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**The Ontario Heritage Act and the Provincial Program: An Alternative Model for
Heritage Conservation**

by
Victoria J. Angel B.A.(Hons.)

A thesis submitted to the Faculty of
Graduate Studies and Research in partial fulfillment
of the requirements for the degree of
Master of Arts
in Canadian Studies

Carleton University
OTTAWA, Ontario
December 9, 1998

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**The undersigned recommend to the Faculty
of Graduate Studies and Research acceptance of the thesis**

**“The Ontario Heritage Act and the
Provincial Program: An Alternative
Model for Heritage Conservation”**

submitted by Victoria Angel, Hons. B.A.

**in partial fulfilment of the requirements for
the degree of Master of Arts**

A handwritten signature in black ink, appearing to read "Julian Smith", written over a dotted line.

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January 1999

Abstract

This thesis is a critical analysis of the origins and history of Ontario's program for heritage conservation, from 1970 to the present. The program's decentralized administrative structure and community-based initiatives are analysed in relation to the emerging concept of social value, in which traditional relationships between people and place are understood to form part of the heritage significance of sites.

The thesis proposes that three dominant heritage paradigms have evolved since the inception of the modern heritage movement. They are defined as: the conservation of historic monuments; the development of integrated conservation; and the preservation of the social value of heritage sites. A survey and comparison of four national heritage programs (England, France, the United States, and Canada) reveals their emphasis on centralized control and the physical preservation of sites. These characteristics are argued to reflect earlier paradigms of heritage. Ontario's program, by contrast, incorporates unofficial values and criteria into the assessment process and encourages local initiatives to conserve and manage heritage. It is argued that these elements support the protection of social value, and provide a useful model to address the conditions of contemporary conservation.

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My friends are by now very familiar with the intricacies of the Ontario Heritage Act. Special thanks to: Ron and Scott, Deb, Jo-Sarah, Nicola, Jennifer, Barbara, Rob, and Fraser, for their friendship and patience.

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Introduction

This thesis examines the role of government and citizens in heritage conservation. Since the development of the concept of the historic monument during the nineteenth century, built heritage has come to be widely appreciated, in the West, as a public good. As such, there has been a growing acceptance, since that time, of the idea that governments have a responsibility to protect heritage, and an important role to play in its conservation. What remains the subject of great public debate is the nature and form of government involvement in this process. Initially, heritage conservation often implied the direct control of designated sites, with respect to both ownership and physical preservation, by the upper levels of government. This role has changed and expanded, however, following the Second World War, as additional values have come to be associated with cultural heritage.

During the first phase of the modern heritage movement, the term heritage was limited to buildings and sites belonging to past societies, and no longer serving a functional purpose. Treated as artifacts, historic monuments came to be valued for historic, aesthetic, scientific and antiquarian reasons. Designated monuments of this nature often became the property of the state or of elite organizations, which employed a museological approach in their management.

The destruction of large portions of inner cities, in particular, during and following the Second World War, gave rise to the second phase of the modern heritage movement, whose focus has been on urban heritage. The inclusion of city districts and

neighbourhoods under the term heritage, resulted in a transformation and expansion of the concept, to allow for the fact that buildings with functional or use value, could also have historic or aesthetic, 'heritage' value. With the broadening of the term to include functional buildings and sites, heritage conservation initiatives were incorporated into urban planning, resulting in what has been called 'integrated conservation'. This form of preservation has most often become the responsibility of local and state governments, which maintain jurisdiction over matters concerning land use.

Most recently, the concept of heritage has been further expanded to include 'living landmarks', namely sites associated with living traditions, and places which hold special meaning in the daily life of communities. Given that the value of living heritage resides in the relationships that exist between people and places, the emphasis of preservation strategies is on maintaining such relationships, and preserving their social value. Where higher levels of government have previously maintained a central role in all aspects of the conservation of monuments, their role is not easily defined within this context. Although the concept of social value is being gradually recognized by governments, its deliberate application within heritage conservation has been very limited, to date.

One of the reasons that underlies the delay in the application of social value relates to an evolution of the practice of heritage conservation. Paradoxically, as the concept of heritage expanded to include sites which continue to play a role in the daily life of communities, the conservation process became increasingly institutionalised, under the control of governments and specialists. Once the domain of antiquarians, historical societies, and women's organizations, the practice of conservation, in recent decades, has

come to be dominated by experts. This shift has been attributed to the success of the movement. During the 1960s and 1970s, heritage conservation gained popular support as an alternative to rationalistic, modern urban planning. As it became increasingly accepted as a strategy to counter the devastating effects of modern development:

Heritage conservation was beginning to be part of the very system it had spent much of its energy criticizing. It was being institutionalized. It was developing its professionals, its experts, its elites, its intellectual belief system. Its Eurocentric bias was becoming clearer and clearer.¹

The institutionalization of the field of heritage conservation has had a number of consequences, including the development of scientific systems of evaluation and management. What is gained in this process is an unprecedented level of control in the care and protection of heritage sites. Such a system, however, is unable to accommodate the unofficial and unscientific values held by communities for local landmarks, whose traditional role in communities provides an important additional layer of meaning.

Purpose of this Thesis

Ontario's program for heritage conservation is the only example in the West where a higher level of government has opted out of involving itself directly in the process of the identification, designation and protection of cultural resources². The provincial program is

¹Julian Smith, "Sharing Knowledge in a Postmodern Age," in Momentum 1997: ICOMOS Canada Bulletin 6, no.2 (1997):12.

David Cumming, "Whither Heritage Conservation in Ontario? A Commentary," SSAC Bulletin 4 (1985): 33, who cites M. Carswell and J. Swaigen, (ed., revised edition),

characterized by the active participation of citizens in the assessment and management of heritage sites, the use of local inventories, and the absence of heavy regulatory controls for the protection of designated buildings and districts. Under this system, criteria for designation are established locally, as are strategies for the conservation of sites. The provincial government serves as a facilitator in this process, by educating citizens and by providing technical assistance upon request.

The unique approach adopted by Ontario has been criticized by Canadian heritage conservation experts, who argue that the system ignores the widely-accepted principles of Western conservation. The identification, evaluation and formal recognition of properties is accepted by the experts to be the responsibility of senior government agencies. The role of local authorities is limited then to the protection of these through planning controls. The most controversial aspect of Ontario's program has been 'the absence from the Ontario Heritage Act of a clearly stated policy interest in heritage property'³. Additionally: '(c)ontrary to internationally accepted principles of heritage conservation the Act does not prevent demolition of a designated heritage property; it merely postpones demolition for a maximum of 270 days'⁴. The absence of demolition control is taken as indication of a

Environment on Trial: A handbook of Ontario Environmental Law (Canadian Environmental Law Research Foundation, 1978), 386. See also Mark Denhez, "Of Heritage Laws, Taxes and Culturally Significant Holiday Inns," SSAC Bulletin 4 (1985): 34.

³ Cumming: 33.

⁴ Ibid. These point have been raised by many working in the field of conservation in Ontario. See, for example, Denhez: 34-35; and Gerald Killan, ed., The Ontario Heritage Act: Present Problems, Future Prospects, Minutes and Proceedings of the Ontario

broad reluctance to engage in serious conservation activity.

Challenging this position, this thesis argues that the management of heritage resources at the local level through the assistance of LACACs is both significant and innovative, and has been greatly under-valued within the field of heritage conservation. Exploring the history of the development of the program, and the evolution of LACACs across the province, this thesis examines the process of local empowerment through the provision of education and technical assistance. It also argues that the delegation of responsibility to local citizens has resulted in a pluralistic concept of heritage, which is able to reflect local and regional values, rather than those of a centralized agency of experts.

The first chapter considers the concept of heritage conservation in overview. Heritage conservation is defined, in this discussion, as a process of selection which is motivated and shaped by the beliefs and customs of those participating in preservation. As such, the concept of heritage is flexible from both a temporal and territorial perspective. The chapter then traces the origins and development of the modern heritage movement, from the nineteenth century to the present. The movement is divided into three phases: the preservation of historic monuments, urban heritage and places of social value (described above), the latter two being expansions of the original concept. During each phase, the original concept of heritage is not replaced, but rather, is expanded and added to.

The second chapter provides a context for the analysis of Ontario's program through an examination of definitions of heritage in international charters, and a

Historical Society Conference on Heritage Legislation in Ontario (Toronto, 1977).

comparison of four national heritage conservation programs. The English, French, American and Canadian programs are described in overview, with particular attention given to their respective forms of legislation, inventories, criteria for assessment, and roles of participants. This comparison reveals the fact that the older European programs maintain a more centralized framework for both the assessment and management of heritage sites. Furthermore, European criteria tend to be based on a traditional definition of heritage, whose basis is provided in the concept of historic monuments. Both Canada and the United States, by contrast, employ more flexible definitions of heritage. Like other post-colonial or 'settler' societies, they currently recognize the concept of social value, but have not yet deliberately modified their programs to reflect this expansion of the concept.

The origins and history of the drafting of the Ontario Heritage Act, from the late 1960s to 1975, are described in the third chapter. The original policy studies undertaken by the Ministry of Municipal Affairs, in combination with departmental correspondence of the period, are used to construct a history of the development of a provincial framework for heritage conservation in Ontario, and to illustrate the original intentions of the proposed legislation. This history reveals that a succession of modifications were made to the original framework, resulting in a drastically altered program by the time of the passage of the Act in 1975. Where a two-tiered program allowing for both provincial and municipal designations had been initially proposed in 1971, the final form of the Act delegated all responsibility for the designation and protection of sites to municipal governments, creating a decentralized framework for conservation initiatives. This level of decentralization was then and remains unique among Western heritage conservation

programs.

The fourth chapter provides a history of Ontario's program since 1975. The unique nature of Ontario's program and its obvious success, challenge traditional assumptions and present an opportunity to undertake development of an alternative framework for analysis. Examining the roles of the provincial and municipal governments and citizens, local inventories, criteria, and forms of protection provided under the Act, this chapter argues that the program has, intentionally or not, served to support the preservation of the social value of heritage sites.

The study of heritage legislative and government programs has tended to focus on regulatory controls and scientific methods of assessment and conservation. Criticisms of Ontario's program from this perspective, however, fail to recognize the striking feature of the provincial system, namely that the process has served to generate public interest, support and meaningful involvement. Experts in the field of conservation have long recognized the benefits of involving the general public in heritage initiatives, but have often failed to apply this principle. The full integration of communities within the conservation process therefore represents an important new approach to heritage conservation. This thesis will not only add to the existing literature on the history of heritage conservation in Ontario, but will do so with an emphasis on its process. It will also contribute to the small but growing body of literature on legislative and policy models for the protection of places of social value.

Chapter One: Introduction to the Critical Approach to Heritage Conservation.

Introduction

Chapter One provides a conceptual overview of heritage conservation, with a focus on its development during the nineteenth and twentieth centuries. Heritage conservation is considered, for the purposes of this thesis, to be a social construction: it is shaped and motivated by the beliefs and values of a particular time and place. It is also a selective process, carried out in order to conserve, and pass on to future generations, bodies of knowledge, sites, and artifacts held to be significant by a society.

This chapter will also review the origins of modern heritage value, and recent shifts in the ways in which heritage and significance are defined. This discussion will provide the framework for the analysis of the principles derived from the modern values underlying heritage conservation, which have been codified in international charters and declarations, and of four Western legislative systems, which are described and compared in Chapter Two. It will also provide the framework for the specific investigation of Ontario's legislative program in Chapters Three and Four.

To introduce this discussion, a definition of what is currently implied by the term 'heritage conservation' is provided. In this thesis, 'heritage' refers to the cultural inheritance of a community or a nation (the term, today, may also have global implications, as in 'world heritage'). Heritage may imply the built environment (indicated by the terms 'historic building', 'historic architecture', 'architectural heritage', and 'built

heritage')⁵. The combination of building, site and natural environment, defined as 'cultural landscape', is also included under the term 'cultural heritage'. A very broad and inclusive definition of the term is provided by the Ontario government, which describes heritage as 'all that our society values and that survives as the living context - both natural and human - from which we derive sustenance, coherence, and meaning in our individual and collective lives.'⁶ Currently, places, buildings and objects which have been designated 'heritage' may continue to have practical value in everyday life, but they are also recognized for their intrinsic or associative symbolic values within the culture of a community, nation, or at a global level.

The concept of conservation is equally complex, but generally refers to a set of strategies which are employed to identify and protect heritage. Conservation involves a combination of institutions (government, heritage/community organizations, etc.), participants (bureaucrats, professionals, developers, members of the community), and particular strategies (public education, preservation campaigns, rehabilitation/restoration projects, planning initiatives, and the management of change). The practice of heritage conservation is generally rooted in an established set of principles which are intended to protect the technical and symbolic integrity of a place or site.

⁵Mark Fram, Well-Preserved: the Ontario Heritage Foundation's Manual of Principles and Practice for Architectural Conservation (Erin, Ont.: The Boston Mills Press, 1988), 8.

⁶Ministry of Culture and Communications, A Strategy for Conserving Ontario's Heritage, The Report of the Ontario Heritage Policy Review (Toronto, Ont.: Queen's Printer for Ontario, 1990), 1.

Implicit in definitions of heritage conservation is the concept of 'public good'. It is generally held that 'society should have at its disposal physical or intangible manifestations of its history, aspirations, successes, and tragedies, and should present and interpret those physical resources.'⁷ As such, it is widely accepted that government has an intervening role in the protection of heritage, although the boundaries of such intervention and the strategies employed, are widely contested. Central to the debates over government involvement in heritage conservation efforts are the issues of how heritage is identified and assessed, government interference in private property rights, and what constitutes the appropriate mechanism for its protection.

Heritage Conservation in Overview

In the introduction to this chapter, the concept of heritage was broadly defined as a society's cultural inheritance. While societies are in a perpetual state of flux and transformation, particular practices, traditions, and bodies of knowledge are selectively passed on through generations. Places, spaces, and artifacts, deemed to be of special value to society are also conserved and passed on as elements of this inheritance, and, furthermore, are often the focus of heritage conservation efforts. Selected sites and objects may be associated with emotional messages, community symbolism, or historical meaning, among others. These meanings are assigned to places through use, or may also be

⁷John de Monchaux and J. Mark Shuster, "Five Things To Do," Preserving The Built Heritage, Salzburg Seminar, ed. J. Mark Shuster, with John de Monchaux and Charles A. Riley II (Hanover and London: University Press of New England, 1997), 10.

generated through complex and often deliberate activities.

Memory is not passive, but is rather, in the words of Raphael Samuel "an active shaping force; ...it is dynamic - what it contrives symptomatically to forget is as important as what it remembers ..."⁸. Over centuries, the 'art of memory' maintained an important and often central pedagogical role in societies. Central to the ancient and medieval memory practices of Europe was the primacy of the visual. Visual cues or outward signs were necessary in order to retrieve and to pass on social memory and traditions. The legacy of these eras is a rich and vivid iconography which was embedded in texts and on the walls and windows of sacred or public buildings.

Since ancient times, 'place' has maintained an important role in the art of memory. Memorials erected on important sites provide us with the earliest records of events, and during the Middle Ages and the Renaissance, pilgrim routes followed 'sacred geographies'⁹. Although sacred geographies have been replaced over time, in Western societies, with secular symbolic mappings, they remain powerful triggers of social memory, as do visual cues. The philosopher, Edward S. Casey, states that:

It (place memory) is the stabilizing persistence of place as a container of experiences that contributes so powerfully to its intrinsic memorability. An alert and alive memory connects spontaneously with place, finding in it features that favour and parallel its own activities. We might even say that memory is naturally

x. ⁸Raphael Samuel, Theaters of Memory (London and New York: Verso, 1994),

⁹ Samuel, viii.

place-oriented or at least place-supported.¹⁰

It is hardly coincidental that the early to mid-nineteenth century gave rise to a self-conscious heritage conservation movement, often concerned with the preservation of ancient or pre-industrial sites which were perceived to be vulnerable during a time of rapid change brought on by new technologies, modes of production, and urbanization, along with a new sense of historical awareness. Influenced by the Romantic tradition and spurred by the cataclysmic changes taking place in society, heritage conservation during this period was, in part, a response to the sense of loss of both traditional ways of life and to the continuity of important markers in the physical landscape, in addition to being employed in the symbolic representation of national and regional identities.

Samuel makes reference to the Aristotelian conception of memory in which conscious and unconscious memory are distinguished from one another. 'Mneme' refers to those recollections which surface from the unconscious, while 'anamnesis' is the deliberate act of recollection. Heritage conservation, as a deliberate undertaking, is associated with the Aristotelian concept of 'anamnesis', as it relates to the 'art of memory'. Since coming into being as a movement, heritage conservation has been in a constant state of flux, always responsive to its particular time and place. It reflects the trends, fashions, passions and ideologies of its time through processes of selection and evaluation. In this respect, heritage is as much about the present as it is about the past. In 1903, Alois Riegl stated

¹⁰Edward S. Casey, Remembering: A Phenomenological Study (Bloomington, Ind.: Indiana University Press, 1987), 186-187, quoted in Dolores Hayden, The Power of Place: Urban Landscapes as Public History (Cambridge, Mass.: The MIT Press, 1995), 46.

that: 'We modern viewers, rather than the works themselves by virtue of their original purpose, assign meaning and significance to a monument'¹¹. Currently, it is held that meaning may actually be embedded in the relationship between the object and the viewer.

Tunbridge and Ashworth note the fact that in heritage conservation:

Both encoding and decoding are required and the difficulty is...that such coding systems are neither universal nor stable: we are dealing with a language for which each individual possesses their own personal dictionary which is constantly and rapidly being replaced over time.¹²

Heritage is most often associated with specific places, since symbolic places serve to orient contemporary society in terms of 'who' and 'where' its individual members are through a form of collective social memory. Heritage conservation involves the identification and organisation of symbolic places within a framework that creates relationships between present and past. Heritage places are produced by and integrated into larger political and cultural systems: 'imaginary geographies' linked to contemporary local, regional, and national identities. These places may serve to demonstrate themes of progress or loss by illustrating a way of life that has been erased with time and innovation; they may provide tangible evidence of the origins of a place, a community, or a cultural group; or they may serve to illustrate themes relating to work, modes of production, or

¹¹ Alois Riegl, "The Modern Cult of Monuments: Its Essence and Its Development," Historical and Philosophical Issues in the Conservation of Cultural Heritage, ed. Nicholas Stanley Price, M. Kirby Talley Jr., and Alessandra Melucco Vaccaro (Los Angeles: The Getty Conservation Institute, 1996), 72.

¹² J.E. Tunbridge and G.J. Ashworth, Dissonant Heritage: The Management of the Past as a Resource in Conflict (Toronto: John Wiley & Sons, 1996), 15.

modes of cultural production.

The term 'heritage' is continuously redefined and may carry several meanings at any given time. Since the nineteenth century, the word has tended to imply a place or object that has been identified as having cultural value. Heritage may also be described as a process. Peter Larkham, for example, states that: "'Heritage' is neither history nor place; it is a process of selection and presentation of aspects of both, for popular consumption."¹³ Implicit in this statement is the idea that the process is as much about what is omitted as it is about what is included and represented as 'heritage'. The development of contemporary myths and meta-narratives about identities, for which heritage sites or artifacts serve as visual or sensual cues, involves processes of exclusion and forgetting as much as remembrance. Edensor states that: "In dominant narratives and practices, particular issues, features, and incidents become forgotten as selective, discursive, and performative formations evolve."¹⁴ Heritage conservation and the symbolic identities of places are, thus, a direct reflection of and function dialectically with the histories and narratives of their time and place.

Cohen refers to symbolic places as 'condensation sites', which are able to 'precis

¹³ Peter J. Larkham, Conservation and the City (London and New York: Routledge, 1996), 14.

¹⁴ Tim Edensor, "National identity and the politics of memory: remembering Bruce and Wallace in symbolic space," Environment and Planning D 29 (1997): 176.

much more complicated stories and messages into a mnemonic or shorthand form'¹⁵. As a specific type of symbolic place, heritage sites become a very direct and evocative means of communicating a chosen set of values or ideologies. The words of Ontario's early preservationists provide rich evidence of the power attributed to historic sites. At the turn-of-the-century, immigration to the province was perceived by some to pose a potential threat to the values of native-born Ontarians. It was believed, however, that military landmarks could be used to facilitate the assimilation of immigrants by providing them with a sense of the province's heritage. In 1909, influenced by these ideas, Sir William Mortimer Clark, Lieutenant-Governor of Ontario, provided the following argument for the preservation of Fort York:

Large numbers of strangers are now coming to settle among us, and it is of great importance that they should learn something of our past...They will visit this historic scene, and learn that their country has been fought for, and is worth fighting for again should occasion arise. They will learn that it is their duty to do their part in upholding and strengthening our government and institutions...(They) will have it impressed on their hearts that we are part of that great British Empire of which we are so justly proud...¹⁶

Critics describe the process of heritage conservation as a project to create bodies of knowledge that will be used in the service of power. This view is most vividly

¹⁵ A. Cohen, The Symbolic Construction of Community (London and New York: Tavistock Publications, 1985), 102, quoted in Edensor: 176.

¹⁶ Annual Report of the Ontario Historical Society 1909, (Toronto: OHS, 1909), 40, quoted in Gerald Killan, Preserving Ontario's Heritage, (Ottawa: Love Printing Service Limited, 1976), 129.

expressed by Robert Hewison and Patrick Wright¹⁷, both of whom accuse the 'heritage industry' as being represented by dominant, monolithic bodies, whose exclusive interest is to protect the interests of the elites. This interpretation of heritage conservation is closely allied with the ideas of Michel Foucault, as expressed in his writings on disciplinary technologies and state 'apparatuses' during the Modern period. In this interpretation, heritage conservation is understood to be a closed system which brings together disparate objects and sites in an abstract framework. This interpretation of heritage conservation portrays a system that does not permit the existence of counter-meanings or multiple readings of the significance of a site and functions as a strategy in the overall control of citizens.

Paradoxically, heritage conservation can also provide the means for marginalised members of society to reclaim identities and histories concealed or ignored by dominant narratives of space. Because of the power of place, heritage sites can support counter-narratives in a forceful manner and as such, become 'spaces of resistance' in the face of hegemonic discourses. Raphael Samuel points out that the conservation movement is, in fact, associated as much with the political Left as it is with the Right¹⁸. The example of Australia, at the time of the bi-centenary celebrations of 1988, is used to provide evidence that far from 'giving a licence to racism', heritage conservation efforts have been

¹⁷ See, for example, Robert Hewison, The Heritage Industry (London: Methuen, 1987), and Patrick Wright, On Living in an Old Country (London: Verso, 1985).

¹⁸ Samuel, 288.

instrumental in advancing the overall status of Aboriginal culture. He cites a recent commentator, who described the new 'radical patriotism' in Australia as expressed in the contemporary heritage movement:

...the willingness of Labour administrations, state and federal, to preserve historic sites from threatened destruction by developers served as a key emblem of this 'new nationalism' and its commitment to representing the interests of 'all Australians' against what were seen as the socially destructive activities of both international corporations and domestic elites.¹⁹

It is arguable, therefore, that while the state, or those holding the balance of power in a society, may assume tight control over commemoration and heritage conservation, this is not a characteristic of heritage conservation, itself, but a reflection of socio-political circumstances, which, in turn, have a profound impact on the creation of symbolic spaces. Furthermore, very tight state control over 'official' heritage does not prevent the creation of counter-sites and counter-narratives.

