

23rd September, 1994

MINUTES OF CONVOCATION

Friday, 23rd September, 1994  
9:30 a.m.

PRESENT:

The Treasurer (Paul S. A. Lamek), Blue, Bragagnolo, Brennan, Carter,  
R. Cass, Copeland, Cullity, Curtis, Elliott, Feinstein, Finkelstein,  
Furlong, Goudge, Graham, Howie, Kiteley, Krishna, Lamont, Lax, Legge,  
Lerner, McKinnon, Manes, Moliner, Murphy, Murray, D. O'Connor, S.  
O'Connor, O'Brien, Palmer, Peters, Richardson, Ruby, Scace, Sealy,  
Strosberg, Thom, Topp, Wardlaw and Weaver.

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The reporter was sworn.

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IN PUBLIC

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TREASURER'S REMARKS

The Treasurer recorded the Society's regrets at the death of Mr. Robert Carter's wife, Audrey.

The resignation of Fatima Mohideen was announced and the Treasurer expressed his gratitude for her contribution to Convocation.

Convocation was advised that the late Honourable William Howland had left in his will a generous donation in excess of \$200,000 to be used for the purposes of furthering legal education.

The Treasurer thanked the members of the Insurance Task Force and the Legal Aid Committee who worked long hours over the summer months.

Lastly, the Treasurer suggested that a special committee should be established to provide guidelines for the upcoming Benchers elections and asked Benchers for their input on this matter.

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MOTIONS

Appointments

It was moved by Mr. Finkelstein, seconded by Ms. Graham THAT Don Lamont continue as the Law Society's representative on the Canadian National Exhibition Association; and

THAT the Society's representatives to the Canadian Bar Association-Ontario council be Patricia Peters and Ronald Manes and THAT the Society's representative to the National council be Don Lamont.

Carried

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AGENDA - Committee Reports Taken as Read

It was moved by Ms. Weaver, seconded by Ms. Legge that the Reports listed in paragraph 3 of the Agenda (Reports to be taken as read) be adopted.

Carried

- Admissions and Membership (Sept Report - Item A.-A.1. withdrawn)
- Clinic Funding
- Communications
- County & District Liaison
- Discipline
- Equity in Legal Education and Practice
- Finance and Administration
- French Language Services
- Investment
- June Draft Minutes
- Legal Aid
- Legal Education
- Legislation and Rules
- Libraries & Reporting
- Professional Conduct (Sept Report)
- Professional Standards
- Research and Planning
- Specialist Certification Board
- Unauthorized Practice

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COMMITTEE REPORTS

CLINIC FUNDING COMMITTEE

Meeting of July 11, August 11 and September 12, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CLINIC FUNDING COMMITTEE begs leave to report:

Your Committee met on July 11, 1994 via conference call. Present were: Joan Lax, Chair, Jim Frumau, Pamela Giffin, Mark Leach. Also present: Joana Kuras, Clinic Funding Manager. The Committee met again on August 11 and September 12, 1994, via conference call. Present were: Joan Lax, Chair, Ian Blue, Jim Frumau, Pamela Giffin, Mark Leach. Also present: Joana Kuras, Clinic Funding Manager.

A.  
POLICY

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Nil

B.  
ADMINISTRATION

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The Clinic Funding Committee recommends Convocation's approval of funding allocations, as follows:

1. Annual Allocation of Funds

The Committee approved the 1994/95 allocation of funds to community legal clinics, in the total amount of \$26,845,326, as set out on Schedule A.

2. Applications for Training Funds

a. Advocacy Training

The Clinic Funding Committee approved up to \$50,000 to provide a minimum of one day of advocacy training in each clinic region to be conducted by the Ontario Centre for Advocacy Training in 1994/95.

b. Regional Training

The Committee provides funds for staff training programs which are the primary vehicle for professional development within the clinic system. The Committee reviewed and approved applications for training funds for 1994/95 as follows:

Eastern Ontario Region Clinics' Association - in an amount up to \$42,000

Northern Region Clinics' Association - in an amount up to \$60,000

Southwestern Region Clinics' Association - in an amount up to \$26,000

c. Provincial Networks

The Committee funds three provincial clinic organizations which focus on law reform and systemic issues in poverty law areas. The Committee reviewed and approved applications for 1994/95 funding, as follows:

Legal Clinic Housing Issues Committee	\$ 8,200
Steering Committee on Social Assistance	\$10,000
Workers' Compensation Network	<u>\$10,000</u>
	\$28,200

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3. Application for the Payment of Court Costs

Pursuant to s.10 of the Regulation on clinic funding, the Clinic Funding Committee has approved an application for the payment of court costs from the following clinic:

West End Legal Services - in an amount up to \$1,000

4. Tenant Duty Counsel

The Clinic Funding Committee reviewed and approved the initial decision of the clinic funding staff to provide funding to Metro Tenants Legal Services, from July 1, 1994 to June 30, 1995, in an amount up to \$57,000, to continue the tenant duty counsel project.

5. Interpreter/Translator

The Clinic Funding Committee reviewed and approved the initial decision of the clinic funding staff to provide funding to Jane Finch Community Legal Services, from July 1, 1994 to June 30, 1995, in an amount up to \$33,000, to continue the Spanish interpreter/translator project.

C.  
INFORMATION

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Nil

ALL OF WHICH is respectfully submitted

DATED this 13th day of September, 1994

J. Lax  
Chair

Attached to the original Report in Convocation file, copies of:

Item B. - B.1. - Budget for 1994/95 allocation of funds to community legal clinics. (Schedule A)

THE REPORT WAS ADOPTED

COMMUNICATIONS COMMITTEE

Meeting of September 8, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMMUNICATIONS COMMITTEE begs leave to report:

23rd September, 1994

Your committee met on the 8th of September, 1994, the following members being present: Hope Sealy (Vice-chair in chair), Allan Lawrence, Lloyd Brennan, Julaine Palmer, Carole Curtis, Ross Murray, Christopher DuVernet. Also in attendance: Gemma Zecchini, Selina Chiang.

A.  
INFORMATION

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1. Communications Policy

The draft Communications Policy was approved and the committee agreed that it should go forward to Convocation in tandem with the report of the Committee on Reports and Policies.

2. Audit of Law Society Gazette

The committee has asked Christopher DuVernet to chair a subcommittee to determine whether the Law Society should continue to grant \$100,000 annually towards the publication of the Law Society Gazette. The Priorities & Planning Committee directed the Communications Committee to report on this matter in time for the preparation of the next Law Society budget. In conducting its review the subcommittee will focus on the following issues: What is the purpose and editorial mandate of the Law Society Gazette? How does the publication contribute to the overall goals of the Law Society? Does the publication provide good value for the money expended? The subcommittee will report its findings to the Committee in November.

3. Call statistics

The Lawyer Referral Service received 15,878 calls in July and 14,430 calls in August. The Dial-a-Law program received 18,726 calls in July and 21,760 calls in August.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

D. Bellamy  
Chair

THE REPORT WAS ADOPTED

COUNTY & DISTRICT LIAISON COMMITTEE

Meeting of September 8, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COUNTY AND DISTRICT LIAISON COMMITTEE begs leave to report:

23rd September, 1994

On Thursday, the 8th of September, 1994 at 11:30 a.m., the following members were present: R.C. Topp (Chair), L. Brennan, A. Feinstein (Vice Chair), D. Lamont and D. Murphy. The following members of the County and District Law Presidents' Association Executive were in attendance: H. Arrell, D. DeGiuseppe, R. Gates, S. Foley, M. Hornseth, J. Morissette and M. O'Dea, Staff in attendance were: M. Angevine, G. Howell and A. John (Secretary).

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1. RULE 5 CONFLICTS OF INTEREST

The CDLPA members expressed concern about an apparent lack of consultation in the debate over changes to Rule 5. One member of the Committee has received several hundred letters from practitioners in small firms who wish to continue acting on both sides of real estate transactions. Members of the Committee requested more statistical information on Errors and Omissions claims in real estate matters handled in rural areas of Ontario.

2. REGIONAL ELECTION OF BENCHERS

The CDLPA urged the Law Society to implement changes to the election procedure in time for the 1995 bencher election. There was some discussion that these changes might be possible through a change in the Rules rather than through statutory amendment. The CDLPA urged Convocation to proceed forthwith with implementation of Convocation's earlier decision respecting regional elections. The CDLPA made it clear to the Committee that they expect the elections to proceed in accordance with the Scott Report.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

R. Topp  
Chair

THE REPORT WAS ADOPTED

DISCIPLINE COMMITTEE

Meeting of September 8, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE DISCIPLINE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994 at 1:30 in the afternoon, the following members being present:

D. Scott (Chair), R. Topp (Vice-Chair), N. Graham, K. Howie, L. Legge, S. Lerner, R. Manes, M. Martin, M. Moliner, P. Peters, S. Thom, M. Weaver.

R. Tinsley, M. Brown, S. Kerr, J. Yakimovich, G. Macri, M. O'Connor, D. Robertson, M. Seto, K. Wootton, G. Gagnon and J. Brooks also attended.

A.  
POLICY

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A.1 Expediting the Discipline Hearing Process

- A.1.1. Michael Brown and Jim Yakimovich advised the Committee of the extent of outstanding Complaints now awaiting hearing.
- A.1.2. In particular, the Committee was advised that there are currently a large number of outstanding complaints relating to administrative offences such as failure to file, failure to reply to the Society or co-operate with the profession and practising under suspension. The Committee was of the view that it would be both appropriate and expeditious if hearings into Complaints of this nature were held before a single Bencher.
- A.1.3. Your Committee recommends that Convocation seek, on an expedited basis, the appropriate legislative or regulatory amendment which would permit a single Bencher to hear Complaints in relation to administrative offences.
- A.1.4. Subject to further advice as to whether there are any legislative impediments, your Committee directed Discipline Counsel to seek to arrange hearings before a single Bencher on consent where the subject of Complaints relates to administrative offences.
- A.1.5. Your Committee considered various means of expediting the hearing process, including establishing a Monday morning "assignment court" before a single Bencher.
- A.1.6. Your Committee directed staff to prepare a proposal for hearing process generally, and in particular, hearings into Complaints of an administrative nature.

B.  
ADMINISTRATION

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B.1 Electronic Trust Transfers

- B.1.1. An article in the June 1994 issue of the "Adviser" states:

*"Practitioners should not move money from a trust account by means of electronic transfer. This method of transfer, which is being promoted by some banks and financial institutions, does not provide adequate documentation for an 'audit trail'. Current legislation requires a cancelled cheque as proper verification for such transfers."* [Emphasis added]

- B.1.2. The use of such trust transfers raises the issues of adequate documentation for an "audit trail" as well as security. The relevant sections of Regulation 708 dealing with trust transfers are ss. 14(8) through (10) and s. 15(1)(j). In particular, section 14(9) provides that money drawn from a trust account pursuant to s. 14(8) shall be drawn only:
- (a) *by a cheque drawn in favour of the member; or*
  - (b) *by a transfer to a bank account that is in the name of the member and is not a trust account.*
- B.1.3. Section 14(10) of Regulation 708 states:
- A cheque drawn on a trust account shall not be,*
- (a) *made payable either to cash or to bearer; or*
  - (b) *signed by a person who is not a member except in exceptional circumstances, and except when the person is bonded in an amount at least equal to the maximum balance on deposit during the immediately preceding fiscal year of the member in all the trust accounts on which signing authority has been delegated to the person.*
- B.1.4. George Macri, Manager, Audit and Investigation Department advised the Committee that in response to the promotion of electronic account transfers by banks, the Society has received a number of inquiries from members regarding the use of electronic trust transfers. Mr. Macri reported on the Society's examination of the use of such transfers by two law firms. One firm's system permitted wide access by employees of the firm and provided no document equivalent to a cashed cheque. Another firm's system produced a document which supplied the same information as a cashed cheque with the exception of a signature of the member. This system also permitted the transfer of money from trust to be made by persons other than the authorized member.
- B.1.4. The Committee was asked to consider whether the relevant sections of Regulation 708 relating to the transfer of trust funds should be amended to permit certain forms of electronic trust transfers by expanding the definition of cashed cheques to include a document which supplies the same information as would be provided by a cashed cheque.
- B.1.5. Your Committee acknowledged the practical benefits of such systems to the profession; however, in view of the serious security issues raised as well as the lack of audit trail available in the systems which were examined, your Committee determined that an assessment of electronic transfer systems was required before the issue of the amendment of the Regulation could be addressed.
- B.1.6. Your Committee established a Sub-Committee, chaired by Kenneth E. Howie, which shall (1) study electronic trust transfer systems, including security concerns, and (2) recommend whether such systems should be permitted, and if so, upon what basis.
- B.2. The Interpretation of "Trust Money"
- B.2.1. The Audit and Investigation Department sought your Committee's guidance in the interpretation of "trust money", in the following situation:

Where money is received from a client pursuant to a billing, not to reimburse the solicitor for money already expended for disbursements, but rather in payment of unpaid expenses which have been incurred on behalf of the client, is this "trust money" or can it be classified as not trust money pursuant to s. 14(6)(b) of the Regulation?

- B.2.2. Your Committee considered s. 14(6)(b) of Regulation 708 which specifies when monies shall not be paid into a trust account:

*14 (6) Money shall not be paid into a trust account,*

*...*

*(b) that is received by the member on account of fees for which a billing has been delivered or for services already performed for which a billing is delivered forthwith thereafter or is received to reimburse the member for disbursements made or expenses incurred on behalf of a client." [Emphasis added].*

- B.2.3. Your Committee considered s. 14(3) of the Regulation which defines trust money as:

*"Money received by a member that belongs in whole or in part to a client or that is on the client's behalf or to the client's or another's direction or order, and included money advanced on account of disbursements not yet made." [Emphasis added].*

- B.2.4. Your Committee also considered that in circumstances where the solicitor had not paid the disbursements or expenses, it would be the expectation of the client that the money sent to the solicitor would be earmarked to pay the disbursements itemized on the solicitor's billing.

- B.2.5. Your Committee was of the view that in the circumstances described in B.2.1., money received from the client in respect of unpaid disbursements was impressed with a trust and did not fall within the classification of s. 14(6)(b) of the Regulation. The Committee was of the view that in order for money received from a client in respect of disbursements to fall within the classification of s. 14(6)(b), the disbursements must be both incurred and paid on behalf of the client.

- B.2.6 Your Committee directed the Audit and Investigation Department that the proper interpretation of the relevant provisions of Regulation 708 was that money paid to a solicitor pursuant to a billing in respect of disbursements incurred is trust money until such time as the disbursements are paid. That is, section 14(6)(b) only applies where disbursements are incurred and paid on behalf of the client.

- B.2.7. Your Committee directed that the profession be notified of its Direction to the Audit and Investigation Department through an item in the Adviser.

- B.3. Rule 20 Application by Philip T. Mitches to employ Arthur Grant Evans (Administratively Suspended: February 1983)

- B.3.1. In April 1994, Philip Thomas Mitches sought the approval of Convocation to employ Arthur Grant Evans, a suspended member. Approval for a limited period of employment to September 30, 1994 was granted by Convocation, pending further investigation.

- B.3.2. Mr. Evans was called in March 1974. He was administratively suspended for non-payment of the annual fee in February 1983. Mr. Evans was employed as a law clerk by Mr. Mitches from May/June 1986 to April 11, 1994. The approval of Convocation was not sought for this employment.
- B.3.3. In April 1994, the Society advised Mr. Mitches that the employment constituted a transgression of Rule 20. Immediately thereafter, Mr. Mitches suspended Mr. Evans' employment and made an application to this Committee in April 1994 to employ Mr. Evans as a law clerk.
- B.3.4. The investigation by the Audit and Investigation Department into the employment of Mr. Evans has been closed.
- B.3.5. The Committee accepted the staff recommendation that Mr. Mitches' employment of Mr. Evans be approved for a period of one year. Your Committee considered the following:
  - (a) Application by Mr. Mitches;
  - (b) Letter from Mr. Evans; and
  - (b) Staff Memorandum.
- B.3.6. Your Committee recommends that Philip T. Mitches be permitted to employ Grant Arthur Evans as a law clerk for a period of one year commencing September 23, 1994.

C.  
INFORMATION

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- C.1. Pro Bono Duty Counsel in Convocation
- C.1.1. Michael Brown reported that the Sub-Committee responsible for selecting a roster of *pro bono* duty counsel for Special Convocation had selected a roster of counsel. It is anticipated that duty counsel will be appearing in Special Convocation commencing September 22, 1994.
- C.2. Margaret O'Connor leaves the Complaints Department
- C.2.1 Margaret O'Connor, formerly the Complaints Officers' Supervisor, has left the Complaints Department to assume new responsibilities in the Society's Records Management area. Ms. O'Connor has held the position of Complaints Officers' Supervisor since 1988, when the Complaints Department was established. Prior to that time, she worked in the Discipline Department commencing in 1982. The Committee acknowledges Ms. O'Connor's significant contribution to the Complaints and Discipline departments.
- C.3. Authorization of Discipline Charges
- C.3.1. Once a month, the Chair and the Vice-Chairs of your Committee meet with the Complaints, Audit and Discipline staff to consider requests for formal disciplinary action against individual lawyers.

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C.3.2. The following tables show the number of requests made by Discipline, Complaints and Audit staff for the months of July and August, 1994 and the summary of complaints authorized to date in 1994.

JULY/AUGUST	Sought	Authorized
Discipline	5	5
Complaints	29	27
Audit	30	29
<b>TOTAL:</b>	<b>64</b>	<b>61</b>

SUMMARY:

Total number of charges authorized to date in 1994	
January	20
February	56
March	51
April	24
May	67
June	23
July/August	61
<b>TOTAL</b>	<b>302</b>

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

D. Scott  
Chair

THE REPORT WAS ADOPTED

EQUITY IN LEGAL EDUCATION AND PRACTICE COMMITTEE

Meeting of September 8, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The EQUITY IN LEGAL EDUCATION AND PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September 1994, the following persons being present: Marie Moliner (Chair), Stephen Goudge, Shirley O'Connor, Sharon Ffolkes-Abrahams, André Chamberlain, Audrea Golding, Marilyn Pilkington, Ramneek Pooni, Alexis Singer

C.  
INFORMATION

C.1 Proposed Rule 28

C.1.1 The committee has received a draft paper from Judith Keene entitled "Employment and Partnership: Rule 28 Obligations" which will form part of the basis for developing a policy to educate the profession on *Human Rights Code* obligations. The committee anticipates receiving a draft of a document prepared by Joanne St.Lewis on "Employment Equity and the Employer" shortly. These documents will be referred to a subcommittee consisting of Marie Moliner, Stephen Goudge, Audrea Golding, André Chamberlain, Sharon Ffolkes-Abrahams and Ramneek Pooni. This subcommittee will finalize the details of the educational companion piece to proposed Rule 28.

