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William H. Laurence*

Acquiring the Law: The Personal
Law Library of William Young,
Halifax, Nova Scotia, 1835

In 1835, Halifax lawyer William Young, who would later become premier and chief justice of Nova Scotia, as well as a founder of Dalhousie Law School, compiled a catalogue of his personal law library. In the catalogue, Young identified the short title, the price, and if applicable, the number of copies or volumes, for each item in his collection. Through an examination of Young's catalogue, as well as contemporary correspondence, journals, and business records, and, where identifiable, Young's former texts, this study discusses the nature, sources, and to a certain extent, the actual use of Young's law library. This study demonstrates not only that Young's library selections would likely have been recognized and approved by his legal contemporaries, but also that Young had assembled by 1835 a legal collection which compares favourably in size and range of materials to other early and mid-19th century personal legal libraries located in diverse parts of North America. The acquisition and use of legal resources by 19th century lawyers is a subject which has hitherto received little consideration in studies on the development of legal culture in Nova Scotia.

En 1835, William Young, un avocat d'Halifax qui serait successivement premier ministre et juge en chef de la Nouvelle-Écosse, ainsi qu'un fondateur de la faculté de droit de l'Université Dalhousie, a catalogué sa bibliothèque de droit personnelle. Dans le catalogue, Young a identifié le titre, le prix, et si applicable le nombre d'exemplaires ou de volumes pour chaque item de sa collection. En examinant son catalogue ainsi que des correspondances contemporaines, des revues, des rapports d'entreprise et, dans la mesure du possible, ses anciens textes eux-mêmes, cette étude examine la nature, les sources et jusqu'à un certain point, le véritable usage de sa bibliothèque de droit. Cette étude démontre non seulement que les sélections dans sa bibliothèque de droit auraient été reconnues et approuvées par ses contemporains juridiques, mais aussi que par l'an 1835, Young avait rassemblé une collection juridique qui se comparait favorablement en grandeur et en choix de matériels à d'autres bibliothèques de droit personnelles du début du 19^e siècle situées à divers endroits en Amérique du Nord. L'acquisition et l'usage de ressources juridiques par des juristes du 19^e siècle est un sujet qui jusqu'ici a reçu très peu de considération dans les études portant sur le développement de la culture juridique en Nouvelle-Écosse.

* Legal Research Counsel, Law Reform Commission of Nova Scotia. I am grateful to Dr. Bertrum MacDonald, Director, School of Library & Information Studies, Dalhousie University, for his advice and encouragement. I also acknowledge with thanks the helpful suggestions made by the *Dalhousie Law Journal's* anonymous referee.

Introduction

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Introduction

In 1834, the advent of a new year brought satisfying news to Halifax, Nova Scotia lawyer William Young. Writing from England, his brother, fellow attorney, and future law partner, George Renny Young, reported success in his search for reputable, low-priced law books. Having been “[e]mployed this last week in completing our Law Library,” George asserted, “[b]y the expenditure of £100 I shall make ours the first in Halifax.”¹ He added, “I have now the prices & best editions & shall buy just as I find them cheap.”² As a sample of his success, he pointed out his purchase of Leach’s *Pleas of the Crown*,³ for 7s. 6d., “all 4 vols

1. Nova Scotia Archives and Records Management [N.S.A.R.M.], MG 2, vol. 719, F1/41, George Renny Young to William Young, 1 January 1834. All manuscript materials cited in this study are located at N.S.A.R.M.

2. *Ibid.* For an account of George R. Young’s life and career, see J. Murray Beck, “Young, George Renny” in Frances G. Halpenny, ed., *Dictionary of Canadian Biography*, vol. VIII (Toronto: University of Toronto Press, 1985) at 955.

3. William Hawkins, *A Treatise of the Pleas of the Crown*, 7th ed. by Thomas Leach, 4 vols. (London: G.G. and J. Robinson & J. Butterworth, 1795). The Sir James Dunn Library, at Dalhousie Law School, in Halifax, Nova Scotia, possesses two of these volumes purchased by George Young.

handsomely bound.”⁴ When George returned to Halifax later in 1834, his acquisitions were added to William’s personal law library. By the following year, the collection had achieved a sufficient size, 297 titles in some 595 volumes, to warrant a catalogue, which William compiled in September of 1835.⁵ In his catalogue, William identified the short title, the price, and if applicable, the number of copies or volumes, for each item in the collection.

William Young understood that success in legal practice requires ready access to authoritative, current, and relevant legal resources, which in the 19th century took the form of published case reports, statutes, treatises, and other texts. As Nova Scotia Attorney General Richard J. Uniacke explained in 1797, “[t]he most eminent natural abilities are not suff’ to support the credit of a practitioner in our profession unless aided by a correct knowledge of the law & it’s [sic] principles.”⁶ This “correct knowledge,” Uniacke suggested, was to be derived “from books alone.”⁷ For most of the 19th century, not only in Nova Scotia, but also in the other Maritime provinces, the dependence of lawyers on law books for legal knowledge was accentuated by the lack of a law school to provide a balanced and comprehensive introduction to the law.⁸ One way of ensuring ready access to legal texts, as did Young, was to acquire personal copies of necessary legal materials.

Certain questions arise concerning Young’s collection of law books. In addition to benefiting from his brother George’s efforts, by what other means did William Young procure his texts? Did William Young choose texts which were known and recommended by other lawyers in Nova Scotia or the pre-Confederation Maritimes? Did he actually use his law books, or did they serve primarily as ornaments in his office or home? Finally, in the size and character of his collection, was William Young typical of other lawyers of the era? Through an examination of William

4. MG 2, vol. 719, F1/45, George Renny Young to William Young, 5 March 1834. The Young brothers still had to pay a customs duty of 30%, imposed by the U.K. statute, *An Act to regulate the Trade of the British Possessions Abroad*, (1833), 3 & 4 W. IV, c. 59. There was also the cost of transportation. By the time the *Pleas of the Crown* volumes reached Halifax, William Young calculated their cost as 10s; MG 2, vol. 757, Catalogue of the William Young Law Library, 30 September 1835.

5. MG 2, vol. 757, Catalogue of the William Young Law Library, 30 September 1835. The illegibility of Young’s figures relating to one title make it possible only to provide an approximate number of volumes.

6. D.G. Bell, “Richard John Uniacke’s Advice to a Young Lawyer, 1797” (1988) 8 *Nova Scotia Historical Review* (1988) [hereinafter, Bell, “Advice”] 139.

7. *Ibid.* at 140.

8. Dalhousie Law School, Canada’s first university law school providing instruction in the common law, opened for students in 1883: John Willis, *A History of Dalhousie Law School* (Toronto: University of Toronto Press, 1983) [hereinafter Willis] at 19.

Young's 1835 catalogue, as well as contemporary correspondence, journals, business records and, where identifiable, Young's former texts, this study will discuss the nature, sources, and to a certain extent, the actual use of William Young's personal law library. This study will demonstrate not only that Young's library selections would likely have been recognized and approved by his legal contemporaries, but also that Young had assembled by 1835 a legal collection which compares favourably in size and range of materials to other early and mid-19th century personal legal libraries located in diverse parts of North America. The acquisition and use of legal resources by 19th century lawyers is a subject which has hitherto received little consideration in studies on the development of legal culture in Nova Scotia.

I. *William Young's career*

Of lowland Scottish birth, William Young emigrated with his family to Halifax in 1814.⁹ At that time, the 14-year-old Young had already attended the University of Glasgow for some 6 months.¹⁰ Upon arrival in Halifax, William assisted his father, John Young, in the family dry goods business. The senior Young achieved fame a few years later, as the agricultural reformer and writer, "Agricola."¹¹ While still a teenager, William Young successfully managed his father's business concerns at Halifax and New York. Despite the pressures of business, William Young found time to read widely, not only in English, but also in French and Latin.¹² His father instructed him to "be ardent in the acquisition of Commercial knowledge," and to be aware that "idiots in intellect surpass [one] often in information."¹³ At the age of 15, William concluded, "I do not think that it will be impossible for me to become a Literary Man & be a merchant."¹⁴ He also resolved to be "superior in information to the men

9. J. Murray Beck, "Young, Sir William," in Frances G. Halpenny, ed., *Dictionary of Canadian Biography*, vol. XI (Toronto: University of Toronto Press, 1982) [hereinafter Beck] at 944.

10. W. Innes Addison, comp., *The Matriculation Albums of the University of Glasgow* (Glasgow: James Maclehose and Sons, 1913) at 268; "The Autobiography of Chief Justice Sir William Young, *aet* 21" (1992) 12 *Nova Scotia Historical Review* [hereinafter "Autobiography"] at 126-127.

