

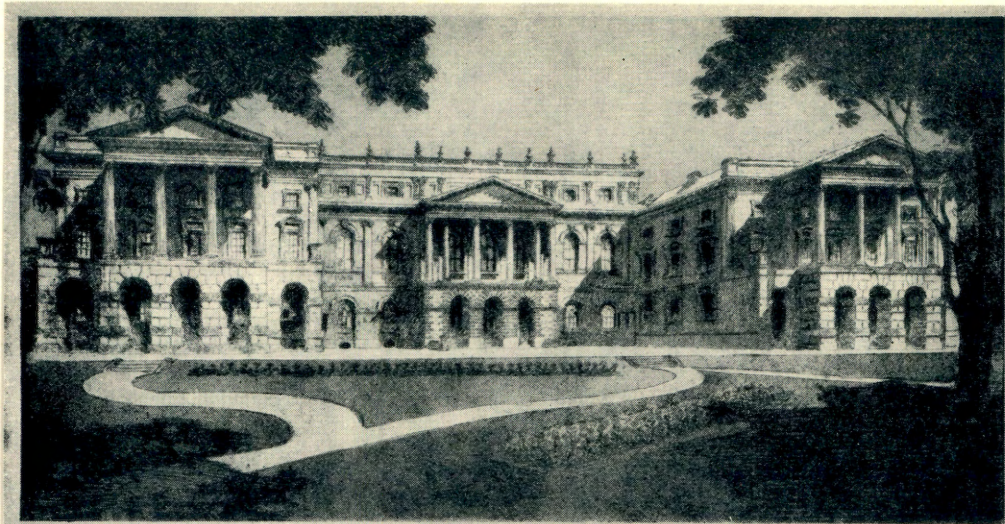
THE
LAW SOCIETY
OF UPPER CANADA

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PRINTED IN COMMEMORATION OF THE ONE HUNDRED AND
FIFTIETH ANNIVERSARY, TORONTO, MCMXLVII



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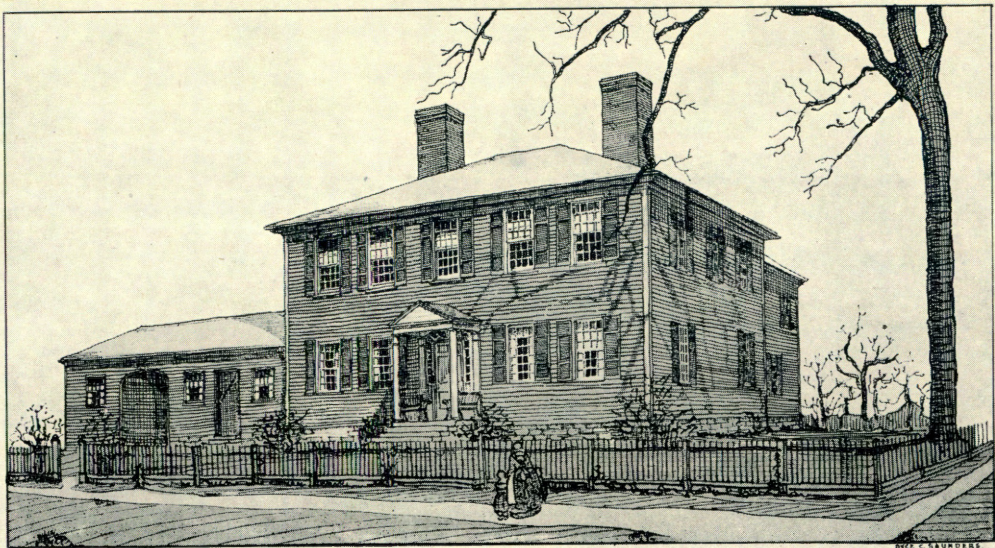
*A SHORT ACCOUNT OF THE HISTORY
OF THE LAW SOCIETY OF UPPER
CANADA, ISSUED BY THE SOCIETY*

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F O R E W O R D

THE following is a short account of the history of the Law Society, published in commemoration of the one hundred and fiftieth anniversary of its founding in 1797.

Lists are appended of the Treasurers of the Society since its formation, the Benchers in 1797 and in 1947, the Chairmen of the present Standing Committees and the Officers.