C.1.2 The committee agreed that proposed Rule 28 should be presented to Convocation in September 1994 for approval along with an outline of what the educational companion piece to the rule will contain. (It was agreed in May 1994 that the proposed Rule 28 would be presented to Convocation by the Professional Conduct Committee and that the Chair of the Equity Committee would speak to it at that time.)

C.1.3 The committee asked staff to report on the policy adopted with respect to Sexual Harassment Rule 27 on the issue of whether complaints about behaviour which occurred prior to the passing of the rule were to be prosecuted.

C.2 Equity Students Seeking Articles

C.2.1 The committee was advised that of 86 students without paying articling positions, 34 were aboriginal students, students with disabilities or visible minority students. The committee recognized that this disproportionate representation of unplaced equity students requires long-term as well as short-term policies to provide solutions.

C.2.2 The Chair will speak to the Chair of the Legal Education Committee to discuss issues around barriers to obtaining articling positions as well as on how to best ensure that these students obtain articling placement.

C.2.3 The committee thought that once the educational guidelines in support of Rule 28 are in place, principals would become better informed of its application to the recruitment of articling students. It also agreed to review existing interim guidelines on recruiting articling students to ensure the guidelines address other equity issues.

C.3 Review of the Composition of the Equity Committee

23rd September, 1994

- C.3.1 Dean Marilyn Pilkington will Chair a subcommittee to examine the membership and composition of the Equity Committee and to recommend criteria for membership. The committee has received several requests from groups who wish to participate in the committee's work. Most recently a request for representation on the committee was received from a gay and lesbian lawyers group and it has been referred to this subcommittee.
- C.3.2 The committee agreed that there was a need to clarify the role of committee members particularly with respect to non-bencher members who might be considered to be delegates of the organizations which they represent.
- C.3.3 The committee recognized the need to review the relationship between the Equity in Legal Education and Practice Committee and the Women in the Legal Profession Committee. A joint committee meeting will be proposed for October.
- C.4 Reception for African Canadian Legal Clinic
- C.4.1 The committee agreed that it would support the African Canadian Legal Clinic by an "in kind" contribution - i.e. it will cover rental costs of Convocation Hall. The committee did not support a financial grant directed to the group.
- C.5 Report on a Meeting with Representatives from the Aboriginal Articling Students Support Council
- C.5.1 The committee received a report on a meeting in July 1994 of representatives from the Aboriginal Articling Students Support Council with representatives of the Legal Education Committee and the Equity Committee at which the Aboriginal Articling Students Support Council sought assistance in establishing tutorials for aboriginal students and undertook to assist in the placement of unplaced aboriginal articling students.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September 1994

M. Moliner  
Chair

THE REPORT WAS ADOPTED

FRENCH LANGUAGE SERVICES COMMITTEE

Meeting of September 8, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FRENCH LANGUAGE SERVICES COMMITTEE begs leave to report:

23rd September, 1994

The Committee met on Thursday, the 8th of September, 1994, the following members being present: Vern Krishna, Q.C. (Chair), Gwen Cortis (Legal Aid), Tony Keith (CBAO). Staff representation: Stephen Foster, Glen Howell and Dominique Picouet.

C.  
INFORMATION

1. Committee's programme

The Committee asked that an inventory of items to be addressed this year be drafted and circulated before the next meeting.

2. French Language Capability in the Discipline Department

Stephen Foster of the Discipline Department reported on French language capability and activity in the Discipline Department over the past year.

He advised the Committee that a new bilingual lawyer had been hired. He addressed the issues of public information and prosecution. He concluded that the Department now had appropriate resources for answering the enquiries from the public, and for handling the limited number of French cases of the Department. He stressed that the one case he was involved in was conducted in French throughout to the satisfaction of everyone. As for bilingual panels, a recommendation was made two years ago that non-benchers be entitled to sit on the panels, which would require a change to the legislation.

The Committee expressed its desire to further its review of service capability with regard to the whole investigative process (complaints and audit).

3. Bilingual citation of Ontario Reports

Glen Howell, the Secretary of the Libraries and Reporting Committee, explained his Committee's reasons for rejecting the French citation of the Ontario Reports.

He advised the Committee that a) the publisher was not in favour of an alternate citation, b) several members of the Editorial Board shared this view, and c) the use of a French citation would create confusion for Ontario Reports users.

The members of the Committee noted that the rejection of a French citation had resulted in a curious hybrid, since the O.R. cover page is otherwise bilingual. They asked about technical reasons for doing so. They added that other jurisdictions had already implemented a bilingual reference system. The Committee also noted that the issues (method of citation, confusion and coordination with citators) should be looked into at greater depth and requested that the Libraries and Reporting Committee follow up and report on this issue.

The meeting was adjourned at 1:00 p.m.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

V. Krishna  
Chair

AUX MEMBRES DU CONSEIL DU BARREAU DU HAUT-CANADA

RÉUNIS EN ASSEMBLÉE

LE COMITÉ DES SERVICES EN FRANÇAIS a l'honneur de faire son rapport.

Le Comité s'est réuni le jeudi 8 septembre 1994. Étaient présents M<sup>c</sup> Vern Krishna, c.r. (président), M<sup>me</sup> Gwen Cortis (aide juridique), M<sup>c</sup> Tony Keith (ABCO) et, en qualité de membres du personnel, M<sup>c</sup> Stephen Foster, M<sup>c</sup> Glen Howell et M<sup>me</sup> Dominique Picouet.

C.  
INFORMATION

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1. Programme du Comité

Le Comité a demandé que soit établi le programme de l'année et qu'il soit communiqué à ses membres avant la prochaine réunion.

2. Capacités du Service de la discipline en français

M<sup>c</sup> Stephen Foster (Service de la discipline) a rendu compte des capacités et des activités en français du Service de la discipline au cours de l'année passée.

Après avoir informé le Comité qu'une avocate bilingue avait été engagée, il a abordé les questions de l'information publique et des enquêtes disciplinaires. Il a affirmé que le Service disposait maintenant de ressources suffisantes pour répondre aux demandes de renseignements du public et pour s'occuper du faible nombre de causes en français. Il a souligné que celle dont il avait été chargé avait été entièrement conduite en français à la satisfaction générale. De plus, les jurys bilingues ont fait l'objet d'une recommandation, voici deux ans, pour que les membres n'ayant pas qualité de conseiller soient autorisés à y participer, ce qui nécessite des modifications législatives.

Le Comité a également exprimé le désir de poursuivre son examen des capacités de fonctionnement de l'ensemble du processus d'enquête (plaintes et vérification).

3. Citation du Recueil de jurisprudence de l'Ontario

M<sup>c</sup> Glen Howell, secrétaire du Comité des bibliothèques et de la publication des décisions judiciaires, a exposé les raisons du rejet du projet de citation en français.

Il a déclaré que a) la maison d'édition n'était pas favorable à une citation parallèle, b) plusieurs membres du Comité de lecture partageaient cet avis et c) la citation en français serait une source de confusion pour les usagers du Recueil.

Le Comité a fait remarquer que ce rejet créait une situation hétéroclite, la page couverture étant, à cette exception près, bilingue. Il a demandé à connaître les raisons techniques d'un tel rejet, ajoutant qu'un système de

référence bilingue existait déjà dans d'autres ressorts. Le Comité a aussi remarqué que les problèmes (mode de citation, confusion et coordination avec les «citators») devaient être approfondis et il a demandé au Comité des bibliothèques et de la publication des décisions judiciaires de faire un suivi et de lui rendre compte de la situation.

La séance a été levée à 13 h.

Fait le 23 septembre 1994.

LE PRÉSIDENT

THE REPORT WAS ADOPTED

INVESTMENT COMMITTEE

Meeting of September 8, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The INVESTMENT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994 at nine-thirty in the morning, the following members being present: Messrs. Wardlaw (Chair) Bragagnolo and Ms. Kiteley. Staff member present was David Carey.

B.  
ADMINISTRATION

1. Investment Report

The Deputy Director of Finance presented to the Committee an investment report summary for the various Law Society Funds together with supporting documentation for the month ended June 30th, 1994 (Schedule A) and two months ended August 31, 1994 (Schedule B).

Approved

2. Investment Activity for July, August 1994 - Lawyers' Fund for Client Compensation

<u>Purchase</u>	<u>Broker</u>	<u>Current Market</u>	<u>Yield</u>
\$1,500,000 8.25% GOV'T OF CANADA BONDS due March 1/1997	Midland Walwyn	99.750	8.350%
\$500,000 9.00% PR. OF ONT. BONDS due Sept. 15/2004	Scotia McLeod	98.600	9.215%

23rd September, 1994

3. Investment Activity for July, August 1994 - Lawyers' Professional Indemnity Company

<u>Purchase</u>	<u>Broker</u>	<u>Current Market</u>	<u>Yield</u>
\$1,500,000 8.25% GOV'T OF CANADA BONDS due March 1/1997	Scotia McLeod	99.750	8.350%
\$1,000,000 9.00% PR. OF ONT. BONDS due Sept. 15/2004	Scotia McLeod	98.600	9.215%

These investments were made on the advice of Martin, Lucas and Seagram Ltd., our independent investment counsel, and with the Director of Finance's approval. The Committee was asked to ratify the purchase of these investments.

Ratified

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

J. Wardlaw  
Chair

Attached to the original Report in Convocation file, copies of:

- B. - Item 1. - Investment Report Summary for the various Law Society Funds with supporting documentation for month ended June 30, 1994. (Schedule A)

THE REPORT WAS ADOPTED

DRAFT MINUTES - June 23 and 24, 1994

THE DRAFT MINUTES WERE ADOPTED

(see Draft Minutes in Convocation file)

LEGAL EDUCATION COMMITTEE

Meeting of September 8, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

REPORT TO CONVOCATION

THE LEGAL EDUCATION COMMITTEE requests leave to report:

The Committee met on Thursday, the 8th of September, 1994, at 10:30 a.m.

The following members were in attendance: Philip Epstein (Chair), Susan Elliott (Vice-chair), Donald Lamont (Vice-chair), Ian Blue, Lloyd Brennan, Maurice Cullity, Vern Krishna, Allan Lawrence, Joan Lax, Laura Legge, Dean Marilyn Pilkington (Osgoode Hall Law School), Stuart Thom, and Marc Rosenberg (non-Bencher member). The following staff were in attendance: Marilyn Bode, Brenda Duncan, Alexandra Rookes, and Alan Treleaven.

A.  
POLICY

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A.1            ARTICLING SUBCOMMITTEE

A.1.1            The Articling Subcommittee is concerned with the regulation and enhancement of the articling process, and with alleviating the shortage of articling positions. The Subcommittee works primarily with the Articling Director, Marilyn Bode, and the Director of Financial Aid and Placement, Mimi Hart.

A.1.2            The new Chair is Mr. Marc Rosenberg, a non-Bencher member of the Legal Education Committee. Mr. Cullity and Mr. Prabhu (non-Bencher member of the Legal Education Committee) continue to serve as members, and Mr. Blue has joined the Subcommittee to fill the Bencher vacancy. Two new elected student members, Kathy Nedelkopoulos and Susan Sue, have also joined the Subcommittee. The other members are Janne Burton, Victoria Colby, Dora Nipp and Jay Rudolph.

A.1.3            The *Proposals for Articling Reform Report* (the "Report") approved by Convocation in October 1990 sets out the composition of the Articling Subcommittee and the terms of membership. Section 1.0 of the Report is attached. (pages 1 - 2) To more accurately reflect the recent and current membership of the Subcommittee and to ensure continuity of the non-Bencher members of the Subcommittee, the following changes, highlighted by bold print and underlining, are proposed:

1.0    The Articling Subcommittee

..... The Subcommittee should be composed of a maximum of ten members, including:

- a.    Two Benchers;
- b.    a maximum of two non-Bencher members of the profession currently serving on the Legal Education Committee;
- c.    at least two members of The Law Society of Upper Canada (a minimum of one called within the last five years, and one called within the last ten years); and

- d. two student members elected by the student representatives of the Phase One class for the current articling term.

[Note: The proposed changes include deletion of "The Director of Education and the Articling Director shall be *ex officio* members."]

The term of the non-Bencher members on the Articling Subcommittee should be for a period not to exceed three years, with one renewal of term possible. Bencher members and non-Bencher members of the Legal Education Committee should be annually appointed to the Subcommittee by the Chair of the Legal Education Committee.

- A.1.4 Recommendation: It is recommended that the changes to the composition and term of members of the Articling Subcommittee noted above in A.1.3 be approved.
- A.2 BAR ADMISSION COURSE ENTRANCE REQUIREMENTS ISSUE
- A.2.1 There are at least two students who continue to be in the process of completing the requirements of the Joint Committee on Accreditation but who want to carry on in the Bar Admission Course simultaneously. The students failed one or more Joint Committee examinations in the first instance and are intending to write supplemental examinations in October of 1994.
- A.2.2 Section 23(9) of Regulation 708 made under the Law Society Act states that the academic qualification for admission to the Bar Admission Course is either an approved Canadian LL.B. or a Certificate of Qualification issued by the Joint Committee on Accreditation. A copy of section 23 of Regulation 708 is attached. (pages 3 - 4) Section 23(11) requires Bar Admission Course students to file proof of their having obtained an LL.B. or Certificate of Qualification by the last business day in August (which happens to be after the completion of Phase One). The legislation does not provide for any exception to the requirements of section 23(9) and (11), although section 23(12) states: "Convocation may revoke a student membership if, in its opinion, the requirements of subsection (9)...(11) have not been met".
- A.2.3 It has been the informal practice to permit students who are writing supplemental law school examinations during the summer following their third year of law school to carry on in the Bar Admission Course pending the successful completion of any law school supplemental examinations. This informal practice, however, is not provided for in the legislation. In light of this informal practice, the concerns of the Joint Committee students present a special problem, due to the late timing of the supplemental examinations.
- A.2.4 Two students have contacted the Director of Education with their problem. Both students were attempting to complete the Joint Committee requirements at an Ontario law school. One student failed one law school examination and the other failed two law school examinations. Because they were attending at the law school only on a course by course basis, their entitlement to write supplemental examinations is governed by the Joint Committee and not by the law school. Their Joint Committee supplemental examinations are not scheduled until October. These two students hope by that time either to be articling or to be in Phase Three. The Director of

Education has permitted the students to carry on in the Bar Admission Course on the condition that they successfully complete their supplemental examinations, but at the risk that their participation in the Bar Admission Course on this basis will not be approved by the Law Society.

- A.2.5 It is the opinion of the Director of Education that this procedure is permitted under section 23(12), in that Convocation "may" revoke a student membership if the requirements have not been met.
- A.2.6 Students enrolled as law students in Canadian law schools, who fail any examinations, are typically only permitted to write supplemental examinations based on the strength of their academic record. Where such students are permitted to write supplemental examinations, those examinations are typically scheduled during the summer. These two concerned students, however, are not enrolled at the law school and therefore must look to the Joint Committee for relief from failure. The Joint Committee is permitting the students to write supplemental examinations administered by the Joint Committee itself. The October scheduling of the Joint Committee examinations has meant that the two students were unable to satisfy the requirements of the Joint Committee by the last business day in August.
- A.2.7 The Legal Education Committee decided to consider Joint Committee related issues generally at its October meeting, but has made a recommendation to Convocation relating to the current students.
- A.2.8 Recommendation: It is recommended that the 1994 Joint Committee students be permitted to continue in the Bar Admission Course conditional upon their successful completion of the October supplemental examinations.

B.  
ADMINISTRATION

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No regular business and administration this month.

C.  
INFORMATION

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- C.1 BAR ADMISSION COURSE SUBCOMMITTEE
- C.1.1 The Bar Admission Course Subcommittee will be continuing its work of reviewing the current Bar Admission Course and preparing a report for Convocation proposing changes to the Bar Admission Course intended to enhance the program and focus on budgetary concerns.
- C.1.2 The Bar Admission Course Subcommittee continues to be chaired by Mr. Epstein. The members of the Subcommittee are Mr. Brennan, Dean Carter, Mr. Goudge, Mr. Lamont, Ms. Lax, Mrs. Legge, Dean Pilkington, Mr. Prabhu, and Mr. Rosenberg.

- C.1.3 The Bar Admission Course Subcommittee held its fifth meeting on Saturday, June 25, 1994. The following members were in attendance: Philip Epstein (Chair), Mark Austen, Lloyd Brennan, Dean Donald Carter, Laura Legge, Mohan Prabhu and Marc Rosenberg. The following members of staff were in attendance: Erika Abner, Marilyn Bode and Alan Treleaven.
- C.1.4 The Subcommittee began its discussion by focusing on the consultation process. The decision was made to commence focus group discussions with recent Bar Admission Course graduates as quickly as possible. (Since the meeting, the focus group meetings are under way.)
- C.1.5 The discussion then moved to articling, and focused both on the educational effectiveness of articling and how articling might be improved. There was general agreement that the Subcommittee supported the continuation of articling. It was decided that the Subcommittee would continue to examine how to improve articling, and therefore would include articling in the focus group meetings. There was some discussion of moving the articling requirement to the post-Call stage, following on the English model. It was agreed that variations to the current articling model would be discussed at the next meeting.
- C.1.6 The discussion then moved to the possibility of Bar Admission Course entrance examinations. There was considerable discussion about entrance examinations, including their advantages and disadvantages. Advantages include removing the necessity to teach substantive and procedural law in the Bar Admission Course, eliminating the cram school atmosphere in the Bar Admission Course, and providing a foundation for the teaching of skills. Disadvantages include the risk of encouraging a potentially expensive private examination preparation school industry as exists in some American states, and a potential negative impact on the law school curriculum. It was agreed that entrance examination issues require further study, including their desirability and potential coverage. A key part of this discussion must include a study of the value of examinations. The law school Deans and Bar Admission Course Section Heads will be consulted.
- C.1.7 An interim report is to be presented to Convocation in October.
- C.1.8 The next meeting of the Bar Admission Course Subcommittee has been scheduled for Saturday, October 29.
- C.2 CONTINUING LEGAL EDUCATION SUBCOMMITTEE
- C.2.1 A key focus of the new Continuing Legal Education Subcommittee will be the development of a proposal for mandatory continuing legal education, to be presented to Convocation. Other key matters concerning the Subcommittee include continuing legal education programming outside of Metropolitan Toronto and the cost of programming to members.
- C.2.2 The Subcommittee is beginning its work in earnest. The Subcommittee will form working groups to focus on a number of topics, including the following:

- a) errors and omissions (an in depth study of why errors occur and how they might be avoided),
- b) delivery systems, including the use of modern technology,
- c) accreditation of courses and course providers,
- d) administrative procedures, including regulating compliance by Ontario lawyers,
- e) relation to certification of specialists.