11. For an account of the senior Young's life and achievements, see R.A. Maclean, "Young, John" in Frances G. Halpenny, ed., *Dictionary of Canadian Biography*, vol. VII (Toronto: University of Toronto Press, 1988) 930.

12. "Autobiography," *supra* note 10 at 131-132.

13. D.C. Harvey, "Pre-Agricola John Young, or a Compact Family in Search of Fortune" (1959) 32 *Collections of the N.S.H.S.* [hereinafter Harvey] 129.

14. *Ibid.* at 150.

with whom [he] f[ell] in.”¹⁵ This appreciation of the relationship between knowledge, gained through books, and professional success was seemingly reflected in Young’s efforts to assemble a large and comprehensive personal law collection.

In 1820, William Young “resolved to embrace the bar as a profession.”¹⁶ To qualify for admission as an attorney in Nova Scotia ordinarily required 5 years of apprenticeship, or articles of clerkship, with a qualified practising lawyer. A further 12 months of attendance at sittings of the Supreme Court was required for admission as a barrister.¹⁷ During his term as an articulated clerk, Young engaged in such typical tasks as copying legal documents, summarizing legal texts, and making extracts of correspondence.¹⁸ His legal apprenticeship, however, did not proceed without incident. Young articulated with the Fairbanks brothers, Charles Rufus and Samuel Prescott, who practised law in Halifax. In 1823, Charles R. Fairbanks ran against Agricola for a seat in the Nova Scotia House of Assembly. The relationship between principal and articulated clerk was destroyed when Charles R. Fairbanks accused William Young of revealing election strategy to Agricola.¹⁹

With the assistance of some Supreme Court justices, Young was able to extricate himself from his articling agreement with the Fairbanks brothers.²⁰ He became an attorney in 1825 and a barrister the next year.²¹ Most likely benefiting from his family’s business contacts, Young developed a lucrative legal practice. By the early 1830s, Young’s gross annual income was an impressive £1440.²² In the same period, most young Nova Scotian lawyers could only aspire to some £100 in annual

15. *Ibid.* at 152.

16. “Autobiography,” *supra* note 10 at 130.

17. Beamish Murdoch, *Epitome of the Laws of Nova-Scotia*, vol. I (Halifax: Joseph Howe, 1832) [hereinafter *Epitome*] at 7.

18. MG 2, vol. 731, Journal of William Young (1820-21), entry for 31 March 1821.

19. Brian Cuthbertson, *Johnny Bluenose at the Polls* (Halifax: Formac, 1994) [hereinafter Cuthbertson, *Johnny Bluenose*] at 50.

20. Beck, *supra* note 9 at 944.

21. *Ibid.*

22. N.H. Meagher, in “Sir William Young,” an unpublished paper presented to the Nova Scotia Historical Society in 1924 (MG 20, vol. 755, #1), wrote at page 16 that for each of several years, beginning with 1834, Young earned some \$8,000 annually, of which about \$800 came from work as an insurance firm agent. To convert the figure of \$7,200 to pounds, I divided by five, in compliance with the currency rate for 1834 provided by C.A. Curtis, in “Currency,” *Encyclopedia Canadiana*, vol. 3 (Ottawa: Grolier, 1975) at 179. In contrast to Young, the income from May 1835 to April 1836 of the Halifax lawyer, Beamish Murdoch, who had been at the bar since 1822, but who tended to lack affluent commercial clients, was £280. See Philip Girard, “The Making of a Colonial Lawyer: Beamish Murdoch of Halifax, 1822-1842,” [hereinafter Girard, “Colonial Lawyer”] in Carol Wilton, ed., *Inside the Law: Canadian Law Firms in Historical Perspective* (Toronto: The Osgoode Society for Canadian Legal History, 1996) at 81.

earnings.²³ In 1834, George Renny Young joined William in a legal partnership which lasted until 1851.²⁴

In addition to his success as a lawyer, Young fulfilled political and judicial ambitions. By 1835, he had served briefly as a representative for Cape Breton in the Nova Scotia House of Assembly, though his election was annulled because of campaign improprieties.²⁵ Not only did Young regain his Assembly seat, but he eventually served as speaker of the House, from 1843 to 1854, attorney-general and premier, from 1854 to 1857, and again as premier, in 1860. From 1860 to 1881, he also sat as chief justice of the province.²⁶ In his later years, Young devoted considerable time and funds to public causes, in particular, improving the City of Halifax and supporting Dalhousie University.²⁷ In 1883 he helped to establish Dalhousie Law School.²⁸ Following his death in 1887 at the age of 87, Young's personal library was sold at auction.²⁹

II. *Nature of William Young's law library*

Young's personal law library, as catalogued in 1835, contained 297 titles in some 595 volumes.³⁰ Of these 297 titles, 61 titles in 206 volumes were case reports and indexes to the reports. Six titles in seven volumes related to statutes. There were also four dictionaries in seven volumes, three legal journal titles in some 20 volumes, 211 treatises in 321 volumes, as well as 12 digests and abridgments in 34 volumes. Young calculated that by the year 1835, his collection had cost some £407.

23. Brian Cuthbertson, *The Old Attorney General* (Halifax: Nimbus, n.d.) [hereinafter Cuthbertson, *Attorney General*] at 117.

24. John Doull, *Sketches of Attorney Generals of Nova Scotia, 1750-1926* (Halifax: n.p., 1964) at 54.

25. For an account of the 1832 election, which was troubled by violence at the polls, see Cuthbertson, *Johnny Bluenose*, pp. 276-279.

26. Beck, *supra* note 9 at 946-948.

27. *Ibid.* at 948.

28. Willis, *supra* note 8 at 27.

29. The auction notice is in the *Acadian Recorder* (11 August 1887) 3 and the *Morning Herald* (8 August 1887) 3. The library was not mentioned in Young's will, by which he left the large sum of some \$200,000 to charitable causes, out of a total estate of some \$350,000 (19th century values): *Morning Chronicle* (14 May 1887) 4; MG 1, vol. 989, last will and testament of William Young (certified copy), 7 April 1887.

30. All the figures which follow are from my analysis of Young's catalogue.

Young's law library encompassed all the major practice areas of the time.³¹ Books on such mainstays of practice as admiralty law, commercial law, criminal law, equity and trusts, real property law, and wills and estates formed part of his collection.³² Young also collected texts on such lesser known topics as the law of horses and gaming law.³³ Of Young's treatise titles, 24, or some 11%, concerned practice, procedure, and pleadings. These practice texts explained such matters as limitation periods for filing actions, the drafting of court documents, court rules, and the essentials of arguing a case in court. When Young's titles on evidence law are included, the proportion of treatise titles relating to practice rises to 14%. Other substantial areas of law represented in Young's collection were equity and trusts (8% of treatise titles), real property law (7%), commercial law (5%), insurance (5%), admiralty law (5%), and wills and estates (5%).

Of the 61 titles in Young's collection of case reports, 28, or 46%, related primarily to common law cases, while 24 titles (39%) concerned equity law, which was applied by the chancery court. One solicited the chancery court for such equitable remedies as injunctions and orders for accounting.³⁴

31. I classified the texts with the aid of John William Wallace, *The Reporters*, 4th ed. (Boston: Soule & Bugbee, 1882); Leslie F. Maxwell, eds., *A Legal Bibliography of the British Commonwealth of Nations*, 2nd ed. (London: Sweet & Maxwell, 1957); Richard Adamiak, *The Law Book Price Guide* (Chicago: published by the author, 1983); *Index Chart Issued for the English Reports Vols 1-176* (London: Stevens & Sons, 1930); and the subject headings used in the Sir James Dunn Law Library's computer catalogue of holdings.

32. Examples of each type are: Francis Ludlow Holt, *A System of the Shipping and Navigation Laws*, 2nd ed. (London: J. Butterworth and Son, 1824) [admiralty]; Basil Montagu, *A Summary of the Law of Set-Off* (London: J. Butterworth, 1828) [commercial law]; William Hawkins, *A Treatise of the Pleas of the Crown*, 7th ed. (London: G.G. and J. Robinson & J. Butterworth, 1795) [criminal law]; Henry Roscoe, *A Treatise on the Law of Actions Relating to Real Property* (London: J. Butterworth and Son, 1825) [real property law]; Thomas Wentworth, *The Office and Duty of Executors*, 14th ed. (London: J. & W.T. Clarke, 1829) [wills & estates]. I have examined Young's former copies of all the above texts. Where I am not able to determine which edition of a text was part of Young's collection, I cite the earliest possible English-language edition, or the earliest possible edition, depending on the circumstances, which Young could have possessed.

33. Henry Jeremy, *The Laws Relating to Horses* (London, 1825); John Disney, *The Laws of Gaming, Wagers, Horse-Racing, and Gaming-Houses* (London: J. Butterworth, 1806).

