legal aid clinic engaged with everyday legal issues in an attempt to produce social justice through law.

Democracy, 1964-1979 (Montreal and Kingston: McGill-Queen's University Press, 2020); Shirley Tillotson, "Community and Expertise in Canadian Democracy Since 1920," in *Constant Struggle: Histories of Canadian Democratization*, eds. Julien Mauduit and Jennifer Tunnicliffe, 355-389 (Montreal: McGill-Queen's University Press, 2021); David Tough, "'At Last! The Government's War on Poverty Explained': The Special Planning Secretariat, the Welfare State, and the Rhetoric of the Poverty in the 1960s," *Journal of the Canadian Historical Association* 25, no. 1 (2014).

Chapter 1: Founding the Dalhousie Legal Aid Service

Dalhousie law students began efforts to establish the Dalhousie Legal Aid Service (DLAS) in December 1969. Their interest in developing a legal aid clinic was affected by the social and political context of the period. In the 1960s, welfare programs expanded, and New Left activism grew. In turn, this generated attention to poverty activism, including the delivery of legal aid to impoverished Canadians. This chapter first examines the environment in which DLAS was founded. Then, it discusses the students' efforts to establish the program. Their success required support from Dalhousie students, faculty, and the provincial Barristers' Society, and this chapter examines why the program was approved by each group. Finally, this chapter discusses DLAS's transition from a student-run summer program into a permanent clinic, with full-time staff and students working for course credit.

Canada's 1960s

Canada's 1960s was in part characterized by the expansion of welfare programs. In Canada's early history, welfare was primarily delivered through charity, growing after the First World War in areas such as pensions. However, the modern welfare state only took a centralizing and extensive form following the Second World War. In 1944, the National Department of Health and Welfare was formed to combine the efforts of earlier departments focused on soldiers' benefits and develop more encompassing programs.¹

The postwar interest in "universal" human rights encouraged the expansion of welfare programs.² In the past, welfare largely targeted the "worthy poor," and eligibility was determined

¹ Christopher Ruddy and Sue Sullivan, *This is Public Health: A Canadian History* (Ottawa: Canadian Public Health Association, 2010).

² Tillotson, "Community and Expertise," 374.

by a means test. In the postwar period, however, programs started becoming accessible universally.³ Planners of welfare programs framed their goals as working for the ‘betterment of all’ by ensuring a standard of living for every Canadian. In a 1967 memorandum to Prime Minister Pearson, the deputy director of the Secretariat on Poverty Bob Phillips argued that the “demise of the means test” was “the real revolution of the century” in terms of welfare.⁴

In the 1960s and 1970s, welfare programs continued to expand. The *Medical Care Insurance Act* and *Canadian Assistance Plan* were passed in 1966, key policies providing universal welfare services. Moreover, political rhetoric on combating inequality proliferated. This was famously encapsulated by Prime Minister Trudeau’s 1968 declaration at the Liberal leadership convention that “Canada must be a just society.”⁵ The 1960s were also marked by a rise in the “counterculture” of New Left activism. University students and professors formed the nexus of the New Left, which spread to include high schools, communes, and community organizations.⁶ The New Left proclaimed its distinction from the philosophies and methods of the “old left,” focusing on activism and the development of a new social order. In Canada, activism centred on issues such as anti-Vietnam protests, ecology, and “Third World liberation.” Although, as scholar Nathan Ruston notes, the counterculture was far from “ubiquitous,” its symbolic resonance was pervasive.⁷

Attention to poverty increased in Canada’s 1960s, influenced by both the growth of welfare and the rise of the New Left. According to historian David Tough, the poor held a

³ For example, a “universal” old-age pension was developed in 1951 under the *Old Age Security Act*.

⁴ Tough, “At Last!,” 189.

⁵ Pierre Elliot Trudeau, “Just Society Speech,” recorded at the Ottawa Civic Centre, April 6, 1968.

⁶ Palmer, *Canada’s 1960s*, 254.

⁷ Nathan Ruston, “‘There Are People in All Walks of Life Who Are Using This Substance’: Drugs, Discourse, and the Student Counterculture at the Le Dain Commission, 1969-70,” in *The Social History of Alcohol and Drugs* 35, no. 1 (2021): 35.

“special status” for New Leftists. Many saw poor people as outside of consumer culture, and, therefore, more “authentic.”⁸ For example, Tough cites interviews with students from “Meeting Poverty 19,” a summer project run by Queen’s University students in 1965. One interviewee from the project expressed that he saw the poor as “honest” and their lives as “more immediate, tangible, concrete.”⁹ Tough asserts many young people took part in anti-poverty activism in an effort to “feel real,” sometimes even “fetishizing” poverty.¹⁰ For many activists, poverty was also part of a wider critique of liberal democracy and a component of their efforts to forge an egalitarian society.

Additionally, the expansion of welfare programs promoted attention to poverty. Welfare proponents strove to eliminate poverty and develop a baseline “universal” standard of living. Discourse began to consider poverty as a structural problem, prompting social scientific analyses of poverty and its causes. Tillotson notes that, in previous decades, analyses of poverty relied on conjecture.¹¹ By this period, however, research considered factors such as social exclusion and racism. Michael Harrington’s monumental book *The Other America* was published in 1962, examining the root causes of poverty in the country. He argued that “institutionalized poverty” kept the poor in the “most vicious of vicious circles” of poverty.¹² He also emphasized race as a key contributing cause of poverty.

Anti-poverty programs were presented as responding to a societal threat, and thus benefitting all of society. For example, Harrington wrote that “a housing program with discrimination against the black man is at the same time discriminatory against the white man,

⁸ Tough, “At Last!,” 182.

⁹ Tough, “At Last!,” 182.

¹⁰ Tough, “At Last!,” 182.

¹¹ Tillotson, “Community and Expertise,” 363

¹² Michael Harrington, *The Other America* (New York: Macmillan Publishing Company, 1962), 72.

for it will perpetuate the segregation of poverty.”¹³ For Harrington, poverty harmed society, and therefore poverty in African American communities harmed all Americans. With this view, Prime Minister Pearson’s policy chief Tom Kent shifted rhetoric away from the “deserving and underserving poor” as individuals experiencing poverty. Instead, he emphasized government policy as an “attack on poverty” as such, working to eliminate the threat of poverty from society.¹⁴ In 1964, President Lyndon Johnson declared the United States’ “war on poverty,” and Canada followed shortly after. At the Speech from the Throne in April 1965, Governor General Georges Vanier announced that the government was “developing a programme for the full utilisation of our human resources and the elimination of poverty among our people.”¹⁵ This initiated the large allocation of resources toward programs to combat poverty.

The increased attention to poverty in the 1960s stimulated interest in “poverty law.” In the context of the American war on poverty, lawyers and thinkers began to formulate poverty law as a distinct practice. American lawyer Stephen Wexler was a key voice in the poverty law movement. In 1964, he published the “pioneering” article “Practicing Law for Poor People.”¹⁶ In the article, he put forward the thesis that “Poor people are not just like rich people without money.”¹⁷ As such, poverty lawyers could not respond to the legal problems of the poor in the same way they respond to other legal issues. Instead, poverty lawyers should support poor people through activities such as providing information, examining welfare budgets, writing manuals, and training laypersons in the law.¹⁸ Wexler’s article spurred and legitimized poverty law as a distinct legal practice. Additionally, American legal professors Edgar and Jean Cahn were

¹³ Harrington, *The Other America*, 80.

¹⁴ Langford, *The Global Politics*, 13.

¹⁵ Vanier, “Speech from the Throne,” Speaker of the Senate (Ottawa, April 5, 1965), 4.

¹⁶ Shelley Gavigan, “Poverty Law and Poor People: The Place of Gender and Class in Clinic Practice,” *Journal of Law and Social Policy* 11 (1995): 174.

¹⁷ Stephen Wexler, “Practicing Law for Poor People,” *The Yale Law Journal* 79, no. 6 (1970), 1049.

¹⁸ Wexler, “Practicing Law,” 1056-7.

leading figures in theorizing the structure of poverty law practice.¹⁹ In 1964, they presented an influential critique of an overly “military approach” to legal aid. According to Cahn and Cahn, the military approach conceptualized the war on poverty as fought “by professionals” on behalf of the citizenry.²⁰ Instead, they argued that a “civilian perspective” must be incorporated for the war on poverty to be successful. Cahn and Cahn argued that a successful bridge between the military and civilian perspectives could be found in a “university affiliated, neighborhood law firm.”²¹ Wexler, Cahn and Cahn, and other thinkers were influential in developing a new practice of “poverty law” which sought to engage with the specific issues of poor people. They contributed to the development of Neighbourhood Law Offices (NLO), a distinct model of legal aid delivery structured for conducting poverty law.

The idea of poverty law and the NLO model became influential in Canada. According to legal scholar Jennie Abell, the “philosophical base” of legal aid in Canada was developed in the United States, and then “essentially imported” to Canada.²² Canadian professors and students engaged with American thinkers and observed operational NLO practices. Canadian law students also enrolled in graduate programs in the United States and returned to Canada after working at NLOs or learning from their proponents.²³ In October 1971, Cahn and Cahn themselves spoke at the First Canadian Conference on Poverty and Law in Ottawa to reflect on how the United States’ model should be implemented in Canada. This exchange of ideas was impactful. Legal

¹⁹ Cahn and Cahn were the co-creators of the United States’ National Legal Services.

²⁰ Edgar S. Cahn and Jean C. Cahn, “The War on Poverty: A Civilian Perspective,” *The Yale Law Journal* 73, no. 8 (1964): 1318.

²¹ Cahn and Cahn, “The War on Poverty,” 1334.

²² Jennie Abell, “Ideology and the Emergence of Legal Aid in Saskatchewan,” *Dalhousie Law Journal* 16, no. 1 (1993), 127.

²³ In DLAS’s case, the students who founded the service visited an NLO in New York for inspiration, and its first director was educated at New York University; Frederick H. Zeamans, “Legal Aid and Legal Advice in Canada: An Overview of the Last Decade in Quebec, Saskatchewan and Ontario,” *Osgoode Hall Law Journal* 16, no. 3 (1978): 664.

scholar Bryant Garth notes that the NLO in the United States “captured the imagination of Canadian law students in the late 1960s.”²⁴ DLAS was one of the first programs modeled after the NLO to be developed in Canada.

Planning for DLAS was initiated midway through the 1969-1970 school year by three first-year law students: Dennis Patterson, Greg Warner, and Daniel Laprès. To establish the program, the students were required to obtain support from the student body, the faculty, and the Barristers’ Society. Despite facing resistance at all three levels, the students were ultimately successful in establishing the service as a summer work opportunity in 1970. The following sections examine why the students endeavoured to create a legal aid clinic, and why they were supported by each of these consistencies. To do so, it discusses the social and political environment in Nova Scotia and Canada, as well as the efforts of students, faculty, and lawyers that contributed to DLAS’s approval.