WILSON'S HOTEL 1797

THE LAW SOCIETY OF UPPER CANADA

1797 . 1947

A STATUTE passed at the second session of the second Provincial Parliament of Upper Canada in 1797 provided that it should be lawful "for the persons now admitted to Practice in the Law and practising at the Bar of any of His Majesty's Courts of this Province, to form themselves into a Society to be called the Law Society of Upper Canada." The Society was organized at Wilson's Hotel, Newark, now Niagara-on-the-Lake, on the 17th day of July in the same year. Ten practitioners attended the meeting, called to the bar themselves and five others and appointed six Benchers, one of whom became the Treasurer.

In 1822 the Treasurer and Benchers were by another statute declared to be "one body corporate and politic in deed and in law by the name of the Law Society of Upper Canada" with perpetual succession and a common seal. A committee appointed to consider the effect of this Act reported that it did not interfere with "the right of membership of persons duly entered of the Society" as students or barristers-at-law but left them members of the Law Society of Upper Canada "though not Members of the Corporation of the Law Society of Upper Canada." It would seem that the older organization has continued in existence along with the one incorporated by the Act of 1822, under the same name, "The Law Society of Upper Canada." However, under a rule made in 1799, that the Benchers should have "full power to make such rules and regulations from time to time as may be necessary for the welfare of the Law Society" all the business of the Society since that time has been transacted by them. Although by the Act of 1797 the Society was authorized to appoint Governors or Benchers, it became the practice, after the passing of the 1799 rules, for the Benchers themselves to elect them and this self-perpetuating system was retained until 1871 when an Ontario statute provided for the election, by the members of the Bar, of thirty Benchers, in every fifth year.

By the Act of 1822 the Society was given power to hold lands, and in 1828, it purchased from the Attorney-General, the Honourable John Beverley Robinson six acres "in front of his Park Lot" on the north side of Lot (now Queen) Street just outside the town of York. A building was erected on this land in spite of objections that it was out of town and

too remote and it was declared by Convocation on the 8th day of November, 1830, that the building and property should be "the permanent seat of the Law Society of Upper Canada by and under the name of Osgoode Hall." The original building, part of the present east wing, was completed by February, 1832. It was enlarged in 1833 by adding a range of chambers to the west, and between 1844 and 1846, by the construction of a west wing and a centre portion which contained the library and was surmounted by a dome. Between 1857 and 1860 the central part was enlarged and the dome was removed. Since that time the central section and both wings have been extended to the north.

From 1832 to 1838 students and barristers occupied chambers and boarded in the Hall and barristers continued to rent rooms there at least until 1851. An order of Hilary Term in 1833 fixed the time for meals and the price of board and rooms and listed the articles of furniture that were provided by the Society. The chambers were run at a loss, even after the extension of 1833 which added "twenty-four comfortable bed-chambers" and "eight commodious offices."

The Society had no library until 1827, when the Solicitor-General bought, in London, books to the value of £291. They were kept in a room in the Court House, which stood in the block north of King Street and east of Church Street, in York, until Osgoode Hall was ready to receive them. At a meeting in 1832 the Treasurer suggested that, if it were deemed expedient to borrow to pay the debts of the Society, "a small sum might be added to be appropriated to the purchase of Books, more than two years having elapsed" since any sum had been "devoted to that essential object." No action was taken on this suggestion. In the next few years, however, many books were bought and many were donated. A catalogue listing some 380 volumes was printed in 1834 or 1835, and books have since been steadily added by purchase and gift until the library now contains over ninety thousand volumes. The largest individual gift of books was that of the "Riddell Canadian Library" consisting of about six thousand volumes, presented by the late Mr. Justice Riddell in 1916.

Reciting that it was extremely desirable "that some public record of the judicial opinion of the judges" should be kept, a statute of 1832 enacted that the Governor or person administering the Government might appoint a reporter of the Court of King's Bench. Three reporters in turn were appointed under this statute, but only two volumes of reports, containing decisions delivered between 1827 and 1831, had been published by 1840. In that year the Law Society was given the power to appoint a reporter who should be responsible to it, and one was appointed under this Act. Later, the Society appointed reporters for the Court of Chancery in 1845

and the new Court of Common Pleas in 1849. The Society still publishes reports of the decisions of the Superior Courts of Ontario and has published or assisted in the publication of several digests.