34. In 1837, William Young stressed the importance of case reports to his brother George, stating, "I don't see how you could practise without them." [MG 2, vol. 732, #177, William Young to George Renny Young, 9 July 1837]. For a summary of the chancery jurisdiction in Nova Scotia, see Girard, "Colonial Lawyer" *supra* note 22 at 83-84.

The titles in Young's collection related to seven jurisdictions, namely Nova Scotia, Prince Edward Island, Massachusetts, New York, France, England, and Scotland. As one would expect, given that Nova Scotia, a British North American colony in 1835, had inherited most of its law from England, the majority of Young's texts involved principles of English law. Young did, however, possess copies of the three major legal titles published by 1835 concerning 19th century Nova Scotia, specifically, Beamish Murdoch's *Epitome*, James Stewart's admiralty reports, and the provincial statutes.³⁵ This compares favourably with the Halifax Law Library. Despite its larger size, some 500 titles in 1835, its only texts concerned with Nova Scotian law were the *Royal Gazette*, which was used for government notices, and the provincial statutes.³⁶ Young possessed a copy of another text with a pre-Confederation Maritimes connection, *Pleading and Evidence in Civil Actions*, which was written by John Simcoe Saunders, a Fredericton lawyer.³⁷

Young was therefore wide-ranging in his selections. Although texts on English law comprised the bulk of his collection, Young did not overlook legal materials with a local focus. He was also amenable to acquiring foreign legal texts, and possessed works by Dutch, French, German, Irish, Italian, Scottish, and Swiss authors,³⁸ as well as items published in the

35. Beamish Murdoch, *Epitome of the Laws of Nova-Scotia*, 4 vols. (Halifax: Joseph Howe, 1832-1833); James Stewart, *Reports, Court of Vice-Admiralty at Halifax, Nova-Scotia, 1803-1813, in the time of Alexander Croke* (London: J. Butterworth & Son, 1814). Two other significant legal texts by Nova Scotians were published 2 years after Young compiled his catalogue: Daniel Dickson, *A Guide to Town Officers, shewing their appointment, duties, liabilities, and privileges...* (Pictou: The Bee Office, 1837), and John George Marshall, *The Justice of the Peace, and County and Township Officer in the Province of Nova Scotia* (Halifax: Gossip & Coade, 1837).

36. *Catalogue of Books in the Law Library at Halifax, Michaelmas Term, 1835* (Halifax: J.S. Cunnebell, n.d.), available at N.S.A.R.M., V/F, vol. 12, #15.

37. Written and published in England, this text concerned principles of English law. It was quite successful, going through 4 U.S. editions before 1844: D.G. Bell, "Maritime Legal Institutions under the Ancien Régime, 1710-1850" (1996) 23 Man. L. J. 103 at 125, n. 83.

38. A sample of the authors represented in Young's library includes: Joseph Story, *Commentaries on the Law of Bailments* (Cambridge, [Mass.]: Hilliard & Brown, 1832) [American]; Hugo Grotius, *Of The Rights of War and Peace* (London: D. Brown, 1715) [Dutch]; Balthazard-Marie d'Émérigon, *Traité des assurances et des contrats à la grosse* (Marseille: Jean Mossy, 1783) [French]; Samuel Freiherr von Pufendorf, *Of the Law of Nature and Nations* (Oxford: A. & J. Churchill, 1710) [German]; Arthur Browne, *A Compendious View of the Civil Law, and of the Law of the Admiralty*, 2nd ed. (London: J. Butterworth, 1802) [Irish]; Cesare Beccaria, *An Essay on Crimes and Punishments* (London: J. Almon, 1767) [Italian]; John Erskine, *The Principles of the Law of Scotland*, 7th ed. (Edinburgh: Elphinstone Balfour, 1791) [Scottish]; Jean-Jacques Burlamaqui, *The Principles of Natural Law* (London: J. Nourse, 1748) [Swiss].

United States. In addition, Young's library contained materials such as the English language translation of Pothier's *Obligations*,³⁹ which represented the Roman-based civil law, a legal tradition distinct from the English common law prevailing in 19th century Nova Scotia.

For most of the titles in his catalogue, Young did not include a date of publication. He also mentioned no places of publication. With the exception of those texts which were printed in a single edition, it is therefore not possible to state with certainty where Young's books were published, unless one has access to Young's actual texts. From the few publication details included in the catalogue, as well as from reference to those of Young's former books which have been located, one can say with certainty that Young possessed both British and American editions of English law books. Almost all his identifiable British texts were published in London, with Edinburgh providing the exception. Publication information for his identifiable American editions is more varied. Young's collection included texts which were published in Boston, Cambridge, New York, and Philadelphia.⁴⁰

III. *Sources of the collection*

Young procured his texts through a number of means, local merchants being one. He placed book orders with the two leading Halifax bookselling firms, C.H. Belcher and A. & W. MacKinlay, as well as with J. Leander Starr, George Philipps, Hugh Lyle, and Clarke & Patrick. On January 19, 1828, for example, he deposited £13/10 with the latter firm, to pay for the importation of law texts.⁴¹ Young also dealt directly by mail with some American booksellers. In his day book of 1827, for instance, Young

39. Robert Joseph Pothier, *A Treatise on the Law of Obligations and Contracts* (London, 1806). As well as Pothier and Browne, *ibid.*, Young's collection also included two civil law texts by English authors: John Taylor, *Elements of the Civil Law* (Cambridge: Joseph Bentham, 1755), and Thomas Wood, *A New Institute of the Imperial or Civil Law* (1704).

40. Examples include: Joseph Story, *Commentaries on the Conflict of Laws* (Boston: Hilliard Gray, 1834); Joseph Story, *Commentaries on the Law of Bailments* (Cambridge, [Mass.]: Hilliard and Brown, 1832); John Newland, *The Practice of the High Court of Chancery* (New York: George Lamson, 1826); J.H. Thomas, *A Systematic Arrangement of Lord Coke's First Institute of the Laws of England*, 1st American ed. (Philadelphia: Robert H. Small, 1826-1827).

41. MG 2, vol. 760, William Young day book (1825-1834), p. 38. For one of Young's purchases at the Belcher firm, see *ibid.*, p. 12. For examples of purchase records pertaining to the other firms mentioned, see MG 2, vol. 768, William Young ledger book (1833-1855), in particular, p. 261. The ledger book itself was purchased from A. & W. MacKinlay. The Halifax book trade in the first half of the 19th century is described by Susan Greaves, in "Book Culture in Halifax in the 1830s: The Entrenchment of the Book Trade" (1991) 11 *Épilogue* 1.

recorded a payment of £13 12s 6d to the Boston firm of Richardson and Lord for their invoice of \$54.50.⁴²

Young's relatives might also be pressed into service. In March, 1821, a Scottish uncle, William Renny, reported that he soon expected to send a shipment of books requested by his nephew, as a vessel scheduled to sail from Leith to Halifax had finally been found.⁴³ A significant opportunity for Young to expand his library arose in 1833, when his brother George left on an extended trip to Britain.⁴⁴ One reason for George's trip was to study law. Another purpose was to procure a large number of reputable law books at good prices. Once in London, however, George on occasion found it difficult to concentrate on book buying, in light of the distractions of the metropolis. In February, 1834, he confided to William, "London is the place for reading life - but all this *entre nous*."⁴⁵ George also felt compelled to admit a setback to his efforts, when "all invoices & catalogues slipped out of [his] pocket the other day."⁴⁶ By March of 1834, though, George's attention had returned to law books. So satisfied was George with his efforts that he was able to assert, "I do not know an additional volume I s^d wish to add to our Library"⁴⁷ The help of friends was also enlisted by Young to obtain books. In 1823, for instance, J. Winslow, to whom Young had recently extended the favour of some seed potatoes, reported by letter from Boston that he had forwarded the books requested by Young.⁴⁸

When he travelled outside Nova Scotia, Young took advantage of opportunities to purchase texts not available in the province, or at least

42. MG 2, vol. 760, William Young day book (1825-1834), p. 32. Young also dealt in this period with the Boston firm of Cummings and Hilliard: see MG 2, vol. 731, #54, letter from Cummings and Hilliard, *per* Jno. H. Wilkins, to William Young, 28 September 1822.

43. MG 2, vol. 760, # 27, William Renny to William Young, 1 March 1821.

44. MG 2, vol. 719, F1/25, George Renny Young to William Young, 12 July 1833. The copy of Henry Roscoe, *A Treatise on the Law of Actions Relating to Real Property*, 2 vols. (London: J. Butterworth & Son, 1825), in which George Young made notes while bound for England on the brig *Corsair*, is part of the general collection at the Sir James Dunn Law Library.

