

THE FIRST AND FUTILE ATTEMPT TO CREATE
A KING'S COUNSEL IN UPPER CANADA

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When Upper Canada began her separate provincial life, 1792, the English Bar had three grades of counsel—Serjeants at Law, King's Counsel and ordinary Barristers. The first—the "Order of the Coif"—go very far back in the history of the English law, their origin being quite obscure, but it could not have been many years after the Conquest. Serjeants had the monopoly of practising in the Court of Common Pleas until 1846. Campbell, the Attorney-General, afterwards Lord Campbell, attempted to open the Court of Common Pleas to the whole Bar, and had a warrant under the Sign Manual of King William IV in April, 1834, to be sent to the Judges of the Court of Common Pleas, directing them to give all Barristers the right to practise before them.¹ This was read in open Court April 25, 1834, and the Judges obeyed. But the Serjeants were not content: they raised the legal question as to the power of the Court and prevailed so that January 21, 1840, they were reinstated in their monopoly.²

Their triumph did not last long—in 1846 the Statute of 9-10 Vic. c. 54, put an end to their exclusive privilege.

The Order of the Coif, however, was never known in Canada and the learning concerning Serjeants-at-Law is here purely academic.

¹ The warrant was in form directed to the Lord Chancellor, Brougham: it will be found in 10 Bingham's Reports of Cases, pp. 571, 572.

² The reasons are given in 6 Bingham's New Cases, pp. 235-239; the reporter says: "During the delivery of the above, a furious tempest of wind prevailed which seemed to shake the fabric of Westminster Hall and nearly burst open the windows and doors of the Court of Common Pleas." *Tantaene coelestibus ira.*