Although in England the Inns of Court had nothing to do with attorneys or solicitors, the Act of 1797 required that in Upper Canada an intending attorney should be admitted to the Society and remain on its books for two years, and a rule passed by the Society in 1799 provided that all students must become articled clerks. As was to be expected, nearly all practitioners entering the profession under this Rule became both barristers and attorneys. However, the Act of 1822 repealed this section of the earlier Act and Convocation passed a rule in 1831 requiring that students proceeding to the degree of Barrister-at-law should be examined before admission and again before call to the bar. More and more students then became attorneys simply on proof of service under articles and without applying for admission to the Society. A writer in the Canada Law Journal complained in 1855: "a young man whose only qualification for entering the study of the law is ability to read and write, may be articled to an attorney;—spend five years copying and serving papers, or idly kicking his heels against the office desk, or in doing the dirty work of a disreputable practitioner. At the end of that time, armed with a certificate of service, he claims to be sworn in as an attorney of Her Majesty's Courts, and is sworn in accordingly." As a result of the general dissatisfaction with this state of affairs an Act of the Province of Canada was passed in 1857 which provided that no person might be admitted by any Court as an attorney or solicitor unless he produced a certificate of fitness issued by the Law Society. Under the present Solicitors Act the Society still has full jurisdiction over solicitors and almost all practitioners are now both barristers and solicitors. The term "attorney" is not now used.

Until 1819 students were not asked to pass any examinations whatever. In that year a rule was passed which required a candidate for admission "to give a written translation in the presence of the Society of a portion of one of Cicero's Orations or perform such other exercise as may satisfy the Society of his acquaintance with Latin and English composition" and a rule passed in 1831 provided that examinations must be passed before admission and before call. Students were required in either case to be familiar with the Latin and English languages, mathematics and geography or history and if they wished to pass in as "*optime*" or senior class students they were examined also in such other subjects as Greek, geometry, algebra, metaphysics, rhetoric and *belles lettres*. On the examination for call, candidates were examined as well in "the Principles of the law of England, in the Science of special Pleading, the Law of Evidence, the Law relating to Trials at Nisi Prius and the Practice of the Courts."

In 1834 and again in 1849 requests were made by groups of students that a lecturer in law should be appointed. No action was taken until 1855 when four were appointed and students were required to attend all lectures. A law school was established in 1872 with attendance at lectures voluntary. It was abolished in 1878 and re-established in 1881. In 1889 the school was reorganized and a Principal was appointed, with two lecturers and two examiners and attendance was made compulsory. A law school building was erected behind the old east wing in 1891 and 1892. A new wing was added to the Hall in 1938 to the east of the old building, which houses the students' library and offices for the lecturers as well as locker and consultation rooms for members of the profession and the office of the Society's secretary. The present staff of the law school consists of the Dean, three full-time lecturers and nine part-time lecturers.

At a meeting of Convocation on the 16th day of May, 1892, the Legal Education Committee reported "that Mr. T. B. P. Stewart a member of this Society, died in the month of January last, leaving a will whereby he bequeathed the bulk of his estate to this Society upon certain trusts" and the Committee suggested that steps should be taken toward giving early effect to his "most clearly expressed desire that his money should be devoted to the interests of the students of the law school." His wish has been carried out. The income from the proceeds of his bequest is used for the purchase of books for the students' library, which is now designated "The Phillips Stewart Library."

When the first section of Osgoode Hall was finished in 1832 the Court of King's Bench sat there for a few months and the Government contributed to the cost of the additions made in 1845 and 1846, the Society agreeing to provide accommodation for the superior courts of law and equity for all time to come. In 1874 the Society granted and surrendered to the Crown the centre part and the west wing of Osgoode Hall, together with the lands on which such parts of the building stood, the roadway south of the said land and the land north and west thereof, in return for which the Society's covenant to provide accommodation for the courts was cancelled. The Society retained the right to "the free and exclusive use by them of the rooms in the said building now commonly known as the library."