C.2.3 Members of the new Continuing Legal Education Subcommittee are Susan Elliott (Chair) and Ian Blue. Other members must be appointed.

C.2.4 Sophia Sperdakos has been appointed to the new position of Mandatory Continuing Legal Education Project Director. Ms. Sperdakos joined the Bar Admission Course Faculty on March 1, 1990, and is taking a leave to assume the new position.

C.3 ARTICLING SUBCOMMITTEE (JUNE 24 MEETING)

C.3.1 The Subcommittee met at 8:00 a.m. on June 24 at Osgoode Hall. In attendance were Stephen Goudge (at that time, Chair of the Subcommittee), Maurice Cullity, Janne Burton, Victoria Colby, Dora Nipp, Mohan Prabhu, Jay Rudolph, and Carmel Sakran. Staff members attending were Marilyn Bode, Mimi Hart and Lynn Silkauskas.

C.3.2 The Subcommittee gave conditional approval to a further three applications from members to serve as articling principals for the 1993-94 year. To June, approximately 1370 members have applied to serve as principals for the 1993-94 articling year. Of those, 1361 applications have been approved. One application was denied as the member was found to be dishonest by a referee of the Lawyers' Fund for Client Compensation. The remaining applications have been deferred as an audit investigation, discipline investigation or Lawyers' Fund For Client Compensation hearing on the member is pending.

C.3.3 The Subcommittee also gave conditional approval to a further 73 applications from prospective articling principals for the 1994-95 articling term. To June, approximately 1304 members have been approved to serve as principals for the 1994-95 articling term. Of those only approximately 859 members have applied. The balance have been approved by the Subcommittee in anticipation of their late renewals.

C.3.4 The Subcommittee gave special consideration to the applications of two members. One member was applying for the 1993-94 articling term, the other for the 1994-95 articling term. Both applications were approved.

C.3.5 The first policy item was a consideration of a script outline for an articling videotape. Educational materials for articling principals were discussed at the May meeting of the Subcommittee. At that meeting, the extent, form and content of such materials, in written or videotaped format, were discussed. The Subcommittee believes strongly in the importance of educational materials for articling principals and had decided, at its May meeting, that a video would be the most effective format. Students and principals would view the video together at the outset of the articling term. The Subcommittee

at its May meeting requested that a script for a videotape be developed for its review. The Subcommittee reviewed a script outline at its June meeting and made some suggestions for the development of a script. The Subcommittee will review the script in the fall of 1994. At that point, the Subcommittee will consider whether it should proceed with the videotape.

- C.3.6 The second policy item was a discussion of a Law Society letter or information circular outlining the credentials of Joint Committee on Accreditation students. It would be provided to Joint Committee on Accreditation students on request to assist them in their search for articling positions. This item was also discussed at the May meeting. It was decided that the draft letter required some revisions. Once finalized, it would be signed by the Articling Director on behalf of the Articling Subcommittee. A Notice to the Profession would also be drafted.
- C.3.7 The third policy item was a consideration of a revised notice to students without articling jobs drafted by the Ad Hoc Committee of Unplaced and Unpaid Articling Students. The Subcommittee was advised that the Financial Aid and Placement Office would provide the approved notice under a cover letter to the Bar Admission Course students. The Ad Hoc Committee would be advised, however, that the Law Society would not become a regular conduit to unplaced students for the Ad Hoc Committee.
- C.3.8 The fourth policy item was a consideration of articling placement issues. The Director of Placement spoke to this item. The Subcommittee was provided an update on the 1994-95 articling placement scene.
- C.3.9 The third matter was a reconsideration of whether students might be asked to voluntarily identify themselves as belonging to a group that might be disadvantaged in their ability to secure an articling position. This item was discussed at the meetings of the Articling Subcommittee in April and May. The matter had been raised by the Committee for Unplaced and Unpaid Articling Students. The voluntary self-identification would be on the Bar Admission Course application or other documentation submitted to the Law Society. Currently, members of the visible minority, Aboriginal and disabled communities may self-identify on the Bar Admission Course application and two other questionnaires distributed during the Course. Mimi Hart presented draft question(s) for the Subcommittee's review at its June, 1994 meeting. The Subcommittee considered and approved the draft questions.
- C.3.10 The fourth matter was of an informational nature. The Director of Placement advised the Subcommittee that a second brainstorming session on the insufficiency of articling positions for the 1994-95 articling term was to be held on June 28, 1994. Representatives of the Canadian Bar Association Ontario, the Ministry of the Attorney General, the Committee of the Ontario Law Deans, County of York Law Association, and the Federal Department of Justice, in addition to the Chair of the Legal Education Committee, the Chair of the Subcommittee and staff, were invited.
- C.3.11 There were three information items. The first was the 10 day suspension for non-payment of the errors and omissions insurance levy of a member serving as an articling principal in the 1993-94 articling term. A cheque mailed by the member was never received by the Law Society. The member had another cheque prepared, certified and delivered to the Law Society immediately upon being notified of

the suspension. The student articulated to the member contacted the Articling Director to inquire if the period of time worked during the principal's suspension would still count toward the student's 52 week articling requirement. The student was advised that the time would count.

C.3.12 The second information item was a report on the appeal to the Legal Education Committee in June of Gabriel Patterson, who had articulated for Gregory Vanular in 1992.

C.3.13 The third information item was a report on the number of sexual harassment inquiries received by the Articling Director's office in the 1993-94 articling term. Only two phone call inquiries, on an anonymous basis, were received. In both cases, it appeared that sexual harassment could have been an issue for the students. The Articling Director discussed options with the students. Both indicated that they would probably wait until they were employed members of the profession before pursuing any complaint. The Articling Director also informed the Subcommittee of an offer of mediation services from a member of the profession for sexual harassment complaints.

C.4 ARTICLING SUBCOMMITTEE (AUGUST 18 MEETING)

C.4.1 The Subcommittee next met at 8:30 a.m. at Osgoode Hall on August 18. In attendance were Marc Rosenberg (new Chair of the Subcommittee), Maurice Cullity, Janne Burton, Dora Nipp, Mohan Prabhu, and Carmel Sakran. Staff members attending were Marilyn Bode, Mimi Hart and Lynn Silkauskas.

C.4.2 The Subcommittee gave conditional approval to a further four applications from members to serve as articling principals for the 1993-94 year. To August, approximately 1374 members have applied to serve as principals for the 1993-94 articling year. Of those, 1365 applications have been approved. One application was denied as the member was found to be dishonest by a referee of the Lawyers' Fund for Client Compensation. The remaining applications have been deferred as an audit investigation, discipline investigation or Lawyers' Fund For Client Compensation hearing on the member is pending.

C.4.3 The Subcommittee also gave conditional approval to a further 73 applications from prospective articling principals for the 1994-95 articling term. To August, approximately 1381 members have been approved to serve as principals for the 1994-95 articling term. Of those, approximately 1012 have applied. The balance were approved by the Subcommittee in anticipation of their late renewals.

C.4.4 The Director of Placement provided an update on the number of unplaced students for the 1994-95 articling year.

C.4.5 The Director of Placement also reviewed the articling placement initiatives undertaken in respect of 1994-95 articling students. These included Notices to the Profession, a letter to unplaced students, enhanced placement services, and an appeal to create additional jobs made at the outset of all continuing legal education programs over the summer sponsored by the Canadian Bar Association Ontario, The Advocates' Society and the Law Society.

C.4.6 The Director of Placement also reported on the second very useful brainstorming session held on June 28, 1994. Representatives of the Canadian Bar Association, the Ministry of the Attorney General and the Federal Department of Justice met with the Chair of the Legal Education Committee, the Chair of the Subcommittee and staff to discuss options. An application for students interested in participating in a mentoring program was reviewed at that session. The Canadian Bar Association of Ontario and the Advocates' Society will be asked to send a letter to their members requesting their participation as mentors for unplaced students. This would involve a weekly commitment of approximately one hour, commencing in late August. The Director of Placement advised the Subcommittee that since that June brainstorming meeting the mentoring program had been implemented.

C.4.7 The Subcommittee had an extensive discussion about the expansion of unpaid articling positions.

C.4.8 The Subcommittee also considered whether to relax the three year experience requirement for prospective articling principals. The Articling Director advised the Subcommittee that a few students still seeking articles had indicated that the only lawyers expressing an interest in hiring them had less than three years of experience. The Subcommittee can already make an exception for members with less than three years of practice experience in Ontario if they previously practised law elsewhere or had law-related experience. After some discussion, the Subcommittee agreed that inquiries from such members, even if they did not practise elsewhere, would not be denied consideration. Individual cases will be reviewed by the Articling Subcommittee. It is expected that this will create additional positions for the 1994-95 articling term.

C.4.9 The next meeting of the Subcommittee is scheduled for September 23, 1994 at 8:00 a.m. in Osgoode Hall.

C.5 ARTICLING PLACEMENT REPORT

C.5.1 There have been 1,271 students seeking articles in the 1994-1995 articling term. Effective September 7, 1994, 1,168 (91.9 percent) had secured a position, 86 (6.77 percent) were registered with the Law Society's Placement Office as continuing their search for articles, and 17 (1.34 percent) had not responded to attempts to ascertain their status. The number of unplaced and unaccounted for articling students will likely decrease in the coming days as articles of clerkship are filed and processed by the Bar Admission Course. Of the 86 students registered as still searching, nine are articling for either no or very modest remuneration, and are therefore continuing their search. Seventeen positions are listed as available.

C.5.2 One year ago (September 1, 1993) the number of students registered with the Placement Office as continuing their search for articles was 57 (4.5 percent of the class). This number reduced to 18 students by November. By December 1993, 95.5 percent of students seeking articles in the 1993-1994 year had been placed.

C.5.3 The Placement Office continues to operate pursuant to the direction provided by Convocation in its approval of the Placement Policy Report (October, 1992), which stipulates that:

23rd September, 1994

The Law Society not impose a professional obligation to hire articling students, but that the profession be reminded of its moral obligation to assist in the education of articling students; and,

The Law Society not guarantee to arrange articling positions for students, but continue to use its resources to assist students to secure articling positions.

- C.5.4 A number of initiatives have been undertaken in 1994 to assist unplaced students. These initiatives are detailed in a report that was presented at the meeting of the Legal Education Committee. (pages 5 - 10)
- C.5.5 The Placement Office continues its efforts on behalf of unplaced students. It has recently initiated activities that have as their objective getting students' articles under way, and creating additional articling opportunities for students. These initiatives are described in the report.
- C.5.6 Updated statistics will be available at Convocation on September 23, 1994.
- C.6 STUDENT REQUEST TO REPEAT BAR ADMISSION COURSE
- C.6.1 The student failed the Bar Admission Course in 1990 and withdrew from Phase Three of the Bar Admission Course in 1991 with a fail standing. The Legal Education Committee, at its meeting of June 23, 1993, denied the student's request to re-attempt Phase Three in 1993.
- C.6.2 The student has requested permission to re-attempt Phase Three in 1995, and was first required to satisfy the Legal Education Committee "by written application that a significant change in circumstances will likely result in the successful completion of Phase Three".
- C.6.3 The student's written request, supported by a brief letter from the student's psychiatrist, indicates that the student's personal circumstances have changed and that the student continues to be following a course of action that may well increase significantly the likelihood of success in Phase Three.
- C.6.4 The Committee decided to permit the student to re-attempt Phase Three commencing in 1995.
- C.7 CONTINUING LEGAL EDUCATION REPORT
- C.7.1 The Report, prepared by the Director of Continuing Legal Education, Brenda Duncan, is attached. (pages 11 -15)

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

P. Epstein  
Chair

23rd September, 1994

Attached to the original Report in Convocation file, copies of:

- A. - Item A.1.3 - Copy of the Proposals for Articling Reform Report.  
(pages 1 - 2)
- A. - Item A.2.2 - Copy of section 23 of Regulation 708 re: Academic qualification for admission to Bar Admission Course.  
(pages 3 - 4)
- C. - Item C.5.4 - Placement Office Report - Articling Placement Initiatives undertaken in respect of the 1994-95 Articling Term.  
(pages 5 - 10)
- C. - Item C.7.1 - Continuing Legal Education - Report on Courses.  
(pages 11 - 15)

Also attached is a copy of the Report of the Articling Student Placement 1994-95 Articling Term as at September 22, 1994

THE REPORT WAS ADOPTED

PROFESSIONAL STANDARDS COMMITTEE

Meeting of September 8, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, at 3:00 p.m., the following members being present: C. McKinnon (Chair), K. Palmer (Vice-Chair), T. Bastedo, R. Carter, R. Cass, N. Graham, L. Legge, D. Murphy, R. Murray, H. Warder Abicht, M. Weaver.

Also Present: S. Kerr, S. McCaffrey, A. Rodomar, P. Rogerson.

A.  
POLICY

A.1. REFERRALS TO DISCIPLINE FROM PRACTICE REVIEW PROGRAMME

- A.1.1. In 1986, Convocation approved a policy recommended by The Special Committee on Competence that a referral be made to discipline of
  - (a) those members who refuse to co-operate in the Society's efforts to assess their practices;
  - (b) those members who breach their undertakings to the Committee;
  - (c) those cases in which the Committee finds that the member has been guilty of serious misconduct instead of, or in addition to, incompetence; and
  - (d) any other case that in the Committee's view should be referred.

- A.1.2 Since March, 1989, the policy has been that a member who declines an invitation to participate in the Practice Review Programme is referred to Senior Counsel, Discipline, for consideration.
- A.1.3. At the time this policy was implemented, Senior Counsel, Discipline was the head of all of the Law Society's investigative units. There was no Professional Standards Department. Senior Counsel, Discipline was in effect a clearing house for possible disciplinary action arising from a wide range of member activities.
- A.1.4. There is today a more clearly defined departmental delineation of duties. The Complaints and the Audit & Investigation Departments prepare their own memoranda for discipline authorizations, and members of these departments meet with the Chair and Vice Chairs of the Discipline Policy Committee to determine whether, and what, disciplinary action should be taken. As a result, there has been a de-emphasis on the role of Senior Counsel as "clearing house", and Senior Counsel no longer plays an active role in investigations.
- A.1.5. The procedure followed by the Professional Standards Department has not kept pace with these changes, and is now an anomaly in the discipline process. When a file in the Practice Review Programme is closed and referred to Senior Counsel, Discipline, there is no mechanism for responding to the referral.
- A.1.6. Your Committee therefore recommends that, in the instances outlined above, the member be referred to a staff working group made up of representatives of the Professional Standards, Discipline, Complaints, and Audit Departments, and a representative of the Lawyers' Professional Indemnity Company, who can determine whether further investigation of the member is required, or whether an authorization memorandum should be prepared for submission to the Chairs and Vice Chairs of the Discipline Policy Committee.

B.  
ADMINISTRATION

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B.1. REAL ESTATE CHECKLIST

- B.1.1. At its April meeting, the Committee decided that all future checklists would be published in an 8½" x 11", loose-leaf format, drilled to fit a 3-ring binder. This format would be in line with other Law Society publications, and would permit members to replace amended pages as the checklists are updated from time to time. The cost of translating and printing 10,000 copies, including 500 in French, in one colour, is approximately \$17,000. Checklists published in the past were printed in a format that was stapled, with a white cover, in a 6" x 9" size.
- B.1.2. The Chair of the Sub-committee to revise the Real Estate Checklist, Donald H.L. Lamont, Q.C., has asked the Committee to reconsider this decision, on the basis that loose-leaf is not attractive; the checklist is effective in its present format; the intended changes being made to the checklist are, to date, cosmetic for the most part, and not significant; new pages are unlikely to be inserted into a loose-leaf publication; a binder is heavy; and the Real Estate Checklist should not be combined with other checklists, such as Family Law.

B.1.3. Although the Committee reaffirmed its decision to publish the Real Estate checklist in the loose-leaf, 8½" x 11" format, staff have been asked to investigate the feasibility and cost of making available to members, upon payment of a fee for same, the checklist in the 6" x 9" format previously used. Staff have also been asked to explore the possibility of publication of the checklist in this format by a legal publisher, who could offer same for sale to the profession. Staff will report back to the Committee with this information in due course.

B.2. RESTORATION TO THE LAWYER REFERRAL SERVICE

B.2.1. i) Reinstatement Request - Solicitor #216

B.2.2 . A member has sought reinstatement on the Lawyer Referral Service roster, having been authorized to participate in the Practice Review Programme in February, 1994; he has declined to participate. The member had received 15 complaints since 1987, and has reported a total of 9 potential insurance claims. It should be noted that at least one complaint came from a client referred to the member through the Lawyer Referral Service. The member was called to the Bar in 1977, and was referred to the Programme by LPIC, which has expended approximately \$35,000. in claim, adjuster and defence costs on his behalf.

B.2.3. The member argued that:

- a) removal of a member's name from the Lawyer Referral Service roster constitutes a punishment;
- b) there should be reasonable notice of same to the member, prior to its removal;
- c) there should be just cause for removal, and just cause does not exist in this member's case;
- d) there should be the same procedural safeguards that exist in a disciplinary action.

B.2.4. As recommended by this Committee, approved by Convocation and reaffirmed in June, 1990, June, 1993, and again in March, 1994, the removal is based upon the following rationale:

- i) the purpose in notifying the Lawyer Referral Service is to protect the public and, to a lesser extent, the Law Society, from the danger of creating a solicitor/client relationship involving a lawyer whom the Society, based on a significant body of data, believes may have a competency problem;
- ii) the Referral Service should be made aware of the names of all lawyers authorized, regardless of whether they agree to participate in the Programme, so that the Service can make an informed decision on the suitability of the lawyer to continue as a participant in the Service.