The process by which individual artifacts and sites are interpreted determines, to a large extent, the symbolic meaning of a heritage site. Carried out at different levels of society, heritage conservation may reflect an abstract spatial identity, for example, as a component of the development of an ideological rhetoric of nationalism. Within a local context, by contrast, it is more likely to be employed in the process of building or maintaining a sense of community. At the local level, heritage conservation tends to be constructed around social memory that is based on local myths and 'unofficial' knowledge, rather than on meta-narratives.

¹⁹ Samuel, 289.

Brian Osborne distinguishes levels of identity construction, as it relates to landscape and place, using Tonnies' formulation of 'Gemeinschaft' (community) and 'Gesellschaft' (society). Identity construction in the context of 'gemeinschaft' is described as:

...local and immediate. As such, the lived in landscape becomes a fundamental concept central to a people's sense of community, heritage and nationhood. It is the setting for the day-to-day economic, social and ideological activities that serve to unite a distinctive people. All these culturally significant actions serve to imbue that place with evocative associations and transform it into a symbolically charged repository of past practices and events. Some sites are elevated to the level of shrines or sacred places. Such a landscape supports the culture as its 'hearth' of origin, its home for the present, and its refuge for the future. The idea of this common residence in a particular place is often the matrix binding the nation together.²⁰

By contrast, in the context of 'gesellschaft', it becomes a more deliberate undertaking, motivated by the need to bind a larger group, such as a nation, together through the forging of a common symbolic identity:

Gesellschaft requires that people identify with an abstraction - the territory of an artificially constituted unit, the state. Long-standing localisms are replaced by new centralizing structures of government, communications and bureaucracy that facilitate the functional interaction of the state. Attempting to cultivate the sense of 'oneness' that was so strong in the pre-state Gemeinschaft, states consciously nurture shared symbolic constructs that reinforce the sense of membership to the group and the development of a sense of distinctiveness.²¹

When Osborne's definitions are considered in the context of heritage conservation

²⁰ Brian Osborne, "Interpreting a nation's identity: artists as creators of national consciousness," Ideology and Landscape in Historical Perspective, Cambridge Studies in Historical Geography, (Cambridge: Cambridge University Press, 1992), 230.

²¹ Osborne, 230-231.

initiatives, they imply that a substantive difference exists between local and national heritage: the former represents sites that have acquired meaning through use, over time, and in the context of everyday life. The latter is assigned meaning in a deliberate manner, in order to establish abstract identities, justify territorial divisions, and bind disparate social groups into a unified construct.

From this discussion, it can be concluded that heritage conservation is directly rooted in the myths, ideologies, and power structures governing a particular time and place. The choice of sites to be preserved and commemorated is determined by the attitudes, beliefs and motives of those involved in the identification process. The conservation of heritage and its presentation to the public can be a powerful approach to expressing a particular point of view, or to developing a shared set of ideas or identities. While the history of a site is fixed, the interpretation of its history, as well as its symbolic or ideological meaning are contextual. There is no such thing as a unified or singular interpretation of the historical facts and significance of a site.

Modern Heritage Value

The practice of erecting monuments has been common to all cultures and is evident in very early societies. Social, political and intellectual developments around the eighteenth century, however, resulted in a transformation of the concept in Europe. The varied developments that led to this transformation included the development of modern or 'natural' history; the associated development of the fields of architectural history and archaeology; the invention of technologies that would allow for the permanent recording

of sights and sounds (photography and sound recording diminished the need for memorials); the arrival of the Industrial Revolution and its effects on the built environment; and the rise of the modern nation state. The invention of the concept of the 'historic monument' and the development of heritage preservation movements in Europe and North America were two outcomes of these profound and, at times, revolutionary developments.

Beginning around the seventeenth century, the overall approach to Western history underwent a tremendous change. Where previously, ancient scholarly texts had been considered the authoritative source on antiquity, the eighteenth century gave rise to a modern or 'natural' history, in which the material remains of older or ancient cultures was understood to provide new, rich, and reliable information on societies of the past. The new approach to history was guided by a scientific method, relying on information gathered from observation of the natural world. This information was subsequently catalogued and examples compared to one another. Foucault summarizes the approach of this period (the 'classical episteme'), in the following passage:

The documents of this new history were not other words, or texts, but unencumbered spaces in which things were juxtaposed; herbaria, collections, gardens. The place of history was a non-temporal rectangle in which, stripped of all commentary, of all enveloping language, creatures presented themselves one beside the other, their surfaces visible, grouped according to their common features, and thus already virtually analysed, bearers of nothing but their own individual names.²²

²² Michel Foucault, The Order of Things, (London: Tavistock Publications, 1970), 131.

This transformation had an important effect on the development of architectural history. Physical remains of the past acquired historical value, providing concrete information about the customs of early societies and cultures. The remains of unearthed sites, artifacts, and buildings that remained intact were carefully measured, recorded and catalogued, and compared, and information about the sites was disseminated through illustrated books, catalogues and portfolios. The comparison of the physical attributes of the examples studied, and their presentation in catalogues, was an approach adopted from the closely related field of natural history.

An archaeological interest in the physical remains of the past was complemented by other emerging interests. Where the humanists of the Renaissance had been concerned primarily with the writings (and to a lesser extent with the physical remains) of ancient Greece and Rome, exposure to varied cultural and aesthetic systems through travel and exploration led to a broadening of interests and an expanded investigation of the origins and characteristics of other cultures. In Fischer von Erlach's *Outline for a History of Architecture* of 1721, for example, in addition to the seven wonders of antiquity, the author included images of Arab, Persian, Turkish, Siamese, Chinese, and Japanese buildings. This quest for knowledge about the world eventually inspired scholars to study their own cultures and 'national antiquities'.

The development of the Romantic movement developed in association with the rise of historical awareness. Romanticism signalled a profound shift in aesthetic principles, and the abandonment of the belief in 'objective' standards of beauty, based on harmony and proportion. In its place, the cult of sensibility and aesthetic relativism took hold, in

particular in England. New aesthetic values, the Sublime (impressive and awesome) and the Beautiful (charming and attractive), rooted in sensationism and mental association, were defined in Edmund Burke's *Philosophical Enquiry into the Origin of Our Ideas of the Sublime and the Beautiful*, of 1757²³. A third category, the Picturesque, was proposed shortly thereafter by Udevale Price (though not widely accepted as a category so much as a quality²⁴), which in addition to recognizing the qualities of texture, irregular form, and indefinite rhythm, considered architecture in relation to its environment, both physical and historical. Architecture became a narrative device with evocative capabilities. This was manifested, in particular, in a new appreciation for ruins, understood and appreciated for their ability to stimulate imagination and intellect. Thus, in the eighteenth century, ancient and medieval buildings acquired aesthetic value according to the philosophies of the day.

According to David Watkin, from the seventeenth to nineteenth centuries the study of medieval architecture was often also linked to the promotion of religious ideas, and from the early nineteenth century, it was associated with the rise of nationalism.²⁵ Consequently, the analysis provided by the authors of the earliest architectural histories tended to be shaped by either a strongly nationalist or religious perspective (physical

²³ Andrew Ballantyne, Architecture, landscape and liberty; Richard Payne Knight and the picturesque, (Cambridge: Cambridge University Press, 1997), 80-81.

²⁴ Ballantyne, 82.

²⁵ David Watkin, The Rise of Architectural History, (London: The Architectural Press, 1980), ix.

artifacts lending support to their particular views). Much of the work produced took the form of detailed catalogues listing the architectural monuments of specific countries. The outcomes may be understood in hindsight, however, to comprise the first lists of historic monuments.

Evidence of the connection between the rise of architectural history and preservation is provided by an event in France in 1703. In 1695, François Roger de Gaignières began a systematic survey of French medieval architecture, stained glass, sculpture and inscriptions, which he graphically recorded, and which eventually formed a collection of thousands of drawings. By 1703, he proposed to Louis XIV's Secretary of State that the state should assume responsibility for the preservation of the recorded antiquities.²⁶ His idea was ahead of its time and met with little interest. A later French example, which again links architectural history, nationalism, and preservation, is found in the establishment of the Musée des Monuments Français, by Alexandre Lenoir in 1795 in the former Couvent des Petits Augustins (dismantled in 1816 and subsequently incorporated into the École des Beaux Arts)²⁷. During its short life, the museum housed collections of fragments from medieval buildings which had ironically been ravaged during the state-sanctioned iconoclastic purges of the French Revolution.

The period of the antiquarians is characterized by a growing interest in and awareness of the past. During this period, great achievements were made in unearthing

²⁶ Watkin, 22.

²⁷ Watkin, 25.

and recording the past, as well as discovering aesthetic and cultural systems beyond the civilizations of the Greeks and Romans. The development of the catalogue, of the comparative method, and of a scientific approach to history based on physical evidence, were all important precursors to the heritage conservation movement. The emphasis during this period was not, however, on conservation-oriented activities (with a notable exception, England, that will be discussed in the following section). Rather, the emphasis was on awareness and on recording information for posterity.

The final contributing factor to the emergence of a heritage conservation movement was the arrival of the industrial age in Western countries. This resulted in urbanization, machine-based modes of production, and a radical transformation of the built environment. Industrialisation was accompanied by a shift in philosophical and architectural attitudes regarding the past which occurred during the late eighteenth and early nineteenth centuries, and is linked to the Romantic movement, described above. Within emerging industrial societies, pre-industrial buildings and monuments came to be considered functionally obsolete, and were often perceived to stand in the way of progress and development. This rupture with the past gave rise to the concept of 'historic' monuments. Seen as non-renewable resources, built heritage, during this period, acquired age value, which may be understood to be a facet of historical value. John Ruskin provides one of the most eloquent definitions of antiquarian value in the following passage of 1849:

For, indeed, the greatest glory of a building is not in its stone, nor in its gold. Its glory is in its Age, and in that deep sense of voicefulness, of stern watching, of mysterious sympathy, nay, even of approval or condemnation, which we, feel in the walls that have long been washed by the passing waves of humanity. It is in

their lasting witness against men, in their quiet contrast with the transitional character of all things, in the strength which, through the lapse of seasons and times, and the decline and birth of dynasties,...it is not until a building has assumed this character, till it has been entrusted with the fame, and hallowed by the deeds of men, till its walls have been witnesses of suffering, and its pillars rise out of the shadows of death, that its existence, more lasting as it is than that of the natural objects of the world around it, can be gifted with even so much as these possess, of language and of life.²⁸

In summary, from the eighteenth century, there occurred an important shift in the cultural interests of the elite and educated members of European society. One aspect of this shift was the emergence of new cultural values, identified above as historical, aesthetic (relativist), and antiquarian. These values gave rise to the new category of monuments in Europe, and later in North America, referred to as 'historic monuments'.

Since the shift in cultural values across Europe was associated with the transformation of economies and the emergence of new classes and elites, the new class of monuments were themselves often in a state of transition with regards to ownership and stewardship. With the gradual recognition of heritage as a public good, governments and elite organizations assumed responsibility for their care. 'National' value, another facet of historical value, was assigned to historic monuments by these custodial bodies, as their interpretations became components of both emerging socio-political narratives, and as vehicles for upholding traditional social order. Heritage, during the nineteenth and early twentieth centuries, became extremely useful to governments and elites, because '(h)istory, impossible to grasp in its full complexity, is more easily assimilated when placed in the

²⁸ John Ruskin, "The Lamp of Memory," Historical and Philosophical Issues in the Conservation of Cultural Heritage, 42-43.

form of cultural narratives'²⁹. Heritage became a tangible device used to animate such narratives during periods of social upheaval and change.

Recent Trends

Over the course of the twentieth century, the meaning of cultural heritage underwent its first major transformation, as the concept was expanded to include new categories of monuments. This expansion is traced to the period preceding and following the Second World War, during which time cities, in particular their historic centres, were destroyed as a consequence of war, or as a result of development booms. Conservation initiatives were extended from individual monuments to old towns and districts, and from monumental examples of architecture to more modest structures, as these came to be understood, in themselves, to be symbolic of local and national identities. Two aspects of this new identity challenged the previous orthodoxy concerning historic monuments. First, the restoration and conservation of ensembles included not only the preservation of the monumental, but also the preservation of minor aspects of the existing fabric, which was now understood to contribute to the overall texture and composition of an area. Second, historic areas were no longer preserved as museum pieces, but would remain in use. The latter transformation of the concept of cultural heritage thus served to dispel the attitude that heritage belonged to past societies.

The most recent evolution within heritage conservation has occurred over the last

²⁹ Diane Barthel, Historic Preservation: Collective Memory and Historical Identity (New Brunswick, New Jersey: Rutgers University Press: 1996), 31.

twenty-five years, during which time the definition of heritage has been further transformed and expanded. Influenced by the environmental movement, the practice of dividing the environment into natural and man-made elements, evident, in particular, in European policies, was challenged on the grounds that:

(F)irst, the built environment is not only clearly an environment, it is in practice the most commonly experienced environment for most people in Western societies most of the time; and secondly, it is all but impossible in reality to find representative environments at either end of such a man-made spectrum, as some natural elements and some evidence of human intervention are present in all cases, thus rendering any such distinction one of degree rather than kind.³⁰

Since around the 1970s, the meaning of heritage has evolved to reflect a more holistic understanding of sites. Heritage has come to imply not only the man-made elements of a structure, but may include the natural landscape, and rituals and traditions associated with sites. Out of this expanded understanding of heritage has developed the concept of cultural landscapes, defined as 'geographical terrains which exhibit characteristics of or which represent the values of a society as a result of human interaction with the environment'³¹.

The growing appreciation of cultural landscapes has resulted in substantial changes to the way in which heritage is defined and studied. Monuments, which were originally understood either as individual expressions of artistry or as symbols of important political

³⁰ Tunbridge and Ashworth, 18.

³¹ Susan Buggey, Parks Canada, Architectural History Branch, "Cultural Landscapes in Canada," draft article (1994), 1, quoted in Landon French, The Identification of Associative Cultural Landscapes: Eastern Georgian Bay Case Study, M.A. Thesis (Carleton University, Ottawa, 1997), 2.

events or figures, may now also include sites representing broad socio-economic themes. This is particularly evident in the growth in interest in industrial sites, and has given rise to the field of industrial archaeology. Another emerging area of interest is the study and preservation of vernacular architecture, which has had a broad impact on methods of surveying and assessment³².

Increasing interest in the preservation of districts and vernacular structures has, however, sparked philosophical debates over both the concept of heritage value, and the practice of heritage conservation. In particular, the preservation of living landmarks, or sites where 'history - in the form of living traditions - is still happening'³³ has caused reflection about the limited way in which heritage value, itself, is conceived. Where previously, sites were accorded heritage (scientific, artistic or historical) value by groups of experts using disciplinary frameworks (generally, history or architectural history) as the basis for assessment, it has been acknowledged that other 'communities of interest' may accord spiritual and social value, among others, to sites, which may also be recognized and preserved. The concept of social value has been defined as:

(the) collective attachment to places that embody meanings important to a community. These places are usually community owned or publicly accessible or in some other ways 'appropriated' into people's daily lives. Such meanings are in addition to other values, such as the evidence of valued aspects of history or beauty, and these meanings may not be obvious in the fabric of the place, and may

³² Julian Smith, Patrimoine Bâti, Étude B-5 (February 1988), Section 1.4.

³³ Ned Kaufman, "History Happened Here," Discussion Draft, (Municipal Arts Society of New York, November, 1996), 18.

not be apparent to the disinterested observer.³⁴

This definition of social value implies that value may be found not only in the physical elements of a structure, but may reside in the interaction of people and place. This definition thus emphasizes the experiential as well as physical qualities of a site. Places that embody this kind of meaning might include public places, meeting places, places of public entertainment, places associated with recent significant events, commemorative places, and places with special meaning for particular communities, among others. Such places can:

...provide links between past and present, help give disempowered groups back their history, anchor a community's identity, play a prominent role in a community's daily life, provide a distinctive feature within the cityscape, or provide a habitual community meeting place for public ritual or informal gatherings.³⁵

The recent broadening of the concept of value suggests the recognition of Meinig's observation that the same landscape may represent a variety of meanings (nature, habitat, artifact, system, problem, wealth, ideology, history, place, and aesthetic) depending on the beholder or interpreter³⁶. The inclusion of places valued by 'communities of interest' (which may be defined geographically, territorially, culturally, or ethnically) and the

³⁴ Chris Johnston, What Is Social Value? Technical Publications Series Number 3, Australian Heritage Commission (Canberra: Australian Government Publishing Service, 1994), 10.

³⁵ Ibid.

³⁶ D.W. Meinig, "The Beholding Eye," The Interpretation of Ordinary Landscapes (New York: Oxford University Press, 1979), 33-47.

concept of social value within heritage conservation would require, however, a transformation of traditional practices. Traditional conservation has employed scientific standards of assessment, based on strict criteria relating to aesthetic and historical value. The application of criteria to sites has become, over the course of the twentieth century, the work of experts from relevant fields, as has the development of conservation strategies. Social value, by contrast, implies the identification and assessment of heritage, based on subjective opinion and unofficial values.

The contrast between modern heritage value, and the designation of national sites, and the new categories of heritage, and forms of value, may be compared to Osborne's levels of landscape identity construction. Where national heritage recalls identity construction at the level of society, or 'gesellschaft', which 'requires that people identify with an abstraction', and where 'symbolic constructs ...reinforce the sense of membership to the group', social value is 'local and immediate', reflecting the fact that 'the lived in landscape becomes a fundamental concept central to people's sense of community.'³⁷

The consideration of social value within mainstream heritage conservation will undoubtedly be challenged for a number of reasons. This concept of value may, for example, be considered to be too broad in scope and too difficult to apply in the assessment process. Furthermore, it may be considered to be 'unscientific', in contrast to historic or architectural value, whose frameworks are derived from a disciplinary basis (the fields of history and architectural history). Its emergence nonetheless signals a shift in

³⁷ Osborne, 230-231.

sensibility and a shift in goals both within the field of heritage conservation and on the part of governments, whose recent charters reflect this expanded understanding of heritage.

Conclusion

In the first section of this chapter, heritage sites are described as symbolic spaces, structures, and associated rituals, which are invested with meaning both through past and/or present use and through a process of identification, interpretation, and commemoration. Symbolic sites associated with social memory form a component of cultural systems of knowledge and the varied forms of the sites, ranging from monumental to more ordinary buildings, and from urban districts to cultural landscapes, reflect the aspirations, intentions, and values of those involved in the process of conservation.

The development of modern heritage values arose during a politically turbulent period in European history, during which time both the physical and social landscapes of European society underwent radical transformations. Heritage conservation became the means to bridge the past and present in a rapidly changing world. Reflecting its contemporary intellectual environment, the concept of heritage was rooted in the emerging disciplines of history and art history, as were the assigned heritage values. This definition of heritage resulted over time in the development of an expert-driven field, in which the evaluation of sites has been carried out using scientific and rational systems of assessment.

As definitions of heritage have expanded to reflect changing social sensibilities and beliefs, the concept of value has come under scrutiny. The final section of this chapter identifies two major shifts which have occurred, during the twentieth century, in the way

that both heritage and value are understood. A more holistic understanding of the concept of heritage has been complemented by the growing recognition of the social and spiritual values associated with sites which support living traditions. While architectural and historical value remain highly relevant in contemporary conservation, recent debates highlight the need to take into account additional layers of meaning and significance in the assessment of sites.

The implementation of new legislative systems and changes to the practice of heritage conservation present challenges to existing national frameworks, however. Chapter Two will highlight the fact that Western legislation and programs generally remain rooted in a traditional framework developed to preserve historic monuments. An emphasis on the physical preservation of designated heritage sites prevails, as does the use of experts and scientific criteria for assessment, to the detriment of the social value of sites. By contrast, it will be argued in Chapter Four that Ontario's program for heritage conservation, which delegates responsibility for assessment and protection to municipalities and committees of citizens, serves to support the conservation of social value. Ontario's program, frequently criticized for its lack of centralized control and permanent physical protection, may ironically provide one of the more useful models for heritage legislation in the emerging realities of the conservation field.

Chapter Two: Frameworks for Conservation: A Comparison of Four National Programs

Introduction

Across Europe, during the nineteenth century, individuals and societies began to establish lists of monuments considered worthy of special protection by the state for their historic and artistic value. Towards the end of the nineteenth century, and during the early to mid-twentieth century in the United States and Canada, protective heritage legislation began to be passed by national governments. The enactment of legislation and the creation of heritage programs reflected the growing acceptance of the idea that the state has an important role to play in the protection of cultural heritage.

Most government programs for heritage conservation in both Europe and North America, have adopted three common features: recognition, protection and financial support. Sometimes referred to as the 'three pillars' approach, this system traces its origins to Sweden, which created the first inventory of heritage sites in 1666³⁸. The three elements of this framework function as follows:

- recognition - provides a methodical and defensible system to distinguish properties of interest from those without interest;
- protection - of properties against infringement;
- financial support - compensates for the higher costs associated with heritage.³⁹

³⁸ Marc Denhez, "Sources for National Strategy", Legal and Financial Aspects of Architectural Conservation, ed. Marc Denhez and Stephen Dennis (Toronto, Oxford, and Buffalo: Dundurn Press, 1997), 14.

³⁹ Marc Denhez, " 'Who Are We and Where Are We Going?' The Three Pillars of Heritage Strategy Revisited," unpublished paper (Ottawa, 1996), 1.

Although all three elements are found at the basis of most Western conservation programs, the manner in which each one is defined varies significantly. The framework for national programs and legislation reflect their specific socio-cultural contexts. Their strategies are also, however, based on broad conceptions of heritage and value, described in the previous chapter.

Beginning with the adoption of the Athens Charter in 1931, international charters and declarations have provided the conceptual and philosophical basis for national conservation initiatives. The conceptual frameworks embedded in charters have changed over time, reflecting the dynamic nature of heritage conservation, and its connection to the beliefs and sensibilities of a particular time and place. The first section of this chapter provides an analysis of two charters and one declaration, which represent three dominant paradigms of twentieth century conservation.

These three paradigms are then used in the critical assessment of four national programs. The programs and legislation of England, France, the United States and Canada are considered and compared with regards to their formal definitions of heritage and preservation strategies. The description of the Canadian system provides the context for the consideration, in the two following chapters, of Ontario's program.

Three Paradigms

Over the course of the twentieth century, the practice of heritage conservation has become increasingly codified in international charters and declarations, which provide general frameworks for the definition of heritage, and principles for its conservation.

Three charters, in particular, provide frameworks are representative of the dominant paradigms (the preservation of historic monuments, historic towns and districts, and sites of social value) described in the previous chapter. They are: the Venice Charter (The International Charter for the Conservation and Restoration of Monuments and Sites) of 1964, the Washington Charter (the Charter for the Conservation of Historic Towns and Urban Areas) of 1987, and the Declaration of San Antonio (of the InterAmerican Symposium on Authenticity in the Conservation and Management of the Cultural Heritage) of 1996.

The Venice Charter was the first of thirteen resolutions adopted at the Second International Congress of Architects and Specialists of Historic Buildings, in 1964. Its adoption came from the belief that:

...the principles guiding the preservation and restoration of ancient buildings should be agreed and be laid down on an international basis, with each country being responsible for applying the plan within the framework of its own culture and traditions.⁴⁰

A code of ethics, which provides general principles for the definition and protection of cultural heritage, the charter has remained the best known instrument of conservation in the West, for over thirty years. Composed of sixteen articles, the Venice Charter has at its basis five major principles: *the concept of historic buildings* (extended as regards both isolated buildings and groups of building); *conservation* (use is necessary, but no change in lay-out or decoration should be allowed; the surroundings should be

⁴⁰ "1964 - Venice Charter, ICOMOS," Preserving Our Heritage: catalogue of charters and other guides, (Ottawa: ICOMOS Canada, June 1990), 14.

protected, and ornaments should not be removed); *restoration* (to be undertaken when necessary, but reconstruction is not recommended; any new elements should be distinguishable; elements of value of any period should be respected); *archaeology* (should be carried out by specialists, and should not alter a building to enhance understanding); and *documentation and publication* (any action should be accompanied by a report; publication is recommended)⁴¹.