A motion was made in Convocation on the 8th day of February, 1879, "for a special committee to inquire as to the practicability and expediency, and if found expedient and practicable, to report a scheme for aiding in the establishment and maintenance of branch libraries in the county towns, for the use of the Courts and Profession." A Committee was appointed and made its report in June of the same year and a rule was passed adopting the scheme proposed by the committee, which is substantially that set out

in the present rules of the Society under the heading "County Libraries." Libraries have since been formed in forty-two counties and districts. In the year 1946-1947 grants amounting to almost \$25,000.00 were made by the Society for their upkeep.

In Easter term 1891 Convocation ordered "that the petition of Miss Clara Brett Martin for admission as a student-at-law be referred to a special committee." The Committee's report, which was adopted, submitted that the Society had no authority to admit women to its membership. A statute having been passed, entitled "An Act to provide for the admission of women to the Study and Practice of Law," the matter was reconsidered at a meeting of Convocation in June, 1892, and a motion was made that it be referred to the Legal Education Committee to prepare and report rules as to the admission of women. An amendment was proposed and carried, which provided that "Convocation being called upon by the application before it to exercise the discretion vested in it by the Act, 55 Victoria, Chapter 32, is of the opinion that it is inexpedient to frame rules for the admission of women as solicitors." At a meeting in December of the same year it was again moved that Convocation should proceed to frame rules for the admission of women and the motion was carried by a vote of twelve to eleven. On the 27th day of June, 1893, it was ordered "that Miss C. B. Martin be entered on the books in accordance with the Rules in that behalf." More than one hundred and twenty-five women have followed her into the profession.

The Law Society of 1947 is a very different body from the little organization of fifteen members which met on the 17th day of July, 1797. It now consists of some four thousand members, barristers and students. The presiding officer is still the Treasurer but instead of six Benchers there are now fifty-eight including Benchers Ex-officio. There is no "Committee of Oeconomy" as there was in 1833 but there are now seven standing committees, dealing respectively with Finance, Library, Reporting, Legal Education, Discipline, Unauthorized Practice and County Libraries.

The first four of these were already standing committees when the Rules of 1875 were published. The Discipline Committee was not formed until 1877 although the Society had assumed the power to discipline its members at least as far back as the year 1820. A statute of 1876 had given power to the Benchers to make rules and regulations as to the "interior discipline and honour" of the members of the bar and "as to the interior discipline and practice" of attorneys, solicitors, and articled clerks. The Unauthorized Practice Committee was formed under the name of "the Encroachments Committee" in 1934, taking the place of the Journals and Printing Committee which was discontinued at that time, since, as the Treasurer said,

it seemed to have no duties to perform. The County Libraries Committee was formed in 1879 under the name "The County Libraries Aid Committee" when the rule as to county library assistance was adopted.

A great many members of the society served with distinction in both world wars. At the outbreak of the last war a contingent of the Officers' Training Corps was organized, with a special committee on Military Education to supervise its work. The Society furnished accommodation for the chief instructor, the orderly room and quartermaster's stores and its lecture rooms and Convocation Hall were made available for lectures and examinations. The crest of the Society was incorporated in the cap badge of the unit. Over five hundred lawyers and students served in the contingent as officers or cadets and a large number of cadets qualified for commissions and served in the Navy, Army and Air Force. A memorial to those who gave their lives in the first war has been placed in the Great Library and a committee has been appointed to formulate plans for a memorial to those who fell in the last war.

After one hundred and fifty years of existence the Society proceeds with its task of administering the affairs of the legal profession and providing training which will equip its students to play their part worthily, not only in the practice of their profession but also in the discharge of the important public duties to which so many of them will be called.