45. MG 2, vol. 719, F1/44, George Renny Young to William Young, 4 February 1834.

46. *Ibid.*

47. MG 2, vol. 719, F1/45, George Renny Young to William Young, 5 March 1834. George did qualify his statement by mentioning two texts, which he was unable to obtain at what he considered a reasonable price. In 1837, William Young once again took advantage of a trip by his brother to Britain to ask George to purchase some law books; MG 2, vol. 732, #177, William Young to George Renny Young, 9 July 1837.

48. MG 2, vol. 731, #63, J. Winslow to William Young, 28 January 1823. In turn, Young seems to have supplied other members of the legal community with law books. A number of the texts in his catalogue are described as having been "lent to Ch. Jus. [Chief Justice]." Moreover, in 1822, Thomas Tremlett, Chief Justice of Prince Edward Island, contacted Young by letter about the possibility of obtaining a text on limitation periods MG 2, vol. 731, #61, T. Tremlett to Young, 28 December 1822.

sold elsewhere at a better price. On a trip to the Canadas and the northeastern United States in 1820, for example, Young brought five books back to Halifax.⁴⁹ A trip to Boston some 14 years later also yielded some book finds,⁵⁰ as did a trip to Britain in 1839.⁵¹

Although the evidence is not conclusive, it seems reasonable to assume that the first items in Young's collection came from his father's library. In 1819 William compiled a catalogue of John Young's books, which reveals nine titles relating to law.⁵² Seven of those titles also appeared in William Young's 1835 catalogue; and one of the other two texts had been described as missing in 1819. Without stronger evidence, such as a reference in correspondence to a transfer from father to son, or a title page containing the autographs of both John and William Young, it is not possible to say with certainty that William, when embarking on his legal career, was given or appropriated his father's law books. This would be natural, however, given the tendency of some children to treat as their own their parents' property, and during the early years of his legal career, Young did reside with his parents at Willowpark, their 61-acre farm some two miles outside of Halifax.⁵³

IV. *William Young's use of his law books*

Owning a collection of law books is no guarantee that lawyer Young actually read the texts. In a society where literacy was far from universal, and books were expensive, they might be acquired simply as ornaments, symbols of their owner's wealth and knowledge.⁵⁴ In Young's case, however, the evidence suggests that he tended to purchase copies of texts

49. MG 2, vol. 731, Journal of William Young (1820-1821): see notes on back cover of volume. Young did not specify these titles. Given, however, that he brought along a copy of William Blackstone, *Commentaries on the Laws of England* (Oxford: Clarendon Press, 1765-1769), it is reasonable to expect that Young would be on the look-out during his trip for other law texts of interest.

50. MG 2, vol. 768, William Young ledger book (1833-1855), p. 261.

51. "Journal of William Young, 1839," *The Report of the Board of Trustees of the Public Archives of Nova Scotia*, Appendix B (Halifax, [1973]) at 61.

52. MG 2, vol. 761, "Catalogue of our Library February 21st 1819." Young seemed to enjoy compiling library catalogues. In 1822, he also compiled a catalogue of books owned by the Provincial Agricultural Society, for which his father served as secretary; MG 2, vol. 761.

53. "Autobiography," *supra* note 10 at 130.

54. The image of power which could be generated by books in the 19th century is illustrated by the case of Alfred Howell, a Greenville, Texas attorney, who wrote in 1853: "The presence of a library gives the people a still better opinion of me. Some who have entered my office have started in surprise at the vast number of books — (29) (litterary [sic] 27.)" [Maxwell Bloomfield, "The Texas Bar in the Nineteenth Century," (1979) 32 Vanderbilt L. Rev. at 272].

which he had consulted during his tenure as an articled clerk, and that he was an attentive reader of those texts which he did acquire.

1. *Articling days*

While articling, Young recorded his progress in reading the law. He began reading the most influential English common law text, Blackstone's *Commentaries*, in July of 1820, even before the term of his articles had commenced.⁵⁵ By March of 1821, Young had read some portions of Blackstone three times.⁵⁶ He also recorded his progress in reading such other prominent legal authors as Coke, Tidd, and Montesquieu, copies of whose works had been made part of Young's personal law library by 1835.⁵⁷

Further evidence of Young's familiarity with the texts he owned is to be found in the legal dictionary he prepared during the course of his articles. Commenced in February 1821, Young's handwritten legal dictionary was modelled on an agricultural dictionary which John Young had prepared.⁵⁸ William Young's legal dictionary took the form of defined legal terms, arranged in alphabetical order, with citations to the sources of the definitions used.⁵⁹ On occasion, Young added commentary

55. MG 2, vol. 731, Journal of William Young, entry for 23 July 1820. William Blackstone, *Commentaries on the Laws of England*, 4 vols. (Oxford: Clarendon Press, 1765-1769) was seen as essential reading for 19th century common law lawyers, in order to gain an appreciation of the basic principles of English law, and in particular, of constitutional law. See, for example, Beamish Murdoch, "An Essay on the Origin and Sources of the Law of Nova Scotia," in Peter Waite, Sandra Oxner, Thomas Barnes, eds., *Law in a Colonial Society: the Nova Scotia Experience* (Toronto: Carswell, 1984) at 192.

56. MG 2, vol. 731, Journal of William Young, entry for 31 March 1821. Young was so devoted to Blackstone's text that he did not allow the onset of seasickness, during a trip to Quebec City, to interfere with his reading; *ibid.*, entry for 27 August 1820.

57. J.H. Thomas, *A Systematic Arrangement of Lord Coke's First Institute of the Laws of England* (Philadelphia: Robert H. Small, 1827); William Tidd, *Practice of the Court of King's Bench in Personal Actions and Ejectment* (London, 1790-1794); Charles de Secondat, Baron de Montesquieu, *The Spirit of Laws* (London: J. Nourse & P. Vaillant, 1750).

58. MG 2, vol. 731, Journal of William Young, entry for 4 February 1821. Similarly, John G. Marshall, another 19th century Nova Scotian lawyer, occupied himself in spare moments during the course of his legal articles by transcribing summaries of English cases. See John G. Marshall, *Personal Narratives: with Reflections and Remarks* (Halifax: T. Chamberlain, 1866) [hereinafter Marshall, *Personal Narratives*] at 34.

59. For example, Young included a definition of the term "evidence," which he obtained from a standard source, S. March Phillipps, *Law of Evidence*, 5th ed. (London: J. Butterworth & Son, 1822): see MG 2, vol. 766, William Young, Volume of Notes on Legal Matters, 1821, at 333, as well as a note in pencil on the back inside cover. From certain differences in layout and writing materials, it seems that Young continued to add entries to the dictionary after 1821.

relating to the reputation of a cited text. In the section on wills, for instance, he copied a remark from *Roberts on Wills*,⁶⁰ in relation to a series of court reports, that “[t]he cases in Ambler seem to be a very careless compilation.”⁶¹ Placing particular reliance on Blackstone’s *Commentaries*, Young referred to more than 50 texts in compiling his work, most of which were part of his collection in 1835. In like manner, Young found the time during his articles to create an index to the provincial statutes, by compiling an alphabetical list of key terms. Each entry provided the statutory volume number, page number, regnal year, chapter number, and a summary of relevant provisions.⁶² Copies of the Nova Scotian statutes were added to William Young’s collection by 1835.

Part of the bar admission process involved justifying how an articulated clerk spent his time. Young was required to describe under oath the nature of his legal education. A copy of a draft oath pertaining to Young’s articles, dated December, 1823, but not signed, has survived. In that document, Young attested that since August of 1823, he had “carefully” read all of *Abbott on Shipping* and *Disney on Elections*, almost all of *Buller’s Nisi Prius* and *Phillipps on Evidence*, and parts of *Park on Insurance*.⁶³ By 1835, copies of all these texts, the Phillipps book excepted, had been acquired by Young.

It is not known where Young obtained the majority of texts relied upon during the course of his articles. In 1826, after Young had been an attorney for a year, his collection contained 73 volumes. By 1835, the collection had expanded to 595 volumes. To compile the wide range of references included in his dictionary, Young must have enjoyed access, whether through loans or reading privileges, to a large number of books which he did not own. One would expect that until 1823 and Young’s difficulties with his one of his articling principals, the Fairbanks brothers constituted one such source. Indeed, a surviving list identifies three books returned to the Fairbanks brothers in 1823.⁶⁴ In the 19th century, a major

60. William Roberts, *A Treatise upon Wills and Codicils* (London, 1809).

61. MG 2, vol. 766, William Young, Volume of Notes on Legal Matters, 1821, at 334.

62. MG 2, vol. 766. As an example of Young’s approach, see his entry for “thistle,” a topic of some familiarity to Scots, at p. 208.