The definition of historic monument, by 1964, had been expanded to include not only '...the single architectural work but also the urban or rural setting in which is found the evidence of a particular civilization...' ⁴². Furthermore, the Charter recognized the potential value of '...more modest works of the past which have acquired cultural significance with the passing of time' ⁴³. The document, nonetheless, employs the term 'monument', and thus proposes an understanding of heritage which is rooted in the concept of artifact, whose values are conserved through physical preservation.

According to the Charter, the purpose of heritage conservation is to 'safeguard (monuments) no less as works of art than as historical evidence' ⁴⁴. According equal weight

⁴¹ "History of the Venice Charter," The Venice Charter, 1964-1994, Scientific Journal no.4 (Paris: ICOMOS, 1994), 20.

⁴² "1964 - The Venice Charter, ICOMOS", Article 1, Preserving Our Heritage: catalogue of charters and other guides, p.14.

⁴³ Ibid.

⁴⁴ "1964 - Venice Charter, ICOMOS," Article 3, Preserving Our Heritage: catalogue of charters and other guides, 14.

to historic and aesthetic values marked an important shift in heritage conservation, since emphasis had previously been placed on artistic aspects⁴⁵. The definition of significance in this manner served to consolidate the role of the expert in the evaluation process, in which criteria drawn from the fields of architecture, history, archaeology and art history would form the basis of assessments.

The preservation process is narrowly defined throughout the charter in terms that relate to the physical conservation of man-made components of heritage structures. A scientific approach to conservation is recommended in Article 2, which states that 'the conservation and restoration of monuments must have recourse to all the sciences and techniques which can contribute to the study and safeguarding of the architectural heritage'⁴⁶.

The Venice Charter remained, at the international level, the most important document setting out principles of conservation for more than twenty years, until the adoption of the Washington Charter, in 1987. While the earlier Charter contains sections that are relevant and applicable to the conservation of urban environments, the 1987 Charter addresses the issue specifically. In this document, the historic character of towns and urban centres is conserved through the preservation of the 'material and spiritual

⁴⁵ Cevat Erder, "The Venice Charter in Review," The Venice Charter, 1964-1994, 26.

⁴⁶ "1964 - Venice Charter, ICOMOS," Article 3, Preserving Our Heritage: catalogue of charters and other guides, 14.

elements that express this character', in particular:

...urban patterns as defined by lots and streets; relationships between buildings and green and open spaces; the formal appearance, interior and exterior, of buildings; the relationship between the town or urban area and its surrounding setting, both natural and man-made; and the various functions that the town has acquired over time.⁴⁷

These qualities represent a clear expansion of the concept of heritage, in that it recognizes not only the physical elements of structures, and the relationships that exist between buildings and open spaces, but also the spiritual and social functions within historic areas. While these concepts are not explored in depth, they are included.

Central to the preservation of towns and urban areas is the conservation plan, which should be based on a multi disciplinary study, addressing the architecture, archaeology, sociology and economics issues of an area. The document therefore broadens the range of expertise that should be employed in the conservation process. However, while it recognizes the 'essential' nature of resident involvement in the process⁴⁸, their role is never defined in either the evaluation or preservation of an area, thus rendering such a recommendation somewhat meaningless. The Charter also recommends that new functions and activities be compatible with the existing built environment.

The ideas contained in the Washington Charter, in fact, summarised and reformulated the ideas of an Italian urbanist, G. Giovannoni, published in a series of

⁴⁷ ICOMOS, "The Washington Charter," Article 1 (Washington, D.C., 1987), online, November 16, 1998. URL: http://www.international.icomos.org/icomos/e_towns.htm.

⁴⁸ "The Washington Charter," Article 3.

articles between 1898 and 1947. Giovannoni proposed three principles of urban conservation: first, that the management of all aspects of historic urban areas should be integrated into a plan, which takes into account its current context; second, that the nature and character of urban environments is derived from the relationship between monumental structures and their surroundings; and finally, that the same processes used in restoration apply to urban areas, but should respect the morphology and existing relationships between buildings⁴⁹.

These ideas represent the basis for what has been referred to as 'integrated conservation', which implies the integration of conservation within the planning process. While the Washington Charter dealt specifically with the issues relating to district conservation, however, it was adopted to complement, rather than replace the Venice Charter. It did not, in fact, challenge the basic tenets of the document of 1964.

By contrast, the Declaration of San Antonio, adopted by the ICOMOS National Committees of the Americas, in 1996, represents a direct challenge to the basic framework of the Venice Charter, with respect to both the concept of heritage and the framework for preservation. At the most general level, it challenges the assumption of universality implied by the earlier document, proposing instead the adoption of regional principles, in this case, ones relevant to conservation in the Americas, from a post-colonial perspective. Furthermore, it rejects the concepts of unified national identities, and the 'hierarchical predominance' of any one culture, asserting instead the existence of a diversity of

⁴⁹ Françoise Choay, L'Allégorie Du Patrimoine (Paris: Éditions du Seuil, 1992) 154-155.

identities which 'make up the sum of our national identities'⁵⁰.

The concept of heritage, in the San Antonio document, is left deliberately open to interpretation. While cultural identity is identified as being at the basis of cultural heritage, the specific values underlying this concept of heritage are not defined. Rather, the document states that 'the authenticity of our cultural resources lies in the identification, evaluation and interpretation of their true values as perceived by our ancestors in the past and by ourselves now as an evolving and diverse community'⁵¹. In other words, rather than referring to absolute values, as had been done previously, it speaks instead of 'perceived' or relative values. Implicit in this statement is a belief that the meaning of cultural heritage is dynamic and relative, and that it is generated through the interaction between participants and place.

The rejection of absolute values leads to an alternative framework for identification, evaluation and conservation in heritage conservation. The Declaration calls for not only the study of the history and material elements of a proposed site, but also 'the intangible traditions associated with the tangible patrimony'. This is achieved through the 'comprehensive assessment of the significance of the site by those who are associated with

⁵⁰ ICOMOS National Committees of the Americas, "The Declaration of San Antonio," (San Antonio, Texas, March, 1996), Article 1. URL: http://www.icomos.org/docs/san_antonio.html, November 16, 1998.

⁵¹ Ibid.

it or who claim it as part of their history'⁵². Thus, unlike the Washington Charter, which mentions but does not define the role of 'residents', the Declaration proposes that communities participate directly in the assessment process.

The concept of preservation is also reformulated, to take into account the more holistic definition of heritage. Rather than being limited to the physical preservation of sites, conservation is oriented to 'maintaining the traditional patterns of communal use of the heritage site'⁵³. This formulation recognizes the fact that in order to maintain such traditional patterns, some changes to the physical fabric of a site may be necessary, in order for the site to evolve with its associated community. This approach, which challenges the traditional museological approach to conservation, thus identifies communities as the primary stewards and custodians of living and evolving heritage sites.

The three frameworks considered above each represent a distinct paradigm of heritage conservation. The Venice Charter proposes a museological approach to heritage conservation, in which heritage sites and their surroundings are isolated from their environments and are managed according to specific principles, by trained specialists. Heritage value is located in the aesthetic and historical significance of a site, which encourages a rational assessment process, carried out by specialists, using discipline-based criteria.

In the second example, heritage is defined both as monument and as living fabric,

⁵² "The Declaration of San Antonio", Article 2.

⁵³ "The Declaration of San Antonio," Section 5.

and an 'integrated' approach to management is proposed. The second charter advocates a multi-disciplinary approach to both assessment and management, but maintains an expert-based framework, in which the role of residents is not adequately defined. Emphasizing the physical preservation of environments, it represents an extension of the Venice Charter.

The third document, by contrast, challenges the basic framework proposed by the Venice Charter. It portrays the concepts of both identity and value as relative, and refers instead to the concept of 'authenticity'. Conservation is defined in experiential rather than in purely physical terms. As such, the Declaration proposes that the assessment and management of heritage sites should be carried out primarily by the traditional communities associated with them. The role of the specialist, within this framework, is that of a facilitator.

The following sections consider the way in which these paradigms, or formulations of heritage, value and approaches to conservation are manifested in national programs and legislation.

Heritage Conservation in England

The origins of the English heritage conservation movement are traced to the emergence of the Romantic movement and later, to the Industrial Revolution. The former inspired an appreciation of the picturesque qualities of ruins and natural landscapes. The latter represented a period of social and political upheaval, which drove both the old elites and social reformers to preserve tangible symbols of an idealized past. The movement and subsequent government program have consequently emphasized the conservation of

Medieval monuments and country estates, both of which represent historic and aesthetic ideals, and which continue to dominate the English conception of its official heritage.

England and Wales currently recognize three categories of heritage. The first type reflects a nineteenth century understanding of the concept of 'historic monument', and is applied to all forms of archaeological sites, as well as to medieval and modern structures. While 200 'classes' of monuments currently exist, this form of designation is restricted to sites that are no longer in use and that are considered to be of exceptional national importance. Under the English system, monuments are 'scheduled'. This term refers to the process through which sites of national significance and monuments are given legal protection, by being placed on an inventory or 'schedule'. First used in 1882, this form of listing applies only to man-made structures, features and remains, and the criteria for assessment are:

- extent of survival
- current condition
- rarity
- representivity, either through diversity or because of one important attribute
- importance of the period to which the monument dates
- fragility
- connection to other monuments
- potential to contribute to our information, understanding and appreciation
- extent of documentation enhancing the monument's significance⁵⁴

The origins of the schedule are found in a letter sent by the First Commissioner of Works, in 1869, to the Society of Antiquaries:

⁵⁴ England. English Heritage, "The Schedule of Monuments," online, July 20, 1988 (English Heritage, 1998). URL: <http://www.english-heritage.org.uk/dminterface/dminder.asp>.

to request that you will ask the Council of the Society of Antiquaries of London to have the goodness to furnish them with a list of such Regal and other Historical Tombs or Monuments existing in Cathedrals, Churches, and other Public Places and Buildings as in their opinion it would be desirable to place under the protection and supervision of the Government, with a view to their proper custody and preservation.⁵⁵

This letter emphasizes the need to protect features of ecclesiastical structures, in particular, which in England had been ravaged during the periods of the Reformation and counter-Reformation. Although the first list of monuments of 1872 was largely ignored, its submission was immediately followed by the introduction of 'A Bill to Provide for the Preservation of Ancient National Monuments' to the House of Commons by a prominent member of the Society of Antiquaries, Sir John Lubbock.

The 'Ancient Monuments Act', which provided for the establishment of a commission to designate important sites as ancient monuments was eventually passed in 1882, following the deletion of the clause which required the owner of a monument to notify the government and offer the structure to them for sale, before commencing construction on the site. It also enabled the Commissioners of the Board of Public Works to take into guardianship, or acquire with the consent of the owner, any monument included on a short-list of significant buildings⁵⁶. The current legislation, the 'Ancient Monuments and Archaeological Areas Act' of 1979, requires scheduled monument

⁵⁵ Joan Evans, A History of the Society of Antiquaries, (Oxford and London: Batey, 1956), 308.

⁵⁶ Nicholas Boulting, "The Law's Delay," The Future of the Past: Attitudes to Conservation, 1174-1974, ed. Jane Fawcett (London: Thames and Hudson, 1976), 17.

consent for work undertaken on any designated sites.

A second procedure, the 'listing' of buildings, was introduced in the aftermath of the Second World War. With the bombing of cities and the massive reconstruction of urban cores and neighbourhoods, there developed a concern, and increased desire on the part of the public, for the protection of buildings of architectural and historical value that did not meet the criteria of a 'national monument'. Listed buildings are graded (Grade I, Grade II*, or Grade II) according to their level of architectural or historic significance, and listing is used primarily as a tool in planning. The Town and Country Planning Act of 1944 (subsequently amended several times) included a provision which allowed for the preparation, by the Minister of Town and Country Planning, for local authorities, of lists of buildings of architectural or historical interest. The principal criteria used for the assessment of listed buildings are:

- architectural interest: all buildings which are nationally important for the interest of their architectural design, decoration, and craftsmanship; also important examples of particular building types and techniques, and significant plan forms
- historic interest: this includes buildings which illustrate important aspects of the nation's social, economic, cultural or military history
- close historical association: with nationally important buildings or events
- group value: especially where buildings comprise an important architectural or historic unity or a fine example of planning (such as squares, terraces and model villages)⁵⁷

Unlike programs in most western countries, the English system has a proactive approach to listing. In 1946, a comprehensive survey of potential heritage sites across the

⁵⁷ United Kingdom. English Heritage, "What does listing mean?" Online, July 16, 1998 (English Heritage, 1998). URL: (www.english-heritage.org.uk/dminterface/dminder.asp).

country was undertaken, resulting, twenty-three years later, in the first 'complete' inventory of listed buildings. The inventory comprised 145,000 sites, with almost all buildings dating from before the mid-nineteenth century. With the completion of the most recent re-survey of sites, the number of listed buildings is around 360,000. While the emphasis in Britain has been on architecture and architectural history, recent efforts have been made to study heritage from a thematic perspective, signalling a growing interest in the social history of buildings.

The listing of areas had, in fact, been possible since the passage of the Town and Country Planning Act of 1932, which allowed 'preservation schemes for buildings and groups of buildings'⁵⁸. Integrated conservation was fully introduced, however, in the Civic Amenities Act of 1967 (subsequently amended). The act provided for the protection of areas of special architectural and historic interest, and their settings. The concept of Conservation Area Advisory Committees, whose role is to advise local planning authorities, and whose membership comprises residents and stakeholders in designated areas, was introduced in a 1968 amendment to the Act, but these have not proven to be popular⁵⁹.

Concern for the preservation of natural landscapes has been an important focus of conservation efforts since the nineteenth-century, in response to the effects of

⁵⁸ Peter J. Larkham, Conservation and the City (London and New York: Routledge, 1996), 88.

⁵⁹ Larkham, 89.

industrialization on the British countryside. The conservation of natural areas has been carried out primarily by the National Trust for Places of Historic Interest or Natural Beauty, whose mandate is to acquire scenic and historic properties for the benefit of the public. It has been noted that the Trust was, in effect, the natural successor to the Commons Preservation Society⁶⁰ and represents a fulfilment of John Ruskin's plan that an association be formed, with a fund, to protect buildings and land⁶¹. Founded in 1894 by Octavia Hill, Sir Robert Hunter and Canon Rawnsley, its original mandate was limited to the protection of natural landscapes. Following the Second World War, however, this was broadened to include the permanent preservation of country houses.

As of 1996, the National Trust of England and Wales owned more than 570 000 acres, making it Britain's largest landowner. An additional 78 000 acres are protected through covenants held by the trust. Its properties include over 200 houses, fifty villages, and one hundred and fourteen gardens⁶². Where the Schedule emphasizes the Middle Ages, the thrust of the National Trust has been with the protection of country estates, through the post-Second World War 'Country House Scheme' and 'Garden Scheme'

⁶⁰ The Commons Preservation Society was established in 1865 to protest the encroachment of residential and industrial development into common lands and historic sites. The Society's founders, which included John Ruskin, John Stuart Mill, and William Morris, among others, launched campaigns to defend communally held lands that included Hampstead Heath and Wimbledon Common.

⁶¹ Boulting, 18.

⁶² Barthel, 18.

(1948).

Administration

Heritage conservation in England, since its inception, has been characterized by the participation of two groups of participants: the national government and powerful non-governmental organizations. Official conservation initiatives are managed almost exclusively by experts employed by the government, and the intellectual and elite members of heritage organizations. One author has noted that: "The English National Trust has two million members. But most play no active heritage role. Only a small elite have the requisite expertise and ancestral taste."⁶³

Antiquarian, and later, heritage societies have tended to combine intellectual and artistic interests with socio-political motives. The societies have typically represented either conservative (or elite) interests, and the production of a cultural narrative which upholds their traditional social status and reinforces their place in history, or those of (often socialist) utopians, whose concerns have tended to relate to the effects of the Industrial Revolution or modern urbanization on the social and physical fabric of society. Thus, while emphasizing intellectual and aesthetic ideals, the British system has tended to serve a range of political purposes.

Following the establishment of the Society for the Protection of Ancient Buildings in 1877, the next amenity body to be established was the Ancient Monuments Society in

⁶³ David Lowenthal, "A Global Perspective on American Heritage," Past Meets Future, ed. Antoinette Lee (Washington, D.C.: The Preservation Press, 1992), 159.

1924, whose interests are directed towards the architectural and urban conservation issues, including the conservation of 'fine old craftsmanship'⁶⁴. The 'Georgian Group' (originally a working group within the SPAB) and the 'Victorian Society' followed in 1937 and 1958, respectively. The Council of British Archaeologists was formed in 1943, succeeding the Congress of Archaeological Societies established by the Society of Antiquaries of London in 1888. Most recently, the 'Thirties Society' (renamed the 'Twentieth Century Society') was established in 1992. These five societies are currently consulted, under order of the Secretary of State, on the matter of listed building consent to demolish listed buildings.

Of a somewhat different composition, the Civic Trust was established in 1957. Unlike the previous organizations mentioned, it has no individual members. Its goals are to 'encourage high quality in architecture and planning and to eliminate ugliness'⁶⁵, but it also maintains a role in heritage preservation and the protection of the countryside. The Trust serves as co-ordinator of existing local preservation and amenity societies and it encourages the establishment of others across the country. It also administers the Architectural Heritage Fund, a matching grants and low interest loans fund, established during Architectural Heritage Year. Dale observes that it is these local preservation and amenity societies (there were approximately 1200 in 1979) that 'bear the brunt' of public

⁶⁴ Larkham, 66.

⁶⁵ Anthony Dale, "Great Britain," Historic Preservation in Foreign Countries, Vol.1, ed. Robert Stipe (Washington, D.C.: US/ICOMOS, 1986), 93.

participation in planning⁶⁶. Although the Civic Trust actively participates in conservation-related activities, it is important to note that it not directly involved with commemoration.

Heritage conservation programs and legislation, in England, are currently administered by the Secretary of State for National Heritage. For much of this century, these matters were the responsibility of the Department of the Environment. The involvement of this department in the heritage field was appropriate, given the emphasis placed, under the English system, on the relationship between heritage and planning.

Previously, statutory matters relating to heritage were the responsibility of a directorate within the D.o.E., which maintained its own technical staff, including 'ancient monuments inspectors' (architects, architectural historians or archaeologists). Their responsibilities were transferred, in 1983, to English Heritage (Historic Buildings and Monuments Commission for England), a quasi-autonomous, non-incorporated, government organization. This agency currently provides listing recommendations and conservation advice to the Secretary of State for National Heritage. The Secretary of State maintains responsibility for the general legislative and policy frameworks for heritage, the final approval of listings, and the exercise of statutory powers to repair historic buildings.

Heritage Conservation in France

Although the French system currently refers to 'public' rather than national value,

⁶⁶ Dale, 94.

heritage in France continues to be defined as a tangible symbol of national identity. As such, although designated structures may remain in use, they are both referred to and function as monuments, in the traditional sense of the term.

The current program in France reflects its origins, in a number of ways. Its highly centralised framework may be traced to the French Revolution, at which time, the revolutionary government of the 1790s was forced to address the issue of national heritage when the vast collections which had belonged to religious institutions and to the former monarch were nationalised and yielded into its possession. A commission for 'monuments' was established to inventory and classify these resources accordingly. Under the current system, 'objets mobiliers' and 'immeubles' are combined under a single general inventory.

In his report to the National Convention of 1794, the Abbé Henri Grégoire argued that cultural objects and monuments should be recognised as tributes to the individuals who created them, not as commemorations of the despots who commissioned them, and that liberty could flourish only where the creativity of individuals was encouraged, and the creations of these individuals was common property⁶⁷. Grégoire's recommendations did not, at that time, result in an official program for the conservation of buildings and monuments, as was proposed. They served, however, to bring attention to a significant issue, namely the role of the state in defining and protecting cultural heritage.

Among the values attributed to monuments in Gregoire's 'Rapports', the concept of national value was of primary importance. This value provided the impetus for the

⁶⁷ Mark V. Osbaldeston, "The Origins of Heritage Preservation Law in Ontario," Gazette of the Law Society of Upper Canada XXIX (1995): 70.

initial conservation measures taken by the Comité d'instruction publique, and the preparation of the first inventory of 'succession'. In conjunction with national value was pedagogical or historical value, which serves as a vehicle of collective memory for all citizens. The third value was economic, since historic monuments were seen both to provide a model for industry and to spur the growth of tourism. The final was artistic value, although, according to another report of the period, the only value of masterpieces of art was pedagogical⁶⁸.

France enacted its first piece of heritage legislation to protect individual buildings of national historic or artistic significance in 1887. The original legislation was replaced, in 1913, by an Act which currently provides the basis for the preservation of all individual structures. French law as it applies to heritage recognizes and provides protection for two categories of monuments: "monuments classés" and "monuments inscrits". The former category includes buildings that are considered to be of public value for their historic or artistic significance, and may never be demolished under any circumstances. They are listed on the principal inventory which dates from 1887.

A second category, the "monuments inscrits", created in 1913, comprises buildings which are not of sufficient value to be included in the main inventory, but which have sufficient artistic or historic value to merit protection⁶⁹. Originally limited to buildings

⁶⁸ Choay, 91-92.

⁶⁹ The law of 1913 also provides for the protection of 'objets mobiliers'. This term applies to paintings and furniture, as well as parts of a buildings, such as statues, windows, doors, paneling, etc., which have been moved from their original location.

under private ownership, monument inscrits, since 1927, have included public buildings. The protection of monuments listed in the supplementary inventory is limited. Owners wishing to make alterations to listed buildings must notify the government four months prior to commencing work. Tax concessions (the same as those for monuments classés) apply to the cost of maintenance, and the surroundings of the building are protected, but to a lesser degree than those of monument classés.

The protection of natural sites and groups of buildings became possible under a law passed in 1930, to address the gap in previous legislation, which made no provisions for works of nature, including formal or designed gardens. Modelled on the law of 1913, the Act provides for the classification of natural sites for artistic, historic, scientific, legendary or picturesque reasons. Two inventories, the first comprising 'monuments naturels et sites classés', the second comprising 'monuments naturels et sites inscrits', reflect the level of value and form of protection afforded to natural landmarks. Like the controls applied to individual buildings, a review process is required for the alteration of listed sites. Thus, the definition of natural heritage sites in France, and their protection, is based directly on the framework established for historic monuments.

Although groups of buildings were eligible for designation under the French law of 1930, urban or 'integrated' conservation was only fully developed in 1962, with the passage of the Malraux Law. The Malraux Law introduced the concept of 'secteurs sauvegardés', whose purpose was to protect older urban areas from modern development. Following the designation of a district as a 'secteur sauvegardés', a designation plan is prepared by an appointed 'architecte en chef', for the area. Initially, it was intended that an

approved plan would be permanently adopted. This proved unworkable, when almost no plans achieved final approval. The plans were subsequently made provisional and the overall framework, more flexible.

Owners of buildings in listed 'secteurs' qualify for financial support, intended to partly finance renovation or restoration projects. The legislation also provides for the eviction of occupants and the acquisition of structures within districts. It has, nonetheless, been noted that this program has met with little success due to costs and slow progress. Consequently, the conservation of urban historic districts has been carried out under the more general 'opérations programmées d'amélioration de l'habitat', in which social criteria are taken into consideration along with architectural and historical values⁷⁰.