TREASURERS OF THE LAW SOCIETY SINCE ITS FORMATION

1797-1798	/ / /	JOHN WHITE
1798-1801	/ / /	ROBERT ISAAC DEY GRAY
1801-1805	/ / /	ANGUS MACDONELL
1805-1806	/ / /	THOMAS SCOTT
1806-1811	/ / /	D'ARCY BOULTON
1811-1815	/ / /	WILLIAM WARREN BALDWIN
1815-1818	/ / /	D'ARCY BOULTON
1818-1819	/ / /	JOHN BEVERLEY ROBINSON
1819-1820	/ / /	HENRY JOHN BOULTON
1820-1821	/ / /	WILLIAM WARREN BALDWIN
1821-1822	/ / /	JOHN BEVERLEY ROBINSON
1822-1824	/ / /	HENRY JOHN BOULTON
1824-1828	/ / /	WILLIAM WARREN BALDWIN
1828-1829	/ / /	JOHN BEVERLEY ROBINSON
1829-1832	/ / /	GEORGE RIDOUT
1832-1836	/ / /	WILLIAM WARREN BALDWIN
1836	/ / /	ROBERT BALDWIN SULLIVAN
1836-1841	/ / /	ROBERT SYMPSON JAMESON
1841-1843	/ / /	LEVIUS PETER SHERWOOD
1843-1845	/ / /	WILLIAM HENRY DRAPER
1845-1846	/ / /	ROBERT SYMPSON JAMESON
1846-1847	/ / /	HENRY JOHN BOULTON
1847-1848	/ / /	ROBERT BALDWIN
1848-1849	/ / /	JAMES EDWARD SMALL
1849-1850	/ / /	ROBERT EASTON BURNS
1850	/ / /	JOHN GODFREY SPRAGGE
1850-1859	/ / /	ROBERT BALDWIN
1859	/ / /	JAMES BUCHANAN MACAULAY

1859-1876 . . . JOHN HILLYARD CAMERON
 1876-1879 . . . STEPHEN RICHARDS
 1879-1893 . . . EDWARD BLAKE
 1893-1913 . . . AEMILIUS IRVING
 1913-1916 . . . GEORGE FERGUSSON SHEPLEY
 1916-1921 . . . JOHN HOSKIN
 1921-1924 . . . FEATHERSTON OSLER
 1924-1927 . . . FREDERICK WEIR HARCOURT
 1927-1930 . . . WALLACE NESBITT
 1930-1935 . . . WILLIAM NORMAN TILLEY
 1935-1936 . . . NEWTON WESLEY ROWELL
 1936-1937 . . . MICHAEL HERMAN LUDWIG
 1937-1939 . . . ROBERT SPELMAN ROBERTSON
 1939-1944 . . . D'ALTON LALLY McCARTHY
 1944-1947 . . . JOHN SHIRLEY DENISON
 1947- . . . GERSHOM WILLIAM MASON

BENCHERS IN 1797

JOHN WHITE
 ROBERT F. D. GRAY
 ANGUS MACDONELL
 JAMES CLARK
 CHRISTOPHER ROBINSON
 ALLAN McLEAN
 WILLIAM D. POWELL
 ALEXANDER STEWART
 NICHOLAS HAGERMAN
 B. C. BEARDSLEY

BENCHERS IN 1947

HONORARY BENCHERS

HIS ROYAL HIGHNESS THE DUKE OF WINDSOR.

THE RIGHT HONOURABLE WILLIAM LYON MacKENZIE KING, P.C., C.M.G.,
PRIME MINISTER OF CANADA.

BENCHERS EX-OFFICIO

Under The Law Society Act, Section 5 (a) (b) (e) and (f)

THE RIGHT HONOURABLE JAMES LORIMER ILSLEY, P.C., K.C.
MINISTER OF JUSTICE AND ATTORNEY-GENERAL OF CANADA.

THE HONOURABLE JOSEPH JEAN, P.C., K.C.
SOLICITOR-GENERAL OF CANADA.

THE HONOURABLE LESLIE EGERTON BLACKWELL, K.C.
ATTORNEY-GENERAL OF ONTARIO.

THE HONOURABLE SIR ALLEN BRISTOL AYLESWORTH, P.C., K.C.M.G., K.C.
SOMETIME MINISTER OF JUSTICE AND ATTORNEY-GENERAL OF CANADA.

THE RIGHT HONOURABLE ARTHUR MEIGHEN, P.C., K.C.
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WILLIAM HERBERT PRICE, K.C.
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THE HONOURABLE ARTHUR WENTWORTH ROEBUCK, K.C.
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THE HONOURABLE FRANK JOSEPH HUGHES, K.C.
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RETIRED JUDGE OF THE SUPREME COURT OF ONTARIO.

THE HONOURABLE CHARLES PERCY PLAXTON, K.C.
RETIRED JUDGE OF THE SUPREME COURT OF ONTARIO.

BENCHERS ELECTED AT FOUR QUINQUENNIAL ELECTIONS
Under The Law Society Act, Section 5 (d).