- B.2.5. Where a member refuses to participate, the Law Society has no mechanism by which to assess whether the concerns of the referring Department are valid, or can be refuted. The Law Society's obligations to the public are such that, where there are reasonable grounds to believe that a member is not providing an adequate level of service, steps should be taken to protect the public by removing the member's name from the roster. Prior notice to the member is not appropriate in these circumstances.
- B.2.6. The removal is therefore not a punishment, but one of the few means available to the Law Society, particularly where the member declines to participate in Practice Review, to protect the public where there are *prima facie* grounds requiring same.
- B.2.7. Your Committee has decided, and Convocation has confirmed on at least three previous occasions, that referral to the Programme constitutes just cause for removal from the Lawyer Referral Service roster. Given this member's referral from LPIC, and his history of complaints and claims, it appears that just cause does exist for the referral, and therefore for the removal from the roster. Because of the consensual nature of the Programme, the procedural protections afforded a member in the discipline process are not applicable here.
- B.2.8. Your Committee has agreed that the above response be provided to the solicitor, by letter from the Chair; that the policy regarding reinstatement to Lawyer Referral remain unchanged; and that the member's name remain off the roster in accordance with that policy.
- B.2.9. ii) Reinstatement Request - Solicitor #148
- B.2.10. This member was authorized for participation in the Programme in October, 1992, after the Law Society was contacted by the president of the local law association and a representative from the Area Committee for Legal Aid, expressing concerns about the member's competence. An apparent client of the member had distributed posters around the community complaining about the representation that the member had provided, and a judge of the Provincial Division had made comments on the record about the member's incompetence. The member was called to the Bar in 1989; the Law Society has received 2 complaints from clients. The member agreed to participate in the Programme, and has been co-operative with the reviewer and with staff.
- B.2.11. In May, 1994, the Committee received a request for reinstatement on the Lawyer Referral Service because of the economic impact his removal was having on his practice. It is apparent that the member is experiencing financial difficulties. The member has now asked the Committee to identify in writing its exact concerns about him, to enable him to make full answer and defence. Your Committee has agreed that a letter should be sent to the solicitor, from the Chair of the Committee, explaining what led to the member being referred to the Programme, and detailing Convocation's policy about removal from the Lawyer Referral Service roster.

B.3. REQUEST FOR RECONSIDERATION OF AUTHORIZATION FOR PARTICIPATION IN PRACTICE REVIEW - SOLICITOR # 229

B.3.1. The solicitor was called to the Bar in 1976 and has accumulated 21 complaints since 1987, and 7 LPIC claims, although no claim has been paid on his behalf. Eight of the complaints have been received in the last two years. The solicitor was authorized to participate in the Practice Review Programme in May, 1994.

B.3.2. When he received the letter inviting him to participate in the Programme, the solicitor contacted staff of the Complaints Department to discuss the complaints received. After that discussion, Complaints staff advised the solicitor that the explanations given addressed any concerns the Society might have had, that the complaints are minor in nature, and that they do not appear to disclose a pattern of substandard service on the part of the firm. On this basis, the solicitor has asked that the Committee reconsider his authorization for participation in the Programme.

B.3.3. The complaints fall within the guidelines governing referral of lawyers to the Programme, in that multiple complaints have been received by the Law Society. In addition, there is a concern about the manner in which client efforts at communication with the member's staff have been handled. The solicitor employs six associates, and is shown in Law Society records as having 5 different office locations. Inadequate supervision of associates or support staff may therefore be the cause of client complaints and communication problems.

B.3.4. Your Committee has agreed that a letter should be sent to the solicitor, acknowledging the discussion with the Complaints department, but suggesting an attendance by the Director of the Professional Standards Department, in order to investigate further whether participation in the Programme is warranted.

B.4. PRACTICE REVIEW PROGRAMME FILE CLOSURES

B.4.1. Six files were closed by the Committee based on the members' successful completion of the Practice Review Programme. The members each had several staff attendances, in addition to a reviewer's initial attendance. The solicitors were amenable to the recommendations made in the course of the Programme and have implemented same.

B.4.2. Four files were closed by the Committee based on the members' unwillingness to participate in the Programme. In three of the files, at least four letters were sent to the member inviting participation, however, no written response was ever received. In the case of the fourth file, the member corresponded with staff raising various issues over a period of one and one-half years, however, the member never did provide his decision regarding participation.

B.4.3. Two Practice Review files were closed based on the members' unwillingness to cooperate with the Practice Review Programme. In the case of the first file, the member began participating in June of 1989 until August of 1991. The member's file was then placed in abeyance due to his involvement with the Discipline department and the potentially serious charges involved.

- B.4.4. It was decided at a meeting of the Standards and Discipline departments in February, 1994, that the solicitor be asked to continue his involvement with the Programme, due to a steady receipt of complaints by the Law Society. The member declined to continue to participate.
- B.4.5. In the second instance, the member signed an undertaking to participate in the Programme. He participated from March 1991 until July 1993. A reviewer attended on one occasion and staff attended at the member's office on several occasions. After the last attendance, a copy of the staff report was sent to the solicitor for his comments. No comments were ever received from him. Four letters in total were sent to him and three telephone messages were left for him. The Discipline department was advised of the solicitor's breach of undertaking.
- B.4.6. Two Practice Review files were closed based on the fact that the members are no longer practising law. In one instance the member had not yet begun to participate in the Programme although he agreed to do so. Shortly after he was authorized to participate, he was suspended for non-payment and is presently seeking permission to resign his membership. In the second instance, the member was cooperating with the Programme until he decided to wind down his practice, and has signed an undertaking in Discipline not to practise.

C.  
INFORMATION

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- C.1. PRACTICE ADVISORY SERVICE - STATUS REPORT
- C.1.1. For the year ending June 30, 1994, the Service received 8,400 calls, a 35% increase over the volume received in 1992/93, and a 97% increase over the number received in 1991/92. There was no reduction in demand over the summer. The Director conducted 50 interviews in the office, with members who "dropped in" unannounced to discuss apparently simple matters that ultimately indicated great stress and sometimes led to a referral to LINK. Practice Advisory is very grateful to have this service available for referrals.
- C.1.2. The issues raised by members reflect changes in the profession and the poor economy: new forms of association, competition, financial difficulties, clients who are problems because of their stresses, and leaving practice because of the devastating impact of the threat of increased insurance. A number of enquiries, particularly from newly-called members, asked about becoming a paralegal rather than a lawyer, because of the perception that it is too expensive to be a lawyer in the current economy. The Service also continues to hear from members for whom the stresses of the past few years have led to personal bankruptcy or other difficult decisions relating to their practices.
- C.1.3. A lawyer has been hired to work part-time in the Service, on an experimental basis, in that she will work full days, and many 5-day weeks, but a total of only 26 weeks of the year. Over 60 candidates applied for the position.

23rd September, 1994

- C.1.4. The Director attended the Canadian Bar Association Conference, and the Lawyers' Professional Assistance Conference, both of which were held in Toronto; the latter emphasized the problems women have in facing addiction issues.
- C.1.5. Only one Start-Up Workshop was held during the summer months, in order to accommodate staff vacations and time constraints, and to permit the updating of the materials used. The monthly workshops will resume in September.
- C.2. PROFESSIONAL STANDARDS - DEPARTMENTAL REPORT
- C.2.1. Two new people have been added to the department's staff: Areather Nicholas, a secretary who has been hired during the maternity leave of Rezna Ellis, and Hershel Gross, who becomes the department's second staff lawyer effective October 11, 1994, after 16 years in private practice.
- C.2.2. Since the inception of the Practice Review Programme in 1988, 241 members have been authorized to participate. The Programme saw a growth in reviews of approximately 500%, in fiscal 1992-93. That growth has continued, so that there are 148 open files in the Programme today, with an average of 5 new files being opened each month. A recent computer print-out of the LPIC "repeater list" generated 153 pages of names of members with 3 or more claims in 3 years. Potentially, at least, each of these members could be considered for participation in the Programme.
- C.2.3. No review panels were held during the summer months, but they will be resuming, monthly, in September. Many thanks to Benchers who have already agreed to sit on the panels, and we look forward to hearing from those who have not yet committed themselves.
- C.2.4. Approximately 50 of the 70 members who conduct reviews for the Programme attended a seminar presented in June, where they were given an overview of those Law Society departments which refer members to the Programme, and had the opportunity of hearing Milton Zwicker speak on practice management issues. They compared experiences and exchanged notes on the conduct of practice reviews, and heard from Susan Elliott and Ron Cass as to the expectations of Benchers sitting on review panels. The response from the reviewers attending was extremely positive.
- C.2.5. The education program on managing a law practice is in the design stages. Hershel Gross, the lawyer joining the department, has significant experience in adult education, and is expected to contribute greatly to the design and implementation of the program. There is on-going consultation with the President of the County and District Law Presidents' Association, and it is anticipated that the first pilot will be offered late this fall.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

C. McKinnon  
Chair

THE REPORT WAS ADOPTED

23rd September, 1994

RESEARCH AND PLANNING COMMITTEE

Meeting of September 8, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The RESEARCH AND PLANNING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994 at 8:00am, the following members being present:

L. Brennan (Chair), F. Carnerie, The Hon. A. Lawrence, R. Manes, J. Palmer, H. Sealy, M. Somers.

Also present: A. Brockett, S. Hodgett, E. Spears, L. Talbot.

A.  
POLICY

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A.1. STATEMENT ON THE ROLE OF THE LAW SOCIETY

A.1.1. Your Committee discussed and adopted the Final Report of the Subcommittee on the Role of the Law Society at its meeting on June 9, 1994. The Role Statement Report was transmitted to Convocation on June 24, 1994 but was withdrawn at the request of the Chair. It is understood that there will unlikely be adequate opportunity to give full consideration to the report at Convocation on September 23, 1994 and therefore the Committee will transmit to Convocation the report with its recommendations of adoption and implementation at a later date.

B.  
ADMINISTRATION

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No matters to report.

C.  
INFORMATION

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C.A.2. DISPUTE RESOLUTION SUBCOMMITTEE

C.A.2.1. Your Committee discussed briefly the draft rules governing mediation by lawyers. This issue will be discussed further taking into account comments solicited from interested parties who have until September 15, 1994 to respond. Following consultation with this

23rd September, 1994

Committee, the subcommittee will forward the proposed rules governing mediation to the Special Committee to Review the Rules of Professional Conduct.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September 1994

L. Brennan  
Chair

THE REPORT WAS ADOPTED

CALL TO THE BAR

The following candidates were presented to the Treasurer and Convocation and were called to the Bar, and the degree of Barrister-at-Law was conferred upon them by the Treasurer.

Jordana Rochelle Enig Stockhamer	34th Bar Admission Course
Antonietta A. Brion	35th Bar Admission Course
Stanley Carl Frisch	35th Bar Admission Course
Patricia Lynn Graham	35th Bar Admission Course
Manuel Jesudasan	35th Bar Admission Course
Lynn Marie Kowalla	35th Bar Admission Course
May Yin May Lau	35th Bar Admission Course
Karen Dale Logan	35th Bar Admission Course
Marie Louise Anne Alexia Taschereau-Moncion	35th Bar Admission Course

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AGENDA - Reports or Specific Items Requiring Convocation's Consideration and Approval

LEGAL AID COMMITTEE

Meeting of September 8, 1994

Mr. Goudge presented Item A.-A.1 re: Legal Aid Funding, for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994, the following members being present: Stephen Goudge, Chair, B. Ally, L. Brennan, M. Buist, J. Campbell, P. Copeland, C. Curtis, D. Fox, R. Lalande, M. Fuerst, P. Peters, A. Rady, M. Stanowski, B. Sullivan.

The following senior members of staff were present: Bob Holden (Provincial Director), George Biggar (Deputy Director - Legal) and Bob Rowe (Deputy Director - Finance).

A.  
POLICY

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A.1            LEGAL AID FUNDING

A.1.1           The Legal Aid Committee unanimously approved the Report which is attached hereto as Schedule 1 and recommends its adoption by Convocation.

A.1.2           A sub-committee will be struck to discuss the Plan's priorities and strategic planning for the next year and report back to the Legal Aid Committee.

B.  
ADMINISTRATION

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B.1            APPOINTMENT OF NEW AREA DIRECTOR - ESSEX

B.1.1           A decision on the appointment of a new Area Director for Essex County was deferred. A sub-Committee was struck to review and make recommendations concerning the process used for selecting Area Directors. It is anticipated that the Sub-Committee will report to the Legal Aid Committee in October. The competition for the position will then be re-opened.

B.2            APPOINTMENT OF NEW LEGAL ACCOUNTS OFFICER

B.2.1           The Legal Aid Committee recommends the appointment of Heather Robertson as the new Legal Accounts Officer. Ms. Robertson's curriculum vitae is attached as Schedule 2.

B.3            ONTARIO LEGAL AID PLAN - STATEMENT OF INCOME AND EXPENDITURE FOR THE FOUR MONTHS ENDED JULY 31, 1994

B.3.1           The Statement of Income and Expenditure for the Four Months Ended July 31, 1994 is attached hereto as Schedule 3.

B.4            REPORTS ON THE PAYMENT OF SOLICITORS ACCOUNTS FOR THE MONTHS OF JUNE, JULY AND AUGUST, 1994

B.4.1           The Reports on the Payment of Solicitors Accounts for the Months of June, July and August, 1994 are attached as Schedule 4.

B.5            REPORTS ON THE STATUS OF REVIEWS IN THE LEGAL ACCOUNTS DEPARTMENT FOR THE MONTHS OF JUNE, JULY AND AUGUST, 1994

B.5.1           The Reports on the Status of Reviews in the Legal Accounts Department for the Months of June, July and August, 1994 are attached as Schedule 5.

B.6            AREA COMMITTEES - APPOINTMENTS AND RESIGNATIONS

APPOINTMENTS

Frontenac  
Jana Mills, solicitor

Halton  
Megan Pallett, solicitor

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Oxford

Scott Buchanan Dow, solicitor  
Stuart E. Murray, chartered accountant

Waterloo

Stephanie A. Krug, solicitor

Metropolitan Toronto

Raoul Boulakia, solicitor  
Michael Brodsky, solicitor  
Joan Hodgson, solicitor  
David Sookram, solicitor  
Paul Bennett, solicitor  
Ronald Krueger, solicitor  
Thomas Kelsey, solicitor

RESIGNATIONS

Frontenac

John Black  
B. Trumpour

Lambton

Shirley Wales

Kenora

Peter Bishop

Niagara North

Eleanor Lancaster

Metropolitan Toronto

Paul Foster  
Ruth Pitman  
Gladys MacPherson  
John Edwards  
Gwyneth Tait Carey  
Elizabeth McGugan  
Archibald McGugan  
Terence J. Collier

DECEASED

Ottawa/Carlton

Alastair Macdonald

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

S. Goudge  
Chair

Attached to the original Report in Convocation file, copies of:

A. - Item A.1.1 - Report of the Legal Aid Committee.

(Schedule 1)

- B. - Item B.2.1 - Curriculum vitae of Ms. Heather Robertson. (Schedule 2)
- B. - Item B.3 - Statement of Income and Expenditure for four months ended July 31, 1994. (Schedule 3)
- B. - Item B.4.1 - Reports on the Payment of Solicitors Accounts for Months of June, July and August, 1994. (Schedule 4)
- B. - Item B.5.1 - Reports on the Status of Reviews in Legal Accounts Department for Months of June, July and August, 1994. (Schedule 5)

An amendment on Schedule A was accepted by the Chair that under the sub-heading Service Cuts would include Civil and "Criminal".

It was moved by Mr. Goudge, seconded by Mr. Copeland that Item A.-A.1 be adopted.

Carried

As a result of the adoption of the Report the Copeland/Curtis motion re: THAT the Law Society and the Legal Aid Plan not participate in or support the Family Law Pilot Projects, was not put before Convocation.

Convocation took a brief recess at 11:20 a.m. and resumed at 11:30 a.m.  
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LEGAL AID COMMITTEE (cont'd)

The Treasurer indicated that the provincial Cabinet had approved the Legal Aid proposal.

THE BALANCE OF THE REPORT WAS ADOPTED

PROFESSIONAL CONDUCT COMMITTEE

Report deferred from June Convocation

Ms. Kiteley presented Item A.-1. re: Draft Rule on Discrimination - Rule 28, for Convocation's approval.

Ms. Moliner and Mr. Goudge made brief remarks in support of the recommendation.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL CONDUCT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994 at three o'clock in the afternoon, the following members being present: Campbell (in the Chair), Cullity (in the Chair with respect to item concerning the CMPA, Campbell was absent for discussion of this issue), Blue, Braid, Feinstein, Finkelstein, Hickey and Moliner. The following staff were present: M. Devlin, D. Godden, M. Seto and S. Traviss.

A.  
POLICY

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The following item was deferred from the June Convocation:

1. DRAFT RULE ON DISCRIMINATION - RULE 28

The Professional Conduct Committee was advised in April that the Equity in Legal Education and Practice Committee wished to have a new Rule of Professional Conduct that would address discrimination and that would come into effect within the next couple of months. This rule would replace what has been in the existing Rules of Professional Conduct for a number of years (see paragraph 5 of the Commentary under Rule 13).

Set out below is the draft Rule 28:

"The lawyer has a special responsibility to respect the requirements of human rights laws in force in Ontario and specifically to honour the obligation not to discriminate on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offenses (as defined in the *Ontario Human Rights Code*), marital status, family status or disability with respect to professional employment of other lawyers, articulated students, or any other person or in professional dealings with other members of the profession or any other person."

Commentary

The Law Society of Upper Canada acknowledges the diversity of the community of Ontario in which its members serve and expects members to respect the dignity and worth of all persons and to treat all persons equally without discrimination. Members must ensure that no one is denied services or receives inferior service on the basis of the grounds noted in the Rule. Members must ensure that their employment practices do not offend the Rule. Discrimination in employment or in the provision of services not only fails to meet professional standards, it also violates the *Ontario Human Rights Code* and related equity legislation.

Human rights law in Ontario includes as discrimination, conduct which, though not intended to discriminate, has an adverse impact on individuals or groups on the basis of the prohibited grounds. The *Ontario Human Rights Code* requires that the affected individuals or groups must be accommodated unless to do so would cause undue hardship.

Ontario human rights law excepts from discrimination special programs designed to relieve disadvantage for individuals or groups identified on the basis of the grounds noted in the Code.

The Rule sets out the special role of the profession to recognize and protect the dignity of individuals and the diversity of the community in Ontario.

Attached are three pages respecting the background of this matter (Appendix A).

The Committee requests Convocation:

(a) to adopt this Rule; and

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(b) to decide when it should come into force.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

M. Somerville  
Chair

Attache to the original Report in Convocation file, copies of:

Background material on Proposed Rule 28 - The Equity in Legal Education  
and Practice Committee. (Appendix A - A3)

It was moved by Ms. Kiteley, seconded by Mr. Cullity that Rule 28 be  
adopted and put in effect immediately.