63. MG 2, vol. 731, #99, copy of oath, 23 December 1823. The texts referred to were John Disney, *A Collection of Acts of Parliament, relative to County and Borough Elections* . . . (London, 1811); Francis Buller, *An Introduction to the Law relative to Trials at Nisi Prius* (London, 1768); Phillipps, *Law of Evidence*, 5th ed., *supra* note 59; and James Allan Park, *A System of the Law of Marine Insurances* (London, 1787).

64. MG 2, vol. 731, #94, copy of account, William Young to C. & S. Fairbanks, 23 November 1823.

reason for choosing to article with a particular lawyer was to have access to his law library. For example, John George Marshall, who joined the Nova Scotian bar early in the 19th century, relied upon “the library of the gentleman with whom [he] was studying” for legal resources.⁶⁵ Young would most likely also have examined texts at the Halifax Law Library, which in 1832 was described by Halifax lawyer Beamish Murdoch as offering “a store of legal reading, almost unlimited.”⁶⁶

2. *Citation of legal works*

Additional evidence of Young’s familiarity with texts may be found through his citation of legal materials in court. One limitation to this approach, however, is that the reporting of Nova Scotian court decisions only began in the 1830s, and coverage was limited.⁶⁷ Where a case was reported, the names of legal counsel were not necessarily mentioned, nor were their arguments and supporting textual references always identified. Unreported decisions tended to be mere summaries, which identified only the parties, the type of action involved, and the result. The evidence relevant to Young’s use of his law books is all post-1835. Nonetheless, it is still significant, as it indicates that Young was familiar with particular titles, many of which formed part of his library in 1835. For example, Young appeared as one of the lawyers in the 1853 case of *Ring v. Brenan*.⁶⁸ This involved the nature of replevin, the right of a legitimate owner of goods to claim them from the hands of a party with no lawful title. In support of his client’s position, Young cited 13 case report titles, three treatises, and a volume of the New York statutes.⁶⁹ Of those 17 titles, Young possessed copies of six in 1835. Of the remaining 11, however, seven had not yet been published in 1835 and would not have been available then to Young.

3. *Marginalia*

It may be argued that Young, rather than reading his own texts to extract the legal principles he required, could simply have copied the citations from a legal digest. It is also possible that Young derived the principles

65. Marshall, *Personal Narratives*, *supra* note 58 at 34.

66. *Epitome*, vol. I, *supra* note 17 at 10.

67. The first volume of Nova Scotia court reports, which spanned the years 1834 to 1851, was published in 1853: see Jennifer Nedelsky & Dorothy Long, *Law Reporting in the Maritime Provinces: History and Development* (N.p.: Canadian Law Information Council, 1981) at 31-32.

68. (1853), 2 N.S.R. 20.

69. *Ibid.* at 21-24.

he cited from texts which did not actually belong to him, such as the collection at the Halifax Law Library. At most, therefore, the evidence presented thus far might only indicate that Young was familiar with some of the titles which were included in his collection. It does not help to reveal whether Young actually used his own texts. For this purpose, an examination of Young's former law books would be helpful. Fortunately, a number of Young's former texts are part of the collection of the Sir James Dunn Law Library at Dalhousie Law School. Reference to these texts suggests that not only did Young tend to write his name on the title pages of his law books, but also that he frequently added notations to the margins, fly-leaves, and inside covers.⁷⁰ This practice, in addition to the evidence of Young's assiduous reading and note-taking during the course of his legal articles, runs counter to the comments of certain writers who have doubted the extent of Young's legal knowledge. Lawyer and judge Benjamin Russell, who observed Young during the latter's years as a Supreme Court justice, commented, "[i]t was the fashion of the Bar that practised in his court . . . to speak slightly of his legal knowledge and judicial work . . ."⁷¹ Young's legal learning, Russell suggested, "was not as profound and thorough as it would have been, had he begun earlier in life . . ."⁷² Russell, however, may not have been the most objective of observers. He made light of Young's short stature and Scottish accent, and he may also have felt some animus towards Young, who on one occasion had joined other Supreme Court justices in publicly censuring Russell for the publication of a newspaper article critical of the court.⁷³ Russell's comments about Young's lack of legal knowledge are similar to earlier published remarks of lawyer and amateur historian J.L. MacDougall, who stated that though Young was "well versed in the principles of the Common Law," his "knowledge of the fundamental

70. In his early years at the bar, he tended to sign his texts with "William Young," written in an elaborate, Gothic style. He came to prefer "W. Young," and "Wm Young," as well as on occasion, "Wm Young's," written in a less ostentatious manner. I have located 22 titles which once belonged to Young. As there are no acquisition records for Young's former texts, titles have to be investigated on an individual basis. I was granted only limited access to the Sir James Dunn Law Library's rare books collection, where I expect that many more former Young texts remain to be examined. Both Karen E.M. Smith, Head of Special Collections at Dalhousie University's Killam Library, and Margaret Murphy, Nova Scotia Legislative Librarian, kindly informed me that they are not aware of any former William Young texts forming part of their respective collections.

71. B. Russell, "Reminiscences of the Nova Scotia Judiciary" (1925-26) 5 *Dalhousie Rev.* at 504.

72. *Ibid.* at 504.

73. *Ibid.* at 500, 502-504; *Autobiography of Benjamin Russell* (Halifax: Royal Print & Litho, 1932) at 112-116.

principles and the practice of the Courts of Equity was not very extensive, nor profound.”⁷⁴ The historian J. Murray Beck, who has written the leading account of Young’s life and career, relied upon Russell’s appraisal and deemed Young “not highly learned in the law.”⁷⁵

Contrary to the impression which may be left by the comments of Russell, MacDougall, and Beck, Young’s notations suggest that he was a careful reader of legal texts. Young added cross- references to other sections within an individual text and to related books,⁷⁶ and sometimes wrote key words or summaries in the margins.⁷⁷ He also made comments on textual peculiarities. For example, he added a note to his copy of Coke’s *First Institute*, as a reminder that the numbers contained in the index pertained to the marginal pagination scheme from the original folio edition, and not to the page numbers printed in upper corners of Young’s annotated edition.⁷⁸ Of particular importance, to avoid professional failure and embarrassment, was to note any relevant changes to the law. Young duly wrote in his text on the law of customs that provisions relating to the rights of the mortgagees of ships had changed.⁷⁹ It appears that if he felt a text lacked a proper example to illustrate a principle being discussed, then he tended to supply it.⁸⁰ Perhaps to be able to impress judges with the authority of a particular source cited in court, he also copied extracts from reviews into some texts. For instance, on the flyleaf of volume 1 of his Comyns’ *Digest*, he transcribed the comment, from Maule and Selwyn’s case reports, that “Lord Ellenborough called Comyn’s Digest a book of very excellent authority.”⁸¹ Many of William Young’s

74. J.L. MacDougall, *History of Inverness County* (N.p.: Strathlorne, 1922) at 90-91.

75. Beck, *supra* note 9 at 944.

76. For a reference to another page within the same text, see Young’s former copy of J.D. Hume, *The Laws of the Customs* (London: B. Fellowes, 1833) at 54. Young’s former copy of Charles Petersdorff, *A Practical Treatise on the Law of Bail* (London: J. Butterworth & Son, 1824) at 167 includes a notation referring to another source.

77. For instance, at page 54 of his copy of Hume, *ibid.*, Young wrote the word “Execution” beside a section which mentioned the non-capital execution process, the seizure and sale of a ship for payment of a debt in compliance with the law.

78. J.H. Thomas, *A Systematic Arrangement of Lord Coke’s First Institute of the Laws of England*, vol. III (Philadelphia: Robert H. Small, 1827). See also Young’s former copy of Charles Blake Allnatt, *A Practical Treatise on the Law of Partition* (London: J. Butterworth & Son, 1820), in which Young corrected a typographical error which had rendered unclear an example on the laws of inheritance.

79. See page 237 of Young’s copy of Hume, *supra*, note 76.

80. Copy of Petersdorff, *supra* note 76 at 30.

81. John Comyns, *A Digest of the Laws of England*, 5th ed., vol. 1 (London: J. Butterworth & Son, 1822). Other 19th century British North American lawyers similarly annotated their personal copies of legal texts. See G. Blaine Baker, “The Reconstitution of Upper Canadian Legal Thought in the Late-Victorian Empire” (1985) 3 Law & Hist. Rev. [hereinafter Baker, “Reconstitution”] at 289; “Bibliographical Reconstruction of Canadian Legal Culture: Quebec, 1760-1890” Bibliographical Soc. Can. Bull. 25 (November 1985) at 14.

texts also contain notes written by his brother George, who seems to have annotated law books for similar reasons.⁸²

4. *Use by legal contemporaries*

If Young's personal law library was composed of books unfamiliar to his legal contemporaries, then his catalogue would be but a curiosity. If, however, the titles in Young's collection were used or recommended by his professional colleagues, this would tend to affirm the merit of Young's selections, and it does indeed appear that Young's collection included many of the legal texts seen as essential by other lawyers in the early 19th century Maritimes.

