
Volume 35, Number 3/4 (Fall/Winter 1997)
Special Issue on Parkdale Community Legal Services
(PCLS)

Article 4

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Citation Information

Penfold, Judith; Wahl, Ruth I.; Copeland, Paul D.; Elliott, E. Susan; Taman, Larry; Le Dain, Gerald; and Cader, Penny. "Remarks Delivered Following the Chief Justice." *Osgoode Hall Law Journal* 35.3 (1997) : 431-441.
<http://digitalcommons.osgoode.yorku.ca/ohlj/vol35/iss3/4>

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REMARKS DELIVERED FOLLOWING THE CHIEF JUSTICE[©]

Judith Penfold¹

In the last year or two, the board members and staff of the clinic have spent a certain amount of time considering who our friends and supporters are, and who they are going to be in the next little while. It is quite inspiring to hear this very warm public support for the efforts of the clinic.

Although I see a lot of progress in the community and a lot of people who have done good work there, in the past several years, the numbers of people who need services from the clinic, and the depth of that need, has been increasing. And when I am in other communities and I hear people say things like, “Well, I think people should pay their own legal bills” or “I think new immigrants coming into the country should just bring enough money with them to take care of themselves,” I sometimes wonder if these people have ever been in my neighbourhood or gone into a place like the clinic and looked into the faces of some of the people waiting for help there.

Without constant public support for the clinic, there is always a risk that a place like [Parkdale] could disappear. And so, I am very grateful this evening to all of the people that have worked on the twenty-fifth anniversary celebrations—past and present members of the Parkdale board, staff, Osgoode, the government, funding agencies, and other friends of the clinic.

Ruth I. Wahl²

I represent the legal professional side of the board of directors. I think that everyone in this room is well aware of how the Parkdale clinic provides a model for community-based development.

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¹ Co-chair, Parkdale Community Legal Services Board of Directors.

² Co-chair, Parkdale Community Legal Services Board of Directors; partner, Osler, Hoskin & Harcourt, Barristers and Solicitors, Toronto.

It is amazing to see people from so many walks of life and institutions here tonight that have contributed so much of their time and energy to the clinic system. Clinic workers, the directors of the clinic, members of the Parkdale community, members of the board, students who have worked at the clinic, Osgoode professors and administration, members of the Law Society, politicians, other government representatives, the list goes on and on. It's quite impressive.

But it has not just been a one-way street involving people contributing to the clinic. The clinic system and the Parkdale community have also helped the legal profession and a generation of students, of whom I was one.

It would have been easy to go to law school in the blur of exams and papers and emerge simply as a walking encyclopedia of legal analysis—that, of course, is an important practice tool. But our experiences at Parkdale also enabled us to emerge from law school with an understanding of how to be useful and relevant, how to understand the role of law in society and the impact of society on law reform.

Like many of you here tonight, I have Osgoode Hall Law School to thank for involving me in the most important education of my life. Osgoode's commitment to the Parkdale partnership has been more than financial.

With Osgoode's encouragement, I was a novice student at the Parkdale clinic in 1984, and what I gained from that experience was immeasurable—and I think many of you here tonight will agree with me that we developed interpersonal, professional, and organizational skills; we learned from our staff about community development; and Osgoode maintained our academic studies throughout. We learned to think critically and creatively about the role of law in society. It has had a profound impact on my legal education and, I think, on the education of many of you here. Nine years later, when the law school asked me if I would like to join the Parkdale board, I leapt at the chance.

Life at Parkdale was sometimes tumultuous. Many people here tonight have struggled to maintain the clinic system with commitment and dedication throughout the years. Tonight, we are celebrating not only the past but also the future of the clinic system. I look forward to all of us continuing to be part of that future.

Paul D. Copeland³

First of all, I would like to thank the organizers of this conference for not telling me I was supposed to speak tonight. So I won't say very much and my remarks are very impromptu.