Carried

THE REPORT WAS ADOPTED

LEGISLATION AND RULES COMMITTEE

Meeting of September 8, 1994

Mr. Cullity presented Item A.-A.1. re: Election of Benchers: Provision  
for Scheme of Regional Election of Benchers in 1995, for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994, at 11:30 a.m.,  
the following members being present: M. Cullity (Chair), R. Bragagnolo, S. Thom,  
J. Wardlaw.

Also present: A. Brockett, E. Spears.

A.  
POLICY

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A.1. ELECTION OF BENCHERS: PROVISION FOR SCHEME OF REGIONAL ELECTION OF BENCHERS IN 1995

A.1.1. Recommendation

A.1.1.1. That, pursuant to rule 14.05(3) of the Rules of Civil Procedure, Convocation make an application to the Ontario Court (General Division) for the interpretation of section 15 (and, if necessary, any other section) of the *Law Society Act* to determine if Convocation has the authority to implement by way of rules the scheme of regional election of benchers adopted by Convocation in 1993.

A.1.2. Background

A.1.2.1. In March 1993, Convocation adopted a scheme of regional election of benchers. The Legislation and Rules Committee drafted amendments to the *Law Society Act* necessary to implement the scheme of regional election of benchers, and on January 28, 1994, Convocation adopted the recommendation of the Legislation and Rules Committee that the amendments be submitted to the Attorney General for presentation to the Legislature.

A.1.2.2. The amendments to the *Law Society Act* necessary to implement the scheme of regional election of benchers form part of a package of amendments to the *Law Society Act* being prepared for submission to the Attorney General. (The package will also include, when they are approved by Convocation, amendments to implement reforms to the complaints, discipline and standards procedures.) The package has not yet been submitted to the Attorney General.

A.1.2.3. On June 24, 1994, the Special Committee on Amendments to the *Law Society Act* reported to Convocation that its work in reviewing the amendments to implement reforms to the complaints, discipline and standards procedures was just beginning. The Special Committee further reported to Convocation as follows:

The Special Committee wishes to inform Convocation that, in the view of the Committee, it is most unlikely that the package of amendments to the *Law Society Act* can be enacted before the upcoming election of benchers, unless the amendments to implement reforms to the complaints, discipline and standards procedures are hived off into a separate package, to be dealt with subsequently.

A.1.2.4. In presenting the report of the Special Committee at the June 1994 meeting of Convocation, the Chair suggested that if the scheme of regional election of benchers was to be in place for the upcoming election of benchers, Convocation might have to reconsider the possibility of implementing the scheme by way of rules.

A.1.2.5. In October 1990, the Law Society received a legal opinion to the effect that a scheme of regional election of benchers could be implemented by way of rules. However, in the course of a debate in Convocation, doubts were expressed as to whether Convocation had the necessary power, and a decision was made to implement the scheme of regional election of benchers by way of amendments to the *Law Society Act*.

A.1.2.6. Rule 14.05(3) of the Rules of Civil Procedure reads, in part:

A proceeding may be brought by application where these rules authorize the commencement of a proceeding by application or where the relief claimed is,

\* \* \* \*

(d) the determination of rights that depend on the interpretation of a deed, will, contract or other instrument, or on the interpretation of a statute, order in council, regulation or municipal by-law or resolution;

\* \* \* \*

(h) in respect of any matter where it is unlikely that there will be any material facts in dispute.

A.1.2.7. It has been suggested that to dispel any doubts as to the authority of Convocation to implement the adopted scheme of regional election of benchers by way of rules, Convocation should make an application to the Ontario Court (General Division) for the interpretation of section 15 (and, if necessary, any other section) of the *Law Society Act* to determine whether it precludes Convocation from making rules providing for the election of benchers by and from among members having addresses in prescribed electoral regions.

B.  
ADMINISTRATION

B.1. RULES MADE UNDER SUBSECTION 62(1) OF THE LAW SOCIETY ACT: RULE 21: AMENDMENT TO PROVIDE THAT REGULAR CONVOCATION MEET ON THE FOURTH FRIDAY IN EACH MONTH; AMENDMENT TO PROVIDE THAT BENCHERS ATTEND THE JUNE CONVOCATION IN COURT APPAREL

B.1.1. Recommendations

B.1.1.1. That in subrule 21(1) of the Rules made under subsection 62(1) of the *Law Society Act*, the word "third" be deleted and replaced by the word "fourth", so that subrule 21(1) will read (amendments underlined):

Except where otherwise directed by the Treasurer, Convocation shall meet in Osgoode Hall on the fourth Friday in each month, except in the months of July, August and December.

B.1.1.2. That in subrule 21(2) of the Rules made under subsection 62(1) of the *Law Society Act*, the word "May" be deleted and replaced by the word "June", so that subrule 21(2) will read (amendments underlined):

The benchers shall attend the June Convocation in court apparel.

B.1.1.3. That the French Language Services Committee be asked to arrange for a French translation of the amended Rule 21.

B.1.2. Explanation

B.1.2.1. Rule 21 of the Rules made under subsection 62(1) of the *Law Society Act* currently reads, in part:

21. (1) Except where otherwise directed by the Treasurer, Convocation shall meet in Osgoode Hall on the third Friday in each month, except in the months of July, August and December.

(2) The benchers shall attend the May Convocation in court apparel.

\*\*\*\*

B.1.2.2. As a matter of practice, regular Convocation meets on the fourth Friday in each month (except in the months of July, August and December).

B.1.2.3. Although the Rules give no apparent reason why benchers should attend the May Convocation in court apparel, it is understood that the intention is that they should wear court apparel at the Convocation during which the Treasurer is elected. Pursuant to Rule 19, the Treasurer is elected at the regular Convocation in June. It has, therefore, been proposed that the Rules provide that benchers attend the June Convocation, rather than the May Convocation, in court apparel.

B.2. RULES MADE UNDER SUBSECTION 62(1) OF THE LAW SOCIETY ACT: RULE 52: AMENDMENT TO PROVIDE FOR NEW RULES OF PROCEDURE FOR THE ANNUAL GENERAL MEETING AND OTHER MEETINGS OF MEMBERS

B.2.1. Recommendations

B.2.1.1. That Rule 52 of the Rules made under subsection 62(1) of the *Law Society Act* be revoked and replaced by the following new Rules 52 and 52.1:

ANNUAL GENERAL MEETING

*Meeting of members to be held annually*

52. (1) Pursuant to section 3 of the *Law Society Act*, a meeting of the members of the Society shall be held annually at such time and at such place as shall be determined from time to time in Convocation.

*Notice of meeting*

(2) Notice of the annual general meeting, stating the date, time and place, shall be given by publication in an issue of the Ontario Reports dated at least sixty days before the day fixed for the meeting.

*Agenda for meeting*

- (3) The annual general meeting shall consider the following matters:
1. Minutes of the previous annual general meeting.
  2. Report on the work of the Society and of the committees of Convocation.
  3. Presentation of financial statements.
  4. Matters of professional interest that are related to the work of the Society.

MEETING OF MEMBERS: RULES OF PROCEDURE

GENERAL

*Definitions*

52.1 (1) In this rule, "meeting" means any meeting of the members of the Society.

(2) In this rule, excepting subrule (4) thereof, "Treasurer" includes a bencher who presides at a meeting pursuant to subrule (4).

*Reference text*

(3) Where a matter of order or procedure is not settled by this rule, the standard text for reference shall be *Bourinot's Rules of Order*, 3d ed.

*Presiding bencher*

(4) The Treasurer shall preside at each meeting, but if the Treasurer is, for any reason, unable to preside at a meeting, one of the following benchers shall preside, in the following order of precedence:

1. The Chair of the Finance and Administration Committee.
2. The Chair of the Legal Education Committee.
3. A bencher selected from among and by the benchers present at the meeting.

*Order of Business*

(5) For each meeting, the Secretary shall prepare an agenda showing the order of business.

QUORUM

*Quorum at a meeting*

(6) Fifty members, whose rights and privileges are not suspended, constitute a quorum at a meeting.

*Quorum not present*

(7) If, within one hour after the time appointed for a meeting, a quorum is not present, the Treasurer shall adjourn the meeting.

*Quorum lost during meeting*

- (8) If a quorum is lost during a meeting, the Treasurer shall,
- (a) adjourn the meeting; or
  - (b) if no member remaining objects, permit the members remaining to continue to debate any motion, amendment or appeal already put to the meeting but not yet disposed of.

*No voting when quorum not present*

(9) Even though debate on a motion, amendment or appeal may continue, no motion, amendment or appeal shall be voted on when a quorum is not present.

*Quorum regained*

(10) If a quorum, having been lost during a meeting, is regained before the meeting is adjourned, the meeting shall continue as if the quorum had not been lost.

MOTIONS

*Subject matter*

(11) All motions made at a meeting shall relate to the work of the Society.

*Procedure for making motions*

(12) Except as provided in subrule (13), a motion to be made at a meeting shall be,

- (a) signed by at least ten members whose rights and privileges are not suspended; and
- (b) delivered to the Secretary at least forty days prior to the day fixed for the meeting.

(13) A motion may be made at any time during a meeting, even though the requirements set out in subrule (12) have not been complied with, if the motion relates to a matter then being debated.

*Notice to profession*

(14) The Secretary shall arrange for publication to the profession of the text of all motions delivered pursuant to subrule (12).

*Introduction at meeting*

- (15) At a meeting, a motion made pursuant to subrule (12) shall be,
- (a) proposed by one of the ten members who signed the motion; and
  - (b) seconded by any other member whose rights and privileges are not suspended.
- (16) At a meeting, a motion made pursuant to subrule (13) shall be,
- (a) proposed by one member whose rights and privileges are not suspended; and

- (b) seconded by another member whose rights and privileges are not suspended.

*Amendments*

- (17) A motion made at a meeting may be amended by,
  - (a) adding or deleting words;
  - (b) varying minor details; or
  - (c) rephrasing sentences.
- (18) An amendment to a motion shall not alter the substance of the motion.

*Amendments, introduction at meeting*

- (19) An amendment to a motion shall be,
  - (a) proposed by one member whose rights and privileges are not suspended; and
  - (b) seconded by another member whose rights and privileges are not suspended.

*Amendments, limit on number*

- (20) No more than two amendments to a motion shall be permitted to be before the meeting for debate at the same time.

*Withdrawal*

- (21) A motion or an amendment made at a meeting may be withdrawn if,
  - (a) the member who proposed the motion or the amendment consents to the withdrawal;
  - (b) the member who seconded the motion or the amendment consents to the withdrawal; and
  - (c) no member present at the meeting objects to the withdrawal.

DEBATE

*Motions, amendments*

- (22) Except as provided in subrule (23), a motion and an amendment to a motion may be debated by the members present at the meeting.

*Motions, amendments, debate prohibited*

- (23) The following motions shall not be debated:
  - 1. A motion to adjourn a debate.
  - 2. A motion to proceed to the next business.

*Order of speaking to motion, amendment*

(24) In a debate, members are entitled to speak to a motion or an amendment in the following order:

1. The member who proposed the motion or the amendment.
2. The member who seconded the motion or the amendment.
3. Any other member present at the meeting when recognized by the Treasurer.

(25) The member who seconds a motion or an amendment may reserve the right to speak until a later time in the debate.

*Limits on speaking*

(26) Except as provided in subrule (27), a member is entitled to speak to a motion or an amendment only once.

(27) A member may speak to a motion or an amendment a second time if,

- (a) all members present at the meeting have exercised, or declined to exercise, their right to speak to the motion or the amendment; and
- (b) the speech does not repeat anything already said by any member.

RULING OF TREASURER

(28) The Treasurer may make rulings as to the conduct of the meeting and, without limiting the generality of the foregoing, may rule upon the propriety, acceptability, form and substance of any motion or amendment to a motion proposed at a meeting.

APPEAL OF RULING OF TREASURER

*Appeal permitted*

(29) Except as provided in subrule (30), a ruling of the Treasurer may be appealed by any member present at the meeting.

*Appeal prohibited*

(30) Where the Treasurer rules that a matter may not be made the subject of debate or motion by the meeting because,

- (a) it is a matter in respect of which the Society has jurisdiction to hold a hearing under the *Law Society Act*; or
- (b) it is a matter that is pending before a tribunal for determination,

the ruling is not subject to appeal.

*Procedure*

(31) Where a member wishes to appeal a ruling of the Treasurer, the appeal shall be made immediately after the ruling.

*Debate permitted*

(32) Except as provided in subrule (33), an appeal of a ruling of the Treasurer may be debated by the members present at the meeting.

*Debate prohibited*

(33) An appeal of a ruling of the Treasurer relating to inappropriate language or behaviour shall not be debated.

*Debate, general*

(34) Subrules (24) to (27) apply, with any necessary modifications, to a debate of an appeal of a ruling of the Treasurer.

*Treasurer's reasons for ruling*

(35) After an appeal of a ruling of the Treasurer has been made, and before commencement of debate of the appeal, if permitted, the Treasurer is entitled to give the reasons, including any authority, for the ruling.

(36) After debate of an appeal of a ruling of the Treasurer concludes, the Treasurer is entitled,

- (a) to answer any points raised during the debate; and
- (b) to give, or to repeat, the reasons, including any authority, for the ruling.

*Disposition by vote*

(37) An appeal of a ruling of the Treasurer shall be disposed of by a vote on the question: "Should the ruling of the Treasurer be upheld?"

*Call for vote on appeal where debate on appeal prohibited*

(38) Where debate on an appeal of a ruling of the Treasurer is prohibited, the Treasurer shall call for a vote on the appeal after exercising, or declining to exercise, the rights given him or her in subrule (35).

*Call for vote on appeal where debate on appeal permitted*

(39) Where debate on an appeal of a ruling of the Treasurer is permitted, the Treasurer shall call for a vote on the appeal after debate has concluded and the Treasurer has exercised, or declined to exercise, the rights given him or her in clause (b) of subrule (36).

VOTING

*Call for vote, appeal prohibited*

(40) No member is entitled to appeal a call by the Treasurer for a vote on a motion, an amendment to a motion or an appeal of a ruling.

*Order of voting on motions and amendments to motions*

(41) All amendments to a motion shall be put to a vote before the motion is put to a vote.

(42) Amendments to a motion shall be put to a vote in the following order:

1. The second amendment proposed.
2. The first amendment proposed.

*Entitlement to vote*

(43) Every member present at a meeting, whose rights and privileges are not suspended, is entitled to one vote on each question put to the meeting.

*Treasurer may not vote*

(44) Except as provided in subrule (50), the Treasurer shall not vote on any motion, amendment to a motion or appeal of a ruling.

*Proxy voting prohibited*

(45) Votes may not be cast by proxy.

*Manner of voting*

- (46) Voting shall be by a show of hands, except where a standing vote is,
- (a) required by the Treasurer; or
  - (b) called for by a member.

(47) A standing vote may be required by the Treasurer or called for by a member either before a question is put to a vote or immediately after the question has been voted on by a show of hands.

*Standing vote*

(48) A standing vote shall be taken by having those members voting in the affirmative stand and be counted, and by having those members voting in the negative stand and be counted.

*Resolution of question*

(49) Each question put to the meeting shall be determined by the majority of the votes cast.

*Treasurer may exercise casting vote*

(50) In the case of a tied vote, except on a vote of an appeal of a ruling of the Treasurer, the Treasurer shall have a casting vote.

*Resolution of question, appeal of ruling of Treasurer*

- (51) A ruling of the Treasurer shall be upheld on appeal when,
- (a) the majority of votes cast are in favour of upholding the ruling of the Treasurer; or
  - (b) the vote on the appeal results in a tie.

*Entry in minutes*

(52) Whenever voting has been by a show of hands, unless immediately following the vote a standing vote on the same question is required by the Treasurer or called for by a member, an entry in the minutes of the meeting to the effect that the Treasurer declared a motion carried, an amendment approved or a ruling upheld is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion, amendment or ruling.

RESOLUTIONS OF MEETING

*Communication to Convocation*

- (53) All motions carried at a meeting shall be,
- (a) communicated forthwith to Convocation; and
  - (b) considered by Convocation within six months of the meeting.

*Convocation not bound by resolutions of meeting*

- (54) A motion carried at a meeting is not binding on Convocation.

B.2.2.2. That the French Language Services Committee be asked to arrange for a French translation of new Rules 52 and 52.1.

B.2.3. Explanation

B.2.3.1. Rule 52 of the Rules made under subsection 62(1) of the *Law Society Act* sets out the rules of procedure for the annual general meeting of members and all other meetings of members. It presently reads:

ANNUAL GENERAL MEETINGS

52. (1) There shall be a general meeting of the Society in each year to be held at such place in Ontario and at such time as convocation may determine, to consider the following matters:

1. Minutes of previous annual meetings.
2. Report on the work of the Society and the committees of the Society and of Convocation.
3. Presentation of financial statement.
4. Matters of professional interest that are directly related to the work of the Society.

(2) The Treasurer shall preside at the annual meetings and shall present a report of the Society's activities since the last annual meeting. If the Treasurer is unable to preside and if one of the persons mentioned in Rule 19.4 is not available to preside, then some other Benchers selected by the Benchers present at the meeting shall preside.

(3) Fifty members in good standing of the Society constitutes a quorum at an annual meeting.

(4) Notice of an annual meeting shall be given by publication in an issue of the Ontario Reports dated at least 60 days before the day fixed for the meeting.

(5) Motions to be made at the meeting shall be signed by at least ten members in good standing of the Society and shall be received by the Secretary 40 days prior to the date set for the annual meeting who shall arrange for their publication to the profession.

(6) Any motion to be made at an annual meeting must directly relate to the work of the Society.

(7) The Treasurer or other person presiding at the annual meeting is empowered to rule upon the propriety, acceptability, form or substance of any motion that may be moved at such meeting.

(8) Any resolution duly passed at an annual meeting must be considered by Convocation within six months of the meeting but it is not binding on Convocation.

(9) This Rule shall apply mutatis mutandis to any meeting of the members other than an annual meeting.

B.2.3.2. On October 22, 1993, Convocation adopted the recommendation of the Research and Planning Committee that Rule 52 be amended to provide revised rules of procedure for the annual meeting (and all other meetings of members).

B.2.3.3. On April 22, 1994, Convocation adopted a proposed Rule 52 drafted by the Research and Planning Committee. Convocation also adopted a recommendation that the Legislation and Rules Committee draft all amendments to the Rules made under subsection 62(1) of the *Law Society Act* necessary to implement the new rules of procedure in time for the annual general meeting of members to be held in November 1994.

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C.  
INFORMATION

C.1. LAW SOCIETY ACT: AMENDMENTS CONCERNING THE LAW FOUNDATION OF ONTARIO: BILL 175

C.1.1. On June 6, 1994, Bill 175 (*Statute Law Amendment Act (Government Management and Services)*) received first reading. Bill 175 is an omnibus bill which contains amendments to some 160 Ontario statutes, including the *Law Society Act*.