In 1832 Young's professional contemporary and friend Beamish Murdoch published the first volume of his *Epitome*.⁸³ This four-volume work, modelled on Blackstone's *Commentaries*, as well as on Kent's *Commentaries on American Law*,⁸⁴ was meant not only to provide the essentials of Nova Scotian law, but also to contextualize the body of law which applied in the province.⁸⁵ Murdoch wished to show that Nova Scotian law, though it reflected English and American legal influences, also possessed unique attributes. Murdoch proposed a course of study, composed of 22 titles, for young lawyers.⁸⁶ Of these 22 works, 20 are

82. See, for example, the copy of Henry Roscoe, *A Treatise on the Law of Actions Relating to Real Property*, vol. II (London: J. Butterworth & Son, 1825), in the general collection of the Sir James Dunn Law Library. Like William, George Young added references to other parts of an individual text, as well as to other law books (copy of Roscoe at 582 and copy of Petersdorff, *supra* note 76 at 336). George's notes served to summarize or draw attention to particular sections of text (Roscoe copy at 459). George also noted textual peculiarities. For instance, in one text, he noted that the same sentence had appeared twice within the span of 2 pages: see page 34 of the copy of Basil Montagu, *A Summary of the Law of Set-Off* (London: J. Butterworth & Son, 1828), at the Sir James Dunn Law Library. Where he felt it appropriate, George also expressed doubt in the correctness of principles set forth in a text (copy of Roscoe at 443). He included reminders to himself that certain cases should be read (Roscoe copy at 659), recorded the number of times he read certain passages (Roscoe copy at 481), and on occasion, made simple diagrams to help understand certain legal principles (Roscoe copy at 362).

83. Beamish Murdoch, *Epitome of the Laws of Nova-Scotia* (Halifax: Joseph Howe, 1832).

84. James Kent, *Commentaries on American Law*, 4 vols. (New York, 1826-1830).

85. For an analysis of the *Epitome* and its significance in Canadian legal literature, see Philip Girard, "Themes and Variations in Early Canadian Legal Culture: Beamish Murdoch and his *Epitome of the Laws of Nova-Scotia*" (1993) 11 Law & Hist. Rev. 11 (1993): 101-144 [hereinafter Girard, "Themes"]. The most comprehensive account of Murdoch's life and career is also by Philip Girard: "Patriot Jurist: Beamish Murdoch of Halifax, 1800-1876" (Ph.D. diss., Dalhousie University, 1998).

86. *Epitome*, vol. 1, *supra* note 17 at 13-14.

listed in Young's catalogue. Although Murdoch's use of inconsistent citations is confusing, references to some 200 titles, including works on English law, American law, and European civil law, can be identified in the *Epitome*. Young owned more than 50% of all titles cited by Murdoch, as well as almost all of the titles cited most frequently.

Three years prior to the appearance of the *Epitome*, Thomas C. Haliburton, a lawyer and judge from Annapolis Royal, published *An Historical and Statistical Account of Nova Scotia*.⁸⁷ Haliburton mentioned five legal texts, mostly in the context of constitutional law,⁸⁸ four of which were included in Young's catalogue. One of these titles, the vice-admiralty decisions compiled by Nova Scotian solicitor general James Stewart,⁸⁹ a text which Haliburton described as "very ably reported,"⁹⁰ did not form part of the Halifax Law Library's collection in 1835.⁹¹

That Young possessed texts considered essential to early 19th century lawyers in the Maritimes is borne out by contemporary accounts of legal education. In 1797, for example, Nova Scotia's attorney general Richard J. Uniacke advised George Pyke, a former articling clerk who had moved to New Brunswick, to read "Burrows, Douglas, Cowpers, Blackstones & Wilsons Reports together with the Term Reports to the present time"⁹² All of these standard English law reports were in Young's collection in 1835. When Ward Chipman, Jr., began his articles in Saint John in 1805, he had been recommended general legal texts, as well as works in natural law and public international law by the authors Burlamaqui, Ward, Grotius, Pufendorf, Vattel, and Martens.⁹³ With the exception of Ward, these writers represented the civilian, or Roman-based, legal tradition which prevailed in continental Europe. Apart from

87. 2 vols. (Halifax: Joseph Howe, 1829) [hereinafter Haliburton].

88. *Ibid.*, vol. II at 314, 317, 334, 340-341, 345.

89. James Stewart, *Reports, Court of Vice-Admiralty at Halifax, Nova-Scotia, 1803-1813, in the time of Alexander Croke* (London: J. Butterworth & Son, 1814).

90. Haliburton, *supra* note 87 at vol. II at 340-341.

91. *Catalogue of Books in the Law Library at Halifax, Michaelmas Term, 1835* (Halifax: J.S. Cunnabell, n.d.) [available at N.S.A.R.M., V/F v. 12 #15].

92. Bell, "Advice" *supra* note 6 at 140. Pyke served as the attorney-general of Lower Canada, from 1812 to 1814, and from 1818 to 1842, as a Court of King's Bench judge for the district of Montreal; Allan E. Marble, *Nova Scotians at Home and Abroad* (Hantsport, N.S.: Lancelot Press, 1989) at 334.

93. D.G. Bell, "Paths to the Law in the Maritimes, 1810-1825: The Bliss Brothers and Their Circle" (1988) 8 *Nova Scotia Historical Review* 8 (1988) at 15-16. Chipman served as chief justice in New Brunswick from 1834 to 1851; W. Stewart Wallace, *The Macmillan Dictionary of Canadian Biography* (Toronto: Macmillan, 1978), at 153.

the Martens book, Young possessed copies of all these texts. Of the eight texts specifically recommended to Henry Bliss, who commenced his articles in Fredericton in 1817, Young owned six.⁹⁴ Young also owned copies of the three texts which Oliver Goldsmith had been directed to read during the course of his articles, which he began at the age of 13, but did not successfully complete, in early 19th century Halifax.⁹⁵

Another guide to evaluating Young's collection can be provided by reference to the texts cited by contemporary judges. As indicated earlier, published reports of Nova Scotian cases from the 1830s are few. Moreover, in the unreported decisions which survive, published legal authorities are not mentioned. Nonetheless, it appears from the contemporary reported decisions which do exist that Young's collection would have enabled him to support his arguments in court with references to acknowledged legal authorities. For example, the reported decision in *Grant v. Protection Insurance Company*, an 1835 case,⁹⁶ involved an appeal of the trial decision to deny the plaintiff a non-suit, namely judgment against the plaintiff for not having appeared in court on the required day. The two justices hearing the appeal cited 15 titles in support of their decision, of which Young possessed eleven.

It appears that Young's library selections would not only have been recognized, but also endorsed by his legal contemporaries. Many of the titles in Young's library were used or recommended by legal writers, articulated clerks and their principals, as well as judges in the early 19th century Maritimes. This suggests a certain similarity in the acquisition and use of legal texts among members of the bar, despite the lack of a local law school to provide a common grounding in the law. Although reliant for the most part on English law texts, Young and indeed some of his contemporaries were also willing to consult American and civil law resources. Whether Young believed that English law was not always suitable, given the uniqueness of conditions in North America, whether he considered civil law to adopt a more rationale approach to certain

94. Bell, *ibid.* at 16. Bliss joined the English bar and served for many years in London as the agent for New Brunswick [Stewart, *ibid.* at 74].

95. Bell, *ibid.* at 14. Goldsmith became a civil servant and poet [Stewart, *ibid.* at 302]. Further afield, in 1832, Allan McDonald of Hamilton, as part of preparations for admission to the bar of Upper Canada, had read "Blackstone, Selwyn, Phillipp [sic], Joseph Chitty's *Treatise on Pleading*, and William Tidd's *Practice of the Court of King's Bench and Common Pleas*." See G. Blaine Baker, "Legal Education in Upper Canada 1785-1889: The Law Society as Educator," in David H. Flaherty, ed., *Essays in the History of Canadian Law*, vol. II (Toronto: The Osgoode Society, 1983) at 114. In 1835, Young listed in his catalogue all of the works cited by McDonald.

96. (1835), 1 N.S.R. 12.

situations, or whether he was simply intellectually curious, is not known.⁹⁷ It is nonetheless noteworthy that Young, though British-born and residing in a small British North American colony of some 125 000 people,⁹⁸ did not entirely depend on the mother country as his source for non-local legal literature.