At the Clinic Funding Committee, we are struggling at the present time to try to make sure that things continue on in the clinics. I am sitting tonight in sort of the judicial corner over there. I thought the Law Union of Ontario had appointed more judges than anyone else, but clearly, Parkdale is winning. There may actually be a little overlap between the two.

I listened to the chief justice talk about the ministry of the attorney general as being regarded as a hotbed of radicalism at the time it developed the clinic funding system. I'm sorry to say, chief justice, some of us did not share that opinion. Some of us still do not share that opinion. Tonight, it is a pleasure to be on the same side as the chief justice, probably for the first time in my life.

I think the clinics owe a debt of gratitude to the attorney general, Mr. Harnick. Without Mr. Harnick, I do not think the clinic system would have survived the drastic cuts that this provincial government has made, that they could have survived those cuts unscathed during this time.

So I think that I am obliged to publicly express my happiness with what the attorney general has accomplished so far. Now, whether he will manage to continue to do it is another question. Thank you very much.

E. Susan Elliott⁴

It is a distinct pleasure in joining with you tonight in celebrating the twenty-fifth anniversary of Parkdale Community Legal Services. As treasurer of the Law Society, I am especially pleased, as Dean Pilkington has alluded to, to formally undo what was done—or almost done—twenty-five years ago, and to welcome rather than exclude the clinics from the array of legal services offered to the public.

³ Copeland, Campbell, Barristers and Solicitors, Toronto; chair of the Ontario Clinic Funding Committee.

⁴ Treasurer, Law Society of Upper Canada; partner, Good & Elliott, Barristers and Solicitors, Kingston, Ontario.

I hope our record over the last twenty-five years has made that statement unnecessary, but for the non-believers who remain, I reward all your efforts. Parkdale, of course, is well known throughout the province, and the country.

Although I am from Kingston and only recently spending a lot of time in Toronto, you do not have to be from Toronto or Parkdale, and you certainly don't need to be directly employed or educated in the field of law to be aware of Parkdale Community Legal Services.

Parkdale started a new chapter in our legal history. It broke old traditions and it was a catalyst for significant change in Ontario and made and continues to make a real difference in the area of poverty law and community activism. Communities which previously had little role in law or community affairs have played a role now in the development of a clinic that has taken cases throughout every level [of the courts], all the way to the Supreme Court of Canada. It is a remarkable record.

It's hard to imagine the very real criticism the Parkdale pioneers came under twenty-five years ago from the traditional profession and, indeed, from the Law Society. Although I must say, sitting at dinner with Larry Taman, the chief justice and the Honourable Gerald Le Dain, I did get a taste of what it was like then. At dinner, I heard first-hand for instance, how the treasurer of the day summoned Dean Le Dain to convocation to explain what he was up to. I also understand the treasurer never got an answer.

Today, I think that most practitioners and certainly benchers recognize the value and service and role that all clinics play within the justice system. Think for a minute though, about the enormity of what those few individuals took on in the early days of Parkdale. Change is always difficult. All our organizations are going through change again right now. Change is often feared, and the implications of this clinic for the law, for the traditional profession, were far-reaching. People were threatened. The only way to reach out to the poor though was to question that traditional delivery of the service, to fundamentally shift the thinking as to how to give access to the disadvantaged.

As the chief justice has said, this was radical change—maybe not radical enough for Paul [Copeland]—but it was radical. Nothing is radical enough for Paul.

Central to the mandate of the clinics was, of course, the direct delivery of legal services to the poor who had traditionally no access to such services. And the delivery was not restricted to lawyers providing the service. This was the threat. Members of the community would participate with legal staff to lead and direct the activities of the clinic. Lawyers have always been involved in the community and they have

been community-minded, but to have the community involved in the law was really pretty radical.