Student body

The university student culture in the late 1960s and 1970s encouraged law students at Dalhousie to develop and support DLAS. On campuses across North America, New Left activism motivated students to become involved in their education and political organizing. Historian Bryan Palmer notes that the New Left saw “the University and its students as a decisive agency of social change.”²⁵ This was emblemized by the federal government’s Le Dain Commission, which visited campuses across the country from 1969 to 1972 to gather testimony on drug use, a symbol of the counterculture. According to scholar Nathan Ruston, the

²⁴ Bryant Garth, *Neighborhood Law Firms for the Poor* (Alphen aan den Rijn: Sijthoff & Noordhoff International Publishers B.V., 1980), 101.

²⁵ Palmer, *Canada’s 1960s*, 251.

government's decision to visit campuses was "an acknowledgment that the university had become a place where more people were more radical than elsewhere."²⁶ This was true at Dalhousie, where new student initiatives proliferated. For example, the Ecology Action Center was established in 1971 to encourage Halifax residents to recycle. In the following decades, it grew to "have a hand in virtually every environmental controversy in the province" including development projects, uranium mining, and spraying herbicides.²⁷

At Dalhousie Law specifically, former dean John Willis diagnosed a "new spirit of social consciousness which was then at its height among law students right across the country."²⁸ Professor Bruce Archibald recalled that this included increased interest in the feminist movement, anti-Vietnam protests, and the "Waffle" radical wing of the NDP.²⁹ Activism often took on a legal character. For example, students were involved in organizations such as the Civil Liberties Committee, formed in 1966 to provide "legal services to persons who would be denied effective equality before the law" due to their financial circumstances.³⁰ In 1968, the committee unsuccessfully sought funding from the Company of Young Canadians to conduct research into the possibility of forming a NLO.³¹ This is an example of an early attempt to create a student-run legal aid program at Dalhousie. Although it did not result in the development of a legal aid program, it demonstrates a growing student interest in legal aid activities.

²⁶ Ruston, "There Are People," 35.

²⁷ Mark Leeming, *In Defence of Home Places* (Vancouver: UBC Press, 2017), xiv, 28-29.

²⁸ Willis, *A History of Dalhousie*, 216.

²⁹ Ronald St. J MacDonald, *Dalhousie Law School, 1965-1990: An Oral History* (Halifax: Dalhousie University, 1996), 108.

³⁰ Carl Holm and Kenneth C. Fowlie, "Submission to the Company of Young Canadians by Dalhousie Law Students' Civil Liberties Committee," 2, 1968, UA-13, box 87, folder 7, Dalhousie Faculty of Law fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

³¹ Holm and Fowlie, "Submission to the Company," 2. These students included students Carl Holm and Kenneth C. Fowlie, who do not appear to be connected to the later development of DLAS.

Students Daniel Laprès, Dennis Patterson, and Greg Warner were influenced by the climate of student activism and attention to poverty. Laprès recalled that, as a student, he and Dennis were particularly activist-minded. For example, he explained that they were the only two law students to present to the Le Dain Commission.³² He noted that although DLAS was a “social endeavour,” the students were also “looking to be activists” and take on issues that had not been addressed before.³³

After deciding to get involved in legal aid, the students began researching the program. They decided to try applying the NLO model of legal aid, and while staying with Daniel’s family in New York City, Daniel and Dennis visited an operating NLO service.³⁴ Once they prepared their proposal, the students explained their goals to the student body through meetings and newsletters. Despite heightened interest in activism and poverty law at the school, not every student embraced the “spirit of social consciousness.”³⁵ Laprès recalled that some older students saw them as “uppity first-year students” overstepping their place.³⁶ However, the majority of the student body supported the project. According to Laprès, once they obtained backing from the students, the next step was gaining support from the faculty.

Faculty

Law faculty were generally more resistant to the project than students. Laprès recalled that, to his memory, most of the faculty were against the project.³⁷ Some faculty hesitated for practical reasons, such as concerns regarding the students’ expertise to conduct the program.

³² Daniel Laprès, interview by Emily Frank, February 17, 2024.

³³ Laprès, interview.

³⁴ Laprès, interview.

³⁵ Willis, *A History of Dalhousie*, 216.

³⁶ Laprès, interview.

³⁷ Laprès, interview.

Others were critical for pedagogical reasons, disagreeing with the basis of clinical legal education, which sought to teach students through practical experience. In the early 1970s, clinical education was both new and controversial. Many questioned how clinical education meaningfully contributed to legal education in general. Moreover, critics saw it as superfluous given Canada's articling requirement following law school.³⁸ Former Dalhousie law professor Hugh Kindred explained that the decision to establish DLAS as a clinical education program was "rather radical."³⁹ The eventual agreement of the faculty to support DLAS was part of the changing face of legal education in Canada and the United States.

David Lowry, law professor and DLAS's first director, explained that the impetus for clinical law in Canada came from the United States. Lowry was educated at New York University and noted that, in the United States, university-based clinics existed throughout the country, the earliest formed in 1908 at Harvard Law and Minnesota Law.⁴⁰ Programs at other Canadian schools also drew national attention to clinical education. For example, the University of British Columbia, Western University, University of Toronto, and Osgoode Hall Law School developed preliminary clinic programs starting in 1969.⁴¹ In his 1972 article "A Plea for Clinical Law," Lowry diagnosed a "wind of change beginning to sweep through Canadian Law Schools" with respect to clinical legal education.⁴²

At Dalhousie, the eventual embrace of clinical education was encouraged by a changing relationship between staff and students and greater curriculum flexibility. Professor Keith

³⁸ Macdonald, *Dalhousie Law School*, 153.

³⁹ Macdonald, *Dalhousie Law School*, 79.

⁴⁰ Macdonald, *Dalhousie Law School*, 79; David Lowry, "A Plea for Clinical Law," *Canadian Bar Review* 50, no. 2 (1972): 184.

⁴¹ Dalhousie Legal Aid Services, "Brief to Nova Scotia Legal Aid Committee Re: NS Legal Aid," 2, December 1969, UA-13, box 44, folder 14, Dalhousie Faculty of Law fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

⁴² Lowry, "A Plea for Clinical Law," 183.

Johnson noted that, throughout the 1960s, the paternalistic attitude of the school shifted to favour a more democratic relationship between students and staff.⁴³ This was accompanied by experimentation in the curriculum. For example, Professor Murray Fraser developed an “imaginative” course on family law, departing from the more “rigid” curriculum of the Canadian Bar Association.⁴⁴ The law school also hired new professors such as Nigel Rodly (known as “Radical Nigel”) in 1965 and Lowry in 1970. Lowry was known for shifting away from traditional modes of teaching to seek input from students.⁴⁵ He came to Dalhousie as an assistant professor directly from a graduate program at New York University. According to Willis, his studies at NYU introduced him to poverty law and encouraged his experimental pedagogical outlook.⁴⁶

Changes to the curriculum throughout the 1960s included early interest in clinical education. For example, in 1965, third-year students had the opportunity to spend an evening assisting with the Barristers’ Society’s weekly legal aid program in downtown Halifax. The program was run by the junior members of the society on a volunteer basis. Despite supporting the students’ involvement, faculty remained uncertain about the value of the teaching method. Following their experience, the students were asked to fill out a report assessing whether it had been a useful “educational medium,” or if it should “not be continued another year.”⁴⁷ However, cautious interest in clinical education continued and, in 1966, Professor Murray Fraser put out another “call to students,” advertising a “practical experience” opportunity with the Barristers’

⁴³ Macdonald, *Dalhousie Law School*, 48.

⁴⁴ This program was implemented in 1970. Willis, *A History of Dalhousie*, 210-13.

⁴⁵ Lowry was hired in 1970. MacDonald, *Dalhousie Law School*, 48-49.

⁴⁶ Willis, *A History of Dalhousie*, 220.

⁴⁷ “Participating in Legal Work,” November 23, 1965, UA-13, box 87, folder 8, Dalhousie Faculty of Law fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

Society's program.⁴⁸ Then, in 1968, Law Dean Andrew MacKay supported a project for the development of a Neighbourhood Centre operated by the Barristers' Society and assisted by law students.⁴⁹ Although the project was ultimately not developed, Dean MacKay's support demonstrates growing faculty interest in clinical law.

The environment of curriculum experimentation and clinical law encouraged faculty interest in the legal clinic program. Although many faculty still resisted the idea, others, like Professor Murray Fraser, were influential in encouraging them to approve the students' proposal.⁵⁰ With the eventual support of the Dalhousie Law faculty, the students' final task was to convince the Barristers' Society to adopt the program.

Barristers' Society

The students required the support of the Barristers' Society through its Legal Aid Committee for final approval of the proposed program. The Legal Aid Committee was formed in 1951 to deal with projects concerning legal aid.⁵¹ Without the agreement of the committee, the students would not have legal standing to provide advice to clients. Rollie Thompson, DLAS director from 1982-1985 and co-director from 1992-1994, explained that "in those early years, the active support of the Barristers' Society was critical to the clinic's success."⁵² The Legal Aid Committee's approval of the program was encouraged by increased interest in legal aid in the country and province.

⁴⁸ Murray Fraser, "Call to Students," Memo to Dalhousie Law students, 1966, UA-13, box 20, folder 22, Dalhousie Faculty of Law fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

⁴⁹ W.A. MacKay, "Proposal to Establish Branch Office for Legal Aid at Halifax Neighbourhood Centre," November 6, 1968, UA-13, box, folder 8, Dalhousie Faculty of Law fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

⁵⁰ Laprès, interview.

⁵¹ Barry Cahill, *Professional Autonomy and the Public Interest: The Barristers' Society and Nova Scotia's Lawyers, 1825-2005* (Montreal and Kingston: McGill-Queen's University Press, 2019), 65.

⁵² Thompson, "Dalhousie Legal Aid Services Turns 35," 13.