André Malraux was also responsible for the creation of the first scientific inventory in France, called the 'inventaire général des monuments et richesses artistiques de la France' (equivalent to the National Monuments Record in England). Maintained by the government, the inventory includes not only buildings, but stained glass, murals, silver and natural sites, thus reflecting the categories of heritage that are protected under French law⁷¹.

⁷⁰ Larkham, 42-43.

⁷¹ France. Ministère des Affaires culterelles, "L'Inventaire général des monuments et richesses artistiques de la France," online, September 26, 1998 (Ministère des Affaires culturelles, 1998). URL: <http://www.culture.gouv.fr/culture/min/services.htm>.

Administration

France's first preservation law of 1887 empowered the Ministre de l'Instruction Public et des Beaux Arts to list buildings of national or artistic importance. The Commission was expanded in size, and included architects and archaeologists. Its role became consultatory, while the administration of the conservation program shifted to the bureaucracy⁷². The role of the original commission has been maintained since that time, and was eventually renamed the Commission supérieure des monuments historiques, while the original ministry charged with the protection of heritage was replaced by the Ministry of Cultural Affairs.

The centralisation of French conservation efforts allowed for the development of a single system of classification, invested with the authority of the state. Centralisation was accomplished in France to the detriment of the volunteer historical societies, whose efforts to study and commemorate local history were now marginalised. Anthony Sutcliffe's study of urban planning in Paris reveals the relative absence of preservation societies in the city, even during the prefecture of Baron Haussman, when entire neighbourhoods were destroyed to make way for new boulevards. With the exception of the isolated voices of luminaries such as Victor Hugo, Chateaubriand, and Montalembert, support for the conservation of older sections of the city did not develop until the late 1880s⁷³.

⁷² Anthony Dale, "France" Historic Preservation in Foreign Countries, 10.

⁷³ Anthony Sutcliffe, The Autumn of Central Paris (London: Edward Arnold Ltd., 1970), 159.

The study, evaluation, protection and conservation of historic monuments is currently the responsibility of the Minister of State for Cultural Affairs. Within the Ministry, directorates responsible for the administration of heritage legislation, archaeology, historic monuments, and the general inventory, are advised by commissions composed of specialists in fields relating to heritage conservation⁷⁴.

Nominations of sites to heritage inventories may be may be individuals, agencies and government officials. Reports on nominated structures are prepared by government staff (under the chief architect), and are forwarded to commissions for consideration. Evaluations are carried out without lists of criteria defining cultural value. Rather, decisions are made on a case-by-case basis, using the Venice Charter as a broad framework.

The French program for heritage conservation has maintained a relatively consistent structure over time. Just as the societies of learned and elites have maintained a continuous role in British conservation programs, the state has remained the principal interpreter and steward of French heritage up to the present. However, just as the British system has begun to broaden its definition of heritage to include more varied sites whose value is in its social history, France, as well, has begun to decentralize the surveying process for its supplementary inventory, indicating the development of a less abstract, rational and state-oriented conception of heritage. The emergence of interactive 'éco-

⁷⁴ France. Ministère des Affaires culturelles, "Les services de l'administration centrale, Direction du Patrimoine," online, September 26 (Ministère des Affaires culturelles, 1998) URL: <http://www.culture.gouv.fr/culture/min/services.htm>.

musées' in France, since the 1970s, provides further evidence of the changes underway. At the basis of French law, however, is the concept of the historic monument, and government initiatives are directed primarily towards the physical conservation of sites and structures.

Heritage Conservation in the United States

Like the previous European examples, heritage conservation emerged in America as a component of a cultural narrative whose purpose was to unify its citizens within an abstract identity framework. In contrast to preceding examples, however, the American context is that of a settler society (excepting Aboriginal societies), who inhabit a vast and geographically varied territory. Consequently, the American system has been characterized by its local or regional emphasis. At the same time, however, a common foundation myth, centred around the idea of a land without king or crown, has allowed for the establishment of a unified framework for heritage activity.

In the United States, two very different strategic approaches to heritage conservation have developed over the twentieth century. The national program for heritage conservation⁷⁵ in the United States is based on a system of partnerships between three levels of government (local, state, and federal). The program provides for the commemoration of cultural heritage through the National Register of Historic Places, and related designation programs. Listing on this inventory provides recognition, consideration

⁷⁵ The term 'historic preservation' is employed in the United States.

in the planning of federal or federally-assisted projects; and eligibility for tax benefits and federal grants for historic preservation⁷⁶.

Several forms of designation exist, each one reflecting its own set of criteria and values. The National Register of Historic Places, which includes all historic areas in the National Parks system, National Historic Landmarks, and properties of national, state or local significance, defines two levels of significance. The first recognizes 'the accomplishments of all peoples who have made a significant contribution to our country's history and heritage'. Properties listed under this category include districts, sites, buildings, structures and objects, recognized for their significance to American history, architecture, archaeology, engineering and culture⁷⁷. A second category for the designation of 'landmarks' recognizes:

districts, sites, buildings, structures, and objects that possess exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archaeology, engineering, and culture and that possess a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association.⁷⁸

Like the French system, the federal government maintains a separate inventory of

⁷⁶ United States. National Parks Service "Welcome to the National Register," online, September 28, 1998 (National Parks Service, Department of the Environment, 1998). URL: <http://www.cr.nps.gov/nr/welcome.htm>.

⁷⁷ United States. National Parks Service, "Criteria For Evaluation," online, September 28, 1998 (National Parks Service, Department of the Environment, 1998). URL: <http://www.cr.nps.gov/nr/criteria/criteria.html>.

⁷⁸ Ibid.

natural sites, called the National Registry of Natural Landmarks. Another similarity to the French program is that the system is primarily reactive, in so far as any person, organization or government body may nominate properties for inclusion on the Register⁷⁹. Although properties may reflect local, state or national levels of significance, they are evaluated according to a uniform set of criteria. Thus, the federal programs and inventories include very varied sites, classified according to uniform standards.

A parallel strategy exists at the state and local levels, and involves the use of zoning ordinances⁸⁰. The use of zoning first developed in the 'Old South', during which time, tourists and collectors began to strip the antebellum homes of their ornamental details, prompting a reaction from those whose communities were being affected. The first initiative was led by a group of Charleston women who formed the Society for the Preservation of Old Dwelling Houses in the 1920s. Their efforts were directed at Standard Oil, a company intent on constructing filling stations in the Old Battery district. Charleston's zoning ordinance of 1931 included a provision for the designation of its first historic district. This model was soon emulated in New Orleans, in order to save the Vieux Carré, and in many other southern cities. Charleston also created a Board of Architectural Review, which was given the authority to make decisions regarding specific actions of property owners in a designated area. Owners wishing to demolish or alter an existing building, or construct a new building, required the permission of the Board for such work.

⁷⁹ Julian Smith, Patrimoine Bâti, Section II.2.1.4.

⁸⁰ In the United States, land use falls under the jurisdiction of state governments.

The designation of individual landmarks by municipalities was only introduced in 1955, in Philadelphia, at which time the city enacted a city-wide ordinance. The 1950s also saw the passage of state-wide enabling legislation, authorizing cities within certain states to enact this form of historic preservation by-laws⁸¹.

Currently, local landmark designation follows criteria developed by municipalities. Furthermore, while the federal system can provide tax incentives, but few legal controls over the preservation or alteration of listed sites, local landmark designation provides stronger physical control of properties through zoning by-laws. Finally, where federal National Register listing requires the consent of property owners, local landmark and district designations, in some areas, can be imposed without their approval.

In the case of both the federal and local programs, very broad and varied definitions of heritage are given. The federal program recognizes a wide range of values, ranging from more traditional aesthetic and historic values to cultural values, which include social and spiritual significance. These values are provided in a series of guidelines issued by the National Parks Service. At the local level, designation is generally limited to individual properties and districts, because of limitations to zoning powers. However, criteria for the designation of local landmarks is established locally, and therefore reflects, local interests and values.

Reasons for the broad values recognized under the various American programs can

⁸¹ Stephen Neal Dennis, "Regulation in a Complex Constitutional Setting: United States Case Study," Legal and Financial Aspects of Architectural Conservation, ed. Marc Denhez and Stephen Dennis (Toronto, Oxford, and Buffalo: Dundurn Press, 1997), 88.

be traced to both the varied interests of the founders of the movement, and because of major changes brought about through policy and legislation in 1966. Following the Second World War, a series of federal government initiatives geared to addressing the decline of urban cores, spurred the heritage movement into its current form. A report produced by the Special Committee on Historic Preservation of the U.S Conference of Mayors, entitled 'With Heritage So Rich' of 1965, highlighted the shift in meaning and value of heritage in the following passage:

If the preservation movement is to be successful, it must go beyond saving bricks and mortar. It must go beyond saving occasional historic houses and opening museums. It must be more than a cult of antiquarians. It must do more than revere a few precious shrines. It must attempt to give a sense of orientation to our society, using structures and objects of the past to establish values of time and place. This means a reorientation of outlook and effort in several ways... In sum, if we wish to have a future with greater meaning, we must concern ourselves not only with the historic highlights, but we must be concerned with the total heritage of the nation and all that is worth preserving from our past as a living part of the present.⁸²

Seven pieces of legislation concerning cultural and natural heritage were passed during the following year, including the National Historic Preservation Act. In addition to expanding the definition of heritage to include districts (both urban neighbourhoods and rural settings) and structures (such as those of industrial sites), the Act expanded the National Register of Historic Places to include properties of less than national significance. Thus, unlike the British and French inventory programs, which established supplementary lists during the early and mid-century, the American government modified its actual

⁸² William J. Murtagh, Keeping Time: the History and Theory of Preservation in America (New York: Sterling Publishing Co., Inc., 1993), 65-66.

definition of 'national' heritage. Although it maintained a single, centralized list, the inclusion on the inventory of sites of state and local significance recognized the idea of cultural heritage and its central role in all communities.

Administration

Historic preservation in the United States, as described above, comprises a number of separate initiatives, the majority of which exist under the federal program, based on a system of partnerships with state and local governments, and the second enabled under state law, but administered by municipalities. The National Parks Service, of the Department of the Interior, administers the National Register and is responsible for natural and cultural heritage policy matters, as well as the management of federally-owned areas.

Although sites are nominated to the Register through a variety of means, and are evaluated by local and state governments, The Keeper of the Register, a designated position within the Parks Service, makes the final decision about listings. Places are designated as National Historic Landmarks by the minister responsible for the Parks Service, based on the recommendations of an independent body, the National Parks System Advisory Board. In this respect, the American system is much like the one in Britain, under which government staff make the final decisions regarding the listing of buildings⁸³.

The U.S. Conference of Mayors' report, of 1965, entitled 'With Heritage So Rich',

⁸³ Julian Smith, Patrimoine Bâti, Section II.2.1.4.

called for 'an adequately staffed Advisory Council on Historic Preservation, with membership representing the major federal departments and agencies involved in preservation matters, as well as state and local governments and public and private organizations interested in historic preservation and urban development'⁸⁴. This Council was created under the National Historic Preservation Act of 1966, but its role is limited to advising Congress and the President on issues relating to historic preservation.

The United States federal government has devolved responsibility for the identification and assessment of places proposed for inclusion on the National Register to state and local governments. Under the Preservation Act of 1966, federal assistance was authorized for states to 'expand and accelerate their historic preservation programs and activities'⁸⁵. Specific state responsibilities were outlined in the 1980 amendments to the Act, which required participating states to:

- identify and research historic, architectural and archaeological properties,
- nominate to the National Register of Historic Places properties that meet the National Register criteria,
- prepare comprehensive statewide preservation plans,
- assist state and local governments with their historic preservation responsibilities through the procedures of the President's Advisory Council on Historic Preservation,
- administer grants-in-aid for survey and planning and, when funds are available, development projects and

⁸⁴ With Heritage So Rich, report of the U.S. Conference of Mayors (1965), 195, quoted in Catherine H. Slater, "The Advisory Council on Historic Preservation at 30," CRM, no.6 (1996), 11.

⁸⁵ Elizabeth A. Lyon, "The States: Preservation in The Middle," The American Mosaic: Preserving a Nation's Heritage, ed. Robert E. Stipe and Antoinette Lee (Washington, D.C.: US/ICOMOS, 1986), 86.

- provide information, education, training and technical assistance.⁸⁶

Under the 1980 amendments, local governments also became eligible to participate in the federal program, as Certified Local Governments. Under this program, certified local government can enforce state and local legislation pertaining to historic preservation, establish historic preservation review commissions (which was already enabled under many state laws), maintain inventories, and provide for public participation in local programs. By 1987, approximately 300 local governments were participating in this program⁸⁷. At the same time, cities have been carrying out historic preservation activities through the use of zoning ordinances. In 1975, approximately 500 cities were involved in the latter strategy. This increased to about 2000 cities, by 1994⁸⁸.

Reasons for the development of a largely decentralized system in the United States, based on partnerships between different levels of government, are complex. One explanation is the cultural diversity and vast size of the country, in contrast to England and France. Another possible reason is related to American political ideals which are rooted in a belief in democracy, individual self-fulfilment, and anti-elitism. Although industrialization and mass immigration in the late-nineteenth century fostered a heritage movement among local elites in various regions in both the South and New England, it did not give rise to a

⁸⁶ Lyon, 88.

⁸⁷ Lyon, 102-103.

⁸⁸ Dennis, 89.

national movement until much later.

A number of important changes have occurred in heritage conservation as a result of its recent legislative and policy initiatives. According to a 1981 profile of the National Register, prepared by the U.S. National Trust, whereas the oldest buildings and properties tended to form the focus of the register in the past, locally significant buildings and districts are increasingly being recognized⁸⁹. The current two-tiered system in the United States, and several forms of designation recognized under the National Register, have been criticized for being confusing and complicated⁹⁰. The process has, however, also been credited as having stimulated community preservation plans and projects and the formation of community preservation organizations⁹¹. These aspects of the program may, overall, contribute to the conservation of sites of social value.

Heritage Conservation in Canada

The origins of the Canadian heritage preservation movement bear certain resemblances to the American experience. Like the American example, the Canadian movement was initially driven by patriotic activities and the quest to establish a foundation myth by the dominant culture. These activities occurred throughout the nineteenth and

⁸⁹ Lyon, 90-91.

⁹⁰ Dennis, 92.

⁹¹ Lyon, 91.

early twentieth centuries largely at the regional or local levels. Unlike the American example, however, the early Canadian movement was characterized by diverse and fractured expressions of nationalism, reflecting its early colonial history. Where the American experience has been characterized by regional activities which eventually came to be linked under a unified system (the National Register), the Canadian movement has remained extremely decentralized both in terms of its programs for heritage conservation and in terms of the social construction of its heritage.

In Canada, all matters relating to land use and natural resources fall under provincial jurisdiction. Consequently, a two-tiered approach to heritage conservation has evolved involving both the provincial and federal governments. Unlike the two-tiered American system, however, there is no federal legislation pertaining to heritage. While every province in Canada has passed heritage conservation legislation, federal government designations are purely commemorative in nature, except where national historic sites are acquired by the government. It is at the provincial level only that legislation exists to provide various forms of protection to designated sites.

National Historic Site nominations can be made by federal, provincial, and local governments, or from organizations or the public. Evaluations are carried out according to a specific set of criteria, and designations are made by the Minister of Canadian Heritage, based on the Board's recommendations. Their general criteria are outlined in the National Historic Sites Policy of 1994:

1. The subject under consideration will have a nationally significant impact on Canadian history, or will be deemed to represent a nationally important example or illustration of Canadian human history.

- Uniqueness or rarity are not, in themselves, evidence of national historic significance, but may be used as criteria in connection with 1.
 - A representative example may be deemed to warrant a designation of national historic significance because it eminently typifies an important aspect of Canadian history.
2. A site, structure or object may be designated by virtue of an association with a nationally significant aspect of Canadian history, provided that the association in itself is sufficiently important for the site to merit a designation of national historic significance.⁹²

The National Historic Sites program recognizes nationally significant places, persons, and events. In the past, the program tended to emphasize the designation of sites associated with traditional themes in Canadian history, such as pre-twentieth century military sites, the homes of political leaders, fur trade and North West Mounted Police posts, and lighthouses.

When the Parks Branch was formed in 1911, it was given the responsibility of establishing and managing a national parks system in Canada. The incorporation of historic sites into the program was introduced as a measure to bring greater visibility to the parks, to justify the allocation of greater financial resources to the program. Under this plan, a number of parks were organized around sites of historic interest, in particular, around historic forts. Initially, within the Historic Sites Division of the Parks Branch, national heritage limited itself to the commemoration and preservation of military sites. The preservation of structures of architectural value was not embraced at this time, despite requests for that kind of action.

A change was not brought about until the release of recommendations by the

⁹² "National Historic Sites Policy - Parks Canada Guiding Principles and Operating Policies," (Department of Canadian Heritage, Government of Canada, 1994), 67-78.

Royal Commission on National Development in the Arts, Letters, and Sciences, the *Massey Commission*, in 1953. Following a recommendation from the Royal Architectural Institute of Canada that the federal government engage in the preservation of structures of architectural merit, the Commission recommended to the Board the development of a national policy which allowed for the 'restoration and preservation of historic sites and buildings including those buildings of purely architectural significance'⁹³. This recommendation was reflected in the 1955 amendment to the *Historic Sites and Monuments Act*, (1953), to allow for designation of National Historic Sites for reasons of architectural significance.

The 1955 amendment reflected an important shift in the definition of heritage in Canada. At around the same time, the Historic Sites and Monuments Board drafted a policy on architectural preservation, which was presented to the Minister. The policy proposed criteria for the identification and selection of architecturally significant buildings, and recommended a federal cost-sharing agreements with lower levels of government to address the problem of jurisdiction over architectural and land issues⁹⁴.

Initiatives have now been taken to ensure recognition of the histories of women, Aboriginal people, and cultural communities. The Historic Sites and Monuments Board has also recently decided that sites of spiritual and/or cultural importance to the nation will

⁹³ V. Massey, et al, Report of the Massey Commission on National Development in the Arts, Letters, and Sciences, (Ottawa: Edmond Cloutier, 1953), 347.

⁹⁴ C.J. Taylor, Negotiating the Past: the Making of Canada's National Historic Parks and Sites (Montreal: McGill-Queen's University Press, 1990), 158.

be eligible for designation, even in cases where no tangible cultural resources exist, on condition that there is sufficient evidence provided through oral history or other means⁹⁵.

The incorporation of cultural and spiritual values into the assessment process has been undertaken in order to properly address the issue of significance as it relates to sites associated with Aboriginal communities. This initiative is combined with a set of principles regarding Aboriginal heritage, and includes the call for a fully participatory process in the assessment and management of such sites.

Administration

The federal program for designating places of national significance is currently managed by Parks Canada, under the Department of Canadian Heritage. Like the French system, reports describing the history and architecture of nominated sites are prepared by Parks Canada staff, and are reviewed by an independent advisory body, called the Historic Sites and Monuments Board. Members of the Board are appointed by the Governor General, and include representatives from each of Canada's provinces.

The heritage movement in Canada was provided with its first national framework through the establishment of the Historic Landmarks Association, in 1907, which worked closely with local and regional societies. Its role was largely that of a clearing house, gathering and disseminating information, as well as establishing a national inventory of

⁹⁵ Parks Canada "Current Concerns - Historic Sites and Monuments Board," online, October 5, 1998 (Parks Canada, Department of Canadian Heritage, 1998). URL: http://parkscanada.pch.gc.ca/hsmbc/english/concerns_e.htm.

historic sites.

The Association envisioned serving as the advisory body to the federal government, whereby it would review and select sites for commemoration that had been proposed by local organisations, for commemorative markers. Rather than following this course, however, the federal government created its own body, the Historic Sites and Monuments Board, an appointed body of historians and heritage specialists, in 1919. Its principal function was to advise the Parks Branch of the Department of the Interior. The establishment of a board of specialists was not unusual for the times, and reflected the belief in the ability of experts to 'provide objective and rational advice for the enactment of government policy'⁹⁶. The roles of the Historic Sites and Monuments Board and Parks Service, in the National Historic Sites program, have been maintained since that time.

Provinces across Canada began enacting heritage legislation during the 1960s and 1970s. The first to be passed was the Historic Monument Act of Quebec in 1964. Most provincial heritage acts in Canada provide a framework and legal tools for listing, protection, and compensation, based on the English and French models, and most provide for the designation of individual buildings, districts and archaeological sites. In addition, some provinces have amended other pieces of legislation, such as those relating to planning, housing, and the environment, so that they will, to varying degrees, protect cultural heritage.

Generally, provincial legislation relating to heritage conservation has tended to be

⁹⁶ Taylor, 31.

reactive in nature. Sites may be proposed for designation by members of the public or organizations. What has varied is the extent to which provincial governments maintain responsibility for the assessment process and for the administration of heritage programs. Where some provinces, such as Quebec, have maintained relatively centralized programs, others have delegated responsibilities to the local level. Manitoba's 'Heritage Resources Act' (1985), for example, recognizes two levels of heritage, provincial and municipal, the latter being the responsibility of municipalities. Ontario's program, described in the following chapters, represents the exception, where all responsibility has been delegated to municipalities for the designation and protection of heritage sites. It is unique in this respect within the overall context of Western conservation.

Conclusion

The purpose of Chapter Two was to examine the structure and organization of heritage conservation programs in four countries, in order to highlight the heritage values that each system recognizes and protects. While each of the four national programs has been shown to have evolved in response to their respective socio-political contexts, they also demonstrate broader cultural values within their heritage programs.

In England and Wales, the concept of the 'historic monument' forms the basis of the two national inventories. Historic monuments, which recognize the aesthetic and historic value of listed sites, are identified by heritage specialists working for the national government, but are protected through planning regulations and therefore by local authorities. Within this system, only sites of national significance are recognized. The

British system also provides for the designation of conservation areas, under separate legislation, which are identified and regulated by local authorities. Under this system, the definition of heritage and the assessment of sites is tightly controlled by specialists, while the protection of sites is carried out by both local and national authorities. Conservation areas, by contrast, are defined and monitored locally, and are used as a means of protecting townscapes and urban areas, reflecting a more integrated understanding of heritage within the overall planning process.

The highly-centralized French system recognizes two levels of both natural and historic monuments, as well as 'secteurs sauvegardés'. The two levels of monuments permit the designation of sites as being of national or regional/local value. Like the British system, French monuments recognize, primarily, historic and aesthetic value. While sites may be nominated by the public, their assessment is carried out by an individual body of experts, and their protection is a government responsibility. Secteurs sauvegardés are also identified and managed by national officials, according to a conservation plan for an area. The public, in France, has a very limited role within the national heritage program.

The American system, by contrast, has created a single inventory, which recognizes a range of values (historic, aesthetic, cultural, spiritual, scientific), and levels of significance (national, state, regional, local). This inventory includes all categories of heritage, including individual buildings, districts, and objects. Responsibility for the assessment of sites is shared by all levels of government, and can involve the public, but is carried out using a uniform set of criteria. A parallel system of regulation also exists at the state and local levels, which employs zoning controls in the protection of locally,

designated sites.

Canada maintains the most decentralized system of the four examples considered. The national program in Canada is limited to commemoration and partnerships with other levels of government. Inventories and protective regulations have been enacted by the provincial governments. These vary from relatively centralized programs, administered by government staff and advisory bodies, to programs in which responsibilities are shared by provincial and local authorities.

Since the 1960s, categories of heritage have been modified and expanded in most Western countries, in order to represent the histories of a greater proportion of society. In England, for example, thematic studies of sites associated with socio-economic themes are currently underway. The French system has also begun to study and conserve regional heritage, and both the United States and Canada recognize the concept of social value in cultural heritage. The conservation of aesthetic, historic, and urban/town scape values, focusses almost exclusively, however, on the physical features of sites and their conservation.

