

## REVIEW

### **“These Legal Gentlemen”: Lawyers in Manitoba: 1839–1900**

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“*These Legal Gentlemen*”: *Lawyers in Manitoba: 1839–1900*, by Richard A. Willie  
Winnipeg: L.R.I., 1994, pp. 330

IN JUDGING THIS BOOK, do not compare it with *Alice in Wonderland*; compare it rather with such a book as Arthur R.M. Lower’s epoch-making history of Canada: *Colony to Nation*. This book is not a work of fancy. It is a work of scholarship. I have ventured into some of the areas covered by its author, and I am impressed by the depth to which he has carried his research. Some suggestion of this research may be given by the fact that of the 330 pages of the book, 37 are devoted to bibliography. Mr. Willie’s sources include newspaper articles, legal and historical journals, manuscripts, government documents and personal correspondence.

The story begins in 1839, when the Hudson’s Bay Company appointed Adam Thom the first Recorder of the General Quarterly Court of Assiniboia. It ends in 1900, when the ancient and honourable profession of the law had degenerated into a business and some might say into a sordid business.

In the author’s words:

Throughout North America, leading lawyers were serving their clients less and less in the process of litigation and were often counselling against direct challenges in the courts. Serving more as preventive technical legal counsellors advising clients to avoid legal pitfalls, rather than as litigationists seeking remedies after the fact in the court, emphasized different skills among lawyers. It also helped redefine what was meant by “legal services.” Manitoba’s leading lawyers were not immune to the impact of this evolutionary shift in legal style.

In short, the legal profession was becoming the law business. Advocacy, skill in cross-examination, a mastery of legal texts, were not the avenue to success in the law. Lawyers aspired to serve the grain trade, the railways and the real estate business. In that direction lay profit and prestige.

Red River was a simple community. Life was not complicated. It was lived on a level long since forgotten. The author quotes one commentator as saying:

We had no bank, no insurance office, no lawyers, only one doctor, no City Council, only one policeman, no taxes — nothing but freedom and, and though lacking several other — so called — advantages of civilization, we were, to say the least of it, tolerably virtuous and unmistakably happy.

Adam Thom was the first lawyer in Red River. He was not popular. It was felt that he was not needed. As Alexander Ross, Sheriff of Rupertsland, wrote in his minor classic, *The Red River Settlement*: “Up to the period at which we have arrived, the inhabitants may be said to have lived without laws and without protection, simply and solely depending on the good feelings and faith of the people themselves.” As first in the field, Adam Thom may be regarded as the father of the Bench and Bar of Manitoba.

Family misfortune prompted the second lawyer to settle in Red river. He arrived in 1853. His name was Frank Learned Hunt. He had been trained in the law in Detroit. He was the first legally trained man to appear in the General Court of Assiniboia. He came to Red River, not to practise law, but to farm and he did not practise much law.

Before the arrival of lawyers in Assiniboia, a litigant who felt that he could not do justice to his case was allowed to be represented in court by an agent. Prominent among those who acted as agents in the Courts of Assiniboia were John and Thomas Bunn, sons of the third Recorder of the General Quarterly Court, and James Ross, son of Alexander Ross, Chief Justice in the Provincial Government of Louis Riel.

After the trouble with Louis Riel, when Manitoba became a province in 1870, there were two lawyers in the province. The first was Thomas Spence, who advertised in the *Nor'wester*, the first newspaper in Assiniboia, that he was in legal practice in Manitoba. Those who engaged his services did not get full value for their money. He was president of the ill-starred Republic of Manitoba, which was located at Portage la Prairie. The second lawyer was Enos Stutsman, who had been trained in the United States. I have written elsewhere of him that he was a man who might have stepped out of an old-fashioned cloak and dagger romance. Born without legs, he never asked quarter from any man. He could ride a horse, drive a bargain or manage an intrigue with the best of men.

After 1870, things speeded up in the legal profession. As the author writes,

By early 1878 it is possible to identify twenty-five lawyers, if the first two Lieutenant Governors are included who had or were figuring prominently in Manitoba's legal life and who manifested characteristics of prominence.

The two Lieutenant Governors were Adam George Archibald and Alexander Morris. They were the sort of men needed in a community suffering growing pains. While the legal profession was growing up in Manitoba, Catholic French Canadian

lawyers were well represented. But an influx of Protestant lawyers from Ontario and the Maritimes soon changed all that.

Believing them to be the natural leaders in the social and political affairs of their communities, that statesman of the Catholic Church, Archbishop Tache tried to interest lawyers from Quebec in settling in Manitoba, but Quebec lawyers stayed home. They preferred the banks of the St. Lawrence to the banks of the Red.

When the story ends in 1900, there were approximately one hundred and fifty lawyers in Manitoba.

Manitoba has been well served by the legal profession from the first. There have been some good lawyers in the province, among them, Joseph Dubuc, John S. Ewart, Archer Martin, Isaac Campbell, Albert C. Killam, and James E.P. Prendergast.

To some readers, the want of an index to this book may be considered a defect. To a reviewer it certainly is. But to the reader, who is interested in the subject matter, and who wants to start reading at page one and so read on to the end, the want of an index should present no problem.

Full marks must be given to the Legal Research Institute of the University of Manitoba for sponsoring the publication of this excellent book.