V. Contextualizing Young's personal law library

Other lawyers in the pre-Confederation Maritimes were reading, or at least recommending, many of the same titles found in Young's collection. Actual ownership of texts, however, is different from their use. To be introduced to a text in the office of one's principal, during the course of legal apprenticeship, does not mean that an articulated clerk will then acquire a copy of the text for consultation during the course of a career in practice. Rather than purchasing texts, other lawyers may also have preferred to rely on copies in the local bar library. How representative, therefore, was Young in the ownership of his personal law library, in terms of its size and individual titles?⁹⁹ The small number of surviving or at least discovered records pertaining to personal law libraries means that with one exception, one must venture beyond the Maritimes to answer this question.

In the first third of the 19th century, Attorney-General Richard J. Uniacke, doyen of the Nova Scotian bar, enjoyed the province's largest law practice.¹⁰⁰ At the time of his death in 1830, Uniacke had accumulated a personal library of some 500 titles in 1000 volumes.¹⁰¹ Law book

97. Other writers have commented on the receptiveness to foreign legal materials of certain early 19th century British North American lawyers. G. Blaine Baker discerned a "legal pantheism" apparent in the holdings of private law libraries in Ontario of the 1840s. [see Baker, "Reconstruction," *supra* note 81, esp. at 234-239], and Philip Girard described as "indigenist" those members of the 19th century British North American bar who largely deferred to British models of law, but who were also amenable to American and civilian approaches; Girard, "Themes," *supra* note 85 at 137.

98. Girard, *ibid.* at 115.

99. My efforts to locate details on the nature of early 19th century personal law libraries included circulating a query amongst the 900 members of the SHARP-L electronic discussion forum, which is maintained by the Society for the History of Authorship, Reading & Publishing.

100. Cuthbertson, *Attorney General*, *supra* note 23 at 33.

101. MG 1, vol. 1769, #42b, Catalogue of Books belonging to the Estate of the late Hon. R.J. Uniacke . . . , n.d. The catalogue was prepared for a sale by auction of Uniacke's texts. It seems, however, that Uniacke's collection was larger than represented by the catalogue. During the 1950s, a librarian assigned the task of cataloguing items in the library at Uniacke House, Uniacke's former residence, now maintained by the province of Nova Scotia as a heritage property, reported the existence of many law books published prior to Uniacke's death and bearing his nameplate. See Shirley Elliott, "The Library of Richard John Uniacke, Attorney General of Nova Scotia, 1753-1830" *Maritime Library Association Bulletin* 21 (Winter, 1957) at 26-27.

ownership in the southern part of Indiana for the first half of the 19th century has been examined by Michael H. Harris, who located records relating to personal law libraries which ranged in size from 12 legal titles in 18 volumes to 95 legal titles in 129 volumes.¹⁰² Another study, by Elizabeth Gaspar Brown, considered the personal ownership of law books in 19th century Wayne County, for which Detroit, Michigan was, and remains, the county seat. Brown mentioned the case of Elijah Brush, a practising attorney, who died in 1813. The inventory for Brush's estate listed 113 volumes of law books.¹⁰³ Halifax was settled by Europeans in 1749, while both Indiana and Wayne County in the early 19th century were on the American frontier. An area with an even longer history of European settlement was Louisiana. Elizabeth Gaspard studied estate inventories for four 19th century Louisiana lawyers, whose personal libraries were comprised of some 160, 700, 1000, and 1500 volumes respectively.¹⁰⁴ Closer to Nova Scotia, Pierre-Amable de Bonne, a Quebec lawyer, judge, and legislative representative, at the time of his death in 1816 possessed a library of 250 titles, of which not quite one-third pertained to law or government, in addition to titles on philosophy, medicine, literature, and history.¹⁰⁵ Further on in the 19th century, the catalogue published in 1852 of the law books of J.A. Tailhades, a Montreal lawyer, contained 246 titles.¹⁰⁶ The next year, in 1853, at the time of his death, Chief Justice James Stuart, who owned the largest personal library in pre-Confederation Quebec, possessed 1661 titles in 3657 volumes pertaining to the law.¹⁰⁷

102. Michael H. Harris, "The Frontier Lawyer's Library: Southern Indiana, 1800-1850, as a Test Case," [hereinafter Harris] in Dennis R. Nolan, ed., *Readings in the History of the American Legal Profession* (Indianapolis: Bobbs-Merrill, 1980) 123.

103. Elizabeth Gaspar Brown, "Frontier Justice: Wayne County 1796-1836," [hereinafter Brown] in Wythe Holt, ed., *Essays in Nineteenth-Century American Legal History* (Westport, Conn.: Greenwood Press, 1976) at 688, n. 45.

104. Elizabeth Gaspard, "The Rise of the Louisiana Bar: The Early Period, 1813-1839" (1987) 28 *Louisiana History* 183 [hereinafter Gaspard]. The latter two figures in Gaspard's study were increased, by the inclusion of non-legal texts in the inventories: see Mitchell Franklin, "Libraries of Edward Livingston and of Moreau Lislet" (1941) 15 *Tulane Law Review* 401.

105. "La Bibliothèque du Juge de Bonne" (1936) 42 *Bulletin des recherches historiques* 136. William Dickson, a lawyer in Upper Canada, claimed to have lost during the War of 1812 a collection of legal, historical, and miscellaneous works which totalled more than 1000 volumes [Baker, "Reconstitution," *supra* note 81 at 228-229].

106. *Catalogue of the Law and Classical Library of the Late J.A. Tailhades, Esq., Advocate* (Montreal: John Lovell, 1852) [mf].

107. Christine Veilleux, "La bibliothèque du juge en chef James Stuart, 1853," in Yvan Lamonde and Gilles Gallichan, eds., *L'histoire de la culture et de l'imprimé* (Sainte-Foy, Que.: Les Presses de L'Université Laval, 1996) at 186.

In terms of its size, 297 titles in some 595 volumes, Young's legal collection would occupy a respectable position in comparison to the libraries mentioned above. It should not be overlooked, however, that Young's catalogue was compiled when he had been a full member of the bar for only some 9 years. He continued to collect law books throughout his life, and his collection expanded by many hundreds of volumes. The statistics mentioned in the previous paragraph pertain to the contents of estate inventories or auction catalogues prepared after the death of a library's owner. While information about the longevity of the lawyers in question is not always included, one would expect that their estate inventories, which itemize the accumulated property of a lifetime, generally represent many years of collection efforts. To use de Bonne as an example, his collection was the result of 36 years' work in law and government.

How representative were Young's holdings in terms of individual titles? Not surprisingly, statutes, case reports, and treatises relating to English law comprised the largest segment of Richard J. Uniacke's legal collection. Uniacke collected foreign materials, such as Massachusetts, New Jersey, and Irish statutes, as well as texts relating to the civil law. Literary, historical, geographical, and miscellaneous texts also formed part of his collection. A lack of bibliographical detail in the inventory of Uniacke's collection, as well as damage to the inventory's only surviving copy, means that not all of Uniacke's texts can be identified.¹⁰⁸ Nonetheless, sufficient information can be derived from Uniacke's inventory with which to make a comparison to Young's catalogue. In 1835, at least 44% of the case report titles in Young's collection had also been owned by Uniacke. About one-third of the other legal titles in Young's library were also shared in common with Uniacke.

Similar to early 19th century Nova Scotian lawyers, American lawyers of the period relied extensively on books written in England on English law. During the first third of the 19th century, there were still relatively few books pertaining to American law. Many of the small number which were published were merely guidebooks for town officers and minor officials.¹⁰⁹ This is illustrated by the 1814 sale by auction of the law collection which had belonged to Theophilus Parsons, former Chief Justice of Massachusetts. Out of 282 titles in the collection, only 12 were American.¹¹⁰ American lawyers were therefore compelled to rely for the most

108. Torn from the surviving copy at N.S.A.R.M. appears to be a section which contained references relating to texts on legal practice and procedure.

109. Charles Warren, *A History of the American Bar* (New York: Howard Fertig, 1966) at 337.

110. *Ibid.* at 338.

part on English law texts.¹¹¹ As is apparent from his catalogue, many of these texts would have been familiar to Young.

In his study of the Massachusetts bar for the years 1760 to 1840, Gerald W. Gawalt concluded that the average lawyer usually owned and mastered seven specific texts, all of which were written in England.¹¹² Young possessed copies of five of these titles. Of the five most popular texts in eight personal Indiana law libraries in the period 1800 to 1850,¹¹³ Young possessed four. Fifty titles of case reports, 31 British and 19 American, have been identified as existing in Wayne County, in what is now Michigan, during the period 1796 to 1836.¹¹⁴ Young possessed 23 of these titles, which represents 48% of the total and 77% of the British titles. Of the 144 treatise titles identified in Wayne County for the same period,¹¹⁵ Young possessed 49, or 34% of the total. When purely American titles are excluded, Young's holdings then rise to 60% of the treatise titles identified.