Social and spiritual values, are embodied in traditions and community rituals, as much as physical structures. It is arguable that initiatives to conserve such forms of value must focus on maintaining and strengthening the actual relationships that exist between 'communities' of interest and the places they cherish. In the aforementioned examples, legislative and structural changes to encourage such initiatives have not yet been implemented. The older, European national programs, in particular, continue to be organized according to the principles provided in the Venice Charter, thus maintaining the

concept of the historic monument.

Although mechanisms to support the conservation of sites of social value have not yet been deliberately implemented, examples can be found where existing systems serve to support this form of action. This chapter noted, for example, that aspects of the American system may inadvertently serve such a function. Chapter Three will trace the history and goals of the province of Ontario's heritage conservation program. It will be argued, in Chapter Four, that although the intention of Ontario's legislation and program is to protect sites of architectural and historic significance, the decentralization of the program to the municipal level and the involvement of local citizens in both the assessment and management of heritage sites, serves as well, to protect the social value of heritage sites. By placing responsibility for the identification, assessment and management of sites with the communities that create and use them, the system serves to protect traditional relationships that exist between people and place.

Chapter Three: The Ontario Heritage Act

Introduction

Ontario's program for architectural conservation, set out in the Ontario Heritage Act (1975), identifies municipal governments as the key agency in the identification, designation and protection of sites (buildings and districts) of heritage importance. Although the Ontario Heritage Foundation may acquire and hold provincially-significant sites for the benefit of the public, their operations are of a small scale. The provincial government role in heritage conservation is largely that of a policy-maker and facilitator. This mainly decentralized approach is unique in the Western world, where responsibility for heritage conservation tends to rest with national or provincial/state governments, or to take the form of partnerships.

Ontario's unique framework for conservation can be understood by tracing the history of the drafting of the Ontario Heritage Act. The process was initiated in 1971, at which time a provincial study was conducted into methods of addressing the conservation of built heritage in a broad-based fashion. This was seen as a necessary measure since an increasing number of municipalities were demanding legislation to protect their respective stocks of historic buildings. The original program recommended in the study, and in subsequent reports of the early 1970s, followed what was by that time an established model for conservation, which provided both provincial and municipal governments with the authority to designate buildings.

This chapter describes the framework and component elements proposed in the

original policy study, and the original intentions of the province government. A history of the subsequent process to enact legislation provides an understanding of the reasons for the adoption of a vastly modified framework for heritage conservation, in 1975, with the passage of the Ontario Heritage Act.

Origins of the Heritage Conservation Movement in Ontario

Until the 1950s and '60s, efforts to conserve Ontario's built heritage were largely limited to the preservation of military sites; and in particular, forts that were threatened by modern incursions onto their sites. Historical societies were the principal actors in the heritage movement in the province during this period. Generally, the aesthetic value of heritage sites in Ontario came to be recognized only in the period following the Second World War, much like the trend in the rest of Canada⁹⁷.

Early heritage conservation activities initiated by local historical societies were coordinated at the provincial level by the Ontario Historical Society, which formed an Historic Sites and Monuments Committee in 1906, during the lengthy fight to save Fort York from demolition to make way for a streetcar line. Following the submission of a petition to the federal government in 1910 asking that a national survey of historic sites be carried out, the O.H.S. provided assistance on the project when a survey of potential sites was undertaken in 1913, by the federal Parks Branch. With the creation of the federal

⁹⁷ One notable exception to the trend, which saw heritage conservation pursued for aesthetic and historical reasons, occurred around the turn of the century, when the city of Hamilton purchased Dundurn Castle, the palatial former residence of Sir Allan McNab, a prominent military and political figure in Upper Canada.

Historic Sites and Monuments Board, however, the O.H.S. reduced its involvement in preservation campaigns. It is noted that:

Concerned with maintaining the symbols of the British connection and the loyalist past [early members of the O.H.S.] had brought a remarkable emotional commitment to the preservation cause. After 1911, new members were much less concerned...with the questions of imperial unity and American domination; consequently, the emotionalism that had characterized the earlier preservationist work was noticeably lacking.⁹⁸

The early Canadian and Ontario heritage conservation movements were characterized by two features, in particular, which had a considerable impact on later forms of heritage management. First, few attempts were made at either the national or provincial levels to establish unitary frameworks for the study and commemoration of cultural heritage. Second, rather than centralizing responsibility for heritage management, both levels of government encouraged local efforts, which were coordinated by upper-level advisory bodies. While local societies tended to be forceful in their assertions of particular local and national identities, advisory bodies tended to avoid such strong assertions for reasons of political expediency.

The Development of Heritage Legislation

The origins of Ontario's modern heritage conservation program and legislation can be traced to the combined efforts of local citizens' committees and historical societies, during the 1950s and '60s. The membership figures of the Ontario Historical Society attest

⁹⁸ Killan, Preserving Ontario's Heritage, 167.

to the growth in popularity of the historical society movement during this period. In 1948, membership to the Society was reported to include 23 affiliated locals and 44 libraries. The numbers increased to 99 local societies, 173 schools, and 263 libraries by 1968⁹⁹.

The extent to which each of the historical societies was involved in heritage conservation-related activities depended on the extent to which buildings and communities were affected by post-war development projects. One participant in the heritage movement described a common local reaction to redevelopment schemes, stating that: "...historical societies became "hysterical" and gave birth to committees, separate groups and foundations dedicated to the preservation of our heritage"¹⁰⁰. As the following history reveals, it was this form of activity that served both as the catalyst for the establishment of a provincial heritage conservation program and that provided it with its eventual framework.

The participation of the provincial government in cultural heritage conservation dates from the 1950s¹⁰¹, when Premier Leslie Frost was in power. Government efforts

⁹⁹ Killan, Preserving Ontario's Heritage, 230.

¹⁰⁰ Dr. Margaret Angus, "Opening Remarks," The Ontario Heritage Act: Present Problems, Future Prospects, Minutes and Proceeding of the Ontario Historical Society Conference on Preservation Legislation in Ontario, (Toronto, 1977), 7.

¹⁰¹ The Ontario government had been indirectly involved in heritage conservation since the late-19th century. Algonquin Park, the nation's first provincial park was established in 1893. This was followed by the creation of the Bureau of the Archives (now the Archives of Ontario) in 1903 and the Royal Ontario Museum of Archaeology (now the Royal Ontario Museum) in 1912.

focussed almost exclusively on public education through a plaquing program. The first legislation to be passed was limited in application and lacked adequate controls, features that are typical in the early phases of government programs. The government's interest in history and heritage, during this period, has been attributed to Frost's own enthusiasm for local history. It is also ascribed to government recognition of the economic benefits of tourism, which was being revolutionized with highway construction and automobile ownership. In 1950, the Department of Travel and Publicity hosted an Historical Conference at Queen's Park and established a Provincial Historical Advisory Council to develop and publicize Ontario's historic resources¹⁰². This was followed, in 1953, by the passage of the Archaeological and Historic Sites Protection Act.

The Act provided a process for the designation of archaeological sites and required a government-issued permit for their excavation. This measure was taken partly in response to the looting of well-known sites by collectors¹⁰³. The Act also provided for the establishment of a new advisory body, the Archaeological and Historic Sites Board of Ontario, to advise the Minister of Education on the designation of provincial heritage sites.

Lacking funds, adequate legislative controls, and a clear mandate, the Board

¹⁰² Paul Adolphus Bator, Ontario's Heritage, a celebration of conservation (Toronto: Ontario Heritage Foundation, 1997), 14.

¹⁰³ Bator, 17.

concentrated on raising public awareness through a plaquing program¹⁰⁴. In order to carry out such a program, however, the question of how historic sites were to be defined and identified had to be addressed. This task proved to be a challenge since the heritage conservation movement in Ontario was relatively new¹⁰⁵ and was, at the same time, being expanded to address new areas of concern.

When the Board wrestled with definitions during the 1950s, it concluded that it could not decide upon one for historic sites. Instead, it determined that 'common sense' should prevail during a period of rampant development, when so many sites were being destroyed¹⁰⁶. The first sites that were commemorated with provincial plaques reflected a broad cross-section of values, and included six forts, two houses occupied by Sir John A. Macdonald in Kingston, two houses in Niagara-on-the-Lake, Col. Thomas Talbot's estate, and an eighteenth century graveyard near Collins Bay.

¹⁰⁴ According to one source ("O.H.F. History", unpublished manuscript, n.d., p.2), the program was initially too poorly funded to erect anything but cardboard signs which read 'THIS HAS BEEN DESIGNATED AS AN HISTORIC SITE'. The board was, however, even criticized for carrying out this activity. A senior civil servant, Dr. Althouse considered this to be the responsibility of the historical advisory council of the Department of Travel and Publicity (p.6).

¹⁰⁵ The Architectural Conservancy of Ontario had been founded in 1933 with the mandate to protect sites of architectural interest, but its membership remained limited to a very small group of conservationists during this period. Course work carried out by Prof. Eric Arthur's students, during the 1930s, at the University of Toronto's School of Architecture led to the identification and recording of provincial built heritage. The purpose of their assignments was, however, to acquire drafting skills rather than to study provincial architectural history.

¹⁰⁶ "O.H.S. History," 1.

Through the early years of its existence, requests for designations were made to the board from extremely diverse groups and geographic regions across the province, creating further challenges. According to one source, these ranged from requests to designate monumental buildings, to sites associated with a wide range of historical figures and events, to requests to commemorate fictional heroes alleged to have spent time in Ontario¹⁰⁷.

The next initiative of the provincial government was the creation of the Ontario Heritage Foundation in 1967, as a Centennial project. Established by an act of the legislature in June, 1967, the Foundation was provided with the authority to receive and hold property of provincial heritage significance. Although it was empowered to acquire, preserve, and restore property, it lacked the necessary financial resources to be widely effective.

While the government explored new ways of raising public awareness about provincial history through the promotion of a small number of historic sites, a very different form of activity was being undertaken by municipalities. In contrast to the government's focus on commemoration, local citizens began to formulate urban conservation strategies in response to the demolition of historic buildings, and the clearance of older neighbourhoods. These strategies, ultimately, provided the template for future provincial legislation.

The City of Kingston's efforts during the 1950s and '60s, provide a good example

¹⁰⁷ "O.H.F. History," 9.

of this form of action¹⁰⁸. In 1962, because neither the Municipal Act nor the Planning Act offered protection against the demolition or alteration of buildings, Kingston's city council passed an architectural control by-law in which zoning was used as a mechanism to delay the demolition or alteration of heritage building. An escalation in the number of demolitions of historic buildings, following the Second World War, had led to the subsequent establishment of the Committee for the Preservation of Buildings of Architectural and Historic Value in 1958¹⁰⁹. Their original mandate was to advise council on matters relating to heritage conservation and to draft legislation to protect Kingston's historic buildings. Their recommendations led to the passage of by-law #4094, of 1962, 'To Regulate and Control the Alteration or Demolition of Buildings of Historic or Architectural Value and the General Design and Architectural Style of New Commercial, Industrial, and Apartment Buildings'¹¹⁰.

The Kingston by-law borrowed from a number of contemporary legislative models. The concept of listing buildings derived from the English system. This was

¹⁰⁸ The history of preservation efforts in Kingston demonstrates its leadership, from an early date, in the Ontario movement. Heritage conservation was one of the original goals of Kingston's Historical Society, founded in 1893 (Louis J. Flynn, "The Early years of the Kingston Historical Society, 1893-1906," Historic Kingston, 35 (March, 1963): 11).

¹⁰⁹ The group comprised an alderman, a member of the Kingston Historical Society, an architect, a member of the real estate board, and a member of the chamber of commerce.

¹¹⁰ Osbaldeston: 76.

combined with the American technique of zoning. The by-law also established a board of architectural review, whose responsibility was to list and assess 'buildings of special architectural or historic importance'. Any alterations to or demolitions of designated buildings required a Certificate of Approval from the Board, and demolitions could be delayed for up to 60 days. In addition to listing buildings of historical or architectural significance ('Schedule A'), the board was also responsible for the preparation of a secondary list of buildings adjacent to "Schedule A" structures, 'which by reason of alteration or demolition may affect the appearance of such buildings'. Schedule B buildings were subject to the same controls as the 'A' buildings¹¹¹.

Although the by-law was not authorized by the Ontario Municipal Board, subsequent resolutions were passed by Kingston's city council, requesting amendments to the Planning Act that would enable municipalities to pass preservation by-laws. The resolutions requested preservation legislation that would allow for:

1. The designation of particular buildings or groups of buildings for protection and preservation.
2. The power to make grants towards the cost of renovations where the owner undertakes to maintain or restore the original character.
3. The power to purchase and lease such buildings.
4. The power to designate historic and architectural conservation areas for which provisions may be made by by-law to conserve the character of the area.¹¹²

Kingston was not alone in its preservation efforts, during this period. The passage

¹¹¹ Ibid.

¹¹² The Kingston Committee on Preservation, "Review of Kingston's Efforts At Preservation," unpublished report (November 21, 1969): 2.

of a municipal bill for the City of Toronto¹¹³ in 1967 enabled the municipal council to designate historic sites, including buildings and surrounding property, and gave them the power to postpone demolition for up to sixty days¹¹⁴. Similar efforts in Ottawa began with the establishment of the advocacy-oriented Heritage Committee of the Capital For Canadians in 1968¹¹⁵. While the Committee strove to save landmark structures under threat, community associations began to fight for neighbourhood plans that would conserve existing building stock in older neighbourhoods. These varied efforts, coupled with the demolition of an important civic building, resulted, in 1972, in the establishment of the Mayor's Committee On Heritage, and private legislation for heritage conservation in 1973¹¹⁶. Based on the recommendations of the Committee, a heritage planning position was created for Ottawa and a heritage advisory committee was established, just prior to

¹¹³ Like Kingston, Toronto had become involved in heritage conservation efforts at an early date. Toronto's Historical Board was established as a quasi-official historical society in 1934, following the city's centennial. Its first objective was to maintain Fort York, whose restoration began as a centennial project. It was renamed the Toronto Civic Historical Committee in 1949. By 1958, provincial legislation was passed which permitted the establishment of an Historical Board, the first of its kind in Canada.

¹¹⁴ Osbaldeston: 79.

¹¹⁵ Comité Heritage Committee of the Capital For Canadians, Annual Report, 1972-73, 1.

¹¹⁶ The City of London, Ontario, received a similar private bill in 1972.

the passage of the Ontario Heritage Act¹¹⁷.

During the provincial heritage policy study of 1971, four briefs were received on the subject of heritage conservation, which covered the Cities of Hamilton and Peterborough, the Town of Dundas, and the southern part of the County of Lennox and Addington¹¹⁸, and which indicate their involvement in the movement at that time, as well.

In 1970, the MPP for Kingston and the Islands, Syl Apps, introduced a private member's bill, requesting the necessary powers for municipalities to designate and protect built heritage, including both individual buildings as well as districts. The bill proposed an amendment to the zoning powers provided under the Planning Act. A second private member's bill was introduced less than one month later by the MPP for Peterborough, W.G. Pitman. He proposed, instead, an amendment to the Archaeological and Historic Sites Protection Act, in which protective powers would be given to the Minister. Neither bill passed¹¹⁹.

¹¹⁷ Prior to the creation of the National Capital Region, a voluntary Committee on Historic Landmarks was struck in 1957. The Committee drew up a list of criteria for local landmarks, prepared Ottawa's first list of historic sites, and held public meetings to raise public awareness. An earlier initiative in Ottawa, coordinated by the National Capital Commission, resulted in the passage of a Private Act, which authorized design control over the exterior faces of buildings fronting onto certain parks, parkways, driveways, and highways of the National Capital Commission.

¹¹⁸ Government of Ontario. Ministry of Municipal Affairs, A Program For The Conservation of Buildings of Historic or Architectural Value in Ontario, draft report (1971) Section 5.35.

¹¹⁹ Osbaldeston: 81.

It was evident, by this time, that the issue of heritage was of serious concern to a growing number of Ontario residents. The provincial government responded to this concern by initiating a detailed study of heritage conservation issues in Ontario, under the Department of Municipal Affairs. The purpose of the study was to identify the problems of architectural and historic conservation on a province-wide basis and to make recommendations on the types of legislation to be passed.

The Study and Its Recommendations

Urban planners with the Local Planning Policy Branch of the Ministry of Municipal Affairs were assigned the task of conducting a study of preservation techniques in Europe and North America and developing a framework for provincial heritage legislation. When the final draft of their study was published in April, 1971, it comprised two sections: the first analysed the historical background, the nature and extent of the problem, preservation techniques in Britain and the United States, and existing programs in Canada. The second proposed a program for Ontario based on conclusions drawn from the material contained in Part 1. Its basis is summarized below:

1. The program should provide for the protection of both individual buildings and districts of historic or architectural importance.
2. The program should be integrated into the overall planning process, although this does not imply that building preservation will necessarily be subjugated to other planning considerations.
3. The program should be the shared responsibility of provincial and municipal governments, and should be designed to encourage private initiative.¹²⁰

¹²⁰ Government of Ontario. Ministry of Treasury, Economics, and Intergovernmental Affairs, A Program for the Conservation of Buildings of Historic or Architectural Value in Ontario, final report (June, 1972), 1-2.

The proposed program adopted the approach common to most heritage conservation programs in the West, based on the three elements of listing, legal protection, and financial assistance. In addressing both the designation of individual buildings and districts of historic and aesthetic significance, it reflected a post-war understanding of heritage, which no longer focussed exclusively on the protection of isolated monuments. Its proposal to integrate the protection of heritage districts within the planning process, influenced by the British Town and Country Planning Acts, reflected a sophisticated understanding of current mechanisms for protection, previously described as 'integrated conservation'.

The intention of the proposed program was to address the loss of 'architectural heritage', which was defined as 'not only individual buildings, or parts of such buildings, but also areas, districts and even complete communities, which have aesthetic quality or historical associations giving them value in the eyes of society'¹²¹. The elements of the problem were broken down into specific categories, and were identified as: the destruction of individual buildings identified as being of value; alteration or addition to the exterior of individual buildings; destruction or alteration of the interior of individual buildings; destruction or alteration of the immediate environment or setting of individual buildings, and destruction or alteration of all, or part of, the environment in an area, district or

¹²¹ A Program For the Conservation of Buildings of Historic or Architectural Value in Ontario (1971), Section 5.2.

complete community identified as being of value¹²². Thus, heritage was defined in physical terms, and embraced individual buildings, ensembles, and their environment.

The authors of the report acknowledged a bias in the practice of heritage conservation for 'artifacts which have survived for the longest period, regardless of their intrinsic quality'¹²³. This bias would inevitably result in a concentration of designated buildings along the shores of Lake Ontario and in the south-western areas of the province. The architectural heritage of more recent communities therefore risked the possibility of being ignored or neglected, despite its relative aesthetic and historical value. For this reason, the following two-tiered system was proposed.

It was recommended that the protection of individual buildings could be achieved through designations. The designation of buildings was to be the shared responsibility of the provincial and municipal governments: the minister would designate provincially significant sites, and municipal councils would be enabled to designate, by by-law, sites of local importance. It was anticipated that the inventory being prepared by the National Historic Sites Branch (C.I.H.B.), and the one that had been prepared between 1965 and 1967 by the Archives of Ontario (the Goulding Survey), would be used in the selection of buildings to be designated. Expert advice would be sought to determine which buildings were of provincial importance. In the selection process for the designation for local

¹²² A Program for the Conservation of Buildings of Historic or Architectural Value in Ontario (1971), Sections 5.3.1-5.3.5.

¹²³ A Program for the Conservation of Buildings of Historic or Architectural Value in Ontario (1971), Section 5.27.

heritage, the advice of local historical societies and architectural conservancy groups would be solicited.

The protective measures that were proposed required the owner of a designated building to make an application to alter or demolish the structure to the appropriate authority: either the Minister or municipal council. The decision to allow or refuse the work was to be issued in ninety days. In the case of applications to demolish, it was decided that the Minister or council would have the authority to prohibit the work for a period of 180 days, but could not prohibit demolition on a permanent basis.

It was considered essential to provide a mechanism through which the environmental setting of areas, districts and even complete communities could be protected. The report recommended that municipalities be enabled to employ special land use zoning techniques through the designation of areas as Historic Conservation Districts. In order to do so, it would first be necessary for the municipality to adopt appropriate policies into its official plan and to define areas to which they would apply. These policies would be applied by zoning specific areas as Historic Conservation District Zones. In addition, owners of properties within the boundaries of the designated area would be subject to similar procedures as those that applied to individually designated structures.

The report also proposed that financial assistance should be provided by the public sector to encourage private sector involvement in conservation. This assistance would take the form of grants, loans, and through the establishment of revolving funds, following the U.S. model. It was further recommended that owners of designated properties, where heritage policies applied, be permitted to sell off excess development rights as a means of

realizing some financial return on the development potential of a site.

With regards to administration, the program was to be the shared responsibility of the provincial and municipal governments. The underlying assumption that guided the recommendations was that 'the provincial government would wish, in the case of this programme, to maintain its principle of delegating responsibility to municipal government to the maximum possible extent'¹²⁴. Since it appears that the necessary legislation was to be enacted in the form of amendments to the Planning Act¹²⁵, responsibility for administering the procedural aspects would be closely linked to other planning matters. At that time, the Plans Administration Branch, of the Ministry of Treasury, Economics, and Intergovernmental Affairs (formerly the Department of Municipal Affairs), was responsible for the latter, and it was recommended that a special unit be established within the branch to administer the heritage conservation program.

The provincial loans and grants program was to be administered by an expanded Ontario Heritage Foundation. The Foundation would continue to acquire and hold property, but its role would be broadened to include the provision of advice to the private sector, in addition to the administration of grants. A Provincial Historic Advisory Board of experts in the fields of history and architectural conservation was to be appointed to assist

¹²⁴ A Program for the Conservation of Buildings of Historic or Architectural Value in Ontario (1971), Section 9.4.

¹²⁵ The draft and final reports were vague on the subject of legislative amendments. The only explicit reference to the Planning Act was made with reference to Historic Conservation Districts (Chapter 3). All other references refer only to the 'enactment of legislation'.

the aforementioned bodies with the selection of provincial heritage sites. Finally, the Historic Branch of the Archives of Ontario was to be responsible for plaquing, publications, the recording of buildings and the preparation of provincial inventories.

At the municipal level, the administrative functions were to be carried out by local or regional governments. They were to be assisted in their task by provincial officials and by local Historic Conservation Advisory Committees. These committees were to consist of a cross-section of elected council members and co-opted citizens, in particular those with a special knowledge of the history and architecture of a community. The reasoning behind the committee structure was that it would allow for both citizen involvement in conservation and would serve to raise the awareness of council members.

The model for the proposed Historic Conservation Advisory Committees appears to have been derived from two sources. When the provincial study was initiated in 1970, a survey of American historical preservation societies was undertaken. The survey, which included a representative sample of rural, suburban and urban area societies, compared the differences in standards for preservation between the groups. It also considered the question of which buildings should be preserved locally, by the province, or by the federal government, and examined the types of pressures for demolition any legislation would have to address¹²⁶.

In an early draft (1970), entitled 'A Proposal To Preserve Buildings of

¹²⁶ Government of Ontario. Department of Municipal Affairs, "The Role of Historical Preservation Societies," unpublished report, May 27, 1970, file no. 5.3: Legislation, Architectural and Historical Buildings, Department of Municipal Affairs Records, Archives of Ontario, Toronto.