C.1.2. The amendments to the *Law Society Act* are contained in section 49 (attached to this report as Attachment A) and concern the Law Foundation of Ontario. The explanatory notes to Bill 175 summarize the amendments as follows:

Amendments to the *Law Society Act* are designed to increase the amount of money available to the Law Foundation of Ontario for its purposes (primarily legal aid, but including legal education and the establishment and maintenance of law libraries) from the income derived from interest on lawyers' mixed trust accounts.

This is accomplished through the creation of joint accounts between the depositing solicitor and the Foundation of mixed trust account money deposited by a solicitor in the course of his or her practice. The financial institution in which the trust money is deposited will pay interest accruing on the deposits directly to the Foundation, which may consolidate all such money with other funds in which the Foundation has an interest and invest it in the manner set out in the Bill.

C.1.3. The amendments to the *Law Society Act* will come into force on the day Bill 175 receives Royal Assent.

23rd September, 1994

C.2. REGULATION 708 MADE UNDER THE LAW SOCIETY ACT: SECTION 6

- C.2.1. On November 26, 1993, Convocation, in the exercise of its power under section 63 of the *Law Society Act*, made a regulation to revoke section 6 of Regulation 708 and to replace it with a new section 6. (Section 6 provides for admissions for occasional court appearance.)
- C.2.2. The regulation was approved by the Lieutenant Governor in Council (O. Reg. 480/94). It was filed with the Registrar of Regulations on July 21, 1994. The new section 6 of Regulation 708 came into force on July 21, 1994.
- C.2.3. The new section 6 of Regulation 708 reads:

ADMISSIONS FOR OCCASIONAL COURT APPEARANCE

6.—(1) A person who is a Canadian citizen or a permanent resident of Canada, who is of good character and who is qualified to practise law in any province or territory of Canada outside Ontario may, in the discretion of Convocation, be admitted to membership in the Society for the purpose of appearing as counsel in a specific proceeding.

(2) A person admitted to membership under subsection (1), who has taken the oath or given the affirmation prescribed for members by the rules, shall be deemed to be called to the bar and admitted and enrolled as a solicitor for the purpose of appearing as counsel in a specific proceeding.

(3) It is a condition of admission to membership under subsection (1) that a candidate,

(a) undertake that he or she will not otherwise engage in the practice of law in Ontario; and

(b) file with the Society the consent, to accept service in respect of the litigation, of an agent resident in Ontario who is a member of the Society, together with the agent's name and Ontario address.

(4) Upon the completion of the specific proceeding, a person admitted to membership under subsection (1) shall be deemed to have applied to the Society for permission to resign.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

M. Cullity  
Chair

Attached to the original Report in Convocation file, copies of:

- C. - Item C.1.2. - Amendments to Law Society Act contained in section 49 re: Law Foundation of Ontario. (Attachment A - A4)

It was moved by Mr. Cullity, seconded by Mr. Wardlaw that Item A.-A.1. be adopted.

Carried

ROLL-CALL VOTE

Blue	For
Bragagnolo	For
Brennan	For
Carter	For
Copeland	For
Cullity	For
Curtis	Against
Elliott	Against
Feinstein	For
Finkelstein	For
Graham	For
Howie	For
Kiteley	For
Krishna	For
Lax	For
Legge	For
Lerner	For
McKinnon	For
Manes	For
Moliner	Against
Murray	For
O'Brien	For
D. O'Connor	For
S. O'Connor	Abstain
Palmer	For
Peters	Against
Richardson	Against
Ruby	Against
Scace	For
Sealy	For
Strosberg	For
Topp	For
Wardlaw	For
Weaver	For

THE BALANCE OF THE REPORT WAS ADOPTED

CONVOCATION ADJOURNED FOR LUNCHEON AT 12:30 P.M.

The Treasurer and Benchers had as their guests for luncheon, Madam Justice Hilda M. McKinlay and Madam Justice Rosalie S. Abella.

CONVOCATION RECONVENED AT 2:30 P.M.

PRESENT:

The Treasurer, Blue, Bragagnolo, Brennan, Carter, R. Cass, Copeland, Cullity, Curtis, Elliott, Feinstein, Finkelstein, Goudge, Graham, Howie, Kiteley, Lax, Legge, Lerner, McKinnon, Manes, Moliner, Murphy, Murray, D. O'Connor, S. O'Connor, Palmer, Peters, Ruby, Scace, Sealy, Strosberg, Thom, Topp, Wardlaw and Weaver.

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IN PUBLIC

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AGENDA - Additional Matters Requiring Debate and Decision by Convocation

INSURANCE COMMITTEE

Mr. Strosberg presented the Report of the Insurance Committee on the work of the Task Force, for Convocation's approval.

REPORT OF THE INSURANCE

COMMITTEE TO CONVOCATION, SEPTEMBER, 1994

INTRODUCTION

1. On June 27, 1994, in camera, Convocation authorized the Task Force, with the approval of the Insurance Committee, to retain experts to aid it in its investigation and review of the insurance program.

2. With the approval of the Insurance Committee:

- (a) Mr. Joshua Liswood was retained as counsel to the Task Force;
- (b) Mr. Brian Pelly and Mr. William Weiland from Eckler Partners Ltd. ("Eckler") were retained to advise on actuarial issues;
- (c) Mr. David Ross of Deloitte, Touche was retained to give accounting advice;
- (d) Hazel de Burgh, Robert Fowlie and Ted Baskerville of Lindquist, Avey were retained at the Task Force's direction to audit accounts and work product of some firms;
- (e) Mr. John Chippendale and Ms. Sarah Trachsel of Marsh & McLennan were retained to advise on underwriting issues; and
- (f) Mr. T. J. Dorey of F. C. Maltman & Co. Ltd. was retained to audit the claims procedures of the Lawyers' Professional Indemnity Corporation ("LPIC").

23rd September, 1994

3. Messrs. Ross, Pelly and Weiland are preparing an evaluation and explanation of the increases in the deficit of the consolidated insurance fund through 1993, a calculation of the deficit at June 20, 1994 and a projected deficit at December 31, 1994.

4. Lindquist, Avey performed a review of certain defence costs paid by the Law Society of Upper Canada ("LSUC") to defend actions against members.

5. In October, 1994, the Task Force intends to make a full report including recommendations as to a supplementary levy. The report will be discussed at the October Convocation.

#### NECESSARY CHANGES IN LPIC'S PERSONNEL

6. Although the individual claims examiners are for the most part talented and enthusiastic our investigations disclose that in some respects LPIC has an inefficient and inadequate management structure. For example, we will address in the October report deficiencies in handling single occurrence multiple claims, improper reserve practices and improper reductions of deductible amounts. In our opinion, fundamental changes in LPIC's personnel and corporate structure must be immediately implemented.

7. On the Task force's recommendation and on the instructions of the Insurance Committee and the Finance Committee, I offered Mr. Joshua Liswood the position as LPIC's president on the understanding that he will be an interim president whose term will be for one to two years. He accepted this offer and will begin his duties on October 1, 1994. He is knowledgeable about LPIC's current problems; he is also knowledgeable about claims and insurance costs. He will immediately institute changes to reduce defense costs. He has the unqualified support of the Task Force and the insurance committee. He will immediately supply strong, independent leadership and direction. He will also begin a search for his successor.

#### RELATIONSHIP BETWEEN LPIC AND LSUC

8. LPIC issues an insurance policy to the LSUC, insuring it and its members who reside in Ontario.

9. The individual members are responsible for the individual solicitor deductible layer that currently ranges from about \$6,000 to \$12,500. LPIC is primarily responsible for the remaining portion from the individual deductible to \$1,000,000, subject to the contractual arrangement with the LSUC and the re-insurance treaties.

10. By virtue of a contractual arrangement between LPIC and the LSUC, LSUC indemnifies or reimburses LPIC for losses in excess of the individual solicitor's deductible to a maximum of \$244,000 per occurrence.

11. The LSUC is responsible for all costs in this \$244,000 layer. And LPIC's financial statements do not reflect LPIC's primary responsibility for the losses in the \$244,000 layer.

12. LPIC's financial statement shows only its liability for a \$4,000,000 retention above the \$250,000 level and its obligations for 10% of the \$20,000,000 in re-insurance and any liability in excess of \$20,000,000. That is, LPIC's financial statement shows, as at December 31, 1993, only \$9,916,000 for unpaid claims. A copy of LPIC's balance sheet is attached.

13. The bulk of the liability arising from the insurance program is found in the \$244,000 layer. This liability is recorded only in the LSUC's financial statement.

#### RECOMMENDATIONS AS TO CHANGES IN STRUCTURE

14. The Insurance Committee recommends that:

- (a) LPIC's Board of Directors be increased to 15 persons;
- (b) the members of the Insurance Committee become directors;
- (c) LPIC's remaining directors be appointed by or on the recommendation of LPIC's board of directors and the appointees be persons knowledgeable in the insurance industry or in business and finance matters;
- (d) LPIC's board be required to report every two months to Convocation;
- (e) the Insurance Committee, in effect, be "folded into" LPIC's Board of Directors so that it ceases independent operation;
- (f) all insurance funds be turned over to LPIC's board of directors for administration;
- (g) the board of directors retain such actuaries and accountants as it considers appropriate;
- (h) the LSUC provide an indemnity to benchers and other persons who serve as LPIC directors;
- (i) LPIC obtain directors' liability insurance if available and if the LPIC's board of directors considers it necessary; and
- (j) Mr. Liswood be forthwith appointed new president.

#### REASONS FOR RECOMMENDATIONS

15. A properly constituted and properly functioning board of directors will give needed directions to LPIC. There will be unnecessary duplication between the insurance committee and a properly functioning board of directors.

16. Individuals who serve as directors of LPIC should be fully indemnified by the Society because Bencher directors may not have the protection provided by s.9 of the Law Society Act and no individual director should be personally exposed to risk.

17. Proper directors' liability insurance should also be purchased if available and if LPIC's board of directors considers it necessary.

18. The functioning of LPIC's Board of Directors, its relationship to Convocation, the responsibility for setting a levy and/or premiums, and changes in the form of the policy will be fully discussed within the context of the Task Force's October report. Still, the immediate adoption of these recommendations will ensure that the policies pronounced by Convocation in October will be immediately implemented.

23rd September, 1994

LAWYERS' BILLINGS TO LPIC

19. Attached is a summary of solicitors' billings to the LPIC and to American Home (which, in turn, were paid by LPIC) for the period July 1, 1993 to June 30, 1994. These amounts include disbursements.

20. In the one-year period from July 1, 1993 to June 30, 1994, LPIC paid \$22,219,836.47 directly to solicitors for legal fees and disbursements. In this same period, LPIC reimbursed American Home \$3,884,988 for legal fees and disbursements.

21. The task force will also report on the issue of legal fees in October.

CLAIMS COMMITTEE

22. Until now, LPIC has had no formalized external senior claims committee. The task force considered such a committee a necessity. Its purpose: to evaluate major claims and those actions with imminent trial dates. The theory: an objective independent analysis to encourage settlement.

23. The members of this committee are:

Scott Ritchie, London  
Barry Percival, Toronto  
Bert Raphael, Toronto  
Margaret Ross, Ottawa  
Kristopher Knutsen, Thunder Bay  
Martin Wunder, Windsor

24. The committee is geographically diverse and philosophically balanced. The members have held at least one meeting. They will become actively involved in the assessment of liability and damages as an adjunct to the claims examiners and their committees.

September 20, 1994

H. Strosberg,  
Chair

Attached to the original Report in Convocation file, copies of:

Summary of solicitors' billings to LPIC and to American Home for the period July 1, 1993 to June 30, 1994.

It was moved by Mr. Strosberg, seconded by Mr. Finkelstein that the Report be adopted.

Carried

THE REPORT WAS ADOPTED

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23rd September, 1994

MOTION - CONSTITUTION OF STANDING COMMITTEES

It was moved by Mr. Cullity, seconded by Ms. Palmer that for 1994-95 the Standing Committees be constituted as indicated in the list circulated.

Carried

(see list in Convocation file)

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AGENDA - Reports or Specific Items Requiring Convocation's Consideration and Approval

PROFESSIONAL CONDUCT COMMITTEE

Meeting of September 8, 1994

Mr. Cullity presented Item A.-1. re: Report of the Sub Committee on the "CMPA" for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL CONDUCT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994 at three o'clock in the afternoon, the following members being present: Campbell (in the Chair), Cullity (in the Chair with respect to item concerning the CMPA, Campbell was absent for discussion of this issue), Blue, Braid, Feinstein, Finkelstein, Hickey and Moliner. The following staff were present: M. Devlin, D. Godden, M. Tse and S. Traviss.

A.  
POLICY

1. REPORT OF THE SUB-COMMITTEE ON THE  
CANADIAN MEDICAL PROTECTIVE ASSOCIATION ("CMPA")

A sub-committee chaired by Mr. Cullity was appointed to look into the relationship between the Canadian Medical Protective Association ("CMPA") and the Ottawa office of Gowling, Strathy and Henderson and the Toronto office of McCarthy, Tetrault. Attached is a copy of the sub-committee's report (Appendix A).

The Committee discussed the sub-committee's report. It shared the sub-committee's conclusion that the relationship between the CMPA and the Ottawa office of Gowling, Strathy and Henderson and the Toronto office of McCarthy, Tetrault did not involve either law firm in a contravention of the Rules of Professional Conduct. Doctors do have a choice with respect to participation in the CMPA scheme, notwithstanding that the vast majority of doctors in Ontario are covered by the CMPA. The participating law firms are required to address conflict of interest issues. The Committee agrees with the sub-committee that these will have to be dealt with on a case by case basis.

23rd September, 1994

The Committee asks Convocation to adopt the sub-committee's report and its conclusion.

2. REMOVAL OF LAWYER'S NAME FROM FIRM NAME  
AFTER APPOINTMENT TO THE BENCH, AS  
REQUIRED BY RULE 12 - SHOULD THIS  
REQUIREMENT BE REPEALED?

The Committee has had occasion to consider paragraph 7(d) of Rule 12 of the Rules of Professional Conduct which provides:

When a lawyer retires from a firm to take up an appointment as a judge or master, or to fill any office incompatible with the practice of law, the lawyer's name shall be deleted from the firm name.

The reason behind this provision is that the public could associate the judge's name with the firm and conclude that there was a marked advantage to be gained by employing this law firm in litigious matters because his brother and her sister judges would know of that judge's former association with that firm. Although no benefit would be accorded a litigant in these circumstances, there is still that perception which would harm the administration of justice.

The ABA Model Code at Rule 7.5, subsection (c) reads:

The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practising with the firm.

A paper prepared by Mr. Cullity (Appendix B) is attached for discussion purposes.

The Committee concluded that it was in the public interest that a judge's name should be removed from the firm name as is provided for in Rule 12.

The Committee recommends that Convocation adopt this position and that the law firm be asked to make the appropriate change to the firm name to comply with Rule 12 as soon as possible.

3. FREE CLINIC FOR PERSONS (MORE SPECIFICALLY  
SENIORS) RESPECTING POWERS OF ATTORNEY,  
MENTAL INCOMPETENCY ISSUES, AND WILLS

A Toronto lawyer who restricts his practice to estates, trust and mental incompetency matters and particularly disputes and litigation with respect to such issues has made a proposal for a free clinic. His proposal is set out below:

As a larger segment of the population falls into the category of "seniors", (even you and I can look forward to a day, not so many years from now, when we will be able to get into the movies at a discount), there are more people concerned with Powers of Attorney, mental incompetency issues, wills, etc. There is a very large segment of the population which cannot afford to seek the advice of a lawyer with respect to these matters and does not qualify for Legal Aid. With the financial difficulties faced by Legal Aid, it is likely that there will be increasingly fewer certificates issued for such legal services.

23rd September, 1994

Therefore, I would like to give consideration to the possibility of establishing a free "clinic" to provide people in such circumstances with qualified legal advice. Please understand that my ideas in this regards are very much in the formative stage and I need the input of someone who has more experience than I in establishing such a service. Furthermore, I would certainly want to have the approval of the Law Society.

Some of my thoughts are as follows:

1. On a regular basis, my associates and I would set aside a certain time during the week - for example, Tuesday morning - exclusively for the purpose of meeting people who were in these circumstances and providing them with advice. All time and services provided to people referred to us for such consultations would be provided without fee.

2. In order to maintain the integrity of this service and ensure that there is absolutely no way in which it could be construed to produce a benefit for my firm, directly or indirectly, certain very strict guidelines would have to be established and agreed to with the clients. They would include:

- (a) if a will is drafted for a client, a lawyer in our firm cannot be named as executor, our firm cannot be requested to act on the estate administration and we will, under no circumstances, act on any eventual estate administration;
- (b) we will not keep the original will in our wills vault;
- (c) while I would envisage that people would be referred to us through the Law Society, Legal Aid, physicians, nursing homes, competency clinics, etc., there would be no direct advertising of the service. Hopefully this would remove the possible criticism that my firm would be benefiting from this enterprise through goodwill generated by advertising the service;
- (d) in the event that we advised a client to take legal proceedings, and the client accepted our advice, we would not, under any circumstances, act for the client but would try to assist him or her in engaging a competent lawyer to assume the matter. It is often the case that a lawyer will represent such a client, without a retainer, where the probability is very high that the client's fees will be ordered payable out of the estate.

A related problem which I have witnessed so often in my twenty years of practise in this area arises from the fact that many elderly people who are in nursing homes, or are virtually unable to get out of their homes, wish to make wills but are unable to because of their inability to get to a lawyer's office. I would hope that as part of this "clinic" approach, we could make contact with more of these people and be able to make arrangements to visit them at their places of residence.

Again, this idea is only worthy of support and can only work if we ensure that there is no way that my firm can benefit directly or indirectly from the service that we would be providing. That is why, as I have said above, we would refuse to store the original wills of any of these clients, although we do store the wills of 99% of our fee-paying clients. If we agreed to keep the wills of any of our "clinic" clients, then it could be said that we are attempting to increase our number of future estate administrations.

23rd September, 1994

As you can see, the whole approach certainly needs a lot more thought and development. Please call me and give me your initial general thoughts about my ideas and let me know who you would recommend that I speak to to develop some of these ideas further. I would mention that I wrote to Legal Aid a few months ago expressing some of these thoughts and I am disappointed to say that I did not even receive the courtesy of a response from Legal Aid.