Scholar Dale H. Poel described the 1950s and 1960s as a period of “experimentation” in legal aid in Canada.⁵³ As interest in social welfare grew in the postwar period, provincial law societies developed volunteer legal aid programs. Societies were also motivated by “professional self-interest,” aiming to reduce courtroom inefficiencies and encourage professional prestige.⁵⁴ As welfare programs expanded in the 1960s, provincial governments started to fund society-run legal aid programs.⁵⁵ With the support of the Ontario government, Ontario was the first province to develop an expansive and well-funded program in the early 1960s. The rest of the country soon followed. Between 1971 and 1974, the Department of Justice formed cost-sharing agreements with each province to fund legal aid as part of Prime Minister Trudeau’s “Just Society” initiative.⁵⁶

In Nova Scotia, the Barristers’ Society began to develop legal aid services in 1951, led by the newly created Legal Aid Committee.⁵⁷ The Legal Aid Committee nominated local directors across the province who were put in charge of managing volunteer lawyers.⁵⁸ In Halifax, a downtown clinic provided drop-in services run by the junior lawyers of the Barristers’ Society, referred to as the “Tuesday night clinic.”⁵⁹ However, Barristers’ Society members gradually began to feel that the need for legal aid was not being met by the provisional program. In 1964, the same year that President Johnson declared the war on poverty in the United States, the

⁵³ Poel, “Determinants of Legal Aid,” 71.

⁵⁴ For a further analysis of the causes of the growth of legal aid, see chapter 3 of this thesis. Abell, “Ideology and the Emergence,” 128.

⁵⁵ Hoehne, *Legal Aid in Canada*, 59; Poel, “Determinants of Legal Aid,” 59, 81.

⁵⁶ Poel, “Determinants of Legal Aid,” 71; Thompson, interview.

⁵⁷ Legal Aid Review Team, *Review of Legal Aid Services in Nova Scotia* (Halifax: Nova Scotia Department of Justice and Nova Scotia Legal Aid Commission, 1996), 10.

⁵⁸ Legal Aid Review Team, *Review of Legal Aid*, 10.

⁵⁹ Legal Aid Review Team, *Review of Legal Aid*, 10; “Brief to Nova Scotia Legal Aid,” 3, Dalhousie Faculty of Law fonds.; William A. Cox, chairman, *Report of the Committee for the Study of Legal Aid in Nova Scotia* (Halifax: Attorney General’s Committee on Legal Aid, 1971), 33.

society initiated its first unsuccessful attempt to gain government funding for legal aid.⁶⁰ The demand for legal aid services increased in the following years. In 1968 the first federal *Divorce Act* was passed, which “blew up” the need for legal aid services in divorce matters.⁶¹ John Alward, the chairman of the Legal Aid Committee, commented in 1970: “we must seriously consider whether a voluntary system of Legal Aid such as we have in Nova Scotia, even at its very best, could hope to cope with modern day requirements.”⁶² That same year, the province agreed to fund a legal aid program. The Attorney General formed the Committee for the Study of Legal Aid in Nova Scotia (Cox Committee) on 5 June 1970.

In the context of growing attention to legal aid within the legal profession, Dalhousie law students proposed DLAS to the Legal Aid Committee on 16 December 1969. Despite the Barristers’ Society’s interest in developing legal aid programs, DLAS was an ambitious proposal and experimental idea. At that point, the Cox Committee had yet to research legal aid programs and there were no legal aid offices in the province. Moreover, the only other student-run “neighbourhood centres” in Canada were formed that year at Osgoode Hall Law School and the University of Toronto.⁶³ Professor Keith Johnson recalled that Society members had “professional concerns” and hesitations over the students’ ability to run the service.

According to Johnson, Murray Fraser played a central role in convincing the society to approve the program.⁶⁴ As noted above, Fraser was an influential advocate among Dalhousie faculty. He also sat on the board of the Legal Aid Committee and promoted the project among his

⁶⁰ Hoehne, *Legal Aid in Canada*, 214.

⁶¹ Thompson, interview; Cox, *Report of the Committee*, 8.

⁶² John Alward, “An opinion,” *The Ansul* 2, no 2 (1970) qtd. in Hoehne, *Legal Aid in Canada*, 217.

⁶³ “Brief to Nova Scotia Legal Aid Committee,” 2, Dalhousie Faculty of Law fonds.

⁶⁴ Macdonald, *Dalhousie Law School*, 49.

colleagues.⁶⁵ Moreover, according to Laprès, lawyer and legal aid proponent Bill Mingo was essential in encouraging society approval.⁶⁶ With this support, the Legal Aid Committee endorsed the students' program. The Legal Aid Committee facilitated an amendment to the *Barristers' and Solicitors Act* that would allow students to represent clients in Magistrates' and Family Courts.⁶⁷ They also provided funding for the summer project.

From summer program to permanent clinic

DLAS began operations in June 1970. It was financed through fundraising among Dalhousie students, and grants from Dalhousie Law School, the Barristers' Society, and supportive community organizations. As of May 1970, the program had a budget of \$10,000.⁶⁸ The students began their work in an office on Gottingen Street in Halifax's North End, donated by the Halifax Neighbourhood Centre.⁶⁹ The students explained in their proposal that it "seems important to make the office readily accessible to the people concerned."⁷⁰ Daniel Laprès continued to run the program, along with three summer students, Barbara Penvidic, Tom Boyne, and Mike Moreash.⁷¹ During the summer, the students worked independently with little supervision, focusing on standard casework and legal advice.⁷²

⁶⁵ "Minutes of the Meeting of the Legal Aid Committee Held in the Provincial Legal Aid Office," 1, December 16, 1969, UA-13, box 44, folder 14, Dalhousie Faculty of Law fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

⁶⁶ Mingo was a senior partner at Stewart, MacKeen & Covert, a large law firm in downtown Halifax. According to historian Barry Cahill, Mingo was a "prominent" proponent of legal aid, acting at different times as the chair of the NSLA commission and head of the Legal Aid Committee. Cahill, *Professional Autonomy*, 276.

⁶⁷ "Brief to Nova Scotia Legal Aid Committee," 4, Dalhousie Faculty of Law fonds.

⁶⁸ Laprès, "Newsletter"; Cox, *Report of the Committee*, 7.

⁶⁹ Laprès, interview, Thompson, "Dalhousie Legal Aid Services Turns 35," 12.

⁷⁰ "Brief to Nova Scotia Legal Aid Committee," 5, Dalhousie Faculty of Law fonds; Laprès interview, Thompson, "Dalhousie Legal Aid Services Turns 35," 12.

⁷¹ Laprès, interview.

⁷² Laprès, interview.

However, in their program proposal, the students explained their vision for the service's ongoing potential. They argued that there was a need for legal representation for people facing issues less clearly defined as "legal," which might not be addressed by the society's Tuesday night clinics. To address the need, they would prioritize three main activities: "preventative law" through public education, "remedial law" through the representation of clients, and "research for reform."⁷³ They also explained that once the program was running successfully, they would ask faculty for support and to assign course credit for work at the clinic.⁷⁴

After the summer term, the law faculty decided to get involved in the program's operations. They were encouraged by DLAS's students, as well as Professor Lowry, who was interested in expanding Dalhousie's clinical education activities. Professor Keith Johnson explained that Lowry became the "moving force" influencing the incorporation of clinical law into the curriculum.⁷⁵ A Trust Indenture formally established DLAS as a collaboration between Dalhousie students, Dalhousie faculty, and the Barristers' Society's legal aid program. Lowry became the service's first director in the fall of 1970 and the faculty granted students three credit hours for a term of work at the clinic.⁷⁶ This initiated the clinical law component of Dalhousie's curriculum.

The Barristers' Society and Dalhousie Law School continued to provide DLAS with financial support throughout 1970. Then, in 1971, the service began receiving federal funding,

⁷³ "Brief to Nova Scotia Legal Aid Committee," 4, Dalhousie Faculty of Law fonds.

⁷⁴ "Brief to Nova Scotia Legal Aid," 7, Dalhousie Faculty of Law fonds.

⁷⁵ Macdonald, *Dalhousie Law School*, 49. Along with asserting that legal aid could contribute to social justice, Lowry claimed that clinical education served a pedagogical purpose. He argued that by placing students in a "totally different environment" from where they came, they would develop a "sensitivity to injustice" and become better lawyers. Students would learn from experiencing the "law in action," particularly beneficial for students losing interest in their third year. Lowry, "A Plea for Clinical Law," 197-8.

⁷⁶ Lowry acted in this role until March 1, 1972. See: Letter from Dean Murray Fraser of Dalhousie Law School detailing the resignation of David Lowry from DLAS, February 14, 1972, UA-13, box 175, folder 4, Dalhousie Faculty of Law fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada; Savage, "The Dalhousie Legal Aid Service," 508.

allowing it to expand operations. As part of Trudeau's "Just Society" program, the National Department of Health and Welfare funded four community-based legal aid clinics in early 1971.⁷⁷ Along with DLAS, it gave funding to the Community Legal Services in Montreal, the Saskatoon Community Legal Assistance Society, and the Parkdale Clinic in Toronto.⁷⁸ This grant became DLAS's core source of funding until it expired on 31 March 1975, and helped cement the service as an established operation.⁷⁹ In 1971, DLAS expanded operations to hire its first fulltime staff lawyer and two fulltime paralegals.⁸⁰ Health and Welfare funding allowed DLAS to continue to hire more staff and expand its caseload in the following years.

Conclusions

This chapter has examined the creation of DLAS in the summer of 1970 and its early development into an established program. DLAS was formed as a student-run program through the efforts of first-year law students, Daniel Laprès, Dennis Patterson, and Greg Warner. This chapter first discussed the social and political environment of the 1960s and how this environment encouraged support for the students' program. It also examined how the students were aided by other Dalhousie students, Dalhousie faculty, and members of the Barristers' Society. Then, this chapter described how DLAS transitioned from a student-run summer program to an established service, with support from Dalhousie law faculty and the National Department of Health and Welfare. The following chapter examines how DLAS evolved in its early years into a "community clinic" that embraced the NLO model of legal aid delivery.

⁷⁷ Willis, *A History of Dalhousie*, 220.

⁷⁸ Poel, "Determinants of Legal Aid," 82; Willis, *A History of Dalhousie*, 220; Zemans, "Legal Aid and Legal Advice," 665.

⁷⁹ Savage, "The Dalhousie Legal Aid Service," 514.

⁸⁰ Savage, "The Dalhousie Legal Aid Service," 508.

Chapter 2: Dalhousie Legal Aid as a Community Law Clinic

The Dalhousie Legal Aid Service commenced operation in June 1970. It became part of Dalhousie Law School's curriculum in the fall of 1970, and in 1971 the Department of Health and Welfare began funding the service. This chapter examines how DLAS developed in the following years according to the "community clinic" legal aid model, a Canadian variant of the Neighbourhood Law Office model discussed in chapter 1. To do so, it considers the historical emergence of legal aid delivery in Canada. First, it examines how various legal aid proponents understood the goals of legal aid, differing between the "administration of justice" and "social justice" perspectives. Then, it demonstrates how this translated into debates over the "judicare" and NLO models. Finally, it places DLAS in conversation with these debates, arguing that DLAS remained committed to the "social justice" perspective and the character of the NLO model.