Architectural Merit in the Province of Ontario', the study team favoured the establishment of local boards which would take over the function of planning boards in areas designated historic districts. It was also anticipated that the boards would study the problems of preservation in their particular jurisdiction, prepare preservation objectives and plans, and be responsible for the development of an inventory of significant properties. These local inventories would be based on the provincial inventory, but would 'occasionally' include buildings of local value¹²⁷.

The idea for the establishment of local boards was clearly based on precedents that included the Kingston Board of Architectural Review and American architectural commissions, such as those established in Boston and New York City, among many others. The proposal regarding the establishment of local boards was later modified, because 'the Provincial Government is, ..., committed to the principal of delegating as much responsibility as possible to politically responsible bodies at the local level.' Furthermore, it was believed that 'the existence of an advisory board could reduce council involvement' and that 'the existence of an independent board could tempt a municipality from evading its responsibilities, and at the worst there could be damaging open conflict between the board and the municipality.'¹²⁸

¹²⁷ Government of Ontario. Department of Municipal Affairs, "A Proposal To Preserve Buildings of Architectural and Historical Merit in the Province of Ontario," unpublished report, August 12, 1970, 3, file no. 933-6-3, Department of Municipal Affairs Records, Archives of Ontario, Toronto.

¹²⁸ A Program for the Conservation of Buildings of Historic or Architectural Value in Ontario (1971), Sections 13.17 - 13.19.

The final report proposed, as an alternative, that Historic District Advisory Committees be established, whose membership would include a number of council members and at least three co-opted non-voting citizen members with a demonstrated interest in the history and architecture of the community. The committees were modelled on the British Conservation Area Advisory Committees (CAACs)¹²⁹, which had advisory powers only. It was also recommended that a member of the planning board be included and, if possible, a registered architect and a member of the local historical society. The committee's responsibilities, as outlined in the first draft of the study, were to advise council on preservation issues on the passing of an historic district zoning by-law. It was also recommended that the committee be involved in the preparation of the district plan and in the listing and designating of historic districts¹³⁰.

In the final draft of the provincial study (1972), the name of the committees was changed to Historic Conservation Advisory Committees, reflecting a broadening of their role in municipal-level conservation. The final draft recommended the establishment of committees by municipalities 'at the earliest opportunity, preferably before undertaking

¹²⁹ Government of Ontario. Ministry of Treasury, Economics, and Intergovernmental Affairs, "Historic Conservation Districts. Outline Of Proposed Policy Paper," unpublished report, May 13, 1974, n.p., file: Historic Districts: Material For Policy Paper, Ministry of Culture and Recreation Records, Archives of Ontario, Toronto.

¹³⁰ A Program for the Conservation of Buildings of Historic or Architectural Value in Ontario (1971), Sections 13.13 and 13.14.

any conservation activity as proposed in this report.¹³¹

The final draft also included modifications to the provincial administration of the program. In the first version of the report, the administration of the program was to be divided between the Department of Municipal Affairs and the Department of Tourism, who already administered the provincial plaquing program. This responsibility was transferred to the Ministry of Colleges and Universities, which, in 1972, assumed responsibility for the existing program. Since the proposed program, in particular with respect to the designation of historic districts, involved amendments to official plans and the passage of zoning by-laws, it was anticipated that Colleges and Universities would maintain a close liaison with the Plans Administration Branch of M.T.E.I.A.

Another modification to the first draft related to the selection process at the provincial level. The original document recommended that the selection of provincially significant heritage sites could be done by members of the technical unit within the Ministry of Municipal Affairs. This responsibility was shifted, in the final draft, to a Provincial Historic Advisory Board, made up of 'provincially renowned experts in the historic conservation field', who were to be appointed by the Minister¹³².

¹³¹ A Program for the Conservation of Buildings of Historic or Architectural Value in Ontario (1971), Section 5.14.

¹³² A Program for the Conservation of Buildings of Historic or Architectural Value in Ontario (1972), 44.

Modifications to the Proposed Program and Legislation

Following the publication of the final draft of 'A program for the Conservation of Buildings of Historic or Architectural Value in Ontario', the proposed role of the province and the municipalities under the program was debated among provincial officials and professionals in the field of heritage conservation. Although a number of alternatives to the proposed framework were considered, no amendments were made at the time. There was clearly some concern on the part of the province that their proposed role under the new program would involve them in controversy. The question of 'finding someone to cope with the problems...' inspired a proposal that, in fact, directly anticipated the final administrative framework of the 1975 legislation. In one memo, J.D. McCullough, then the Assistant Deputy Minister, Cultural Affairs Division, Ministry of Colleges and Universities, suggested:

... that the legislation should be worded so that the main thrust is that of enabling municipalities to designate and thus protect buildings of historical or architectural importance...

The whole premise of this solution is that if a building is of provincial importance, it is also of municipal importance and, therefore, it is altogether likely that it will be protected by municipal designation.

This being the case, then it would seem that this Ministry need only prepare a list of buildings which it considers to be of provincial importance and make sure that all of those buildings are indeed on the list of protected buildings...If they are not on the list, it is incumbent upon this province to designate those buildings and to carry through the procedure for reviewing alteration requests and to negotiate to prevent demolitions.

Most importantly, however, we should have the capability and resources, both of staff and finances, to assist the municipality in the assessment of proposed alterations and in the negotiations for the prevention of demolition of provincially important structures even though designated by the municipality, we would assist

only...¹³³

For reasons that remain unclear, the possibility of separating the municipal enabling legislation from the archaeological/historical conservation legislation was also considered, but not recommended. In a departmental report, the reasons given for rejecting this proposal were that the municipal component was the most important aspect of the proposed legislation and that it was from the municipalities themselves that pressure had arisen for legislation. Furthermore, the municipal legislation would be transferred to the Ministry of Housing and put into the Planning Act. It was felt that heritage legislation would not be their priority and the municipal program would suffer, accordingly. Finally, such an administrative structure would require that a second departmental unit be established, thus duplicating services that would already exist in the Ministry of Colleges and Universities¹³⁴.

As a result of government reorganization in 1972, responsibility for proceeding with the provincial conservation program was assigned to the Ministry of Colleges and Universities. The Minister gave his permission to initiate the drafting of the legislation, using as a basis the recommendations contained in the final report. In November, 1973, an

¹³³ J.D. McCullough to Dr. J. Gordon, Ministry of Colleges and Universities, October 4, 1973., file PL 9-1 General, box 2, #82-649, Ministry of Culture and Recreation Records, Archives of Ontario, Toronto.

¹³⁴ Government of Ontario. Ministry of Colleges and Universities, "Possible Separation of Municipal Enabling Legislation from the Archaeological/Historical Conservation Legislation," unpublished report, 1974, file #2020-31, Ministry of Culture and Recreation Records, Archives of Ontario, Toronto.

Interim Architectural Conservation Advisory Committee was appointed to study and comment on the draft legislation and prepare a short list of fifty buildings for Ministerial designation. Their terms of reference were to:

- i) advise on arrangements for completion of the inventory of historic buildings in Ontario.
- ii) select from the inventory a suitable list for provincial designation.
- iii) provide advisory assistance to the Minister and staff during the final development of the program and legislation.¹³⁵

A series of meetings was held between 1973 and 1974, during which time suggestions and recommendations were made, the legislation was refined, and it was sent to lawyers for their comments. The focus of the committee's effort, however, was directed to the development of a list of five hundred provincially significant buildings. According to the secretary of the committee, Richard Rogers, much time was spent examining all categories of buildings. They considered not only monumental structures, but also ecclesiastical buildings, examples of industrial architecture, and workers' row houses. Efforts were also made to ensure that the list was regionally balanced¹³⁶.

On July 8, 1974, the Premier requested a comprehensive review of all legislative and administrative structures relating to heritage in Ontario. This was requested in order to rationalize a number of legislative initiatives relating to conservation that were

¹³⁵ J.D. McCullough to the Minister of Colleges and Universities, December 19, 1973, File 150-15, Box 19, Ministry of Culture and Recreation Records, Archives of Ontario, Toronto.

¹³⁶ Interview with Richard Rogers, Ottawa, August 15, 1996.

concurrently underway. The provincial government was, at that time, seeking to expand the Archaeological and Historic Sites Act, to allow for the protection of real property, as it related to archaeological sites. In 1972, both the Archaeological and Historic Sites Board and the Department Of Public Records and Archives were combined with the Ministry of Universities and Colleges. At the same time, the province was investigating ways of expanding the role of the Ontario Heritage Foundation, which had been operating with very little funding and very limited legislative authority.

An Interministerial Task Force¹³⁷ was assembled to conduct the review and to make recommendations for submission to Cabinet by the Minister of Colleges and Universities¹³⁸. This committee, made up both of public appointees and civil servants, considered the appropriateness of the proposed building and district legislation, as well as the proposed archaeological legislation. It also commented on the role of the Ontario Heritage Foundation, the proposed administrative structure, and the involvement of the Ministry of Natural Resources.

In their Cabinet submission, of September 1974, the Task Force recommended that the various proposed pieces of legislation be consolidated. It would include the proposed legislation for the conservation of architectural resources, as well as amendments originally proposed for the Archaeological and Historic Sites Act, and a definition of the

¹³⁷Also referred to as the 'Ontario Heritage Protection Task Force'.

¹³⁸ E.M. Flemming to C.P. Honey, Ministry of Treasury, Economics, and Intergovernmental Affairs, August 8, 1974, file: 'Historic Districts: Material For Policy Paper', Ministry of Culture and Recreation Records, Archives of Ontario, Toronto.

expanded role of the Ontario Heritage Foundation¹³⁹.

Under the new Act, the Ontario Heritage Foundation assumed the responsibilities of the existing Archaeological and Historic Sites Board. In its new role, the Foundation was to be comprised of distinct committees, including an historical committee, an architectural conservation committee, and what had originally been the Ontario Heritage Foundation: a trust committee, to look after paintings and moveable heritage, and administer tax credits to patrons.

Before the Act was presented to the House, however, two important clauses were deleted by the Cabinet in caucus. The first dealt with the designation of crown property: the Cabinet refused to restrict the disposal of crown property in the manner proposed. The second clause related to the powers given to the Minister to designate provincial heritage. It was felt that this form of designation would unwisely involve the province in the restriction of the rights of private property owners and was also deleted. Thus, in its final form, designation powers were limited to municipal governments, with the exception of archaeological sites which could be designated by the Minister.

On December 12, 1974, the Ontario Heritage Act was, at last, introduced in the legislature. In its final form, it included many of the features that had been requested by the City of Kingston in 1970. While all members who spoke expressed their support of the bill, several expressed concerns over what they perceived to be the fundamental

¹³⁹ Government of Ontario. Ministry of Colleges and Universities, "A Bill to Provide for the Conservation, Protection, and Preservation of Ontario's Heritage Resources," cabinet submission, September, 1974, 'Historic Buildings', Ministry of Culture and Recreation Records, Archives of Ontario, Toronto.

weaknesses of the legislation. These concerns included the absence of a clear definition of heritage¹⁴⁰, the apparent lack of protection for heritage sites falling outside municipal boundaries¹⁴¹, the lack of attention to the economic context for conservation¹⁴², and the deletion of Part III of the Act enabling provincial designation of heritage sites¹⁴³.

Responding to the matter of the definition of heritage, the Minister stated that:

It's a very difficult thing to put down any hard and fast rule as to what is an historical structure or an architecturally important structure. To some degree, it is subjective, and that's why we propose to have people on the (Ontario Heritage Foundation) board with competence and expertise in these fields.¹⁴⁴

The debates became more heated during the third reading of the Act, on January 31, 1975, at which point members had reviewed a brief submitted by Heritage Canada, which criticized a number of features of the legislation. In the brief, Heritage Canada expressed their opposition to a system which placed responsibility for designation with municipal governments. Citing the Alberta and Quebec examples, they argued that:

¹⁴⁰ Legislature of Ontario, Debates, December 16, 1974, Afternoon Session (Toronto: The Queen's Printer, 1975), 6461.

¹⁴¹ Debates, December 16, 1974, Afternoon Session, 6463.

¹⁴² Debates, December 16, 1974, Afternoon Session, 6469.

¹⁴³ Legislature of Ontario, Debates, December 16, 1974, Evening Session (Toronto: The Queen's Printer, 1975), 6486.

¹⁴⁴ Debates, December 16, 1974, Evening Session, 6494.

Such province-wide designation is the best guarantee of consistency. Only at the provincial level is there adequate assurance of sufficient qualified judgement brought to bear upon designation. While some large cities have staff professionals with adequate training, experience and taste to advise the board upon its recommendations, most municipalities do not.

The logical role of the municipality is not to make, alone and unaided, judgements on what aspects of the province's heritage will remain for generations to come, but to supplement lists made by a higher authority...

In addition, there is a strong philosophical reason why designation of the heritage of a province or of a nation should not be left solely at the municipal level. Designation involves adversary positions. On the one hand are those who wish to conserve. On the other side are those who oppose conservation because it stands in the way of profits from demolition and new development.¹⁴⁵

The Minister's defence of the framework presented in the proposed bill was based on the origins of the legislation. Recognizing that both the provincial and municipal levels of government had a valuable contributions to make in the conservation of built heritage, he maintained that the introduction of the legislation was, in large part, due to the original demands of municipalities for powers to designate and protect properties. He also argued that the proposed framework did not prevent the provincial government from 'working with a municipality and assisting a municipality in the acquisition of property'¹⁴⁶. However, rather than arguing that the decentralized system represented a particular philosophical approach of the government, he maintained that the system responded to the demands of the municipalities themselves:

¹⁴⁵ Legislature of Ontario, Debates, January 31, 1975 (Toronto: The Queen's Printer, 1975), 7123.

¹⁴⁶ Debates, January 31, 1975, 7124.

As I said some time ago, this legislation is partly the result of submissions that we have had from municipalities asking to have this kind of authority. I have confidence that they will exercise it wisely and well.

...I really don't agree with Heritage Canada that municipalities are not good people to do this kind of thing. In fact, I think they are. As we discussed in the last section, I would hesitate to say that municipalities should not be doing the kind of thing that they will be permitted to do under this legislation, as they have asked to do.¹⁴⁷

The Minister was misrepresenting the facts to some extent. The municipalities had, indeed, originally requested the powers that were being granted to them under the new Ontario Heritage Act. They had done so, however, prior to the provincial study of 1971, when no other options were available to them. Following the study of heritage conservation by the provincial government, most groups and individuals involved with the movement supported the implementation of a two-tiered system that would provide both municipalities and the government the power to designate heritage sites. When the Act was passed in 1975, its framework was widely criticized across the province, and a concerted effort was made by the aforementioned groups to have it amended. Its features are described in the following section.

The Ontario Heritage Act

Bill 176, 'An Act to provide for the Conservation, Protection and Preservation of the Heritage of Ontario' provides for three forms of landmark designation and protection. Part IV of the Act enables municipalities to designate buildings of architectural and/or

¹⁴⁷ Debates, January 31, 1975, 7109.

historical significance. When a property is designated, a property owner wishing to alter or demolish a structure must obtain the permission of the municipal council. Permits for alteration are designed to protect the character-defining features of a sites, which are listed in the designation by-law. An owner wishing to demolish a designated property must also submit an application to the municipal council. Where council decides to refuse the application, demolition can be prohibited for a maximum of 270 days. The delay provides an opportunity for the government and other interested parties to investigate alternatives to demolition. Following the period of demolition control, a property owner may proceed with demolition should they still wish to do so.

If a property owner objects to a decision made by council relating to the designation, alteration, or demolition of a property, the matter is referred to the Conservation Review Board. Municipal councils are not required to follow the recommendation of the Board, but must give consideration to their report. Thus, council is recognized as the final authority in the designation and protection of individual properties, although its authority does not extend to the permanent protection of sites from demolition. This last aspect of the act has been frequently criticized, since municipal governments are placed in an often difficult position of making decisions that may interfere with new development. The system, however, may also be seen as a workable system for designation, whose controls are not so onerous as to prevent it from being put to use. It provides for designation, and appeal processes, for the review and regulation of alterations to designated properties, and for the application of policing powers (inspection and expropriation). There are presently over 4000 properties designated under Part IV of the

Act.

Part V of the Ontario Heritage Act enables municipalities to designate heritage conservation districts for historical and/or architectural reasons. It requires municipalities to pass by-laws designating the proposed heritage district as a special study area. Provisions for district designation must also be put in place in municipal official plans, before the process is initiated. During the designation process, notice must be served upon the Ontario Heritage Foundation, and the designation by-law must be approved by the Ontario Municipal Board before it comes into force. Unlike Part IV designations, the Board is assigned the majority of powers under Part V of the Act. Before the approval of a designation by-law, a public hearing is held by the Board to determine the merits of designation and to consider its validity in the context of the existing applicable zoning by-laws.

The procedures put into effect through district designation are similar to those under Part IV of the Act (design review and temporary demolition control), but also may affect new buildings constructed in a district. Design control is extended to ensure that design, scale and materials of new structures will not diminish or adversely affect the character of an area. Designation may also affect street scape and public spaces guidelines, to protect the heritage character of a district.

Part VI designation provides for the designation of archaeological sites by the Minister of Culture and Recreation. The only form of landmark designation not under municipal control, it empowers the Minister to issue licences, on the advice of the Ontario Heritage Foundation, for archaeological work. It also enables the Minister to stop work

where archaeological sites are being threatened.

Administrative Bodies

The Act provides for an administrative structure unlike any other in Europe and North America. Primary responsibility for heritage conservation is assigned to municipal governments, which are empowered, under the Act, to designate individual buildings (under Part IV) and districts (under Part V). Municipalities are also enabled, but not required, to establish LACACs (Local Architectural Conservation Advisory Committees), whose function is to advise and assist council on all matters relating to heritage conservation. Created under Section 28 of the Act, the purpose of LACACs is to study and evaluate the built environment of their community and to recommend to council properties or areas worthy of designation. Their responsibilities also include the provision of advice to council when applications to alter or demolish designated properties have been submitted. LACACs must be composed of at least five members, preferably individuals with relevant experience (architects, businessmen, representatives from the media and local historical societies, planners, lawyers, historians, etc.), and at least one municipal councillor. In addition to assisting council in carrying out their statutory responsibilities, LACACs typically provide support functions such as public education, research, and the preparation of designation reports, design proposals, and by-laws.

Established as a quasi-judicial body, under Part III, the Conservation Review Board was created in order to provide a forum in which objections could be heard. Under Part IV of the Act, the Board must be convened when an objection is filed by a property

owner regarding council positions on designations, or on the alteration or demolition of designated buildings. Like LACACs, the Conservation Review Board is an advisory body only. Final decision-making power lies with the municipal council, who may adopt or reject the advice of the Board. The purpose of this appeal process is to find solutions and offer recommendations to all parties attending hearings. The Board's membership is appointed by the Lieutenant-Governor-in-Council; however, the Board may engage technical or professional assistance to present evidence at hearings. By contrast, all appeals regarding matters arising from a Part V district designation are referred to the Ontario Municipal Board, whose decisions are final.

Under the Ontario Heritage Act (1975), the Ontario Heritage Foundation was reorganized, becoming an agency of the Ministry of Culture and Recreation. Assuming the responsibilities of the former Archaeological and Historic Sites Board, it was given a broader mandate. In addition to continuing its earlier trust function, it serves as an advisory body to the Minister. Its mandate includes assisting community initiatives through the provision of grants for projects, and by raising public awareness through education, publications and conferences. The Foundation is also responsible for advising the Minister on the matter of archaeological licenses and the designation of archaeological sites. Foundation board members, appointed by the Lieutenant-Governor-in-Council, are chosen from regions across the province, and the Board is divided into six standing committees: trust property, archaeology, architectural conservation, history, natural heritage, and the Niagara Escarpment.

The Ministry responsible for heritage conservation, since the passage of the Act,

has been the Ministry of Culture and Recreation (now the Ministry of Citizenship, Culture, and Recreation). Created by an act of the provincial legislature in 1974, it brings together under one department all branches responsible for heritage, culture, the arts and recreation. An amalgamation of the former Historical and Museums Branch of the Ministry of Colleges and Universities and the Architectural and Historic Sites Board, the Heritage Conservation Division of the new Ministry assumed responsibility for the plaquing program, and for the provision of support for museums, local historical societies, and of staff support for the Ontario Heritage Foundation. Technical and research functions were carried out by the Historical Planning and Research Branch. The Heritage Administration Branch was created to administer the Ontario Heritage Act, upon its proclamation in 1975. Since 1993, program delivery and support to the arts, cultural industries and heritage sectors has been provided by the Cultural Programs Branch of the Culture Division.

Conclusion

In its final form, the Ontario Heritage Act (1975) provided the legislative framework for the designation and protection of buildings and districts of historic and architectural value¹⁴⁸, which were, at this time, the only widely-recognized values in cultural heritage conservation. The protection of social value was never discussed and would only come to be defined at the international level during the 1980s and 1990s.

¹⁴⁸ Government of Ontario. The Ontario Heritage Act, R.S.O., 1990, Chapter O. 18, Part IV.

The reasons for the study of municipal involvement in heritage conservation, and its inclusion in the first set of recommendations by the Ministry of Municipal Affairs had to do with issues of representation. The authors of the report expressed concern over the fact that were assessments to be restricted to buildings of provincial significance, they would be clustered around a narrowly-defined area in the Southern portion of the province. Their solution was, therefore, to provide a secondary process under which buildings could be designated by municipal governments, in recognition of their local historic or architectural value. At no time did they contemplate the implementation of a system which delegated all powers to designate to the local level, nor did they contemplate the implications of such a framework.

The Act that was finally passed in the legislature in 1975 did little more than provide a formal legislative framework for the municipal initiatives that had been underway since the 1960s. This appears to have happened because of a reluctance on the part of the government to interfere with or reduce private property rights. The first policy study also recommended a system which incorporates heritage conservation into the Planning Act. Such a system might have proven very effective, since one of the subsequent stumbling blocks in heritage conservation has been the perceived inconsistencies between the Ontario's planning and heritage legislation. It was eventually decided, however, that heritage conservation and planning should be pursued separately.

It can therefore be concluded that the consequences of passing the Act, in its final form, were never anticipated or seriously studied. When concerns were raised about the implications of the provincial role in heritage conservation, just prior to its introduction to

the legislature, the fate of the entire Act was placed in jeopardy. Clearly, at that time, those involved with its drafting and those in support of the passage of heritage legislation, considered the passage of a partial or incomplete legislative framework to be preferable to its complete elimination.

Chapter Four: Ontario's Program For Heritage Conservation, 1975 - 1998

Introduction

It is evident that while there has been a shift in the way in which landscapes are currently perceived and analysed by both scholars and the public, heritage conservation policies and legislation in the West have been slow to change, and continue to reflect beliefs and values of the nineteenth and early twentieth centuries. Policies and legislation continue to emphasize methods that are appropriate to the preservation of architecturally and historically significant sites, but do not generally include alternative processes for the conservation of other cultural values. What has typically occurred in national programs, over the past twenty years, is that while definitions of heritage have been broadened to include new themes and categories of sites, identification and conservation processes have not been greatly modified.

The Declaration of San Antonio identifies community-based processes of identification, assessment, and management as essential for the conservation of heritage sites of social value. The centrality of communities in the proposed frameworks may explain the slow pace of change, as such an emphasis serves to reduce or transform the role of experts in the conservation process. Furthermore, such a system serves to diminish government control over outcomes and effects.

An analysis of Ontario's program, since the passage of the Ontario Heritage Act, reveals that while the program failed to adopt the typical legislative and procedural mechanisms common to most heritage programs in the West, its component elements

generate a framework that is in agreement with the principles proposed in the Declaration.

