

## **Proposal for a Faculty of Law at Memorial University – Background, What We Heard and Draft Statement**

Since the concept of establishing a Faculty of Law at Memorial University was re-introduced in 2012, CBA-NL has engaged in significant discussion to this matter, including at our Executive and Council levels, with the wider CBA-NL membership, and the Faculty of Law Committee.

With consideration given to [what we heard](#), and in line with the [mission of the CBA](#), the CBA-NL Executive Committee plans to bring forward a draft statement on the proposal for a Faculty of Law at Memorial University to the August 13 annual meeting of CBA-NL Council.

### **Background: Proposal for a Faculty of Law at Memorial University and CBA-NL Engagement**

In 2012, CBA-NL was invited to participate in a working group interested in revisiting a review into the feasibility of a Faculty of Law at Memorial University. The goal of the group was to bring the idea of reviewing the feasibility of a Faculty of Law to Memorial University and to gain support from the legal community and stakeholders prior to the approach.

In July 2012, the CBA-NL Executive Committee received a presentation from the working group, outlining a proposal to conduct a review into establishing a Faculty of Law at Memorial. Following the presentation and discussion, the CBA-NL Executive Committee passed a resolution supporting, in principle, *a review of the concept of a Faculty of Law at Memorial University of Newfoundland as proposed by the Committee that would include an assessment of how such an academic institution would further advocacy and improve access to justice in the province of Newfoundland and Labrador.*

In February 2013, a press release was issued by Memorial announcing that a committee had been struck to explore the feasibility of a Faculty of Law (CBA-NL did not have membership on this committee).

Following the release, CBA-NL was contacted by several media outlets for comment and the following statement was provided:

*Last year (2012) the Canadian Bar Association Newfoundland and Labrador Branch examined and debated the concept of a faculty of law at Memorial University. We supported, in principle, a review that would include an assessment of how such an academic institution would impact advocacy and improve access to justice in the province of Newfoundland and Labrador.*

*The Canadian Bar Association – Newfoundland and Labrador Branch welcomes the establishment of a committee by Memorial University to explore the feasibility of a law school, and we look forward to reviewing the committee's report later this year.*

As further follow up, CBA-NL sent a letter to the committee, providing feedback and suggestions for consideration moving forward, including: that the committee consider current and future needs for more lawyers in the province; that the committee consider how a law school could enhance access to justice, access to legal education for residents of Newfoundland and Labrador and academic scrutiny of the provincial statutory framework and case law; and noted the importance of consulting with the provincial legal community.

In November 2018, the Memorial University Senate passed a [motion](#) endorsing the Memorial University Faculty of Law [Proposal](#) with the addition of an amendment that the Faculty of Law be cost neutral, including infrastructure to the University

In December 2018, CBA-NL sent a letter to the University encouraging, as part of further assessment, to consider the future needs of the legal profession and to further engage the provincial legal community for their feedback on establishing a Faculty of Law at Memorial.

In September 2019, members of the Faculty of Law Committee provided an update on the progress of establishing a Faculty of Law at Memorial to the CBA-NL Executive. A copy of the presentation can be [found here](#).

Following the presentation, the Executive Committee discussed next steps and whether CBA-NL will take a position, at this time, on the proposal for a Faculty of Law at Memorial University. Given the CBA's responsibility to the membership to be fully informed before taking a position on this, or any, matter, in November 2019, additional information on the proposal was requested, and responses were received, as below.

**Market Feasibility Study:** *has a market feasibility study been completed and, if so, is a copy available? If such a study has not yet been completed, are there plans to complete such a study, as part of, or in addition to, the proposal that will go before the Memorial University Board of Regents?*

**Response:** *In the development of the Law School Proposal, the university has relied on two main sources to satisfy itself that there is demand for legal education in Canada.*

*The first has been the experience of two law schools recently established in Canada, the first at Thompson Rivers University in Kamloops, and the second at Lakehead University in Thunder Bay. Both schools reported an immediate demand for admission from qualified students residing in all parts of the country. It has been accepted that Memorial University's experience will not be dissimilar.*