However, it was exciting and it led to a shift in thinking that continues throughout many areas of our system. While this was happening, of course, the *judicare* system was similarly a revolutionary notion—giving other means of access to the poor, making available services which traditionally were only provided to fee-paying clients, except in the *pro-bono* cases. The clinic service was truly novel in its ability to focus on poverty law and the community. With a *judicare* system primarily responding to the needs of the poor with traditional delivery of legal services and the traditional areas of law, it was and remains a dynamic mixture.

This is a celebration of the people involved—not just the clinic—people like Mary Hogan and Diana Hunt, who have influenced and inspired a generation of lawyers. Many of the people in this room, if you go down a whole list of the guests tonight, have gone on to pursue a variety of ambitious and dynamic career paths and have left their mark on the profession.

It is amazing how many people started at Parkdale. As with many areas of the law and law reform, however, our chief justice was ahead of his time. And, chief justice, I must say, you and I have been at a lot of events together and have rarely been speaking at one or heard anyone speak at one where we are talking about positive changes in the law where your name has not been intimately linked to those changes.

As with any successful project, there were a number of people involved—even at the Law Society—in the early days. I would like to recognize, on behalf of everyone here, the important work of Jim Chadwick, Lee Ferrier, Tom Bastedo, Phil Epstein, Roger Yachetti, Joan Lax, Paul Copeland, Ian Blue, and Harriett Sachs to name but a few who have been very involved in the clinic system, most of whom are here tonight.

We have—in other quiet ways—contributed. One of our staff members, Maureen Hyland, is on the board of Parkdale. We can't really claim as benchers that Maureen is speaking for us but she is the Law Society connection. Phil Epstein unfortunately could not be here tonight, but during Phil's leadership for seven years as the clinic funding chairperson, the clinic system expanded from fifty-two to seventy clinics, which I hope is an example of the leadership and commitment that the Law Society did develop and is remaining firmly committed to over the years.

This past summer, when we were having the legal aid “problems” in Ontario, we passed a resolution at convocation which states in part:

“Convocation will communicate to the province’s premier, treasurer, and attorney general that the clinic system is an important part of the justice system and to request that no cuts be made to the clinic system’s functions.”

As Paul stated for the record—and I am also equally grateful—the attorney general has so far been able to deliver on that request.

Now this is a clinic that is all about reform and people here have been involved heavily in the clinic and in reform but the test for all reformers—and this is in the 1970s sense of the word, not the Preston Manning sense of the word—is whether, in fact, they continue to embrace change even if their success at those reforms allows them a place at the “establishment” table. I see no evidence, looking around this room, that the zeal for reform is failing in any way, as many of you are now members of the establishment table and are equally committed to the ideals that drew you to the clinic system in the first place.

Like every decade, we find ourselves against the wall of funding limitations. And as we all know, the first to suffer are the poor. It is the responsibility of all of us—all of you—to ensure that even in this time of debt and deficit frenzy we continue to work for a justice system that is fair and accessible to all the people. The Law Society is committed to this ideal, as we know you are, as the chief justice is, as Osgoode Hall Law School is.

I am pleased to be part of this evening. Fred Zemans might never have imagined twenty-five years ago that the treasurer of the Law Society could participate in a night such as this. I am thrilled and pleased that it has occurred during my time as treasurer. Thank you.

Larry Taman⁵

Like most of you, clinical legal education has been part of my life in the law since I started law school in 1968. At that time, I learned some things that are easy for us to forget as friends and colleagues, and I hope you will forgive me if I take a few minutes to remind myself and you of some of those things.

In Ontario, there was no accredited university law school until 1957. When I started law school in 1968, very few senior lawyers and judges had a university legal education because of the war, and many young men had lost the chance to get law degrees.

⁵ Deputy Attorney General, Ontario.

Only a few women went into law at all. There were four [women] in my first-year class of eighty. I remember Justice Mabel Van Camp—who was the first woman appointed to the High Court of Ontario—once telling me on a train to Cambridge in England, that it had never once occurred to her in the time that she was in law school that she could actually practise law.

