

# Legal Aid a reality : students eligible too

By MAURICE GAUTHIER

As of new year's day, no New Brunswicker will be obliged to appear in a provincial court without the benefit of legal assistance. This right, proclaimed by the new Legal Aid Act, is designed to provide all

provincial residents with an "equal right to justice" and was initiated through the co-operation of the provincial government with the assistance of the Barristers' Society.

If and when a resident of New Brunswick finds himself in a jail or lock-up, charged

with a criminal or quasi-criminal offense, he must appear before a provincial court judge. Under this new system, patterned closely to Legal Aid Ontario, a lawyer, referred to as "Duty Counsel" will be on duty at each provincial Judges' court at least an hour before court

opens.

Duty counsel is there to advise the accused concerning his rights under law and no question of financial eligibility is raised. This service is totally free to every resident of the province.

Duty Counsel renders on-

the-spot assistance to the accused, may speak to the judge on the matter of remand, adjournment, or bail and if the accused pleads guilty, the Duty Counsel may speak to the judge on behalf of the accused, concerning sentence.

If Duty Counsel advises the accused to plead not guilty or arranges for a remand, he will probably also, if conditions seem to demand, assist the accused to complete an application for Legal Aid. This would occur when it appears to Duty Counsel that the accused should engage the services of a lawyer to conduct his defence and that the accused has need of legal aid because he cannot afford to pay for his defence, either in whole or in part.

Any accused whether he has seen Duty Counsel or not may make application for legal aid. This is done simply by completing an application form and directing it to an area director's office. There are eight such offices in the province, located in Saint John, Fredericton, Moncton, Woodstock, Edmundston, Campbellton, Bathurst and Newcastle. The applicant is required to make a sworn statement that the information given on the application is true. The area director, following the information on the application and applying the rules set out in the legal aid regulations, decides whether or not to issue a legal aid certificate entitling the applicant to legal aid, and also whether the applicant can and shall make some contribution to the cost of his defence.

If the applicant is dissatisfied with the decision, he may appeal to the area committee which is made up of residents of the area and must include at least one lawyer. The area director must comply with the decision of the committee.

When the applicant receives his legal aid certificate, he is shown an up-to-date list of lawyers who have agreed to serve on a criminal legal aid panel. The applicant may choose his own lawyer from that list. When he presents his certificate to the lawyer of his choice, he becomes a client of that lawyer just the same as any client with his own means. The only people who know that he is a legal aid recipient are the area director, the client's lawyer and the client himself. By proceeding thru these channels, the apprehended resident is able to avoid the humiliating situations common to welfare situations.

Upon completion of the case, the lawyer prepares his account according to a tariff contained in the regulations. When this account is approved by the provincial director of legal aid, in Fredericton, it is paid to the extent of seventy-five per cent. This money is provided by the Government of New Brunswick through the Legal Aid fund. The remaining twenty-five per cent which is not paid represents the individual lawyer's contribution to Legal Aid, New Brunswick.



The Government of New Brunswick

The Barristers' Society of New Brunswick



## LEGAL AID NEW BRUNSWICK

*Do you need a lawyer?*

*Can you afford one?*

**YOU CAN NOW!**

If you were charged with a criminal offence that could lead to imprisonment and loss of earnings (and that can happen to anyone) your defence might cost more than you could afford.

Yet, justice demands that you be defended.

Inability to pay a lawyer is one of the last remaining obstacles to criminal justice within the law.

This problem is being removed in New Brunswick.

On January 1, 1972, a new Legal Aid Act will become effective. It guarantees that no resident of this province shall be denied his defence because of the lack of money.

### How The Legal Aid Act Works:

Application for Legal Aid is made to an area director. (see below) He decides what portion, if any, of the legal costs you can pay. What you cannot pay is provided from the Legal Aid Fund set up by the Government of New Brunswick.

Neither the court nor the public knows you have received the assistance. That's a private matter between you and the lawyer you choose to defend you. Remember the choice is yours.

The plan is administered by the Barristers' Society of New Brunswick. Its purpose is to render justice to every person under the law, regardless of his financial means.

### AREA DIRECTORS

#### SAINT JOHN

Alfred H. Brien

#### WOODSTOCK

James F. H. Crocco

#### EDMUNDSTON

Richard G. Shaw

#### CAMPBELLTON

Guy J. Dumont

#### BATHURST

Eugene G. B. McGinley

#### NEWCASTLE

William J. Burchill

#### MONCTON

R. Dwight Mitton Q.C.

#### FREDERICTON

C. T. Gilbert Q.C.

A BROCHURE that fully explains the Legal Aid Act is obtainable free from Area Directors.

**Legal Aid New Brunswick**  
**Effective January 1, 1972**