*The second has been information from the Federation of Law Societies that confirmed the significant number of Canadians studying law abroad, and subsequently seeking to practice in Canada through assessment by the National Committee on Accreditation. This has led to a conclusion that graduates from a law school at Memorial would not increase the number of lawyers coming into practice in Canada, but only increase the number educated in Canada.*

*Based on these two factors the University has concluded that market issues would not be an obstacle to commencing a legal education program.*

**Updated Proposal:** *the Memorial University webpage, [www.mun.ca/law](http://www.mun.ca/law) , indicates that the proposal for a faculty of law at Memorial is being further refined since receiving Senate endorsement, and now focuses on program and curriculum development, operations, enrolment, tuition and complement planning. It further explains that capital costs for space and infrastructure are being considered separately from the operating budget for the law school and will be excluded from calculation in determining the tuition fee.*

*When will the updated proposal will be available and will it be made public prior to going before the Board of Regents? Will this proposal include additional details on how the proposed faculty of law and its capital investments will be financed?*

**Response (summarized):** *The financial aspects of the proposal have been refined, to ensure no crossover between capital and operating accounts. The numbers [contained in the presentation](#), represent the latest available. As this matter proceeds, there is likely to be continued refinement of the proposal which would mean that the elements in the presentation will change leading to a decision by the Board of Regents.*

In March and July of 2020, CBA-NL sought input from the membership on the proposal for a Faculty of Law at Memorial University.

### **What we Heard: Summary of Member Feedback on the Proposal for a Faculty of Law, Memorial University**

Two common themes of support were voice by the membership, access to legal education and the societal benefits a law school would bring to the province.

On increasing access to legal education for residents of Newfoundland and Labrador, comments included:

- *In having to leave the province, that simple action effectively doubles the cost of legal education. It is not uncommon for people to come back to NL with a \$100,000 plus in student debt, impacting their work and their personal lives, can take a decade or more to repay, and the rate of debt increase is not comparable to the increase in salaries. Other law schools are increasing tuition and cost of living is rising as well. For those with wealth they have a completely different experience and a marked advantage over their peers, and the cost of attending law school is becoming a question that may discourage good candidates in the future as there is not a level playing field.*
- *A large part of the concentration of residents on the Avalon Peninsula might have access to education, with debt only for their tuition cost if they can bypass the large accommodations and living costs. A student from a farther distance out would still face higher costs but the housing market in St. John's is at a different cost point than Nova Scotia and would not involve the flight costs to New Brunswick. It might still be cheaper for some NL residents to attend the mainland, but the goal here would be make it reasonable as possible for a majority to choose to remain in NL. Doing so would result in a situation similar to the Faculty of Business, where there is a flow of qualified entrants to the business community every year graduating with a debt load that while high, still allows them to stay and work in the local market after graduation.*

Other comments of support highlighted the potential to bring in new revenue and spin off businesses, improved quality of legal discourse, and additional social and policy enhancements to the provincial education and political systems, such as:

- the availability of a faculty to critique and assess judgments and legislative initiatives by government;
- ability to study the effects of lack of access to justice on our socio-economic system;
- opportunities to provide various pro bono clinics as a part of the hands-on training that is often part of the law school experience.

The common themes we have heard against supporting the establishment of a law school in Newfoundland and Labrador included market feasibility, the financial ability of the University to establish and support a law school, and the overall business case for a law school in this province.

As related to market feasibility and uncertainty of market demand, one member noted:

- *...market feasibility has not been addressed specifically in relation to Newfoundland and Labrador.....there is a concern that the local (within NL) legal market does not need/cannot handle an influx of students. Of the 100 students per year that MUN Law intends to accept, how many of those can the local legal market handle? I would be particularly interested in knowing if there are a set number of seats reserved for NL students and, if so, how many? This would shed more light on the need for a market feasibility student as one could assume that a large proportion of NL students would want to stay in NL to practice.*

Members have also voiced concerns about the financial requirements and ability of the University and province to establish and maintain a law school and if this should be a priority of the University given their decreasing budget and the provinces limited fiscal resources.

There were also points raised on the actual savings to potential students, and if a law school is needed to see increased access to justice, when alternatives would be to increase legal aid funding and existing public information resources. Similarly, a new Law Reform Commission could be formed to address antiquated legislation, draft new legislation and revise the land titles system in this province.