In early 19th century Massachusetts, Indiana, and Michigan, as well as in Nova Scotia, the prevailing law was largely English in origin. This was not the case for Louisiana, which did not begin to receive Anglo-American principles of law until its purchase by the United States in 1803.¹¹⁶ Prior thereto, the Roman-based civil law of continental Europe, primarily French, but also with some Spanish influences, applied.¹¹⁷ This is reflected in the contents of surviving inventories of 19th century Louisiana personal law libraries, which reveal a strong civil law influence. Although not all of the titles in the two largest Louisiana law libraries studied by Gaspard can be definitively identified, it is clear that

111. For the dependence on English law texts by American lawyers in the first half of the 19th century, see Harris, *supra* note 102 at 129; Brown, *supra* note 103 at 701; and Anton-Hermann Chroust, *The Rise of the Legal Profession in America*, vol. II (Norman: University of Oklahoma Press, 1965) at 78.

112. Gerald W. Gawalt, *The Promise of Power* (Westport, Conn.: Greenwood Press, 1979) at 133: "The average lawyer usually owned and mastered to some degree these basic works: Sir Edward Coke, *Commentaries on Littleton's Tenures* (1628); Sir John Comyns, *A Digest of the Laws of England* (1762-1767); Timothy Cunningham, *A New and Complete Law Dictionary* (1764-1765); Matthew Bacon, *New Abridgement of the Law*, 5 vols. (1736-1766); William Hawkins, *A Treatise of the Pleas of the Crown* (1762); Sir William Blackstone, *Commentaries on the Laws of England*, 4 vols. (1765-1767); John Lilly, *The Practical Register* (1734)."

113. Harris, *supra* note 102 at 129.

114. Brown, *supra* note 103 at 689-690.

115. *Ibid.* at 694-695.

116. Gaspard, *supra* note 104 at 184.

117. Joseph W. McKnight, "Law Books on the Hispanic Frontier," (1988) 27 *Journal of the West* 79.

Young owned about one-fifth of the legal titles in the library accumulated by Edward Livingston, a New Orleans attorney, and less than one-tenth of the legal titles in the library of Louis Moreau Lislet, another New Orleans lawyer. In 19th century Quebec, as in Louisiana, the origins of the personal law system were found in the civil law of continental Europe.¹¹⁸ Here too, the percentage of titles in the de Bonne and Tailhades libraries also owned by Young is much lower than the relevant figures for libraries studied from jurisdictions where Anglo-American principles of law predominated. Young seems to have owned only five titles of the 250 total titles in the de Bonne collection, as well as some 7% of the total legal titles in the Tailhades library.

Given the relatively small number of case studies with which to compare Young's collection, as well as regional distinctions shaped by history, geography, and economic conditions, conclusions about the representativeness of Young's collection must remain tentative. Differences are most evident when Young's catalogue is compared to the inventories of a number of private law libraries from 19th century Quebec and Louisiana, where Anglo-American principles did not exert the same influence. When one compares Young with other lawyers of the Anglo-American legal tradition during the first third of the 19th century, they clearly share a dependence on English law books. During this period when both British North America and the United States produced relatively few legal texts, their legal cultures of necessity relied on publications from England, and to a lesser extent from the continent of Europe, to satisfy their need for analysis of the current law and for models of law reform. This would change over the course of the 19th century, as a torrent of U.S. legal treatises made Americans less receptive to "foreign" legal texts, while Canadians still tended to rely on commentaries produced outside the country.¹¹⁹

Conclusion

In his study of early Canadian legal culture, legal historian Philip Girard, envisaging a typical articulated clerk or attorney in 19th century British North America, inquired about the possession and use of particular law books:¹²⁰

118. By the *Quebec Act* of 1774, the British Parliament determined that French civil law would continue to govern private law matters in Quebec, while criminal matters would be decided in accordance with English common law: see M.H. Ogilvie, *Historical Introduction to Legal Studies* (Toronto: Carswell, 1982) at 358-359.

119. Baker, "Reconstitution," *supra* note 81 at 252-53 and Girard, "Themes," *supra* note 85 at 142-43.

120. Girard, "Themes," *supra* note 85 at 140.

[I]magine a colonial law student or lawyer fortunate enough to have copies of Blackstone's *Commentaries*, Kent's *Commentaries*, Murdoch's *Epitome*, Hoffman's *Course of Legal Study*, and Browne's *Civil and Admiralty Law*. Which of these will be consulted frequently, and which will sit on the shelf?

William Young, who in 1835 owned four of the five texts identified above,¹²¹ is a real-life embodiment of the legal reader imagined by Dr. Girard. Without being able to observe or question Young, one cannot provide definitive answers to Dr. Girard's questions. Nonetheless, William Young's 1835 catalogue, when supplemented by reference to his contemporary correspondence, business records, and texts he once owned, reveals significant details about the acquisition and use of legal texts in Nova Scotia in the first third of the 19th century.

As Young's case demonstrates, to assemble a personal library which encompassed the important areas of practice required imagination and initiative. Young supplemented what bookstores were at hand in Halifax by taking advantage of family and personal contacts, as well as travel opportunities. He also dealt directly with some booksellers by mail. A personal law library could not be accumulated without significant investment. Young's total recorded cost of some £407 in 1835 represented what fellow Halifax attorney Beamish Murdoch at the same time could earn in a year and a half, despite some 13 years' experience at the bar.¹²²

The soundness of Young's selections is affirmed by surviving evidence about the professional reading choices, both recommended and actual, of other lawyers in the pre-Confederation Maritimes. Further afield, many of Young's texts would also have been found in other personal law libraries in early 19th century Massachusetts, Michigan, and Indiana, the result of a shared legal heritage in the common law of England and relative paucity of legal authorship in the United States. The civil law of continental Europe, which was reflected in 19th century Quebec and Louisiana personal law libraries, featured less prominently in Young's library. Nonetheless, as reflected in his purchases of texts such as Arthur Browne's *A Compendious View of the Civil Law*,¹²³ Young seemed to have found civil law texts worthy of his money and time. In terms of size, Young's collection compares favourably to other

121. Young's catalogue did not include David Hoffman's *Course of Legal Study* (Baltimore, 1817).

122. Girard, "Colonial Lawyer," *supra* note 22 at 81.

123. 2nd ed. (London: J. Butterworth, 1802).

early 19th century North American personal law libraries for which records have survived.

In addition to the details it provides, Young's catalogue also raises a number of questions, the answers for which are beyond the scope of this case study, about the relationship of his legal contemporaries to law texts. We do not know, for instance, what proportion of Nova Scotian lawyers possessed a personal law library of any note. In terms of initiative and ingenuity in acquiring texts, was Young unique, or did his colleagues engage in similar efforts to ensure that their collections contained the best law books? Were those lawyers fortunate enough to possess personal law libraries willing to lend their texts to other members of the bar? How did lawyers who did not enjoy either sufficient funds for book purchases or ready access to the Halifax Law Library stay informed about changes to the law? Did they and certain colleagues, for instance, pool funds with which to buy texts that were then shared? Further research will hopefully locate additional archival material which can be used to answer such questions, thereby enhancing our understanding of the acquisition and use of legal texts in early 19th century Nova Scotia.

Maintaining a successful law practice, in the 19th century as well as today, involves more than the capacity to speak well in court or the ability to secure the business of new clients. Simply put, a lawyer must know the law. This is necessary, for instance, to buttress an argument with the authority of respected case decisions, to provide a reasoned opinion on the validity of a client's claim, or to properly draft pleadings and other documents. As an individual lawyer cannot be expected to retain all relevant details of the law, both statutory and judge-made, legal knowledge therefore depends to a great extent on access to legal resources. In the 19th century, legal resources were synonymous with legal texts. The necessity of access to authoritative legal resources is something which William Young, who was willing to invest considerable time, energy, and money in building a legal collection, evidently understood. Surviving evidence suggests that once acquired, Young's texts did not merely rest on a shelf, to inspire awe in clients and colleagues, but were attentively read. This close attention to legal texts is not what one would expect of a person whose legal knowledge ostensibly "lacked profundity."¹²⁴ As Young's collection of law books was essential to his professional success and the generation of what became a considerable fortune, it seems that he had indeed found a way, as he had imagined when still a teenager, to combine the two potentially incompatible roles of "Literary Man & merchant."

124. Beck, *supra* note 9 at 948.