In 1968, there were no textbooks in any of the major, let alone minor, areas of legal study. There was not a textbook in constitutional law, not in contracts, not in torts, not in crime. Cases were copied and compiled for students, but casebooks had not been properly published. Some of the people in this room are old enough to remember the dreaded word *Gestetner*.

Osgoode Hall Law School radically changed the face of legal education in Ontario, in Canada, and outside of Canada. And there was no more important driver of that change than the clinical legal education movement. That movement, like so much of the early progress, can be credited to the brilliance and commitment of a group of young academic lawyers who were the leaders of the law school at the time.

They were all younger than most of the current faculty is now, including its youngest members. They were all strong supporters of the work to develop a legal services clinic at Osgoode. Some of them have gone on to substantial achievements outside legal education. I think of our dean, Gerald Le Dain, and Stephen Borins. Some went on to brilliant careers in the university—Harry Arthurs, Bill Neilson. And some died too young. There probably are not too many of us of my generation who are not thinking tonight of John Barber, who was a friend and mentor to so many of us, and so influential in the development of what was done.

They encouraged us to carry on the tradition of the student legal aid society, which had existed at Osgoode for many years, providing assistance at the Old City Hall. And they encouraged us to let it grow and flower into new forms of legal education and legal services. A group of students took on that work and Dean Pilkington has mentioned some of them—Ian McDougall, Terry Caskey, Andy Roman, Terry O'Sullivan, and others.

C.L.A.S.P. [Community and Legal Aid Services Programme, the clinic which operates out of the Osgoode Hall Law School building] was formed, grants were sought. Len Shiffman at the Department of Health and Welfare helped to arrange our first grant as did William Pinkus at the Ford Foundation in the United States.

Fred Zemans, who became the first in what's now a long line of committed directors and teachers, will remember the first year budget. I

think of one clinic funded at about \$75,000. Last year in the province, there were about seventy clinics funded at more than \$70 million.

Clinical legal education at Osgoode helped attract the sorts of students and faculty who, in then what was a close partnership, changed the face of legal education. It changed what we all wanted to learn, to teach, to write, and to practise. It changed what we knew about, and therefore what we were committed to. It was a change that was, in its day, more radical than much of the change we think of now—more radical than Alternative Dispute Resolution, more radical than youth justice committees, than court services agencies, than continuing legal education, and all of them put together.

I believe that it radically changed what we became as teachers lawyers, judges, workers with partners in communities, and as deputy ministers. And it enabled us to serve communities in ways in which we had never been able to do so before.

For many of us, this is a hard time in our life in the law. Whether we practise or teach or judge, in clinics, in government, or the private sector. I tell you this story partly because I am now the sort of person I made fun of when I was younger. But more importantly, I tell you this story because I believe the clinic and clinical legal education at Osgoode are a shining achievement—an ornament to those who started it and all those who carried it on.

The clinic system is the sort of achievement that reminds us that we can, even in difficult circumstances, achieve real change in legal education and in the legal system for the benefit of the community. I would ask that we all take strength from what we have accomplished and that we commit to continuing the important work of change to come.

I want to take a minute, in closing, to bring greetings to all of you from the attorney general. The attorney general has the highest regard for the clinic system, and for the work of the people in it. He would be very pleased to have been so generously thanked by Paul Copeland. He has a need these days to be thanked and I know that he'll be cheered by your kind support. Thank you.

The Honourable Gerald Le Dain⁶

I had not intended to speak tonight, but in view of the warmth of your reception and the kind references to my role by the previous speakers, I feel I should say a few words.

It has been an inspiring and quite frankly moving experience to hear all these recollections and to feel the tremendous satisfaction that this movement, after the struggle that has been referred to, has proved to be such a success and has performed such a wonderful public service over the years.

Larry Taman gave a characteristically accurate, insightful, and truthful account of the Parkdale project. There is no doubt that Parkdale was an outstanding expression of a very imaginative contribution made to legal education here at the law school over the years.