The Committee's Secretary made the following observation about this proposal in a letter to Mr. Cullity:

I like the concept of the clinic because of the way he proposes to run it. No fees would be charged, his firm would not do any legal work flowing from the wills and powers of attorney drawn, no one in his firm would act as an executor and no wills would be stored in his firm.

Mr. Cullity thought it was an attractive proposal and could see no obstacles from the viewpoint of professional conduct. He went on to add:

I think it should be placed on the agenda of the Professional Conduct Committee in order to see whether anyone else has any concerns and, if there are no concerns, to see if the Law Society wishes to either endorse the idea, otherwise give it approval or assist in its implementation.

The Committee concluded that the proposed scheme did not involve a breach of the Rules of Professional Conduct. The Committee asks Convocation to accept this opinion. It should be made clear to the lawyers that in reaching this conclusion the Law Society is not endorsing or approving of the project.

C.  
INFORMATION

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1. FEDERATION OF LAW SOCIETY'S DRAFT  
RULE TO ADDRESS PROBLEMS CREATED  
BY THE MIGRATING LAWYER (*THE MARTIN  
V. GRAY CASE IN THE S.C.C.*)

The Federation's draft rule was discussed by the Committee. A conclusion will be put forward for discussion at the October meeting.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

M. Somerville  
Chair

Attached to the original Report in Convocation file, copies of:

- A. - Item 1. - Report of the Canadian Medical Protective Association ("CMPA")  
SUB-COMMITTEE. (Appendix A - A8)

A. - Item 2. - Paper by Mr. Cullity re: Inclusion of Judge's Names in Firm Names. (Appendix B - B3)

Additional Material distributed at Convocation:

- Copy of two letters from Mr. Blair S. Taylor, O'Connor MacLeod to Mr. Paul S. A. Lamek dated September 19, 1994 re: O'Connor MacLeod.
- Copy of letter from Mr. Frederick E. Leitch, Q.C. to Mr. Stephen Traviss dated August 26, 1993.
- Copy of letter from Mr. Blair S. Taylor, O'Connor MacLeod to Treasurer and Benchers dated April 20, 1994 re: O'Connor MacLeod.

It was moved by Mr. Cullity, seconded by Mr. Feinstein that Item A.-1. be adopted.

Carried

ROLL-CALL VOTE

Blue	For
Bragagnolo	For
Brennan	Against
Copeland	Against
Cullity	For
Curtis	Against
Elliott	For
Feinstein	For
Finkelstein	For
Graham	For
Howie	For
Kiteley	Against
Lax	Abstain
Legge	For
Manes	For
Moliner	For
Murphy	For
S. O'Connor	For
Peters	For
Ruby	Against
Sealy	For
Thom	For
Topp	For
Wardlaw	For
Weaver	For

PROFESSIONAL CONDUCT COMMITTEE (cont'd)

Ms. Kiteley presented Item A.-2. Removal of lawyer's Name from Firm Name after appointment to the Bench, for Convocation's approval.

It was moved by Mr. Wardlaw, seconded by Mr. Brennan that the matter be deferred for further consideration.

Not Put

It was moved by Ms. Kiteley, seconded by Mr. Cullity that Item A.-2. be adopted.

Carried

Mr. Ruby did not participate in the debate or vote.

NOTICE OF MOTION

Ms. Curtis gave notice that she intended to bring a motion before the October Convocation that Rule 12 be amended by deleting 7(d).

THE BALANCE OF THE REPORT WAS ADOPTED

FINANCE AND ADMINISTRATION COMMITTEE

Meeting of September 8, 1994

Mr. Wardlaw presented Items B.-5., 6. & 7. re: Suspensions for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE AND ADMINISTRATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994 at 10:30 a.m., the following members being present: T.G. Bastedo (Chair), R.W. Murray (Vice Chair), J.J. Wardlaw (Vice Chair), R. Bragagnolo, R.W. Cass, C. Curtis, A. Feinstein, N. Finkelstein, M. Moliner and W.P. Weaver. Also in attendance were K.J. Palmer and P. Peters. Staff in attendance were D.A. Crosbie, D.E. Crack, D.N. Carey, L. Johnstone, M. Farrell and G. Irvine.

A.  
POLICY

1. FEE STRUCTURE

(a) Out of Province Members

The Society is often asked whether it might consider establishing a nominal fee for members who reside out of province (includes out of country).

Currently members who practise or who are otherwise employed outside Ontario are subject to the Category 2 fee, ie 50% of the full fee.

No Errors and Omissions levy is payable by these members.

(b) Part-time practitioners

Similar to the case for out of province members, the Society is often asked whether it might consider establishing a special class of fees for those members who practice part-time.

Currently there is no distinction between a member who practices part-time as opposed to full time and each is required to pay the full annual fee.

The difference from out of province members, however, is that these members must pay the Errors and Omissions Insurance levy.

Several sample letters were before the Committee.

23rd September, 1994

In addition to the above matters, there was also discussion with respect to membership under Rule 50 and it was resolved to examine (i) the administrative costs of keeping the names of members retired under Rule 50 on the records in order to determine whether these members should be charged for this privilege and (ii) whether the \$10 fee currently charged to these members for the Ontario Reports is sufficient.

The Chair will appoint a Subcommittee to examine these issues and report back to the Finance and Administration Committee by January 1995.

2. DEFERRAL OF FEES POLICY

There was a general discussion with respect to the current deferral of payment of fee program in light of the current Legal Aid crisis and it was resolved that the following be brought forward for discussion at next month's meeting in order to formulate guidelines:

- i. Information with respect to the establishment of the Relief and Assistance Committee and its mandate.
- ii. Examination of the current application form and its appropriateness.

B.  
ADMINISTRATION

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1. COMMITTEE STRUCTURE - ESTABLISHMENT OF SUBCOMMITTEES

The Chair established three new subcommittees and introduced the Manager responsible for each program as follows:

- (a) Administration Linda Johnstone, Manager, Information Systems  
Ross Murray - Chair Mary Farrell, Manager, Human Resources  
Rino Bragagnolo  
Carole Curtis  
Barry Pepper
- (b) Priorities and Planning David Carey, Deputy Director of Finance  
Abe Feinstein - Chair  
Neil Finkelstein  
Marie Moliner  
Jim Wardlaw
- (c) Facilities Gail Irvine, Manager, Facilities  
Jim Wardlaw - Chair  
Ronald Cass  
Pat Furlong  
Mary Weaver

2. DRAFT FINANCIAL STATEMENTS TOGETHER WITH THE AUDITORS' OPINION FOR THE YEAR ENDED JUNE 30, 1994

The approval of the draft financial statements together with the auditors' opinion will be discussed at a special meeting of the Finance and Administration Committee tentatively scheduled for October 12, 1994 at 3:00pm.

3. STAFF ADDITIONS TO E & O PROGRAM

A motion to hire three additional contract Claims Examiners was made, seconded and supported unanimously by the Insurance Committee at its July 18, 1994 telephone conference meeting. A copy of a memorandum from Kevin O'Toole, Senior Vice President, LPIC, along with the job description for a Claims Examiner and an excerpt from the minutes of the July 13th meeting was before the Committee.

The Committee was asked to consider this request.

Approved

4. FEDERATION OF LAW SOCIETIES - ANNUAL ASSESSMENT

At its mid-winter meeting in February 1994, the Board of Directors of the Federation fixed the assessment to be levied on each governing body as of July 1, 1994, at \$8.00 per active member. The fee has remained the same for the past four consecutive years.

Our assessment, based on the number of active members (excluding retired members and those located out of province) is:

22,426 members @ \$8.00 per capita = \$179,408

Last year the payment was \$174,992 based on 21,874 members.

The budget includes an amount of \$197,000 to cover this assessment for the current year, as well as travelling and accommodation expenses of the Society's representatives attending Federation meetings.

The Chair asked Mr. Feinstein, Chair of the Priorities and Planning Subcommittee, to review this matter with the Society's representatives to the Federation of Law Societies during the course of his subcommittee's deliberations this year.

The Committee was asked to approve this payment.

Approved

5. SUSPENSION OF MEMBERS - LATE FILING FEE

There are members who have not complied with the requirements respecting annual filing and have not paid their late filing fee.

In all cases all or part of the late filing fee has been outstanding for four months or more.

The Committee was asked to recommend that the rights and privileges of these members be suspended on September 23, 1994 if the late filing fee remains unpaid on that date.

Approved

Note: Motion, see page 295

6. SUSPENSION OF MEMBERS - N.S.F. CHEQUE

There are members who paid their Annual Fees or their Errors and Omissions Insurance levies with cheques which were subsequently dishonoured by the bank.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on September 23, 1994 if the fees or levies remain unpaid on that date.

Approved

Note: Motion, see page 295

7. SUSPENSION OF MEMBERS WHO HAD BEEN GRANTED A DEFERRAL

There are members who have not paid Annual Fees for which they had been granted a deferral until September 1, 1994.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on September 23, 1994 if the fees remain unpaid on that date.

Approved

Note: Motion, see page 295

8. MEMBERSHIP UNDER RULE 50

(a) Retired Members

The following members, who are sixty-five years of age and fully retired from the practice of law, have requested permission to continue their memberships in the Society without payment of annual fees:

Alan Donald Abelson	Nepean
John Roderick Barr	St. Catharines
Joseph Austen Beechie	London
Gabriel Leo Paul Benoit	Chatham
Percy Bergart	Etobicoke
Franz Roland Bowman	Islington
George Roderick Cameron	Belleville
James Douglas Coleman	Kitchener
Robert Arthur Copeland	Willowdale
John Barber Ebbs	Ottawa
Martin Eisen	Willowdale
Grant Hyland Ferguson	Peterborough
Donald Grant Finlayson	Ottawa
Alexander Fleming	Peterborough
Charles Sydney Frost Jr.	Toronto
Colin David Gibson	Ancaster
James John Golden	Harrow
Roy William Gould	Kitchener
Norman Green	Toronto
Gertrude June Gross	Pittsford, NY, USA
Albert Gurland	Willowdale
James Brian Hartley	Ottawa
John Oswald Hinds	Toronto
Neil Harry Karal	Toronto
Thomas Douglas Kent	Etobicoke
John Frederick Logan	Warkworth
Harry Ian MacTavish	Willowdale
Abdool Shakoor Manraj	Etobicoke
John Bruce McLellan	Toronto
Donald Keith McNair	Toronto
George Hastings Montague	Toronto
Grant Graham Murray	Toronto
Mary Louise Oakes	Etobicoke
Frank Allan O'Brien	Stoney Creek
Thomas Matthew Parkinson	Don Mills

- \* Herbert Ronald Patterson Toronto
- Charles Herbert Pullen Kingston
- William Parke Rogers Oakville
- Thomas Maule Rundle Pefferlaw
- Charles Samuel Scime Ancaster
- Robert Keith Stainton Toronto
- Donald Ian Stewart Seaforth
- Peter Robert Sturdy Cambridge
- Donald Watson Taylor Toronto
- John Gordon Taylor Toronto
- Albert Sidney Tucker Willowdale
- Copley George McDougall Winslow Verdum, PQ
- James Warren York Jr. Stittsville

\* see also Membership Restored

(b) Retired - Membership under Suspension

Mildred Emilia Caccia of Toronto was suspended on February 27, 1987 for non-payment of the 1986/87 annual fee. At the time of her suspension Ms. Caccia was sixty years of age (which was the Society's retirement age at that time) and fully retired from the practice of law. She has now applied under Rule 50 on a retroactive basis requesting that her membership be reinstated to a retired status without the payment of the annual fees for the years 1986/87 onwards.

(c) Incapacitated Members

The following members are incapacitated and unable to practise law and have requested permission to continue their membership in the Society without payment of annual fees:

- Frederick Barth Sudbury
- John Andrew Campbell Toronto
- Brian Allan Farlinger Toronto
- Robert William Kerr Burlington
- Arlene Marcy Mayers Toronto
- Mori Anne Soyland Nepean
- Richard Earl Woods Toronto

Their applications are in order and the Committee was asked to approve them.

Approved

9. RESIGNATION - REGULATION 12

The following members have applied for permission to resign their membership in the Society and have submitted Declarations/Affidavits in support. These members have requested that they be relieved of publication in the Ontario Reports.

(a) Jennifer Gibbs Falkner of Danville, California was called to the Bar on March 29, 1977 and practised as a corporate law attorney for Bell Canada from 1977 to 1992. She has never handled trust funds or other clients' property. She is not aware of any claims made against her. The 1994/95 annual fee is outstanding.

(b) Robert Allan Prior of Edmonton, AB was called to the Bar on April 15, 1988. He practised law as a Criminal Prosecutor with the Department of Justice in the Toronto Regional Office and in the Edmonton Regional Office. He has never handled trust funds or other clients' property. He is not aware of any claims made against him. The 1994/95 annual fee is outstanding.

23rd September, 1994

(c) Clifton Paul Dorland of Scarborough, was called to the Bar on February 7, 1992 and has never practised law since his call. His rights and privileges were suspended on November 1, 1993 for non-payment of the 1993/94 annual fee. Annual fees for the years 1992/93 - 1994/95 inclusive are outstanding.

(d) Joan Walker Robinette Sadleir of Toronto, was called to the Bar on September 20, 1957. Her employment since her call has comprised work from time to time for the Ontario Law Reform Commission and The Law Society of Upper Canada as a Referee for the Compensation Fund. The 1994/95 annual fee is outstanding.

(e) Donald Bruce MacDermott of Edmonton, AB was called to the Bar on March 26, 1965 and was engaged in private practice with the law firm Haines, Thomson, Rogers, Macaulay, Howie & Freeman from 1965 to 1967. Since 1967 he has been employed as House Counsel by various corporations until his retirement in 1993. He is not aware of any claims made against him. The 1994/95 annual fee is outstanding.

(f) Andrew Trotta of Toronto, was called to the Bar on March 25, 1977. He practised with various law firms from 1977 to 1988. He has never handled trust funds or clients' property. The 1994/95 annual fee is outstanding.

(g) Richard Christian Delaney of London, was called to the Bar on March 19, 1991. He practised with the firm McKenzie, Nash, Bryant from June 1992 to August 1994. All trust funds or clients' property for which he was responsible remain with the firm. All clients' matters have been dealt with and arrangements have been made for clients' papers to be transferred to another solicitor in the firm. He is not aware of any claims made against him. The 1994/95 annual fee is outstanding.

(h) Robert Israel Blanshay of Montreal, PQ was called to the Bar on February 7, 1992. He practised as an associate with the firm Gordon Wiseman and Associates from August 1992 to August 1994. He is was not responsible for any trust funds or clients' property and all client matters have been either completed and disposed of, or arrangements made to clients' satisfaction. He is not aware of any claims made against him. The 1994/95 annual fee is outstanding.

(i) Allan Muir Paton of Peterborough, was called to the Bar on March 17, 1967. He practised with various firms from 1967 to 1984. He declares that all trust funds or clients' property for which he had responsibility remained with his former firms and all clients' matters have been completed or disposed of. He is not aware of any claims made against him. The 1994/95 annual fees is outstanding.

(j) Sylvia Lorraine Davis of London, was called to the Bar on April 11, 1983 and practised with the firm Lerner & Associates until June 1990 when she ceased practising and assumed an administrative position with the firm. She declares that all clients' matters, trust funds or clients' property for which she was responsible were transferred to the other lawyers in the firm. There are currently no outstanding claims against her. The 1994/95 annual fee is outstanding.

(k) Elizabeth Hau Wan Yip of Burnaby, BC, was called to the Bar on March 31, 1989 and practised with the firm Cassels, Brock & Blackwell from 1989 to 1990. She has never handled trust funds or other clients' property and she is not aware of any claims against her. The 1994/95 annual fee is outstanding.

(l) Mark William Joseph Rankin of Vancouver, BC, was called to the Bar on March 22, 1991 and practised with the firm of Morlock and Associates until November 1991. During his period of practice in Ontario, he did not handle trust funds or clients' property and all clients' matters have been completed and disposed of. He is not aware of any claims against him. The 1994/95 annual fees is outstanding.

(m) Diana Edith Ginn of Halifax, NS, was called to the Bar on April 10, 1984 and has never practised law in Ontario since her call. The 1994/95 annual fee is outstanding.

(n) Donald Brent Dickenson of London, was called to the Bar on April 12, 1984 and has never practised law since his call. The 1994/95 annual fee is outstanding.

(o) Arlene Sandra Brock of Hamilton, Bermuda was called to the Bar on March 30, 1990 and practised with the firm Blake, Cassels & Graydon until September 1990. She has never handled trust funds or clients' property. She is not aware of any claims against her. The 1994/95 annual fee is outstanding.

Their Declarations/Affidavits are in order and the Committee was asked to approve them.

Approved

10. TRANSFER OF ITEM B.8 AND B.9 TO ADMISSIONS AND MEMBERSHIP COMMITTEE

The Committee considered the recommendation made this spring by the Special Committee on Priorities and Planning that, in future, items B.8 - Membership Under Rule 50 and B.9 - Resignation - Regulation 12 be dealt with and reported to Convocation by the Admissions and Membership Committee.

Approved

C.  
INFORMATION

1. LAW SOCIETY EMPLOYEE BENEFITS - AD & D POLICY ISSUED BY CONFEDERATION LIFE

The Society, upon the renewal of its employee benefits package this spring, placed its AD & D coverage with Confederation Life. All other coverages including dental, extended health, life insurance are placed with SunLife.

We are now advised by letter from our brokers MLH&A Inc. that the AD & D portion of our program has been bought by ManuLife Financial. The Committee is assured that no claims have been made against this policy and therefore none of our employees are at risk of diminished coverage.

Our consultants indicate that the new coverage will be continued through ManuLife Financial at no increase in premium. Copies of information letters were before the meeting. [pages 9 - 12]

Noted

2. LEGAL MEETINGS AND ENTERTAINMENT

Pursuant to the authority given by the Finance and Administration Committee, the Secretary reported that permission has been given for the following:

September 22, 1994

Red Mass Dinner  
Convocation Hall

23rd September, 1994

September 29, 1994

Lawyers' Club Dinner  
Convocation Hall

Noted

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

T. Bastedo  
Chair

Attached to the original Report in Convocation file, copies of:

- C. - Item 1. - Copies of information letters regarding AD & D Policy through Confederation Life. (pages 9 - 12)

It was moved by Mr. Wardlaw, seconded by Mr. Feinstein that Items B.-5., 6. & 7 be adopted.