WILLIAM SORA MIDDLEBRO', K.C.

D'ALTON LALLY McCARTHY, K.C.

CHARLES McCREA, K.C.

JOHN SHIRLEY DENISON, K.C.

CHARLES LAWRENCE DUNBAR, K.C.

FRANCIS DEAN KERR, K.C.

WILLIAM EDMUND NEWTON SINCLAIR, K.C.

ARTHUR GRAEME SLAGHT, K.C.

BENCHERS ELECTED IN 1946

TO HOLD OFFICE UNTIL NEXT QUINQUENNIAL ELECTION.

WILLIAM JAMES BEATON, K.C.

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CYRIL FREDERICK HARSHAW CARSON, K.C.

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TIMOTHY JOHN RIGNEY, K.C.

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GORDON NICHOLAS SHAVER, K.C.

STANLEY LOUNT SPRINGSTEEN, K.C.

GEORGE THEOPHILUS WALSH, K.C.

PETER WHITE, K.C.

ARTHUR ROY WILLMOTT, K.C.

PERCY DIXON WILSON, K.C.

1947

TREASURER

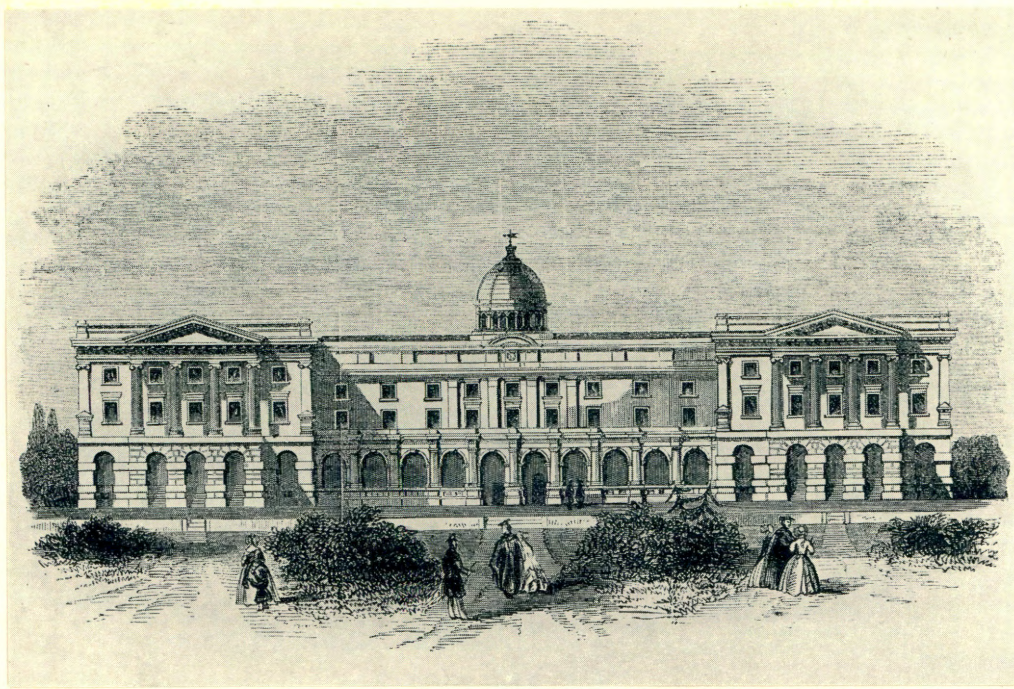
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LIBRARY	/ / / / / / / /	GORDON N. SHAVER, K.C.
REPORTING	/ / / / / / / /	W. J. BEATON, K.C.
LEGAL EDUCATION	/ / / / / / / /	HAMILTON CASSELS, K.C.
DISCIPLINE	/ / / / / / / /	C. F. H. CARSON, K.C.
UNAUTHORIZED PRACTICE	/ / / / / / / /	G. T. WALSH, K.C.
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ASSISTANT SECRETARY	/ / / / / / / /	EILEEN HUCKLE
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ASSISTANT LIBRARIAN	/ / / / / / / /	LEONARD WRINCH
EDITOR OF REPORTS	/ / / / / / / /	A. B. HARVEY, K.C.



1854

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