You cannot appreciate the achievement of Osgoode with respect to the reform of legal education without being aware of the great contribution made by the student body. It was my good fortune as Dean and presiding officer to be associated with the Parkdale project, but it was really the achievement of the students and the younger members of faculty to whom Larry Taman referred.

In view, however, of the earlier references to my role, I think I should probably put my recollection of the event on the public record so there is no misunderstanding of two things—the nature of the Law Society's concern and reaction, and the reason we at the law school acted the way we did.

In order to launch the Parkdale project we had to obtain outside funding for an initial period, and we applied for financial assistance to the Ford Foundation, through its agency, the Council on Legal Education for Professional Responsibility (CLEPR), and to a department of the federal government. Both showed an encouraging interest in the project, but we had to make a decision to go forward with it without undue delay because CLEPR had many requests for assistance, and we had to make up our minds or they would give the money to someone else.

We did not see how we could go through the delay of waiting for the approval of the Law Society. As I put it on another occasion, “[b]ecause of the danger of losing an opportunity to obtain funding from an interested foundation I had decided that I had to proceed on the

⁶ Dean, Osgoode Hall Law School, 1967-1972; Justice of the Supreme Court of Canada, 1984-1988.

assumption that I would eventually obtain the necessary approval of the Law Society.”

I met with Tom Callon (later Mr. Justice Callon of the Supreme Court of Ontario), who was then the chair of the Legal Aid Committee of the Law Society, and we went over the proposal very fully. Generally he was very supportive. There were two questions: whether this could be considered as part of the Legal Aid Plan, and in particular whether it could be brought under the rubric of the student legal aid societies, which both Tom and I considered arguable; or whether it had to be dealt with as a possible case of unauthorized legal practice calling for special approval and possibly changes to the Law Society regulations. We had a very candid exploration of these issues and he was very supportive and even a little too enthusiastic for my taste at that time. He took the bit in his teeth and said, “I’ll start the approval process in the committee.”

Well, quite frankly, I couldn’t wait for that and I had to act on the assumption that we would obtain approval later. It was a difficult decision, but we went ahead and, of course, we presented the Law Society with a *fait accompli*.

Fortunately, I had a lot of friends in the Law Society. Nevertheless, I was called up on the carpet before the benchers, and after a searching and strenuous discussion, I was let off with a suspended sentence. The treasurer was not being unfair in her suggestion tonight that the benchers never did receive a very clear answer to their concerns. As Larry Taman, Fred Zemans and I walked out that day, Fred said something kind about how I had weathered the storm in convocation. And the only thing I said to him was “I used up a lot of my credit in the Law Society today.”

Penny Cader⁷

Everyone here tonight has a special connection to Parkdale Community Legal Services. The clinic had and continues to have a significant impact on all those who worked there and all those who are helped there. Each of us has more than one story about why the clinic remains so meaningful for us.

I was a student at Parkdale in the winter semester of 1990. For me, working at the clinic was a turning point both in my legal education and in my personal life.

⁷ Co-chair, Parkdale Community Legal Services Fundraising Committee; associate, Gowling, Strathy & Henderson, Barristers and Solicitors, Toronto.

A bad fire in my house on the evening of my tax exam in December meant that our family had to find alternative accomodation for several months. In January, when I started working at the clinic, I was feeling dislocated, dissassociated, disoriented. But every day I came to the clinic and I worked with clients who lived with the experience of disorientation as a way of life—not temporarily. They did it with dignity and acceptance. I learned a lot from them.

It is this kind of exchange—the clinic’s direct contribution to the development of students and the students’ contribution to the clinic—that makes it so critical for Parkdale to remain viable and influential.

Parkdale ensures that law students become acutely aware of how the law “gets in the face” of ordinary people; how policy and politics interrelate to affect the lives of real people; how not providing adequate resources to support legislative decisions means protections under the law often remain unavailable to many.

It is this awareness that will energize new lawyers and inform future lawmakers. This must continue.