This chapter traces the history of Ontario's program for heritage conservation since the passage of the Ontario Heritage Act. The review of Ontario's program, from 1975 to the present, is based on information presented in policy papers, LACAC surveys, a recent LACAC pilot project, government publications and the LACAC newsletter. Case studies are not used in this analysis because of the inherent difficulties associated with the interpretation of their results. The provincial program is characterised by its diversity of approaches, making generalizations from specific cases unreliable. For the purposes of this paper, provincial policies and legislation are examined in overview.

The elements of the provincial program are analysed with respect to policy issues associated with the assessment and conservation of sites of social value, introduced in the following section.

Social Value in Heritage Conservation

A prominent author notes that: 'The most recent period (of the heritage movement)...marks the entry of professionals (architects, landscape architects, art historians, archaeologists) into the field which hitherto had been filled almost exclusively by antiquarians...' ¹⁴⁹. In association with the rise of the expert in conservation, the evaluation of heritage sites has become increasingly characterized by scientific processes,

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James Marston Fitch, Historic Preservation: Curatorial Management of the Built Environment (Charleston and London: University of Virginia, 1990), ix.

which are employed in order to make 'rational and objective'¹⁵⁰ judgements. Specialists, or experts, are generally assigned the responsibility of establishing criteria and determining the value of sites to the public at large. The incorporation of social value into the assessment process thus presents a challenge to traditional practices.

Place attachment, which develops within communities¹⁵¹, is generally excluded from current assessment methods of expert communities. According to Chris Johnston: 'Social value has tended to mean all those values expressed by the community which fall outside our current professional framework'¹⁵². Reasons for this include the fact that it is difficult to identify, define and quantify, and is often unexpressed by communities themselves. Another reason is attributed to the fact that its assessment must involve the community to which a place has meaning. Current heritage practices are often unable or ill-equipped to accommodate the latter.

The assessment of the nature and degree of significance of sites seeks to determine to whom the place is significant and the reasons why the place has value. The identification of the social value of a place does not exclude recognition being given to other values (ie. architectural and historical value), which might require professional

¹⁵⁰ Chris Johnston, What Is Social Value? Technical Publication Series No.3 (Canberra: Australian Government Publishing Service, 1994), 3.

¹⁵¹ A community may be defined geographically or politically (ie. by nation, state, region, locality or neighbourhood). It may be defined socially (ie. by ethnicity, or shared interests and values) or it may be self-defined.

¹⁵² Johnston, 4.

analysis by experts. Ideally, current systems of assessment and protection could be made more flexible to accommodate the protection of sites which represent a range of values.

Recent literature analysing the application of the principles defined in the Declaration of San Antonio has identified 'informed and politically active communit(ies)'¹⁵³ as the most important component within the conservation process. In particular, they are argued to have a central role to perform in the protection of socially significant sites. It is acknowledged that although accepted legislative controls and mechanisms for heritage conservation are not necessarily inappropriate, they often do not provide the means for community education and participation. Johnston proposes that policies should therefore:

- Create a legal presumption that heritage protection should preserve places of social value; anyone wishing to alter or destroy such a place would have the burden of proving that social value is no longer attached; and
- Planning controls could be vested in a committee drawn from the community/communities affected by the proposal.¹⁵⁴

The incorporation of new values into the assessment process also requires the modification of certain traditional mechanisms. A comparative method is generally employed to establish the value of a site in relation to other heritage sites. While the technique of using comparisons and rankings are held to be applicable in the assessment of living landmarks, the socially-valued places of one community cannot properly be

¹⁵³ Johnson, 24.

¹⁵⁴ Ibid.

compared to those of another, since the criteria will vary between two communities¹⁵⁵.

The broad-based registers or inventories that are characteristic of most programs will therefore not support such an initiative.

An understanding of how a place's meaning is expressed in its form, function, context, and spatial or cultural relationship to other places, provides the basis for the conservation of living landmarks. Since the social value of a site is experiential in nature, its conservation should emphasise its accessibility to the community and possibly the continuity of the traditional use of the site. It therefore becomes necessary to involve a community in formulating a conservation plan, and to provide the community with access to, if not control of, heritage 'experts' involved, since '(p)rocesses which encourage people to take responsibility for their own environment will ensure that social value is recognised, and will enable communities to become increasingly informed and politically active'¹⁵⁶.

Finally, rather than preserving the physical integrity of sites through heavy regulation, interim measures (such as demolition control), which allow for the assessment of sites by community, may be better suited to the conservation of living landmarks. Given the fact that the importance of such sites resides in the relationship between communities and place, a more complex and multi-faceted approach to conservation is required that allows sites to evolve with those who maintain them. A key element of conservation in this

¹⁵⁵ Johnston, 20.

¹⁵⁶ Johnston, 24.

context is a process which provides communities with a voice and an element of control in the management of valued places.

This model of heritage conservation challenges the traditional role of the heritage 'expert'. Placing primary responsibility for the conservation of socially significant heritage sites in the hands of a community requires broad acceptance of their expert role in the process. In certain cases, complex issues arising in the conservation of a site will require the insight of a specialist, in particular where other (historic or aesthetic) values are present. Ultimately, however, this process demands the relinquishing of control on the part of experts and governments, and an ability to respect views which might contradict accepted principles in the field of conservation.

A study, undertaken in 1996 by the Committee on Historical and Cultural Landmarks of the Municipal Arts Society of New York City, applies the principles described above to policy recommendations for the city's Landmarks Preservation Commission. Recognizing that conservation in the New York City has been directed primarily towards the preservation of architecturally significant sites, the report describes additional and alternative approaches that could be employed to broaden the scope of heritage-related activities.

The report considers social value as it relates to 'living history' and living landmarks. Its 'communities of interest' include neighbourhoods, cultural and ethnic groups, and women, among others, and it begins by challenging the way that history has been defined by academics. Central to its argument is the fact that in New York: history 'is everywhere and is constructed'; that diversity is not 'politically correct' but rather 'a

central and cherished part of New York's history' which must be reflected in the city's preservation policies; that communities, as the 'building blocks' of the city, must be at the center of any preservation strategy; and that preservation of history must be a collective enterprise, not simply one that is carried out by and for experts¹⁵⁷.

The report argues that methods already exist to identify and interpret social value. It is a matter of understanding and applying these methods to the practice of heritage conservation. The application of these methods leads to the emergence of new premises, which, in turn, suggest new preservation strategies. Kaufman states that:

For a generation or more historians have been exploring ways of telling history in more dynamic and representative ways. Sociologists, environmental psychologists, and geographers have documented the phenomenon of "place attachment". And folklorists have demonstrated the cultural value of urban rituals and traditions of place.¹⁵⁸

Based on these conclusions, the report calls for an enhanced system of partnerships: between preservation groups, community members and local institutions, such as libraries, businesses, community boards, arts groups, etc.. The report also proposes that new approaches be adopted by existing bodies recognized under federal, state and local heritage legislation. At the local level, it targets the surveying methods employed by the Landmarks Preservation Commission, and calls for a process that

¹⁵⁷ Ned Kaufman, History Happened Here: A Plan For Saving New York City's Historically and Culturally Significant Sites, discussion draft, (New York: The Municipal Arts Society of New York, November 1996), 6-7.

¹⁵⁸ Kaufman, 6.

involves communities and a variety of disciplines in the identification of potential heritage sites. It also proposes a revised framework for evaluation, which emphasizes the designation of buildings that can tell a story or express an important historical theme through visual cues. It also proposes a system of regulation that is flexible and open to public debate.

The report also recognizes the value of state and federal listing of socially significant sites. This form of recognition is identified as an important way of recognising and validating the experiences of communities. The report, however, underlines the need to modify the criteria for assessment at these levels. It is recommended, for example, that the category for 'integrity' be eliminated for living landmarks and industrial sites, as they may have been and, in some cases, continue to be altered, in order to meet the current needs of users¹⁵⁹.

Ontario's Program for Heritage Conservation Since 1975 •

When Ontario passed its first piece of comprehensive heritage legislation in 1975, it was not expected to remain in place without amendments. As was highlighted in the previous chapter, the form and framework of the legislation were unprecedented in Canada and abroad. Many heritage activists and professionals considered it to be weak and ineffective. At the time of the debates in the legislature, even the Hon. Mr. Auld, who introduced the Bill, stated that: "I think, without a doubt, we will have amendments,

¹⁵⁹ Kaufman, 49.

perhaps next year. There are some things we are still looking at that we have not yet been able to resolve in either a legal or a policy sense.”¹⁶⁰ Despite the subsequent efforts of citizens, advocates, and organizations, the Act has remained essentially unchanged since its passage in 1975. Since the passage of the Act, over 4000 properties have been designated under Part IV, over forty districts have been designated under Part V, and another twenty districts are being considered or are awaiting by-law approval¹⁶¹.

The Role of the Provincial Government

The ministry responsible for the administration of the Ontario Heritage Act, since its passage, has been the Ministry of Citizenship, Culture, and Recreation¹⁶². Section 2 of the Ontario Heritage Act provides the Minister of Citizenship, Culture, and Recreation with authority to: “determine policies, priorities, and programs for the conservation,

¹⁶⁰ Debates, Monday, December 16, 1974, Evening Session, 6493.

¹⁶¹ Government of Ontario. Ministry of Citizenship, Culture, and Recreation, “Ontario Registry of Heritage Properties,” and “Ontario’s Heritage Conservation Districts,” online, October 15, 1998 (Ministry of Citizenship, Culture, and Recreation, 1998). URL: <http://www.gov.on.ca/MCZCR/english/culdiv/heritage/register.htm> and <http://www.gov.on.ca/MCZCR/english/culdiv/heritage/district.htm>.

¹⁶² The Ministry was originally named Culture and Recreation, and later Culture and Communications, before becoming Citizenship, Culture and Recreation during the 1990s. When it was first established, Culture and Recreation included a number of divisions, among them: Sports and Fitness, Culture, Heritage, and Administrative Services. Culture included two branches: the old Historical Branch, renamed the Heritage Administration Branch, and historical planning. Under them were the archaeological section, an historical section, a museums section, and a new architectural conservation section.

protection and preservation of the heritage of Ontario”¹⁶³. A number of agencies under ministries are also involved in heritage conservation. The Ontario Heritage Foundation, of the MCzCR, receives gifts of property, and it acquires, develops and manages property for the benefit of the public. In the past, it has administered financial assistance programs, but is currently involved only in trust-related activities, the provincial plaquing program, and in the licensing of archaeological work.

Since 1975, the provincial government’s role in heritage conservation has been primarily directed to the provision of support to municipalities, groups and individuals. It has developed a variety of programs which provide financial and technical assistance to those undertaking conservation work. Their role has been that of a facilitator, assisting municipalities in establishing LACACs, in the preparation of by-laws, and in the development of local inventories. Within the Architectural Conservation Section (now the Heritage Properties Programs Unit, of the Cultural Programs Branch), three phases in the development of the provincial program are evident: the 1970s were focussed on the implementation of a decentralized program; the 1980s were dedicated to providing education to the local level; and the 1990s have been directed towards ensuring the sustainability of local heritage committees and activities during a period of fiscal restraint and municipal restructuring.

The government’s primary objective, during the implementation phase, was to generate the interest of municipalities in the program. In addition to the provision of

¹⁶³ Ontario Heritage Act, Chapter O.18, Section 2.

funding through grant programs, the Experience program, established prior to the passage of the heritage legislation, became an important strategy in achieving municipal participation. During the summer of 1974, students were hired by the Ministry and sent to municipalities, to conduct surveys and begin inventories of potential heritage sites. The rationale underlying this strategy was that, with a few exceptions, such as Ottawa, Toronto and Kingston, most municipalities were not prepared for legislation that would give them authority to designate property. The teams were typically composed of individuals with backgrounds in history and art or architectural history. According to Richard Rogers:

They were sent off to Belleville and Brockville, literally, dozens and dozens of places where they were to photograph, record and do research. They would spend a week, or ten days, or two weeks, until they figured they were done. And then they would come back to Toronto and be sent off to some other place. This went on for about three-and-a-half months.¹⁶⁴

The experience programs continued through the 1970s, and provided Ministry staff with information about potential heritage sites in communities across the province. It meant, as well, that when municipalities were prepared to make use of the heritage legislation, the Ministry was able to offer copies of slides and research material, to get them started.

A position of LACAC co-ordinator was created within the Architectural Conservation section, following the passage of the Act. Initially, the co-ordinator's work involved travelling to municipalities in order to encourage the establishment of LACACs, while at the same time offering assistance. Under the Experience program, the

¹⁶⁴ Interview with Richard Rogers, Ottawa, August 15, 1996.

Architectural Conservation section also trained and sent students out to work for newly-appointed LACACs. Many LACACs were established when grants were made available for the restoration of public or private properties. In cases where a property was considered not to be of provincial significance, and where the Ontario Heritage Foundation was not interested in holding the easement itself, the Ministry suggested the use of municipally held easements on designated properties receiving provincial grants. This arrangement required the municipality to establish a heritage program and it was then possible for Ministry staff to suggest the need for a LACAC¹⁶⁵.

Until 1990, when the program was restructured, government staff worked closely with the Ontario Heritage Foundation. The Architectural Conservation Committee of the Foundation made decisions regarding funding strategies (such as granting programs and easements, and the use of tax credits and transfer of development rights), the provision of technical assistance, the Experience program, and had a sub-committee devoted to encouraging the appointment of new LACACs¹⁶⁶. The Committee and the Architectural Conservation Section targeted municipalities, and made presentations to council members, explaining what LACACs were and how they could function within communities.

During the 1980s, the provincial government began to focus more on providing education to LACAC members and interested citizens. In 1982, the first in a series of

¹⁶⁵ Ibid.

¹⁶⁶ These aspects of the committee's work appeared as regular agenda items (Ontario Heritage Foundation. Architectural Conservation Committee, Minutes, 1976-78).

LACAC conferences took place, sponsored by the Ontario Heritage Foundation with the co-operation of the Ministry and the Ontario Historical Society¹⁶⁷. The goals of the conference, entitled 'Communications '82', were to provide training to participants and to provide a forum in which special topics relating to the provincial program, and to challenges faced by municipalities, could be discussed. Due to its initial success, the O.H.F. agreed to provide financial assistance for the 1983 conference, whose theme, 'Preservation For Profit', emphasized the Main Street approach to conservation. Two subsequent conferences were held in 1990 and 1992, and there is presently an annual conference sponsored by 'Community Heritage Ontario', an umbrella organization of LACACs, described below.

This period also saw the publications of a series of handbooks and brochures explaining procedures for the designation of buildings and districts. In 1988, the Ontario Heritage Foundation published *Well-Preserved*, a 'Manual of Principles and Practice for Architectural Conservation', which provided a general introduction to both technical and procedural issues in heritage conservation. Provincial publications were complemented by a number of federal booklets about methods in heritage conservation, including the recording, researching and evaluation of potential heritage sites¹⁶⁸. The literature and

¹⁶⁷ Previous provincial conferences had included LACAC representatives since 1976. Sponsored by the Ontario Heritage Foundation, Heritage Canada, and other organizations, they focused on local issues in conservation, but were not strictly 'LACAC' conferences.

¹⁶⁸ These publications include the C.I.H.B. 'Exterior Recording Training Manual' (1976), 'Researching Heritage Buildings' (1983), and 'The Evaluation of Historic Buildings' (1980), all of which were produced by the Canadian Parks Service, Ministry of

workshops provided by the Ministries and the Foundation were geared to local-level empowerment through education. Publications and conferences stressed 'how' to conserve buildings and neighbourhoods, rather than 'what' to conserve. The latter was generally accepted as the responsibility of citizens and municipalities.

The gradual self-sufficiency of LACACs was recognized by the provincial government in 1990, at which time the position of LACAC co-ordinator was changed to that of LACAC advisor. This change in job title reflect more a symbolic than functional change in the government's role, but nonetheless signals the maturity of local citizens and committees. An unfortunate shift in the provincial program has been the phasing out of grants during the 1990s, by both the Ministry and the Ontario Heritage Foundation. Currently, the only public funding of heritage conservation initiatives comes from municipalities themselves. The provincial government continues, however, to provide the following 'non-financial' services: technical assistance and advice; strategic planning and priority setting; community and organizational development; skills and leadership development; collaboration, communication, and liaison with government, community and provincial organizations and the private sector¹⁶⁹.

The role of the Ontario government in heritage conservation may be considered

the Environment.

¹⁶⁹ Government of Ontario. Ministry of Citizenship, Culture, and Recreation, "Heritage Properties Program Update," online, October 15, 1998 (Ministry of Citizenship, Culture, and Recreation, May 29, 1997). URL: <http://www.gov.on.ca/MCZCR/english/culdiv/heritage/update.htm>.

from two perspectives. On the one hand, the government has assumed far less responsibility for the protection of heritage than is typical of state and federal governments in Western countries. Furthermore, in ceasing to provide grants to the private and public sectors for conservation and restoration work, it has eliminated a fundamental component of its government program, which creates a significant challenge within the heritage movement. On the other hand, the government has, since the passage of the Act, been committed to local-level capacity building and has adopted a long-term approach which has evolved according to the needs of municipalities and LACACs. In part, through its efforts, the development of 'informed and politically active' communities has been fostered through education and technical (and formerly financial) support. While its efforts may be criticized with regards to the conservation of sites of architectural and historical value, it has created a system in which citizens and communities have been educated about the methods and strategies used in the protection of heritage.

Municipalities and LACACs

A tradition of community-level heritage conservation existed in Ontario prior to the passage of the Act. This form of municipal activity in heritage conservation was continued and given legitimacy by legislation in 1975, but was not clearly defined under the Act. The Act merely enabled, but did not require, councils to establish LACACs, it described the composition of the committees¹⁷⁰, and it provided a process for the

¹⁷⁰ Section 28.1 states that: 'The council of a municipality may by by-law establish a local architectural conservation advisory committee.' Section 28.2 states that: 'A local advisory committee shall be composed of not fewer than five members appointed by the council on all matters relating to this Part (Part IV) and Part V. Ontario Heritage

designation of districts and buildings as heritage sites. Over time, this framework has produced not only a decentralized system, driven by community-level activity, but one in which forms of action and heritage, itself, is defined at the level of communities, each according to its own set of values¹⁷¹.

According to the Ministry, some of the activities that may be undertaken by LACACs (and by municipalities), include:

- examining all the properties and areas that may deserve protection now or in the future;
- facilitating the community's interest and involvement in heritage conservation through a recognized forum;
- promoting heritage conservation within the community;
- advising property owners on appropriate conservation and maintenance practices;
- determining the value of heritage resources for protection through designation;
- providing council with reliable advice to assist them in making decisions on complex issues;
- administering designated property grant programs;
- educating the community to encourage a conservation ethic and a climate of responsible stewardship of the community's heritage assets.¹⁷²

In practice, the activities undertaken by LACACs and councils have varied

Act, Chapter O.18, Section 28.

¹⁷¹ Much of this section addresses the role of LACACs, since the trend has been for LACACs to be appointed in communities undertaking heritage conservation. The latter is attributed to the fact that when properties and districts are designated under the Act, the municipality acquires statutory responsibilities that are more easily carried out when a committee is in place.

¹⁷² Government of Ontario. Ministry of Citizenship, Culture, and Recreation, "Local Architectural Conservation Advisory Committees," online, October 15, 1998 (Ministry of Citizenship, Culture, and Recreation, May 29, 1997). URL: <http://www.gov.on.ca/MCZCR/english/culdiv/heritage/LACAC.htm>.

significantly from one municipality to the next. Several important factors that could not be defined under the Act have had important effects on the functioning of municipal committees. These factors include the kind of relationship that exists between a LACAC (or other form of citizens' group) and its municipal council, LACAC's reporting structure to council, the interests and values of individual LACACs and the types of heritage they become involved in conserving (buildings, districts, cultural landscapes, etc.), and the LACAC's relationship with the community at large. These elements affect the level at which both the LACAC and the community in which they operate can become 'informed and politically active'.

Under the Ontario Heritage Act, municipalities are enabled, but not required to appoint LACACs. Over the past twenty-five years, approximately 210 LACACs have been appointed across the province, and the majority of those have been in existence for over ten years. In a survey, to which 119 LACACs responded, it was reported that eleven committees had been established less than five years; twenty-seven committees had been established between five to ten years; and eighty-one LACACs had been established for over ten years¹⁷³. In response to the question 'why' the committees were initially appointed, it was reported that around one in ten were created to address a specific issue, or crisis; one in three were created on their council's initiative; one in six were appointed in response to an historical society initiative; and one third of the committees were

¹⁷³ Government of Ontario. Ministry of Citizenship, Culture, and Recreation, Heritage Properties Unit, A Report On The 1995 LACAC Profile Survey Results (Toronto, October 1995, revised - July 1996), 2.

established through an individual or group initiative¹⁷⁴. Thus, a variety of factors have led to the appointment of LACACs.

Ontario's legislation has been frequently criticized for not requiring the appointment of LACACs. Although the committees have advisory powers only, municipal councils have often, nonetheless, been reluctant to appoint them and to establish municipal heritage programs, fearing that their existence might interfere with municipal development or re-development. It can be argued, however, that committees will only succeed where there is the will and support of the community and council, and that LACACs are established at the point when communities are prepared to engage in heritage conservation activities. This perspective is supported by the fact that LACACs continue to be established twenty-five years after the passage of legislation.

Another problem that exists is that in some cases, where a LACAC has been established, they are not provided with the means to participate in municipal decision-making in a meaningful way. The absence of a formal reporting structure to council or a lack of municipal staff support can hinder the work of a LACAC. For example, soon after its appointment in 1977, the LACAC for Merrickville, a small village of 1000 people, described the difficulties faced by their LACAC, stating that:

The Municipal Council, when it established the LACAC, restricted its effectiveness by applying the following stipulations.

- 1. There must be no expense to the municipality.**
- 2. There must be a minimum of work on councils's part.**
- 3. There must be no hard feelings created in the village. Council demanded that all**

¹⁷⁴ Ibid.

owners of proposed buildings must give written permission for designation.¹⁷⁵

In the LACAC survey, nine out of ten LACACs reported having a regular meeting schedule (the majority of LACACs meet once a month), and a similar number informed their councils regularly of their operations. The majority of respondents sent councils copies of their minutes to council. It is, however, possible for committees to have no formal reporting structure at all, in particular in smaller communities where there is no planning department or committee. In 1989, the Victoria Harbour LACAC reported that:

In our village, LACAC has always come under the umbrella of the Department responsible for Planning and Development, along with the Planning Advisory Committee and the Committee of Adjustment. In March 1987, council rescinded the by-law which established P.A.C., claiming that council would do the planning for the village. Between March and the end of June, so far as I am able to find out, there have been no planning meetings. The disappearance of P.A.C. and of the Department responsible for Planning means that LACAC has also lost its entree to overall village planning...¹⁷⁶

The flexibility of reporting structures has also meant that LACAC procedures and reporting structures may be developed in such a way as to complement existing municipal structures. Since the local governance of small village councils differs significantly from the governance of large cities, it is appropriate that LACACs should also reflect these differences. Thus, in larger communities, LACACs will often function as an integral component of the overall planning process and be one of several committees consulted

¹⁷⁵ The Ontario Heritage Act, Present Problems, Future Prospects, 23-24.

¹⁷⁶ Town of Victoria Harbour, Submission to the Ontario Heritage Policy Review, Government of Ontario, Ministry of Culture and Communications (1987), 2.

before council reaches a decision on an issue. In smaller communities, the responsibility often rests with the LACAC to make its opinions known about heritage-related issues.