Legal aid frameworks

As chapter 1 observed, Canadian legal aid programs were first developed by legal professional societies on a volunteer basis. These societies were largely interested in promoting the effective "administration of legal justice." Advocates of the "administration of justice" perspective saw legal aid as supporting the justice system and legal profession. They emphasized that the justice system was founded on the notion that "both parties should have representation."¹ Without lawyers to represent poor and lower-income clients, this system appeared under threat.² By supporting the administration of justice, legal aid was seen as contributing to the efficacy of the legal profession. In a 1968 memorandum, Andrew MacKay, the dean of Dalhousie Law,

¹ Poel, "Determinants of Legal Aid," 80.

² As discussed in chapter 1, Nova Scotia's *Divorce Act* advanced the need for client representation, generating interest among legal professionals in developing legal aid services.

noted that legal aid contributed to “ensuring the rule of law, a matter in which the profession must be interested.”³ Many lawyers also felt that by supporting the administration of justice, they were promoting the “prestige” of the legal profession in Canadian society.⁴

Additionally, many lawyers saw the administration of justice as contributing to the public good, and that legal aid programs were therefore in the public interest. In 1965, the president of the Nova Scotia Barristers’ Society described legal aid as the “greatest service the society can render to the general public.”⁵ Former Ontario Court of Appeal Justice Charles P. McTague (1938-1944) saw legal aid programs as necessary for this reason. In an address to the Nova Scotia Barristers’ Society’s annual dinner in 1950, McTague argued that the legal profession had “an obligation to the public to see to it that the practice of law, and the administration of justice, is carried out in a manner that produces efficiency and a deal that the public is entitled to.”⁶ McTague’s justification for legal aid did not address poor or impoverished communities themselves. Rather, the public good was served by ensuring the “efficiency” of the administration of justice. Legal aid was understood as a key place where lawyers could contribute to the justice system, thereby supporting society at large.

Following the development of the administration of justice view, the “social justice” view of legal aid emerged in the 1960s. The interest in “social justice” was encouraged by the political and social environment of the 1960s, including expanding welfare programs, a growing interest in anti-poverty activism, and the development of poverty law. The social justice perspective was popular among those outside the legal profession, and was advanced by students, professors,

³ MacKay, Andrew, Memorandum to Chairman of Legal Aid Committee John Alward, November 6, 1968, UA-13, box 15, folder 12, Dalhousie Faculty of Law fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

⁴ Cahill, *Professional Autonomy*, 65.

⁵ Cahill, *Professional Autonomy*, 65.

⁶ Cahill, *Professional Autonomy*, 63.

government officials, activists, as well as lawyers. Those emphasizing social justice focused on the impact of legal aid on poor people and impoverished communities rather than the justice system. They saw legal aid as part of an effort to support community development and anti-poverty activities. Legal aid became “one weapon among others in the struggle against poverty.”⁷ The social justice view was not necessarily in conflict with the administration of justice perspective. For example, in an article examining the social justice potential of legal aid, DLAS director David Lowry also argued that without legal aid the “administration of justice will be impeded.”⁸ However, proponents of social justice commonly advocated for a broader approach to legal aid, which was often resisted by those who held the administration of justice view.

The “administration of justice” and “social justice” views of legal aid corresponded to distinct priorities in legal aid programs. Advocates of the administration of justice view focused on individual client representation and criminal law.⁹ From the administration of justice perspective, equal access to counsel supported an effective justice system. Although law reform could be pursued to “alter the imbalance” found in courtrooms, legal activities besides representation were not prioritized.¹⁰ Moreover, the administration of justice view encouraged a greater focus on representation in criminal cases, particularly “indictable” offences which designated longer prison sentences. Whereas civil cases consisted of private matters between individuals, criminal cases were prosecuted by the Crown. Without legal representation in criminal cases, accused persons would be sent to jail without representation, threatening the basis of the adversarial system.¹¹

⁷ Commission des services juridiques, 6th Annual Report (Quebec: Government of Quebec, 1978), 55, qtd. in Poel, “Determinants of Legal Aid,” 75.

⁸ Lowry, “A Plea for Clinical Law,” 200.

⁹ Abell, “Ideology and the Emergence,” 152.

¹⁰ Abell, “Ideology and the Emergence,” 152.

¹¹ Thompson, “Legal Aid without Conflict,” 315.

Supporters of the social justice perspective stressed different aspects of legal aid. They encouraged a variety of legal activities and emphasized community participation. Those who held the social justice perspective often considered the numerous factors that contribute to the need for legal assistance and sought to address this need through an interdisciplinary approach to legal aid. This included hiring social workers to assist with complex problems.¹²

Additionally, proponents of the social justice perspective encouraged legal aid services to be extended from criminal to civil law. Many criticized the overfunding of criminal law at the expense of civil matters. For example, Shelley Gavigan, a former clinic worker in Saskatchewan and Toronto, argued that criminal legal aid occurred primarily to support the justice system and legal profession. From Gavigan's perspective, criminal legal aid did "not address the legal needs of most poor people."¹³ Moreover, Gavigan held that prioritizing criminal law provided greater support to men over women.¹⁴ Dalhousie law Professor Christine Boyle (1981-1992) concurred, explaining that women predominantly sought assistance in matters that would appear before administrative tribunals rather than criminal courts.¹⁵ Scholar Jennie Abell added that legal aid schemes focusing on criminal aid would support a man charged with assault, leaving the woman who charged him without assistance.¹⁶ Thus, those who held the social justice view argued for the expansion of legal services to civil law and promoted a greater variety of legal activities.

The supporters of the social justice view also encouraged the "participation" of community members in legal aid programs. The social justice perspective developed in the 1960s

¹² Hoehne, *Legal Aid in Canada*, 219.

¹³ Gavigan, "Poverty Law and Poor People: The Place of Gender and Class in Clinic Practice," *Journal of Law and Social Policy* 11 (1995): 172.

¹⁴ More recent analyses have extended this criticism to persons with disabilities, youth, and the aged. See: Melina Buckley, "The Challenge of Litigating the Rights of Poor People: The Right to Legal Aid as a Test Case," in *Poverty: Rights, Social Citizenship, and Legal Activism*, eds. Margot Young, Susan B. Boyd, Gwen Brodsky, and Shelagh Day (Vancouver: UBC Press, 2007), 338.

¹⁵ MacDonald, *Dalhousie Law School*, 192.

¹⁶ Abell, "Ideology and the Emergence," 163.

and early 1970s, in a political context that emphasized meaningful participation in society. In his 1968 “just society” speech, Prime Minister Trudeau declared that “the just society will be one in which all of our people will have the means and the motivation to participate.”¹⁷ Trudeau’s government formed programs to encourage the participation of citizens, particularly young people and Indigenous groups.¹⁸ In the context of anti-poverty programs, many stressed the necessity of the “participation” of the poor.¹⁹ For example, the 1968 Economic Council of Canada’s *Fifth Annual Review* praised programs in the United States which stressed “self-help, self-development, and maximum participation and involvement of the poor themselves.”²⁰ According to historian David Tough, the emphasis on the political action of the poor was often predicated on the view that the poor were problematically “dependant” on the welfare state. This perspective had varying consequences. For some, it led to the belief that poverty could be eliminated by giving the poor “a sense of power and some encouragement.”²¹ However, it generally encouraged anti-poverty activists to promote community involvement in programs.

Proponents of the social justice perspective of legal aid emphasized the necessity of forming relationships with community groups. The nature of these relationships varied. According to Abell, relationships with communities were often “rhetorical commitments” and “legal relationships,” rather than meaningful connections.²² Moreover, communities were often encouraged to be involved in programs, without being able to lead or control them. However, some thinkers challenged the limited incorporation of community participation, seeking the

¹⁷ Vanier, “Speech from the Throne.”

¹⁸ Vanier, “Speech from the Throne.”

¹⁹ Langford, *The Global Politics*, 274. This included DLAS staff. For example, Dawkins discussed the importance of the “participatory” model for DLAS in Dawkins, “Living to Fight,” 7.

²⁰ The Economic Council of Canada, *Fifth Annual Review: The Challenge of Growth and Change* (Ottawa: Government of Canada, 1968), 114.

²¹ Abell, “Ideology and the Emergence,” 144.

²² Abell, “Ideology and the Emergence,” 147, 157.

active leadership of community members. For instance, legal scholars Cahn and Cahn wrote that participation required “more than pious exhortations that officials be responsive to the desires of the people.” Instead, they called for the “civilian” to gain the “means and the effective power” of shaping programs.²³ Similarly, Wexler argued that lawyers can only play a supportive role in legal aid and that poor people must lead programs, arguing that “poor people can help each other better than lawyers can.”²⁴ Ultimately, the social justice perspective encouraged the participation of community groups in the delivery of legal aid, which manifested differently in various contexts.

As legal aid programs developed in Canada, two frameworks of legal aid delivery proliferated. First, the administration of justice view took hold within the legal profession, emphasizing individual casework in support of an effective justice system. Then, the social justice view emerged in the 1960s, encouraging community participation and a variety of activities as part of a broader effort to support impoverished communities.

Legal aid models: Nova Scotia’s Cox Committee

Provinces began funding legal aid in the 1960s and 1970s, which initiated the creation of new substantial legal aid programs. Developments were further accelerated by the federal government’s decision to fund criminal legal aid through the Department of Justice, forming agreements with each province from 1971-1974. In this context, law societies and provinces were required to decide how to structure programs and where to prioritize funding. Different stakeholders had distinct perspectives on the proper goals of legal aid, generating debates across the country over which model of legal aid to adopt. The “models debate” represented more than a

²³ Cahn and Cahn, “The War on Poverty,” 1129-1130.

²⁴ Wexler, “Practicing Law,” 1057.

conflict over the most logistically effective way to structure legal aid programs.²⁵ These debates explicitly considered how different legal aid models supported the administration of justice and social justice.

