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The Law Society of Upper Canada 1797

On Thursday, July 17, 1969 at 8 p.m., an historical plaque commemorating the founding of the Law Society of Upper Canada in 1797 was unveiled at the southeast corner of Queen and Gate Streets in front of 142 Queen Street, Niagara-on-the-Lake. This plaque is one of a series erected throughout the province by the Department of Public Records and Archives, acting on the advice of the Archaeological and Historic Sites Board of Ontario (now the Ontario Heritage Foundation).

The ceremony was arranged and sponsored by the Niagara Historical Society in cooperation with the Law Society of Upper Canada. Brigadier Willis Moogk, O.B.E., President of the Niagara Historical Society, acted as program chairman. Among those invited to take part were: The Honourable W. Ross Macdonald, P.C., C.D., Q.C., LL.D., Lieutenant-Governor of Ontario, who unveiled the plaque; His Worship W.E. Theobald, Lord Mayor of Niagara-on-the-Lake; Mr. R.M. Johnston, M.P.P. (St. Catharines); Mr. W.G.C. Howland, Q.C., Treasurer of the Law Society of Upper Canada; and Professor W.S. Goulding, School of Architecture, University of Toronto, representing the province's Archaeological and Historic Sites Board. In 2005, the plaque was replaced with a bilingual version. The plaque reads:

THE LAW SOCIETY OF UPPER CANADA 1797

Following the introduction of English civil law into this province in 1792, legislation was passed in 1797 authorizing the establishment of the Law Society of Upper Canada. A founding meeting was held in Wilson's Hotel in this community on July 17, 1797. It was attended by ten practitioners, including the Attorney General, the Honourable John White, who was appointed Treasurer, the Society's principal officer. The Society was responsible for setting standards for admission and regulating the province's legal profession. After relocating to York (now Toronto) in the late eighteenth century, the Society moved into its newly-constructed quarters - Osgoode Hall - in 1832. The Society continues to regulate and control Ontario's legal profession.

LE BARREAU DU HAUT-CANADA 1797

À la suite de l'introduction du droit civil anglais dans cette province en 1792, une loi a été votée en 1797, autorisant la création du Barreau du Haut-Canada. Le 17 juillet 1797 s'est tenue à l'hôtel Wilson l'assemblée inaugurale. Y participaient dix

praticiens, incluant le Procureur général, l'honorable John White, qui a été nommé trésorier, soit l'administrateur principal du Barreau. Le Barreau avait pour responsabilité de fixer les normes d'admission et de réglementer la profession juridique de la province. Après s'être installé à York (devenue entre-temps Toronto) à la fin du dix-huitième siècle, le Barreau a déménagé, en 1832, dans son siège nouvellement construit, à Osgoode Hall. Le Barreau continue de réglementer et de surveiller la profession juridique en Ontario.

Historical background

The establishment in 1797 of the Law Society of Upper Canada represented the first step toward the creation of a specific body in this province empowered by the Legislature to regulate the practice of law. In effect, the Society was to assume total responsibility for the legal profession. It determined the criteria for admission to the study of law and to the Bar, the method by which the Society itself was to be governed and the establishment of discipline and order among its members. Today, the Society still performs these functions.

In 1792, English civil law was introduced into the newly created province. However, the scarcity of lawyers skilled in English law necessitated the passing of an Act in 1794 authorizing the lieutenant-governor to grant a licence to any number, not exceeding 16 British subjects, to practice as attorneys and advocates. Before this Act, the Bar of the province was represented by few members.

The Act of 1794 lapsed two years after being passed, and agitation for a regular Bar on the English model led to the passing of a statute on July 3, 1797, which provided that "it would be lawful for the persons now admitted to practice law, and practicing at the Bar in the Province, to form themselves into a Society to be called the Law Society of Upper Canada." The Society was authorized to frame Rules and Regulations for its own governance; to appoint six or more senior members as Benchers (of whom the Attorney General and the Solicitor General were to be two); and to appoint a Librarian and a Treasurer. The office of Treasurer, which is the leading office of the Society, received its name from its counterpart in the English Inns of Court.

To ensure the viability of the legal profession, provision was made in the Act of 1797 that each person practicing at the Bar could take one pupil or clerk for instruction in the law. However, except for those practicing at the time of the Act, no one would be permitted to practice at the Bar unless he had been admitted into the Society as a student-at-law, and had remained on its books for five years. This Act established the distinction between the Barrister and the Attorney (Solicitor), somewhat after the English model. In Ontario today, a lawyer is both Barrister and Solicitor, rarely one to the exclusion of the other.

The meeting to found the Society and frame the Rules and Regulations for its operation was

held on July 17, 1797 in Wilson's Hotel, Newark (Niagara-on-the-Lake). Until the erection of the Masonic Temple in the town, meetings of the St. John's Lodge of Friendship No. 2 were held in the same building. The hotel, thought to have been at the corner of Queen and Gate Streets, was burned when U.S. forces destroyed the community in 1813.

Ten practitioners attended this meeting at Newark: Attorney General John White, Angus Macdonell, Christopher Robinson, William D. Powell, Nicholas Hagerman, Solicitor General Robert I.D. Gray, James Clark, Allan McLean, Alexander Stewart and Bartholomew C. Beardsley. They called themselves and five others to the Bar. John White became the first Treasurer of the Society. The Attorney General, the Solicitor General and four senior barristers were appointed Benchers. The members also established an annual fee to be paid by every student on admission to the Society and on being called to the Bar, as well as an annual fee for each barrister. Students admitted on the books of the Society were to receive the statutory title student of the laws.

Since this founding meeting, many changes have been made in the regulation of the legal profession by the Law Society. Perhaps the most notable area of change has been in the manner in which the law student is prepared for his or her entrance to the Bar.

Education was always a major concern for the Society. One of the first tasks the Society undertook was to provide a structure for legal training through a schedule of fees, rules for admission and provisions for apprenticeships.

Originally, no entrance examination was required for admission to the Society. The applicant would be proposed by a member, usually the lawyer under whom the student served his articles (internship). In 1819, a rule was passed that all applicants for admission should be required to give a written translation, in the presence of the Benchers, of a portion of Cicero's *Orationes*. But the Society in no way supervised the education of the student.

Gradually, the admission and training requirements for students were expanded. Students were expected to learn the law through a combination of methods that changed over times: compulsory readings, lectures, examinations, attendance at court, apprenticeships, moot courts and discussions of points of law. In 1828, for example, a rule was passed stating that four terms (each lasting about 12 days) of the student's five years of apprenticeship were to be spent at York (now Toronto). To accommodate the students and to house its library and its offices, the Law Society started building the present east wing of Osgoode Hall in 1829. At its completion in 1832, the building – named after William Osgoode, the first Chief Justice of Upper Canada – was located beyond the limits of the Town of York.

Throughout the 19th century, the Law Society supported and initiated a number of programs of study with various degrees of success. In 1889, it affirmed its control of legal training by

creating a formal, compulsory law school – Osgoode Hall Law School – and declared its monopoly over legal education, a monopoly that lasted until 1957.

As of July 1, 1968, Osgoode Hall Law School became affiliated with York University. Today, the Law Society of Upper Canada is the self-governing body for lawyers in Ontario. Its primary responsibility is to regulate the legal profession in the public interest according to Ontario law and the Law Society's rules, regulations and guidelines.



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