The flexibility of the Act has also allowed for a variety of committee structures to be employed. These range from the appointment of a committee, representing one municipality, on which one or more councillors will sit, to the establishment of an independent board (such as the former Toronto Historical Board), which has greater autonomy from council. Another variant has been the establishment of regional LACACs, which oversee heritage conservation activities of several municipalities. The latter structure has been more common in areas with small towns and villages in close proximity to one another.

Another task facing LACACs, in particular those operating in communities which have only recently become involved in heritage conservation, is that they will not only have to educate themselves about local heritage and its conservation, but will have to educate their council members on an ongoing basis. This was expressed by the Aurora LACAC, which stated, during the Heritage Policy Review:

...most councillors come to their job (and, at present, most leave it) ill-equipped to deal with matters of heritage conservation. Councillors are given little opportunity and few support systems to help them understand heritage preservation as a matter of widespread public policy concern, a fundamental issue affecting the quality of community life, and, as a result, to make appropriate decisions. Thus, their accountability in public policy matters is in jeopardy.¹⁷⁷

Despite the educational challenges facing LACACs, almost half of all LACACs

¹⁷⁷ Town of Aurora, Submission to the Ontario Heritage Policy Review, Government of Ontario, Ministry of Culture and Communications (1987) 4.

described their relationship with council as 'very good', and around the same number described relations as 'good'. This indicates that a majority of LACACs have been able to develop a positive and productive relationship with their council, where they have been established. A similar percentage of committees also reported having a good relationship with municipal staff. In a previous survey, around one in five committees reported having full- or part-time heritage planners on staff¹⁷⁸, and in the later survey, two out of three reported having one or more municipal staff members who act as support staff for the committee¹⁷⁹.

The interests and priorities of a LACAC reflect those of its membership and the community it represents, rather than those of the provincial government. The criteria for membership on council-appointed LACACs has tended to be 'that each individual has an interest in the community and an appreciation for its heritage', at minimum, and preferably a demonstrated interest in and knowledge of local history. It has also been understood that the committee should represent a variety of community perspectives, and that its membership should be drawn from a range of professions, including architects, planners, representatives from the media and local historical societies, and at least one municipal councilor¹⁸⁰.

¹⁷⁸ Provincial Steering Committee of Ontario LACACs, "Preliminary Report to Ontario LACACs," December 1989, 2.

¹⁷⁹ A Report on the 1995 LACAC Profile Survey Results, 21.

¹⁸⁰ Russell Cooper, "LACACs, Ontario Heritage Act, Part IV, and the Conservation Review Board," Conserving Ontario's Main Streets, ed. Mary Fraser,

The scarcity of professionals from the field of heritage conservation, and the prohibitive costs associated with hiring them, has meant that the majority of LACACs have functioned without their input, although they can consult with provincial conservation officers and the LACAC advisor. While it is impossible to measure the effect that this has had on the type of work undertaken, it is arguable that this results in the assessment of a more limited range of values, but in a more thorough assessment of sites that are valued by the community. In other words, the committee's interests are inwardly focussed towards the community they represent.

In terms of the actual work undertaken by a committee and municipality, around nine out of ten committees reported that they maintained an inventory of all heritage properties within their jurisdiction¹⁸¹. The majority of LACACs also prepare designation reports themselves, and assist council in carrying out its statutory functions (making recommendations about the alteration or demolition of designated sites). LACACs are also frequently involved in the awarding of grants for conservation and restoration work, where grant programs exist. Like the committee and reporting structures, however, the duties and priorities of the committee are established by its members and by council. The advantage of this system is that LACACs have been able to identify local opportunities to promote heritage in meaningful ways within the community-at-large. Members are sensitive to local issues that might affect the manner in which heritage is perceived, and

conference proceedings (Toronto: Ontario Heritage Foundation, 1979), 99.

¹⁸¹ A Report on the 1995 LACAC Profile Survey Results, 11.

can promote its conservation accordingly.

The scope of work undertaken by LACACs varies in every municipality. Many LACACs have been involved in the drafting of local planning policies (such as Official Plans), while others have become involved in local environmental issues. The flexibility in the scope of committee responsibilities is one of the strengths of this system, as this allows heritage conservation to be undertaken in both formal and informal ways. Because the role of LACACs has remained only vaguely defined by the provincial government, it sets no limitations on committee activities. This allows a committee to identify and become involved with issues and policy areas which most affect the heritage of an area. Evidence of the variety of tasks carried out by LACACs is provided in the 1995 survey, which identified well over 100 different types of LACAC subcommittees¹⁸².

Recognition of the need for community and political support for heritage conservation has meant that a shared characteristic of many LACACs has been their focus on education. An alderman from the Town of Niagara-on-the-Lake listed the following objections to designation that were raised by property owners in his municipality:

1. An extra level of government control - possible time delay.
2. Loss of local autonomy - want no interference.
3. Legislation unclear regarding alterations vs. repairs.
4. Fear of being ordered to repair.
5. People feel they are doing a good job now.
6. People questioned the capability of LACAC and Council Members to make decisions on Heritage matters. The Ontario Municipal Board issues order, the

¹⁸² A Report On The 1995 LACAC Profile Survey Results, 16-17.

Heritage Review Board only recommends.¹⁸³

In order for LACACs to gain the trust and support of communities, it has been necessary for them both to bring local heritage to the public's attention, as well as explaining the implications of heritage designation. While the level and form of educational activities has varied in each municipality, strategies that have been employed include school programs, videos, lectures and workshops, walking tours, books and publications, history fairs, displays, plaquing programs, and heritage recognition programs, among many other activities. It is arguable that public education is one of LACAC's most important activities, since without the support of the communities they represent, a LACAC's advice to council will have little impact.

Local Inventories

One of the most controversial aspect of Ontario's program has been the absence of a provincial inventory of designated heritage sites. Currently, the provincial government is only required to maintain a register (the Ontario Register of Heritage Properties) of buildings designated under Part IV of the Act. This register is compiled from copies of local designation by-laws submitted by municipalities and contains information about over 4000 properties that have been designated to date. In place of a provincial inventory, most municipalities which have designated sites and districts maintain local inventories. Some municipalities, such as the City of Toronto and the City of Ottawa, also maintain reference lists of properties not yet designated, but which have been identified as being of potential

¹⁸³ The Ontario Heritage Act, Present Problems, Future Prospects, 32.

heritage value.

Listing buildings in an inventory is the mechanism used for the provision of regulatory control over their alteration and demolition. Typically, the evaluation of buildings is carried out using a common set of criteria which determines the relative historical, aesthetic, and/or cultural value of a site. This system is therefore based on the principle of comparative assessment. In Ontario, because inventories are maintained locally, the comparative assessment, itself, is carried out according to a set of criteria determined at the level of municipalities. While this system fails to recognize the importance and meaning of a building or site in a provincial context, it allows for the recognition of places that are valued by a community which might otherwise be disregarded within a broader framework. The use of local inventories therefore allows for the recognition of sites possessing social meaning within communities.

The evaluation of heritage sites by professionals and government staff tends to be characterized by a consideration of a range of values. Overtime, there has been an attempt made to create a more rational and scientific approach to evaluation. This approach has become increasingly sophisticated with respect to the recognition of historical and architectural value. It has led to problems, however, in the evaluation of more subjective qualities, such as social and cultural value. In Ontario, it is the municipalities that establish their own criteria and carry out evaluations. The Ontario Heritage Act stipulates that sites may be designated for architectural and historical value only. In practice, however, the system has allowed for the designation of sites whose primary value is its meaning within a community, since the final decision-making body in the designation process is a municipal

council.

The survey of 1995 provides evidence of the flexible nature of the evaluation process across the province. Although the majority of LACAC maintain inventories of heritage resources, less than half have formal criteria which are used in the evaluation process¹⁸⁴. The absence of formal criteria may, on the one hand, be interpreted as an indication of the under-developed nature of heritage conservation in many communities. The use of subjective criteria permits, however, the recognition and protection of sites whose social value is complex, multi-faceted and difficult to describe in a formal and scientific system.

Regulatory Controls

At the time of the legislative debates over the Ontario Heritage Act, in 1974, members in favour of the implementation of a provincial program for heritage conservation expressed their dissatisfaction over the absence of greater regulatory powers over designated buildings. Mr Foulds, the member for Port Arthur, summarized these concerns, stating:

...the whole essential weakness of the Act (is)...that basically you are relying on goodwill and intelligence. It's the same attitude that prevails (in other Ministries)...They rely on a heightened public consciousness, which I think is necessary to do, but surely there are other steps...¹⁸⁵

¹⁸⁴ A Report On The 1995 LACAC Profile Survey Results, 10-11.

¹⁸⁵ Debates, January 31, 1975, 7122.

This was clarified by Foulds in the following statement:

This clause, 34 (2)(b), as it is written shows the essential gutlessness and the essential frivolity with which this ministry and this government view preservation in Ontario, because all you are doing in this bill is postponing the possibility of demolition; you are not preserving. And when you are postponing for a mere...a total of 270 days, that's not even a year. What this government and this ministry are prepared to do is to preserve the cultural heritage of Ontario for less than a year. That's the essential principle of this bill...¹⁸⁶

Since the passage of the Act, organizations and individuals have pressured the government to amend the Act to allow for provincial intervention in cases where a municipality is unable to protect a building. To some extent, the Ontario Heritage Foundation has fulfilled this role, having acquired sixty-one properties of provincial significance, as of 1996. In addition, since 1977, restoration grants have often been awarded on condition that the Foundation receive an easement in exchange. It currently holds approximately 165 easements¹⁸⁷. While the Foundation may acquire and hold properties, the provincial government's role in conservation has been limited to establishing the overall policy and legislative framework, and to the provision of technical and financial assistance. The regulatory control of designated properties, however, is the exclusive jurisdiction of municipalities.

Another controversial feature of the Act has been the ability of municipalities to enforce only temporary demolition control, for a maximum of 270 days, on buildings and

¹⁸⁶ Debates, January 31, 1975, 7125.

¹⁸⁷ Ontario Heritage Foundation, "Conservation Easements," online, November 28, 1998 (Ontario Heritage Foundation, 1998). URL: <http://www.heritagefdn.on.ca/Heritage/conservation.htm>.

districts designated under Parts IV and V. LACACs and municipalities expressed their frustration with this limitation at the conference on 'The Ontario Heritage Act, Present Problems, Future Prospects' and in the public submission received in 1987 for the Ontario Heritage Policy Review. To date, however, provincial officials have made no attempt to modify the Act in such a way that would provide further controls.

A number of designated properties have been demolished because of these limitations. Furthermore, relatively few incentives, such as tax credits, transfer of development rights, and grants, exist in either Ontario or in the rest of Canada, which would provide inducements for developers to rehabilitate and conserve older buildings. The system therefore relies on what Mr. Foulds described as 'goodwill and intelligence', and what others have described as a system of 'moral persuasion'.

It can be argued, however, that the relatively weak controls in Ontario's heritage legislation have stimulated and enabled its broad application by municipalities. During the drafting of the original policy paper, it was recognized that in the absence of provisions for compensation, there could be no permanent demolition control imposed on designated structures¹⁸⁸. Provisions for compensation would have greatly reduced the number of buildings designated, because of funding limitations. Furthermore, this form of heavy control would require stronger arguments for the designation of sites, in light of the implications of such a measure. By contrast, the 4000 sites and over forty districts designated under the existing Act provide evidence of the workable nature of the more

¹⁸⁸ A Program for the Conservation of Buildings of Historic or Architectural Value in Ontario (1972), 16.

limited form of control provided in the legislation.

Conclusion

In defining the social value of places as 'place attachment', and in emphasizing the potential importance of a site's use by a 'community of interest', an alternative set of goals is identified for the heritage conservation movement. These goals, in turn, require alternative methods in heritage conservation. Traditional policy and legislative models for heritage conservation tend to employ a hierarchical approach, in which heritage is identified by experts, either professionals in the field of heritage conservation or government staff. A framework for the preservation of living heritage, by contrast, places citizens, and 'communities of interest', at the center of the conservation process, in order to involve them in a direct and meaningful way in the identification, assessment and management of such sites.

Crucial to the success of a community-based approach to heritage conservation is an 'informed and politically active' community. In order for a community to achieve this level of involvement in public processes, they must be trained and educated. Professionals and facilitators must also learn to respect the opinions of a community, whether or not these correspond to their own conclusions. The comparative assessment of sites with those of other communities of interest is discouraged, and the use of local inventories recommended. Finally, an acceptance of subjectivity is identified as being necessary in such a process. Scientific models for identification and assessment will not be applicable when taking into account the emotions and affection that communities have for special

places.

Municipalities, local heritage groups and LACACs have been almost entirely responsible for the designation and protection of sites in Ontario. Placing the responsibility for conservation in the hands of municipal governments and LACACs has, in essence, stimulated the development of such 'informed and active communities'. In order to carry out their responsibilities, they have been assisted by the provincial government, whose role has been, since the passage of the Act, largely that of an educator and facilitator. Government-sponsored publications and workshops have focussed on principles and codes of practice, rather than the provision of detailed criteria for the evaluation of sites. In general, government representatives have not been actively involved with the identification and assessment process, but rather, have entrusted municipalities with this responsibility.

One of the limitations placed on municipal initiatives has been the wording of Parts IV and V of the Act, which recognize only architectural and historical value as legitimate reasons for designation. There is evidence to suggest, however, that LACACs and municipalities have looked beyond these restrictions when defining and establishing the priorities of their heritage conservation programs. During the Ontario Heritage Policy Review, both LACACs and municipalities requested a broadened definition of heritage, under the proposed legislation, that would take into account a variety of landscape types, including natural sites, public spaces, and cultural landscapes, among others. In 1995, during a pilot project in which the London LACAC was replaced by the 'London Advisory Committee on Heritage', whose new mandate included their involvement in the conservation of built heritage, archaeology, natural and moveable heritage, it was noted

that:

Although the model for the new London Advisory Committee on Heritage may appear to be different from the current structure and operation of the Local Architectural Conservation Advisory Committee, in reality many of the concepts inherent in the model reflect substantial changes already initiated by the Local Architectural Conservation Advisory Committee.¹⁸⁹

The provincial government, itself, appears to have acknowledged a broader definition of heritage. In the report of the Ontario Heritage Policy Review of 1989, the heritage of Ontario was defined as: "All that our society values and that survives as the living context - both natural and human - from which we derive sustenance, coherence, and meaning in our individual and collective lives."¹⁹⁰ The Ministry of Citizenship, Culture, and Recreation has also, in recent years, been encouraging municipalities to consider the identification and protection of cultural landscapes.¹⁹¹

Municipalities have also devised specific strategies for conservation beyond the controls provided to them under the Ontario Heritage Act. An example of this form of activity was the approval of an amendment to the City of Toronto Act (known as Bill Pr57), in 1987. The amendment has allowed the City of Toronto to refuse demolition

¹⁸⁹ Government of Ontario, Ministry of Citizenship, Culture, and Recreation, Model For the London Advisory Committee on Heritage, report (February 1995), 33.

¹⁹⁰ Government of Ontario, Ministry of Citizenship, Culture, and Recreation, A Strategy for Conserving Ontario's Heritage, Report of the Ontario Heritage Policy Review (Ministry of Culture and Communications, 1989), 18.

¹⁹¹ Descriptions and definitions of cultural landscapes are provided, for example, on the Ministry web page, and municipalities are encouraged to preserve them.

applications for buildings designated under Parts IV or V of the Act, unless the owner has obtained a building permit to erect a new building on site. This form of demolition control has been adopted by several municipalities across the province.

It is currently impossible to characterize the focus and interests of LACACs and municipalities in a simple and compartmentalised manner. The flexibility in the application of Ontario's program at the local level has allowed it to evolve according to the needs and interests of individual communities. It has allowed for the development of assessment processes and conservation strategies that are defined and carried out by communities of interest, and they are, ultimately, given the final decision-making powers with regards to Part IV designations. These features of Ontario's program suggest that it provides a viable legislative model for the conservation of social value.

Conclusion

A prominent Canadian in the field of heritage conservation remarked at an international conference, during the 1980s, that Canada's late entry into the field of conservation brought with it a number of benefits. The absence of provincial programs before the 1960s, and the delayed development of federal initiatives meant that: 'we started fresh, with the possibility of developing new perspectives and techniques...' ¹⁹². In addition to developing expertise in the preservation of vernacular structures, he perceived Canadian planning, legislative and regulatory approaches - 'experiments in decentralized administration' - to be among the country's innovations with international relevance and applicability.

This thesis has argued that Ontario's program, while often criticized or simply overlooked, represents a significant approach within the field of heritage conservation. It contradicts the traditional principles: the legislation is weak, and does not directly involve the provincial government in the designation and protection of heritage sites. The role of experts in the identification and management of heritage sites is left to the discretion of municipal governments. Furthermore, there are no common standards and criteria for evaluation. The system relies on the involvement of volunteers, municipal politicians and local developers, assisted by specialists with the provincial government, whose roles are primarily those of facilitators. In the absence of heavy regulatory controls, the

¹⁹²Jacques Dalibard, "The Canadian Experience in Heritage Preservation," Why Preserve the Past? The Challenge of Our Cultural Heritage, ed. Yudishthir Rajisar, conference proceedings (Washington, D.C.: Smithsonian Institution Press, 1986), 193.

conservation of sites becomes a political process, its success hinging on moral persuasion and the will of communities. By traditional standards, such a process appears to lack the most fundamental mechanisms for the protection of heritage sites. It is demonstrated, however, that since the emergence of the concept of social value in heritage conservation, the direct involvement of citizens and local communities has been understood to be a central feature of the conservation process. Ontario's program thus merits critical analysis from a contemporary perspective.

Chapter One traced the origins and development of modern heritage value. It was argued that heritage conservation is an important function within all societies, and can be found to occur everywhere in formal or informal ways. The process is dynamic and the meaning of heritage is in a perpetual state of flux, since it follows the evolution of societal beliefs and goals. A process of selection which addresses the broad issue of cultural inheritance, it is shaped and motivated by the process and by the participants.

The emergence of the European concept of the historic monument and the development of a self conscious heritage conservation movement in Europe and North America was described in this chapter. A response to the Industrial Revolution and the formation of modern nation states, the movement had as its original focus the countless architectural monuments whose futures became uncertain during a period of social and political upheaval. European, and subsequently North American, societies ascribed aesthetic and historical values to their architectural heritage.

The dynamic nature of heritage conservation meant that over the course of the twentieth century, both the concept of heritage, and the values associated with it,

expanded and changed to accommodate the conditions of contemporary life, and emerging social perspectives. Initially, the concept of the historic monument was broadened to include entire neighbourhoods and towns, following the Second World War.

Subsequently, heritage was further expanded to include not only the natural environment, but living traditions and rituals associated with places. The concept of value evolved in parallel, and currently implies not only the aesthetic qualities and historical associations of sites, but also their social and spiritual value which relates to the relationship that exists between people and place.

A comparative study of national programs for heritage conservation in Chapter Two revealed the fact that Western preservation programs, in particular those developed at an early date in Europe, have been organized around the conservation of historic monuments, and expanded to incorporate the preservation of neighbourhoods, according to the principles set out in international charters. It was also shown that none of the examples considered have been modified to accommodate the conservation of living landmarks. Using the framework provided in the Declaration of San Antonio, it is argued that the centrality of communities in the conservation of sites of social value has not yet been recognized in legislation and administrative structures. Although official definitions of heritage have been greatly expanded in recent decades, the structure of programs has remained largely centralised, and experts have maintained a primary role in the identification, evaluation and management of heritage sites. Furthermore, strategies continue to be directed largely towards the physical preservation of sites, while traditional relationships between people, or communities, and place is generally overlooked.

The survey of four Western examples, including Canada's federal program, provided the context for the analysis of Ontario's unique approach to the preservation of cultural heritage. Chapter Three highlighted an important aspect of the program, namely that the framework provided under the Ontario Heritage Act was not derived from an abstract model for conservation. Rather, it evolved from communities themselves, and in this respect can be seen to reflect local goals and conceptions of heritage. The decentralization of responsibility to the municipal level was not undertaken to achieve a particular set of government objectives. In effect, it simply provided a legislative framework for the activities already underway across the province. Initially, municipalities requested amendments to the Planning Act that would provide them with the authority to designate buildings and districts locally. A provincial role, in keeping with Western standards, was later envisioned in the program proposed for the province in 1971. Reluctance on the part of the provincial government to become involved with the controversial issue of private property rights ultimately prevented the implementation of a two-tiered system, leaving only a municipal role in the process.

The Ontario Heritage Act provides for the protection of sites of historic and aesthetic value, and it is arguable that the program has been relatively successful in doing so because of the political nature of the process. The use of moral persuasion in the protection of cultural heritage has resulted in relatively few demolitions of designated structures. The focus of Chapter Four, however, was on one of the perhaps unanticipated consequences of the provincial program, namely the preservation of the social value of heritage sites.

An analysis of the role of provincial government specialists, municipalities and LACACs revealed that the emphasis of the program has been on local empowerment in the conservation process through education and technical and financial assistance. The program has fostered not only local interest and awareness of heritage, but has provided volunteers with an understanding of the legal and technical mechanisms involved in the conservation and management of sites. Furthermore, the preservation of locally valued sites, under such a system, has become a matter of public debate, ensuring that a range of opinions provides the basis for decision making.

The use of local criteria in the evaluation of sites, and the establishment of municipal inventories, has meant that the value of heritage is genuinely reflective of its local context. Although this aspect of the Act is controversial as it fails to establish general standards for the definition of heritage, it allows for the application of subjective and unofficial criteria which can accommodate the meaning of sites to those who have created or use them. Finally, an absence of heavy controls has allowed conservation to be defined and carried out in a flexible manner. It has furthermore served to encourage municipalities to make use of heritage legislation. Rather than defining conservation according to museological principles, this aspect of the Ontario Heritage Act has encouraged a more broad-based and multi-faceted approach, in which conservation occurs as part of the overall management of change.

Rather than defining the concepts of heritage and value, Ontario's program provides a community-based process, and one of sufficient flexibility to accommodate the protection of the social value of sites. The system has both survived and expanded over a

twenty-five year period, and can be studied as a social value model with potentially international application. A retrospective analysis of the heritage conservation movement by Herb Stovel, in 1996, indicates that Ontario's system may also be useful within the broader practice of conservation. In his analysis, Stovel laments the decline in government support and funding of heritage initiatives in Canada. However, rather than identifying external forces as the reason for this decline, Stovel blames the heritage community itself.

In particular, he notes that:

We have failed to convince ordinary citizens that the quality of their lives is inseparably linked to the preservation of cultural meaning in the built environments they inhabit, that meaningful lives require a personal sense of identity, and that a concern for heritage conservation is essential in this effort. And without a sense that there is a strong grassroots commitment to the importance of these ideas, politicians are inevitably going to pay little attention to the concerns of those who espouse them.¹⁹³

The involvement of ordinary citizens and the development of grassroots commitment to heritage conservation are highlights of Ontario's program. The engagement of a broader public has allowed a complex and diversified approach to conservation to be realized. This approach is relevant to pluralistic and holistic forms of heritage.

In conclusion, a constructive reappraisal of Ontario's system is long overdue. The provincial program has been widely criticized using traditional criteria. This thesis has proposed an alternative theoretical framework which puts it in a different light. It is hoped

¹⁹³ Herb Stovel, "President's Message" to the ICOMOS Canada Congress, 1996, online, November 30, 1998 (ICOMOS Canada, 1998). URL: <http://www.icomos.org/canada.icomos/congress96>.

that future researchers will find this model a useful starting point for more detailed examinations of local initiatives and specific government strategies.

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