In Nova Scotia, the Cox Committee was created in 1970 to evaluate potential models for the new service. The Committee was chaired by A. William Cox, an active member of the Barristers' Society who would become the second president of Nova Scotia Legal Aid in 1972.²⁶ The Cox Committee report described the "Basic Systems of Legal Aid" and presented recommendations for the appropriate "method of delivery" for the province.²⁷ In its considerations, the committee accepted briefs from a variety of legal aid stakeholders, including members of the Barristers' Society, legal academics, and the new Dalhousie Legal Aid Service. The committee also held public meetings and visited other provinces and states.²⁸

The Cox Committee report examined three main models of legal aid. First, it discussed the "public defender" system. According to the report, this was a system of full-time lawyers hired by the state to represent clients. However, the report dismissed this model, noting that numerous briefs criticized it, and did not address its benefits or shortcomings further.²⁹ The report went on to pay more attention to the "judicare" and the "Neighbourhood Legal Services" models. It explained that evaluations of these models differed based on whether one believed "the objective of the scheme should be 'legal justice' or 'social justice'."³⁰

The Cox Committee report first described the judicare model of aid, wherein lawyers working out of private firms were compensated for providing services to eligible clients.

²⁵ Currie, *Legal Aid delivery models in Canada: Past Experiences and Future Directions* (Ottawa: Department of Justice Canada, 1999), 4.

²⁶ Cahill, *Professional Autonomy*, 229.

²⁷ Cox, *Report of the Committee*, ii-iii.

²⁸ Cox, *Report of the Committee*, 1.

²⁹ Cox, *Report of the Committee*, 30-31.

³⁰ Cox, *Report of the Committee*, 26.

Although the report did not acknowledge this directly, the judicare model was understood as aligning more closely with the administration of justice perspective.³¹ The judicare model was developed in Ontario, which formed the first comprehensive legal aid system in Canada. It was established independently by the province's law society and financed by the Ontario government.³² According to legal scholars Larry Taman and Frederick Zemans, the Ontario program became the "Canadian model" until provinces such as Nova Scotia considered and developed models that hired fulltime legal aid staff.³³

The Cox Committee report then went on to describe one such model, the "Neighbourhood Legal Services" approach. This model was associated with the social justice perspective.³⁴ The report noted that this approach was "relatively new" and inspired by the United States' "war on poverty," indicating that it was describing the NLO model discussed in chapter 1. According to the report, this model hired staff to work out of offices in lower-income communities, who became "specialists" in poverty law.³⁵ The staff worked together to engage in activities such as legal representation, legal education, and other "attempts to deal with the root of the problems."³⁶

The Cox Committee report examined the benefits and shortcomings of the judicare and neighbourhood services models. For example, it explained that the judicare approach effectively reached rural populations and integrated into existing legal systems.³⁷ However, it noted that

³¹ For example, Political scientist Dieter Hoehne explained: "the concept underlying the judicare model is the one of legal aid as part of the administration of justice." See: Hoehne, *Legal Aid in Canada*, 224.

³² Funding was then provided by the federal government after the province signed a funding agreement in 1973. Duncan Gaylen, David Venables, and Lee Wolf, *Legal Aid Services in Canada 1981-82 and 1982-83* (Ottawa: Developmental Report. Canadian Centre for Justice Statistics, 1984), 42.

³³ Larry Taman and Frederick H. Zemans, "The Future of Legal Services in Canada," *The Canadian Bar Review* 51 (1973): 33.

³⁴ Hoehne, *Legal Aid in Canada*, 224.

³⁵ Cox, *Report of the Committee*, 32.

³⁶ Cox, *Report of the Committee*, 32.

³⁷ Cox, *Report of the Committee*, 28.

judicare was also often seen to be more costly and that lawyers developed less expertise in poverty areas.³⁸ Moreover, the report's authors explained that the most "valid objection" to judicare was that it "fails to reach the chronic poor." In the language of the war on poverty, the report characterized the chronic poor as facing cycles of poverty. It described the deeply impoverished as the "most inarticulate and uneducated members of our society" who "are often reluctant to leave their neighbourhood" to access legal services.³⁹ In contrast to the judicare model, the report saw the neighbourhood services approach as more effective in targeting urban impoverished communities. However, it described this model as less adept at handling the full scope of legal aid issues. The report noted that the approach was "restricted to the very poor and minority groups with special legal interests" and would not be accessible to rural populations.⁴⁰

In providing a recommendation, the Cox Committee report recognized "the conflict between those who support the Judicare approach and those who favour the Neighbourhood Law Office approach." It acknowledged that the debate between these models depended on one's assessment of "the basic philosophy" that each was based upon.⁴¹ The neighbourhood services model was supported by the students at Dalhousie Legal Aid. Lowry and the students' "Social Justice Through Law" brief argued that the province should adopt the NLO model, asserting that DLAS's nascent experience demonstrated the model's success.⁴² In contrast, a brief submitted by the junior lawyers of the Barristers' Society advocated for the judicare system. The lawyers' brief argued that there were no "specific legal problems of the poor," and, therefore, all that was required from a legal aid program was to make "the traditional services of lawyers available."⁴³

³⁸ Cox, *Report of the Committee*, 29-30.

³⁹ Cox, *Report of the Committee*, 29.

⁴⁰ Cox, *Report of the Committee*, 32.

⁴¹ Cox, *Report of the Committee*, 26.

⁴² Lowry, *Social Justice Through Law*, 16.

⁴³ Hoehne, *Legal Aid in Canada*, 228.

Markedly, the Cox Committee rejected the dichotomy between the models, electing for a system that employed aspects of both.⁴⁴ However, those supporting the administration of justice view advocated for a more limited approach to legal aid, and the committee instead embraced social justice goals. It recommended that the province experiment with the neighbourhood service approach in urban areas, supplemented by the *judicare* model to reach rural populations.⁴⁵ The provincial legal aid service opened offices based on the NLO model, beginning with Halifax in April 1972.⁴⁶ In the following years, the service opened offices in cities and towns across the province, including Bridgewater, Annapolis Royal, Yarmouth, and Sydney.⁴⁷

Becoming a “Community Law Clinic”

Nova Scotia Legal Aid and the Dalhousie Legal Aid Service were both established in the early 1970s, taking inspiration from the United States’ NLO model. However, in the years that followed, both services developed, and their priorities and practices took different forms. While the provincial plan de-emphasized its experimental embrace of the NLO, the Dalhousie Legal Aid Service’s commitment to this model expanded.

As the provincial plan evolved throughout the 1970s, it came to follow what is known as the “staff-lawyer” model of legal aid. The Canadian Bar Association’s discussion paper on *Legal Aid Delivery Models* described the staff-lawyer model as combining elements of the NLO model, such as an interest in collective thinking, with the American “public defender” system of lawyers

⁴⁴ Each province and territory ended up adopting some sort of mixed model of delivery. See: Lorne D. Bertrand, Joanne J. Paetsch, and Joseph P. Hornick, *A Profile of Legal Aid Services in Family Law Matters in Canada* (Ottawa: Department of Justice, 2002), 3.

⁴⁵ Cox, *Report of the Committee*, 55.

⁴⁶ Savage, “The Dalhousie Legal Aid Service,” 507.

⁴⁷ Nova Scotia Legal Aid, *Annual Report* (Halifax: Nova Scotia Legal Aid Commission, 1991).

hired by municipalities.⁴⁸ The model corresponded with the social justice view to a certain extent. It consisted of lawyers working out of law offices placed in central and downtown areas rather than the low-income neighbourhood. The Nova Scotia staff lawyers worked together on cases, developing familiarity with relevant judges, prosecutors, and issues facing impoverished clients.⁴⁹ The service hired non-legal workers such as social workers to support complex issues.⁵⁰ However, compared to the neighbourhood services approach, the service embraced aspects of the administration of justice view. It prioritized standard casework, focusing on indictable criminal offences and family law. It also de-emphasized its initial interest in education, law reform, and community outreach.⁵¹

In turn, as DLAS developed, it strengthened its initial commitment to the NLO model and social justice perspective. In its early years of operation, DLAS did not engage in extensive poverty law activities. In the “Social Justice Through Law” brief, Lowry and the students explained the early ways the clinic attempted to follow the NLO model. The brief cited DLAS’s location “in the poor area” and that it hired a social worker to support operations.⁵² Beyond this, the service mostly provided individual client representation. The 1972 year-end report acknowledged that work in “aggressive poverty law practice” had been “de-emphasized” in these early years.⁵³

However, in the following years, DLAS began to adhere more closely to the NLO’s social justice goals. This shift occurred for numerous reasons. First, DLAS’s federal funders at

⁴⁸ National Legal Aid Liaison Committee, *Legal Aid Delivery Models: A Discussion Paper* (Ottawa: The Canadian Bar Association, 1987), 11.

⁴⁹ Interview, Thompson.

⁵⁰ Hoehne, *Legal Aid in Canada*, 219-220.

⁵¹ For a discussion of the evolution of Nova Scotia Legal Aid, see: Legal Aid Review Team, *Review of Legal Aid Services in Nova Scotia*; Thompson, “Legal Aid without Conflict.”

⁵² Lowry, “Social Justice Through Law,” 50.

⁵³ “Report of the Executive Director,” 27, 1972, UA-13, box 48, folder 1, Dalhousie Faculty of Law fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

the Department of Health and Welfare were committed to the NLO model.⁵⁴ Unlike the Department of Justice, which funded provincial programs, Health and Welfare geared funding toward experimental and community-based services. This encouraged DLAS to highlight its community orientation. For example, a project submission to Health and Welfare for funding referred to the service as the “Halifax Neighbourhood Legal Service” only adding in brackets that this was “Dalhousie Legal Aid.”⁵⁵ It also noted that DLAS would take steps to “expand community involvement.”⁵⁶ Recognizing the potentially superficial character of this commitment, Health and Welfare required more concrete adjustments to DLAS’s structure. In a letter to DLAS, Health and Welfare representatives explained that the service must include community involvement in its leadership. They wrote: “indicate to us as soon as possible what steps you plan to take to meet this particular requirement.”⁵⁷ In November 1972, the Trust Indenture was adjusted to include a Community Advisory Committee made up of five members, two of whom would sit on the board.⁵⁸ With funding from Health and Welfare, DLAS was financially supported to follow the NLO model.

Additionally, the establishment of provincial legal aid offices in 1972 gave DLAS further capacity to implement its social justice goals. With finite financial and human resources, the decision to encourage a broader range of legal aid activities necessitated decreased attention to standard casework. During its first two years of service, DLAS was the only formal legal aid office in Nova Scotia. According to former DLAS director Harvey Savage (dir. 1973), the clinic was required to utilize its small capacity to fulfill a large demand for representation in areas such

⁵⁴ Garth, *Neighborhood Law Firms*, 101.

⁵⁵ Dalhousie Legal Aid Service, “Demonstration Project Submission,” 1, UA-13, box 48, folder 1, Dalhousie Faculty of Law fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

⁵⁶ “Demonstration Project Submission,” 3, Dalhousie Faculty of Law fonds.

⁵⁷ Kane, “Letter to ‘Ad Hoc Committee,’” MS-11-1, box 15, folder 13, Movement for Citizens Voice and Action fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

⁵⁸ “Report of the Executive Director,” 33, Dalhousie Faculty of Law fonds.

as criminal and family law. This left few resources for poverty-law-related cases such as tenant rights and representation before tribunals. As Nova Scotia Legal Aid began to take on some of the demand, DLAS was able to shift its caseload. In the year 1971-1972, seventy-two percent of DLAS's cases were in family and criminal law.⁵⁹ After the provincial service was opened in 1972, DLAS's family and criminal caseload dropped down to fifty-seven percent for the year 1972-1973. Simultaneously, its caseload increased in summary criminal cases, residential tenancy issues, unemployment insurance, and tribunal appeals.⁶⁰ Moreover, former director Rollie Thompson explained that DLAS was able to engage in activities such as law reform because Nova Scotia Legal Aid handled most of the demand for traditional services.⁶¹

DLAS's increased commitment to social justice goals was also influenced by a desire to demonstrate the service's distinctiveness. According to political scientist Dieter Hoehne, once the provincial service opened, it became necessary for DLAS to justify its continued existence. He explained that DLAS had to prove that it had its own "well-defined and urgently needed area of operation."⁶² DLAS's 1972 funding submission to Health and Welfare provides evidence for this perspective. In the submission, the authors explained:

Notwithstanding the introduction of the first full-time Provincial Legal Aid Office in the Halifax metropolitan area, service demands on D.L.A.S have not decreased. In addition, the Provincial Legal Aid Office is unable to engage, in any widespread sense, in basic law reform work, animation of and counselling to community groups, and in depth 'outreach' work aimed at penetrating to the hard core poverty population.⁶³

⁵⁹ Savage, "The Dalhousie Legal Aid Service," 508.

⁶⁰ Savage, "The Dalhousie Legal Aid Service," 509.

⁶¹ Rollie Thompson, interview by Emily Frank, February 21, 2024. Thompson speculated that "some at Nova Scotia legal aid would say we have the luxury at Dal legal aid of deciding to devote resources to law reform."

⁶² Hoehne, *Legal Aid in Canada*, 220.

⁶³ Dalhousie Legal Aid Service, "Demonstration Project Submission," 5, Dalhousie Faculty of Law fonds.

The authors emphasized DLAS's unique ability to engage in reform, work with communities, and offer poverty law services. DLAS was encouraged to foreground these activities to demonstrate that it satisfied a distinct need.

Finally, DLAS's commitment to social justice goals was enabled by the efforts of clinic staff. Former DLAS director Rollie Thompson noted that, during his time at the clinic (1980s-1990s), there was a great demand for family law services. He reflected that "if you just open the door in the morning and didn't manage your caseload, you'd be doing nothing but family law."⁶⁴ However, DLAS's staff deliberately strove to undertake a broader spectrum of cases. Additionally, DLAS's staff endeavoured to secure funding that allowed the clinic to conduct a variety of activities. This included securing funding from the Department of Health and Welfare, and then various other sources once Health and Welfare funding expired in 1975.⁶⁵

Shortly after Health and Welfare funding expired, DLAS began receiving support from the Nova Scotia Law Foundation. The foundation was established in 1976 to fund the "examination, research, revision and reform of and public access to the law."⁶⁶ Then, in 1977, the Nova Scotia Legal Aid Commission was formed. That year, the Gunn Committee reviewed the provincial legal aid plan and recommended that a statutory commission take over control of the service from the Barristers' Society.⁶⁷ Following the establishment of the statutory commission,

⁶⁴ Thompson, interview.

⁶⁵ For example, in 1993, the dean of Dalhousie Law negotiated a funding agreement for DLAS that provided for "proper funding" in poverty law areas from the NSLA Commission. Thompson, "Dalhousie Legal Aid Services Turns 35," 15.

⁶⁶ As of March 4, 2024, the Law Foundation of Nova Scotia's website homepage included this excerpt from the *Barristers' and Solicitor's Act*. Law Foundation of Nova Scotia, "Law Foundation of Nova Scotia."

⁶⁷ The Committee was chaired by Nova Scotia Provincial Court Judge W.A.D. Gunn. The Commission was formed by the *Legal Aid Act* on November 1, 1977, which made the new commission responsible for all legal aid activity in the province. Barry Cahill provides more insight into the reason for the separation of legal aid from the Barristers' Society, including dissatisfaction within government and the society. See Cahill 65-66; Canada Centre of Justice Statistics, *Legal Aid in Canada: Description of Operations* (Ottawa: Minister of Industry, Science and Technology, 1994), 3.2-3.3.

DLAS director Dick Evans negotiated the first funding arrangement with the commission in 1977.⁶⁸ From this point forward, DLAS funding was split in a “tripartite” structure between Dalhousie Law School, the Nova Scotia Legal Aid Commission, and the Nova Scotia Law Foundation.⁶⁹ The law school generally directed funding toward student legal education, the commission to standard casework, and the foundation to other activities such as law reform.⁷⁰

DLAS’s budget expanded and tightened under different governments and in different economic contexts. DLAS had periods with greater funding. For example, during the early 1980s, the service was able to secure federal grants which provided funding for various activities such as student summer employment.⁷¹ However, the service’s budget was also frequently diminished. In 1986, the Nova Scotia government under Progressive Conservative leader John Buchanan cut all of the commission’s funding to DLAS.⁷² During this period, DLAS’s staff and students worked to fundraise among community organizations and gain more support from Dalhousie Law School to ensure operations could continue.⁷³

Through the efforts of DLAS staff, the service maintained the provision of a broad array of services and its role as a neighbourhood-based service. In a 1988 article reflecting on the funding cut, DLAS director Joan Dawkins emphasized the service’s ongoing commitment to “the “neighbourhood” or “community” clinic model. This included engaging in test cases, law reform,

⁶⁸ Thompson, interview.

⁶⁹ Thompson, “Dalhousie Legal Aid Services Turns 35,” 13.

⁷⁰ Thompson, interview.

⁷¹ Federal funding for student summer employment was given until 1987, when employment programs were cut back. As another example of federal funding, DLAS was given grants through federal employment projects to hire actors to conduct simulated interviews and promote skills development. Thompson, interview.

⁷² In the aftermath of the funding cut, Minister of Social Services Edmund Morris publicly stated that DLAS was a “political training ground for NDP candidates,” indicating the government’s motivation for the funding cut. Corbett, “Dal Legal Aid Fights.” For a further account of the funding cut, see: Dawkins, “Living to Fight”; Thompson, “Dalhousie Legal Aid Turns 35.”

⁷³ Dalhousie Law School also attempted to shut down DLAS in 1991. This effort was opposed by five former directors and law professors, Brent Cotter, Vaughn Black, Archie Kaiser, Dick Evans, and Rollie Thompson, who galvanized support amongst the law faculty. See: Thompson, “Dalhousie Legal Aid Turns 35.”

community development, and working with law students.⁷⁴ Thus, throughout the 1970s and 1980s, DLAS staff helped maintain the service's initial commitment to the NLO model and social justice perspective.

Throughout the 1970s and 1980s, DLAS developed and expanded its early commitment to social justice. This was encouraged by DLAS's federal funders through the Department of Health and Welfare. It was also supported by the creation of Nova Scotia Legal Aid, which reduced the demand for standard casework and encouraged DLAS to differentiate itself. Finally, the service's commitment to the community clinic model was enabled by its staff, who encouraged a broad variety of activities and fought to maintain funding for the service.

Conclusions

As legal aid developed in Canada, thinkers and advocates imagined the possibility of legal aid contributing to the "administration of justice" and "social justice." When provinces developed new legal aid programs, debates occurred over how programs could be structured according to these frameworks. In Nova Scotia, the Cox Committee recommended that the provincial plan adopt a model that included judicare elements but also explored experimental offices based on the NLO model. As it developed, the provincial plan became known as a staff-lawyer system, combining influence from the neighbourhood model with greater attention to the administration of justice. By contrast, DLAS maintained its commitment to the neighbourhood model and its goals of pursuing social justice through legal aid, becoming known as a

⁷⁴ Highlighting the importance of educating students, Dawkins italicized in emphasis that the clinic was "*university based*," which made it capable of serving "as a vehicle for the 'civilian perspective'." See: Dawkins, "Living to Fight," 7.

“community clinic.” The following chapter examines the service’s operations and the practical means through which DLAS staff and students promoted social justice through law.

Chapter 3: Enacting “Social Justice Through Law”

The Dalhousie Legal Aid Service followed the community law clinic model, which affirmed the “social justice” perspective of legal aid. While the administration of justice view emphasized the representation of individual clients, the social justice view prioritized a broader range of services to support impoverished communities. Committed to this perspective, DLAS’s staff and students saw the service as contributing a legal perspective to a wider effort to support the community. In their 1970 brief to the Cox Committee, “Social Justice Through Law,” DLAS staff explained that the name of the service would soon change to the “Dalhousie Advice Bureau” to underscore its commitment to both legal and nonlegal activities. The brief explained that this was “a formal acknowledgment of the fact that the problems of poor people need advice whether they are legal, social, or psychological, and very often when there is a legal problem it is inter-related.”¹ Although DLAS’s original name was ultimately preserved, so too was its commitment to taking a broad approach to legal issues.

This chapter examines how DLAS worked to enact its goals as a community clinic and its commitment to the “social justice” perspective of legal aid. First, it discusses the service’s client representation work, demonstrating that this was a core part of its effort to support the community and address systemic issues. It describes how DLAS staff took on various case types, enabled by the role of the “community worker,” and pursued litigation and reform. Additionally, this chapter examines various other legal activities in which DLAS engaged beyond client representation. For example, the service prioritized legal education, both for Dalhousie students and the public. The service also worked with community members, community workers, and various organizations to increase its responsiveness to community needs. In sum, DLAS engaged

¹ Lowry, *Social Justice Through Law*, 27.

in a multifaceted approach to legal aid delivery, working to support the community through client representation, legal education, and community engagement.

Client representation

DLAS's main activity was the legal representation of low-income clients in Halifax. DLAS lawyers mostly undertook cases in traditional criminal and family areas. In the criminal area, DLAS mainly dealt with summary criminal convictions in contrast to the provincial service's emphasis on indictable offences.² Moreover, DLAS staff endeavoured to provide legal representation for various case types. This effort was supported by the role of "community legal workers."

Community legal workers were hired specifically to engage with issues affecting impoverished people in their community, social, and administrative contexts. In working with clients, community workers focused on issues generally considered to be under the umbrella of poverty law. This included social assistance cases, tribunal appeals, landlord-tenant disputes, and disputes related to electrical disconnections.³ Former DLAS director Archibald Kaiser described the community development office as intended to be "more adventurous" regarding the types of cases it undertook.⁴ Rocky Jones recollected that although he was a lawyer, he was also hired as a community worker to allow for more flexibility. Rather than take on mainly family law cases, he was able to focus on cases such as the defence of young offenders.⁵

² Nova Scotia Legal Aid, *Annual Report* (Halifax: Nova Scotia Legal Aid Commission, 1991), 19.

³ Archibald Kaiser, interview by Emily Frank, February 24, 2024.

⁴ Kaiser, interview.

⁵ Burnley Jones and James W. St. G. Walker, "Burnley 'Rocky' Jones: Revolutionary," (Halifax: Fernwood Publishing, 2016), 191.

The community workers at DLAS had varied backgrounds and offered different perspectives to lawyers in addressing poverty issues. For example, community worker Mike Coyle was a filmmaker, and Jeanne Fay was a social worker and teacher at the Dalhousie School of Social Work.⁶ Maureen Macdonald was also a social worker, who, after leaving DLAS, became an MLA for the provincial NDP and the Minister of Health under Premier Derrell Dexter. Bill Parvaz specialized in immigration law and social assistance, and after leaving DLAS became a paralegal at Workers Representing Injured Workers.⁷ Community workers supported DLAS's goal of providing representation in a variety of case types, especially poverty-related issues.

The representation of individual clients was linked to DLAS's effort to address systemic issues facing the community. This included litigating significant cases and working to reform laws and regulations. Lawyers at DLAS were encouraged to pursue court appeals and take on cases that could set new legal precedents. For instance, DLAS litigated *Scott v. Rent Review Commission*, a 1978 case before the Supreme Court, which mandated that tenants receive financial information from their landlords before a substantial rent increase.⁸ DLAS also represented the plaintiff in *Doherty v. Halifax Housing Authority*, a 1982 case on fair treatment and eviction notices in public housing. Additionally, beginning in 1982, DLAS was funded by the Attorney General to challenge a section of the *Family Benefits Act*.⁹ As it then stood, the *Family Benefits Act* did not provide social assistance benefits to male single-parent families. In 1984, DLAS lawyers advanced a case arguing that the *Act* contravened the *Canadian Charter of Rights and Freedom*'s gender equality provision (section 28). The case, *Boudreau v. Family*

⁶ Thompson, "Dalhousie Legal Aid Services Turns 35," 15; Thompson, interview.

⁷ Thompson, interview

⁸ Dawkins, "Living to Fight," 14.

⁹ Thompson, interview.

Benefits Appeal Board, ultimately failed. Yet new grounds for litigation were available once the *Charter*'s equality rights (section 15) came into effect in 1985.¹⁰ In 1986, DLAS director Dawkins successfully challenged the *Act* in *Philips v. Social Assistance Appeal Board*, and the *Act* was subsequently amended to provide male single-parent families access to benefits.¹¹

DLAS lawyers also litigated the 1977 Supreme Court case known as *R.D.S.* about racial bias in the court system. The case involved a Black teenager named Rodney Darren Small, who was arrested in 1993 by a white policeman for obstructing the arrest of his cousin. He was placed in a chokehold and charged with assaulting an officer. After his arrest, Small and his mother asked the Black United Front, a Black Nova Scotian activist organization in Halifax, for support in obtaining legal representation. They were told that “there was a Black lawyer representing indigent clients through Dalhousie University’s Legal Aid office.”¹² The lawyer was Burnley “Rocky” Jones, a prominent Black activist. In the mid-1960s, Jones travelled to the United States to contribute to civil rights activism. He also joined the Students Union for Peace Action, a key organization of the burgeoning New Left in Canada. Jones was a community organizer and Black Power advocate in Halifax before deciding to pursue a law degree to further his antiracist action.

In the *R.D.S.* case, Small was acquitted by Youth Court Judge Corrine Sparks, the first Black female judge in Canada, who reasoned that police are known “to overreact particularly with non-white groups.”¹³ Based on this comment, the Crown appealed the case to the Supreme Court arguing that there was reasonable cause to believe Judge Sparks was unfairly biased.¹⁴ The

¹⁰ Section 28 holds that the rights and freedoms in the *Charter* hold equally for men and women. Dawkins, “Living to Fight,” 14.

¹¹ Dawkins, “Living to Fight,” 13-15.

¹² Constance Backhouse, *Reckoning with Racism: Police, Judges, and the RDS Case* (Vancouver: UBC Press, 2022), 11.

¹³ *R. v. S. (R.D.)*, [1997] 3 SCR 484.

¹⁴ *R. v. S* at 1.

Guerin v. The Queen, [1984] 2 SCR 335 at 379.

court ultimately dismissed the claim of bias and upheld Judge Sparks' decision. The case was the first in the Supreme Court to consider questions of judicial racial bias and galvanized anti-racism advocacy. Constance Backhouse described *R.D.S.* as "one of the most important, possibly the most important, legal decision on race in Canadian history."¹⁵ DLAS's interest in legal activism allowed the service to hire lawyers such as Rocky Jones and take on cases like *R.D.S.*, forging legal precedents and generating broader activism.

Additionally, DLAS endeavoured to solve systemic issues faced by clients through advocacy and reform. For example, from 1982 to 1994, Justice Thomas Coffin led a Commission of Inquiry investigating residential tenancies laws in Nova Scotia.¹⁶ DLAS filed a brief to the commission calling for adjustments to tenancy policies, a key area of its caseload.¹⁷ DLAS's recommendations were taken up in Coffin's report, which put pressure on the government to implement changes. Moreover, as community worker Barb Harris explained, DLAS staff paid attention to recurring problems and "patterns" in cases and worked to solve them.¹⁸ For example, DLAS staff recognized systemic issues in disputes with the Nova Scotia Power Corporation (NS Power). Former director Joan Dawkins described NS Power's policies as "draconian," putting undue pressure on DLAS's clients.¹⁹ The utility company repeatedly cut the electricity of customers with overdue balances without notice.²⁰ However, when handling cases with NS Power, DLAS staff found they had little legal basis to challenge the corporation's actions. DLAS staff instead lobbied to reform NS Power's policies.²¹

¹⁵ Backhouse, *Reckoning with Racism*, 22.

¹⁶ Thompson, "Dalhousie Legal Aid Services Turns 35," 14.

¹⁷ Thompson, interview.

¹⁸ Lois Corbett and Mary Ellen Jones, "Gov't Silences Critics," *Dalhousie Gazette*, February 6, 1986.

¹⁹ Corbett and Jones, "Gov't Silences Critics."

²⁰ Corbett and Jones, "Gov't Silences Critics."

²¹ Thompson, interview.

An opportunity to challenge NS Power presented itself in 1983 when the corporation applied to the Public Utilities Board for a rate increase. This process required the reapproval of NS Power’s regulations, which DLAS sought to oppose. DLAS director Rollie Thompson appeared before the Public Utilities Board to call evidence against the policies.²² A five-day hearing was organized, during which time DLAS staff showed a video presentation entitled “Disconnection.”²³ The tape presented stories from DLAS clients explaining the impact of power cuts on themselves and their families.²⁴ Thompson remembers that after hearing the evidence, the board’s views on the corporation’s policies changed. He noted that “they could not believe the evidence...the stories just make you cry.”²⁵ Ultimately, while approving the rate increase, the board mandated changes to NS Power’s regulations. A third-party decision-making process for disputes was developed, which Thompson described as a “big achievement” for giving the clinic a basis to negotiate on behalf of clients.²⁶

DLAS clients continued to face issues with NS Power disconnections and collections, and DLAS advocated for fairer treatment. For example, in June 1990, a 57-year-old male client came to DLAS after his power was disconnected for overdue payment. The law student on the case negotiated with an official from NS Power, attempting to develop a payment plan of \$15 per month, which the official denied. The student recorded that the client was “accommodating” and agreed to pay \$30 per month. However, the student was hesitant to accept this deal: “NSPC is so aggressive – wouldn’t want him to commit and then not be able to follow through.” The student’s

²² Thompson interview. Dawkins, “Living to Fight,” 16.

²³ Dawkins, “Living to Fight,” 16

²⁴ Dawkins, “Living to Fight,” 16

²⁵ Thompson, interview.

²⁶ Chantal Saxe, “Dal students learning from North End law,” *Dalhousie Gazette*, November 19, 1992, 12; Thompson, interview.

comment demonstrates that issues remained with NS Power's debt collection practices.²⁷

However, after discussing the case with her supervisor and negotiating further, the NS Power official agreed to the \$15 per month payment plan. After his social assistance bill came in, the client was able to pay the first instalment.

The representation of clients was a central feature of DLAS's legal aid work and its role as a community clinic. By providing representation for a broad range of case types, DLAS endeavoured to support the various needs of the low-income population. Moreover, through client representation, staff were encouraged to address systemic issues. Lawyers pursued litigation and took on test cases, which, as in the *R.D.S.* case, led to important new precedents. DLAS staff also paid attention to systemic patterns in cases and worked to address them through lobbying and reform, for example, regarding its negotiations with Nova Scotia Power.

A broad range of legal activities

DLAS's efforts to support the Halifax community through "law" included activities beyond client representation. Key elements of DLAS's service were legal education and community engagement. As a university-based service, one of DLAS's main goals was educating lawyers through practical, clinical law. In its early years, students worked largely independently on cases. By the 1980s, students worked under the supervision of permanent staff and engaged in

²⁷ Dalhousie Legal Aid Service case with Nova Scotia Power, 1989, UA-39, box 317, folder 8, Dalhousie Legal Aid Service fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada. As another example, a lawyer at DLAS wrote a letter in 1989 negotiating a repayment schedule to a NS Power official. In the letter, the lawyer argued that the circumstances of the case should encourage an "exception to the Corporation's normal practice of seeking repayment in the shortest time possible." Here, the DLAS staff referenced the repeated difficulties caused by NS Power to DLAS's clients. See: Dalhousie Legal Aid Service case with Nova Scotia Power, 1989, UA-39, box 259, folder 9, Dalhousie Legal Aid Service fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

seminars on a variety of topics relevant to legal aid delivery. For example, Rocky Jones led a weekly seminar on issues such as racism and sexism.²⁸

Educating lawyers was part of the staff's early vision for promoting social justice. Professor David Lowry argued that by providing students with "specific education and training" in the problems of poor people, students would "channel the forces of social change into the direction of the legal system" once they became lawyers.²⁹ Graduates from DLAS often continued working with lower income communities. Indeed, DLAS hired former students like Jones to work as staff. As importantly, Thompson noted that many provincial legal aid employees were DLAS students. He explained: "If you didn't do Dal Legal Aid as a student and wanted a job at Nova Scotia Legal Aid, the question would be well, why didn't you do Dal Legal Aid?"³⁰ In this way, the service enacted Lowry's vision of educating law students to engage with poverty issues.

DLAS also educated the public and community members in poverty law areas. DLAS staff produced pamphlets and developed programs to provide low-income communities with a greater understanding of relevant areas of law.³¹ For example, DLAS worked with organizations such as the Bryony House in Halifax, a shelter for women in abusive situations. It offered monthly educational programs on the specific legal issues facing women experiencing domestic violence. Staff also developed public lectures and talks. For example, clinic worker Maureen Macdonald gave a presentation on "Women and Welfare" as part of a lecture series on Women and Poverty at Dalhousie in 1985.³² Moreover, the service educated non-lawyers to engage in

²⁸ Jones, "Burnley 'Rocky' Jones," 191.

²⁹ Lowry, *Social Justice Through Law*, 19.

³⁰ Thompson, interview.

³¹ Kaiser, interview.

³² "Calendar," *Dalhousie Gazette*, November 28, 1985, 11.

paralegal work. In 1972, the clinic developed a program to train paralegals funded by the federal government's Opportunities for Youth program.³³ Reportedly, this was the first Canadian project to train laypeople in legal practice.³⁴ Thus, DLAS educated students, community members, and community workers in legal issues pertinent to the lower-income community.

DLAS also prioritized community engagement in delivering legal services. DLAS's employment of "community workers," its leadership structure, and its work with community organizations supported this approach. As discussed above, the community legal worker played a key role at DLAS. Community workers offered legal advice in a broad range of areas.

Additionally, community workers were hired specifically to engage with community members and address their issues. Thompson reflected that when distinguishing between DLAS and the provincial legal aid service, "the difference is we have community legal workers."³⁵ The role of the community worker allowed DLAS to be more responsive to community needs.

DLAS's leadership structure also encouraged community involvement. As mentioned in chapter 2, DLAS was encouraged by the Department of Health and Welfare to restructure its board to include community leadership. The "Community Advisory Committee" was formed in 1972 to include five members, two of whom would sit on the board as community representatives.³⁶ The purpose of the Community Advisory Committee was to gain input from community members on DLAS's services. Moreover, it aimed to facilitate "a dialogue between people from various social and geographical communities."³⁷

³³ Savage, "The Dalhousie Legal Aid Service," 509. UA-13; Thompson.

³⁴ "Report of the Executive Director," 24-25, Dalhousie Faculty of Law fonds.

³⁵ Thompson, interview.

³⁶ "Report of the Executive Director," 33, Dalhousie Faculty of Law fonds.

³⁷ Doug Kane, "Agenda for meeting," December 5, 1973, MS-11-1, box 15, folder 13, Movement for Citizens Voice and Action fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

In 1973, the Community Advisory Committee included four citizens from lower-income communities, as well as representatives from social services, an employment agency (North End Employment), and two citizen organizations (the Movement for Citizens Voice and Action and the Public Housing Tenants Association). The committee also included the canon from the St. Mark's Rectory and the deputy chief of police.³⁸ Advisory committee members worked with DLAS staff to identify and solve issues affecting their unique organizations and constituents. For example, Johanna Oosterveld, an advisory member from the Movement for Citizens Voice and Action (MOVE) collaborated with DLAS community worker Bob Maclintock to oppose a 1974 policy on residential tenancies rebates.³⁹ Tenancies issues was one of DLAS's areas of service and working with MOVE allowed for a more systemic approach to addressing them.⁴⁰

Additionally, DLAS also engaged with various community organizations as members and in providing counsel. In 1971-1972, DLAS was a member of the Planned Economy for the Poor, Metro Housing '72, the Blind Rights Action Movement, and MOVE.⁴¹ Through its community involvement, DLAS gained greater awareness of the issues facing the low-income community. Donna Franey, DLAS director between 1995 and 2001, explained that this was true of DLAS's work developing programs for Bryony House. She reflected that DLAS staff were "learning along with the Transition House Association how to best protect people."⁴² By engaging with

³⁸ "Community Advisory Committee Members," MS-11-1, box 15, folder 13, Movement for Citizens Voice and Action fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

³⁹ Johanna B. Oosterveld, Letter to Mr. Bryon Anthony, May 16, 1974, MS-11-1, box 15, folder 14, Movement for Citizens Voice and Action fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

⁴⁰ Additionally, DLAS worked with Welfare Rights to jointly develop a handbook explaining how "community advocacy workers" could facilitate the application for welfare. Dalhousie Legal Aid Service and Welfare Rights, "Welfare Handbook for Community Advocacy Workers," Movement for Citizens Voice and Action fonds, Dalhousie University Archives, Halifax, Nova Scotia, Canada.

⁴¹ "Report of the Executive Director," 34, Dalhousie Faculty of Law fonds.

⁴² Eleanor Braham, "Celebrating 50 Years of Dalhousie Legal Aid Service," *Schulich School of Law*, November 16, 2020.

community organizations, DLAS staff felt more attuned to the issues facing community members.

DLAS also used its legal expertise to support community organizations. For example, DLAS was “actively involved” in the founding of Bryony House in 1978, providing legal services to set up the shelter.⁴³ In another example, DLAS supported the Union of Nova Scotia Indian’s land claims research and activism. DLAS’s 1972 Report recounted that DLAS students and its director worked with the union to research “test cases involving land ownership and control” and to create a proposal for developing legal aid services on reserves.⁴⁴

Moreover, DLAS’s lawyers often took leading roles in advocating on behalf of community organizations. In 1983, the provincial government proposed an amendment to the *Family Benefits Act* to remove benefits to teen mothers.⁴⁵ As discussed above, DLAS lawyers would go on to litigate against other aspects of the *Act* beginning in 1984. In this case, however, DLAS engaged in community organizing. A variety of community groups opposed the proposed change to the *Act* and its anticipated impact on vulnerable populations. DLAS lawyer Brent Cotter worked with these groups to advocate against the amendment. DLAS made a presentation before the Law Amendments Committee, which was ultimately unsuccessful.⁴⁶ However, Thompson recalled that Cotter “sort of became the leading guy and the lightning rod for the whole group” because of his role as a lawyer and “ability to stand up to the government.”⁴⁷ In this instance, DLAS provided legal support to wider community activism.

⁴³ Saxe, “Dal students learning.” Two DLAS staff were heavily engaged with the work at Bryony House and left the clinic to work there permanently. See: Braham, “Celebrating.”

⁴⁴ “Report of the Executive Director,” 24.

⁴⁵ Dawkins, “Living to Fight,” 15.

⁴⁶ Dawkins, “Living to Fight,” 14.

⁴⁷ Thompson, interview.

DLAS's education and community engagement were integral to its role as a community clinic. Through educational activities, the clinic helped students, community workers, the public, and special interest groups learn about issues facing poor people. Moreover, through community engagement, the service supported other organizations and facilitated a greater understanding of community needs. DLAS endeavoured to apply a multifaceted approach to law that considered issues beyond individual client representation. The service's education work and community engagement were important ways in which it strove to achieve this goal.

Conclusions

As a community clinic, DLAS staff strove to provide a multifaceted approach to legal aid. Individual client representation was part of a broader attempt to support the lower-income community through various legal tools. In providing client representation, the clinic offered a wide range of case types. This was supported by "community workers," who were hired to consider legal issues specifically affecting poor communities. The clinic also encouraged lawyers to pursue litigation to change the law and push for law reform. Moreover, DLAS engaged in various other activities, including legal education and community engagement. Through legal education, the service endeavoured to make lawyers and community members more adept at managing poverty-related legal issues. Additionally, through community engagement, clinic staff gained insight into community needs, provided legal assistance to community groups, and cooperated with organizations to solve problems. Ultimately, these various activities promoted DLAS's goal of supporting the community through legal aid.

Conclusion

This thesis has examined the history of the Dalhousie Legal Aid Service from 1970 to the 1990s. It has considered the creation and operation of DLAS in conjunction with the development of legal aid in Canada, demonstrating how legal aid was affected by the social and political context of the New Left, welfare, and anti-poverty activism. It has also provided an alternate perspective to Canadian legal histories which focus on momentous cases, discussing legal history from the lens of a community-based clinic.

This thesis has followed scholars Michael McCann and Helena Silverstein in examining the goals and perspectives of lawyers and legal activists who sought to achieve social change through law. McCann and Silverstein described the case of “cause lawyers,” asserting that, for these lawyers, litigation was best utilized together with various other tactics to promote social change. This thesis has argued that this was also true for the students and staff at DLAS. In the clinic’s first year of operation, its director and students developed a brief arguing that “social justice” could be produced through law. This thesis has demonstrated that DLAS staff and students remained committed to this goal, and that, in their view, social justice was best generated through a multifaceted approach to legal aid.

In chapter 1, this thesis discussed DLAS’s establishment in June 1970 by Dalhousie law students, Daniel Laprès, Greg Warner, and Dennis Patterson. It examined the social and political environment of the period and how this contributed to support for the program from Dalhousie law students, law faculty, and the Barristers’ Society of Nova Scotia. It also discussed how DLAS transitioned from a summer program to an established service. In chapter 2, this thesis examined the historical context of the development of legal aid in Canada, exploring divisions between those seeking to promote the “administration of justice” and “social justice.” It argued

that DLAS was committed to the social justice perspective and the vision of the Neighbourhood Law Office model, becoming known as a community clinic. Finally, in chapter 3, this thesis demonstrated how DLAS enacted the community clinic model and provided a multifaceted approach to legal aid.

Many aspects of DLAS's history from 1970-1990 were not explored in this thesis. Importantly, further analysis of the perspective of DLAS's clients is necessary to gain a more complete understanding of the service. This includes examining how clients experienced DLAS's services along gendered and racial lines. Moreover, as this thesis discussed, DLAS's activities were situated within the historical context of social activism in the 1970s and 1980s, including movements such as feminism and Red Power. Further analysis is required to explore how the service engaged with these movements, for example, regarding its work with the Bryony House.

Finally, this thesis has only covered the early history of DLAS, a service that remains operational today. Since the early 1990s, there have been changes to the service's structure, goals, and leadership which require further exploration. Nevertheless, there appear to be important continuities. As of April 2024, the clinic's website describes DLAS as a "community-based office in the north-central neighbourhood of Halifax."¹ This suggests that DLAS's staff and students remain committed to the service's work as a community clinic and the goal of supporting Halifax's North End population.

¹ Dalhousie Legal Aid Service, "About Dalhousie Legal Aid," accessed April 6, 2024.

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