Carried

THE BALANCE OF THE REPORT WAS ADOPTED

MOTION TO SUSPEND - FAILURE TO PAY LATE FILING FEE

It was moved by Mr. Wardlaw, seconded by Mr. Feinstein THAT the rights and privileges of each member who has not paid the fee for the late filing of Form 2/3 within four months after the day on which payment was due and whose name appears on the attached list be suspended from September 23, 1994 and until that fee has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(see list in Convocation file)

MOTION TO SUSPEND - N.S.F. CHEQUES

It was moved by Mr. Wardlaw, seconded by Mr. Feinstein THAT the rights and privileges of the following member who paid his Errors and Omissions Insurance Levy for the period January 1st, 1994 to June 30th, 1994 with a cheque which was subsequently dishonoured by the bank be suspended from September 23, 1994 and until the necessary levy has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Warren Arnold Singer                      Toronto

Carried

MOTION TO SUSPEND - FAILURE TO PAY ANNUAL FEES AFTER BEING GRANTED DEFERRAL

It was moved by Mr. Wardlaw, seconded by Mr. Feinstein THAT the rights and privileges of the following member who has not paid all of his annual fees for which he had been granted deferral and whose name appears below be suspended from September 23, 1994 and until the necessary fee has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Colin Schreuder Bergh                      Aylmer, PQ

Carried

LIBRARIES AND REPORTING COMMITTEE

Meeting of September 8, 1994

Ms. Elliott presented Item A.-1. re: Incorporation of new Manitoulin District Law Association, for Convocation's approval.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LIBRARIES AND REPORTING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994, at 8:00 a.m., the following members being present:

Susan Elliott (Chair), R. Topp, I. Blue, M. Cullity, M. Weaver and M. Hennessy. G. Howell and Fraser Mann (counsel) also attended.

A.  
POLICY

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1. Request for Approval - Incorporation of new Manitoulin District Law Association

The 10 lawyers (approximate number) on Manitoulin Island have agreed to form a district law association and have completed the necessary papers for incorporation of the new association. Pursuant to Regulation 708 (of the Revised Regulations of Ontario) under the Law Society Act, and section 25(1) thereunder, the members of the Society in the Manitoulin judicial district need the approval of Convocation to form the association. The Libraries & Reporting Committee recommends to Convocation that approval for the formation and incorporation of the new Manitoulin District Law Association be granted.

B.  
ADMINISTRATION

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No items

C.  
INFORMATION

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1. Sub-Committees

The Committee has agreed to form a second Sub-Committee (the Technology Sub-Committee), which will examine various aspects of technology for the Great Library and the county libraries (including the operations of Search-Law), and technology as it relates to the Ontario Reports (especially a CD-Rom of the Ontario Reports). Members of this Sub-Committee (so far) are Susan Elliott, Ian Blue and Mary Weaver.

The County Library Review Sub-Committee (chaired by Robert Topp) has prepared a draft Discussion Paper (with attachments in a binder), and has adopted a process and timetable for the work of the Sub-Committee, including consultations with County & District Law Presidents' Association.

2. County Libraries - Recommended Textbook List

As a convenience for the lawyers across the province who volunteer their time to serve on law association library committees, the Chief Librarian sends a list of all newly published textbooks to the counties, marked with titles recommended as "basic textbooks." The half-year January to June 1994 list contains 61 new textbook titles, of which 12 were marked as "basic", with another 10 marked as being "deferred" to the second half of 1994.

The Chief Librarian is greatly assisted in the selection of "recommended basic titles" by a committee of six experienced practitioners involved with county libraries over the past decade. Indeed, a former member of this "County Publications Committee" who was appointed to the General Division bench (Mr. Justice Donald MacKenzie in Brampton) still participates informally in the selection process.

3. County Libraries - 1994 Finances and 1995 Budget Documents

Each year at this time, the Chief Librarian requests that the county law associations begin their budget process for the upcoming operating year (counties operate on a calendar year basis). The Chief Librarian sends three forms for completion - one for current finances (8 month actual figures), one for projected 1994 finances (to December 31st), and one for 1995 budgets (based on projected 1994 finances, with guidelines for percentage increases on subscription expenses particularly).

Upon receipt of the completed forms, the Chief Librarian prepares consolidated charts of various categories of revenue and expense for all 47 counties, and presents the two charts to the October 14th meeting of the CDLPA Library Committee. This committee of some 18 people then examines these charts and makes recommendations to the plenary session of 47 County Presidents at the November CDLPA meeting. The recommendations relate particularly to funding, and especially to the targeted "median local library fee" (which in 1994 is \$230, and no doubt will be much higher in 1995).

4. County Libraries - 16 Largest Counties - Survey of Computer Equipment

In connection with the establishment of a Sub-Committee on Technology, the Chief Librarian recently completed a survey of computer equipment held by the 16 largest counties (8 Regional Centres, 8 "sub-Regional" centres). Very little computer equipment exists in the other 31 centres. Much of the computer equipment owned by the 16 largest counties was bought with special grants of \$4,000 distributed to the 16 counties in 1991, funded by the Law Foundation.

The survey was prompted by a discussion between the Chair (Susan Elliott) and the Chief Librarian about the possibility of the larger counties acquiring new "hot-off-the press" CD-Rom products for their libraries. The new CD-Rom's have been published by three Canadian law publishers, in two areas - federal statutes (Canada Law Book) and tax (CCH and Carswell).

As a threshold matter, apparently only York County has a CD-Rom drive (let alone the kind of equipment the Great Library has, ie. CD-Rom towers). Moreover, only a few others have powerful enough personal computers and peripheral equipment to adequately handle CD-Rom products. On the other hand, most (if not all) have upgraded their PC's, software, and printers in order to perform

standard business (word processing, accounting) and library (database management, newsletter) functions. The Technology Sub-Committee will be considering funding requirements for county libraries, to enable the counties to utilize CD-Rom's.

5. Notice of Upcoming Meetings

- Thursday October 13 - Demonstration of new CD-Rom products:
  - a) Canada Statutes Service (from CLB) and
  - b) the Infotrac CD-Rom (periodical index)
- Friday, October 14 - CDLPA Library Committee meeting organized by G. Howell: Benchers invited
- Wednesday, Nov. 9 - Symposium co-sponsored by LSUC & Butterworth: Proposed topic - "Legal Information Technology Fair" -Canadian law publishers demo and discuss electronic products such as databases, forms on disk, CD-Rom's.
- Thursday, Nov. 10 - "County Libraries Review" Sub-Committee meeting with the CDLPA Library Committee
- Friday, Nov. 11 - CDLPA Plenary Session (county library funding issues).

ALL OF WHICH is respectfully submitted

Dated this 23th day of September, 1994

S. Elliott  
Chair

It was moved by Ms. Elliott, seconded by Mr. Blue that Item A.-1. be adopted.

Carried

THE BALANCE OF THE REPORT WAS ADOPTED

ADMISSIONS AND MEMBERSHIP COMMITTEE

June 1994 Report

Ms. Moliner asked that Item B.-B.1. re: Requalification following Suspension, be referred back to Committee so that Mr. McQuilkin could attend the Committee Day meeting in October.

THE REPORT WAS DEFERRED

Meeting of September 8, 1994 (Item A.-A.1. withdrawn)

Item A.-A.2. re: Publication of Admissions Hearings was deferred to the October Convocation.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS AND MEMBERSHIP COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994 at 9.30 a.m., the following members being present: Mr. C. Campbell (Chair), Ms. M. Moliner, Messrs. D. Lamont and K. Howie.

Also present: M. Angevine, A. Treleaven, C. Shaw

A.  
POLICY

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A.1. REQUIREMENTS FOR TRANSFER FROM ANOTHER CANADIAN JURISDICTION

A.1.1. This item was deferred from June Convocation.

A.1.2. In its June 1993 report your Committee made recommendations with respect to revisions of the requirements to transfer from another Canadian common law jurisdiction under section 4(1) of Regulation 708. Convocation requested that the recommendations be further revised and that a comprehensive package be prepared to encompass section 4(2) of the Regulation with respect to applicants for transfer from Quebec.

A.1.3. Your Committee had before it for consideration the decision of the Quebec Superior Court in Richards v. Bateau du Quebec. The issue in this case was whether the requirement of three years practice in another Canadian jurisdiction in order to be eligible to transfer to Quebec is unconstitutional.

A.1.4. Regulation 708 made under the Law Society Act provides as follows:

A.1.5. Section 4(1)(a) - an applicant may be called to the bar and admitted as a solicitor who has been engaged in the active practice of law in one or more common law provinces or territories of Canada for a period or periods totalling at least three years within the five year period immediately preceding the application;

A.1.6. Section 4(2)(a) - an applicant may be called to the bar and admitted as a solicitor who has been engaged in the active practice of law in the Province of Quebec for a period or periods totalling three years within the five year period immediately preceding the application.

A.1.7. The Society retained Counsel to provide an opinion as to the validity of the requirement of three years of active practice to be eligible to transfer to Ontario from another Canadian jurisdiction in light of the Richards decision.

A.1.8. The opinion provided that, in essence, the Society may require transfer applicants to comply with standards for admission which are equivalent to those required of students proceeding through the Bar Admission Course.

23rd September, 1994

A.1.9. Your Committee also considered the following: 1) transfer requirements of the other provinces; 2) the nature of their pre-call training; and 3) the draft Protocol prepared by the Federation of Law Societies Committee on Interjurisdictional Practice.

A.1.10. In reviewing the criteria transfer applicants should be required to meet, your Committee considered the requirements of pre-call training in Ontario including the academic requirements for entry to the Bar Admission Course and the seventeen months duration of the course.

A.1.11. Your Committee now recommends that the transfer requirements be revised as follows:

4(1) Upon the recommendation of the Committee, an applicant who is qualified to practise law in any province or territory of Canada outside Ontario may be called to the bar and admitted as a solicitor provided the applicant,

(a) (i) is a graduate of a law course, approved by Convocation, in a university in Canada, or

(ii) has a certificate of qualification issued by the Joint Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Council of Canadian Law Deans;

(b) for a period or periods totalling at least seventeen months within the three year period immediately preceding the application, has been engaged in,

(i) the active practice of law as a member of a law society or equivalent body which is a member society of the Federation of Law Societies of Canada,

(ii) the pre-call education program of a member society of the Federation of Law Societies of Canada, or

(iii) a combination of the activities referred to in subclauses (i) and (ii);

(c) files a certificate of good standing issued by a member society of the Federation of Law Societies of Canada; and

(d) passes the transfer examination as prescribed from time to time by Convocation.

(2) For purposes of this section, an applicant shall be deemed to have been engaged in the pre-call education program of a member society of the Federation of Law Societies of Canada when,

(a) enrolled and participating in a teaching or education program prescribed by that society and distinct from a university law course; or

(b) serving under articles of clerkship to a member of that society in accordance with the rules or regulations of that society.

(3) On each occasion when a candidate for call and admission under subsection (1) sits the transfer examination referred to in clause (1)(d) the candidate must present evidence that the candidate,

- (a) has been engaged in the activities set out in subclauses (i), (ii) or (iii) of clause 1(b) for a period or periods totalling at least seventeen months within the three year period immediately preceding the examination; and
- (b) is a member in good standing of a member society of the Federation of Law Societies of Canada.

A.1.12. Your Committee considered a provision which would permit an applicant whose engagement in the activities referred to in clause (1) (b) does not amount to the total of seventeen months required by that clause to satisfy the requirement of that clause by serving under articles of clerkship in Ontario for the length of time required to bring the total to seventeen months.

A.1.13 After discussion your Committee concluded that such a provision ought not to be included. Your Committee was concerned that transfer applicants seeking short term articling positions in Ontario would increase the difficulties already faced by students-at-law in the Bar Admission Course in finding articling placements.

Note: Item deferred

A.2. PUBLICATION OF ADMISSIONS HEARINGS

A.2.1. This item was deferred from June 1994 Convocation:

A.2.2. At its January 13, 1994 meeting your Committee was asked to consider whether a policy with regard to the regular publication of scheduled Admission Hearings should be established. A discussion ensued which canvassed various options. Following the discussion, your Committee requested that this item be deferred to the February meeting.

A.2.3. At its February meeting your Committee reviewed the Society's policy with respect to the publication of discipline matters, which is as follows:

1. Public/Media enquiries: once a complaint is authorized and issued, the Society will release, upon request, the name of the solicitor facing discipline together with the allegations contained in the complaint;
2. Prior notification: a list of hearings scheduled to take place in the forthcoming month is provided to the media at the end of each month. The following information is included: the name of the solicitor, the allegations in the complaint and the date and place of the hearing.

A.2.4. In its discussions, the nature of admissions hearings was explored and compared to that of discipline hearings.

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- A.2.5. Your Committee observed that admission hearings frequently arise because the applicant has disclosed information about his or her conduct to the Society and asked whether the conduct in question will constitute a bar to admission. A hearing may be required because the Admissions Committee is unable to decide the "good character" issue without the benefit of hearing the evidence and observing the applicant.
- A.2.6. In discipline matters however, the hearing arises only after there has been an investigation of the member's conduct and a decision made to charge the member with professional misconduct or conduct unbecoming.
- A.2.7. Further, your Committee was particularly struck by the fact that in admission hearings, counsel for the Society often takes no position on the question of good character, but ensures that all the relevant information necessary to decide the question is placed before the panel. Your Committee contrasted this role with that of the Society's counsel in discipline matters where, in every case, counsel asserts that the member is guilty of professional misconduct.
- A.2.8. Your Committee concluded that there is a significant distinction to be drawn between the two processes. Your Committee then discussed whether that distinction justifies a different policy with respect to the publication of hearings.
- A.2.9. Initially the Committee reached the conclusion that a different policy was justified and proposed the following policy:
1. Public/Media Enquiries: If an inquiry is made to the Society about a specific individual who is subject to a hearing, the fact that an admission hearing has been ordered will be disclosed, together with the date of the hearing (if known). No other particulars will be provided.
  2. Prior notification: There will be no prior notification i.e. a list of admission hearings scheduled to take place in the forthcoming month will not be provided to the media at the end of each month.
- A.2.10. Upon further reflection your Committee decided to revisit this issue at its meeting on March 24th, 1994.
- A.2.11. At that meeting the discussion focused on the process leading up to the decision that a hearing pursuant to s. 27 of the Law Society Act is required. Your Committee articulated the concern that a hearing is sometimes ordered because the Committee feels unable to dispose of the issue on the basis of the written material before it. In other words the Committee is not satisfied as to the 'good character' of the applicant nor is it willing to assert that the applicant is not of good character.
- A.2.12. The Committee felt that in those cases it might well assist in the process to arrange an informal meeting with the applicant to review the material as well as provide an opportunity for the Committee to observe the applicant and ask questions. This meeting would take place before the decision about the necessity of a hearing is made.

- A.2.13. With this additional step of an informal meeting your Committee felt it would be better able to deal with those troublesome cases where there is genuine ambivalence on the part of committee members concerning the necessity for a hearing.
- A.2.14. Your Committee then proceeded to review its earlier position. In light of the introduction into the process of an informal meeting with the applicant, the Committee concluded that it was appropriate to follow the practice of prior notification established for discipline hearings, namely that a list of forthcoming admission hearings be provided to the media. Unlike the practice for discipline hearings, however, no particulars, other than the name of the applicant and the date and place of the hearing, will be provided.
- A.2.15. In conclusion, your Committee therefore recommends that Convocation adopt the following policy regarding publication of admission hearings:
1. Public/Media Enquiries: If an inquiry is made to the Society about a specific individual who is subject to a hearing, the fact that an admission hearing has been ordered will be disclosed, together with the date of the hearing (if known). No other particulars will be provided.
  2. Prior notification: A list of admission hearings scheduled to take place in the forthcoming month will be provided to the media at the end of each month. The following information will be included: the name of the applicant and the date and place of the hearing. No other particulars will be provided.

Note: Item deferred

A.3. ELIGIBILITY FOR LIFE MEMBERSHIP

- A.3.1. A member of the Society who was called to the Bar on September 21, 1944, was appointed a Magistrate on March 1, 1962. As of the date of his appointment Magistrates were still obligated to pay the Society's annual fee.
- A.3.2. The member continued to pay his annual fee until June 17, 1966 when he resigned his membership for the reason that as a magistrate he was not permitted to practise.
- A.3.3. The Provincial Courts Act in May 1968 provided that all magistrates become Provincial Court Judges and as such their membership in the Society was placed in abeyance.
- A.3.4. On retiring from the Bench the member applied and was restored to the Rolls October 18, 1983. He is currently retired under Rule 50.

Having reviewed all the circumstances, your Committee recommends that the member be granted life membership in the Society on the 50th anniversary of his call to the Bar, September 1994, although he has not been a member of the Society continuously since his call to the Bar.

B.  
ADMINISTRATION

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B.1.           DIRECT TRANSFER - COMMON LAW - SECTION 4(1)

B.1.1.        The following candidate has met all the requirements to proceed with transfer under section 4(1) of Regulation 708 made under the Law Society Act:

Pascale-Sonia Roy

Approved

B.2.           DIRECT TRANSFER - QUEBEC -4(2)

B.2.1.        The following candidates have met all the requirements to proceed with transfer under section 4(2) of Regulation 708 made under the Law Society Act:

Donna Sobel Kaufman  
Leanne Maruszcza  
Nathalie Mercure

Approved

B.3.           PETITION FOR AN EXTENSION TO SIT THE TRANSFER EXAMINATION

B.3.1.        Michael Concister was approved to proceed with transfer to the practice of law in Ontario under section 4(2) of Regulation 708 on June 25, 1993. The 18 months allowed to candidates to take the examination expires December 1994.

B.3.2.        Mr. Concister was scheduled to write the transfer examination in September 1994. In his letter of August 8, 1994 he set out the circumstances preventing him from writing the examination and requested an extension of the 18 month period to enable him to sit the examination in May 1995.

Your Committee recommends that, in view of the fact that the applicant continues to practise in his home jurisdiction and that he continues to meet all the requirements to proceed with his transfer application, his request be granted.

B.4.           UPDATING OF COMMON LAW EXAMINATION SYLLABUS

B.4.1.        Professor Ralph Scane who oversees the setting and marking of the Common Law Examination for the Society has advised that a section of the syllabus needs to be updated as a result of a new question which has been added to the examination.

B.4.2         Professor Scane has made arrangements for this to be done at a cost of \$150.00 per hour.

Your Committee recommends that the updating of the syllabus proceed provided the cost does not exceed \$450.00.

B.5. CALL TO THE BAR AND CERTIFICATE OF FITNESS

B.5.1. Bar Admission Course

The following candidates having successfully completed the 35th Bar Admission Course have now filed the necessary documents and paid the required fee and apply to be called to the Bar and granted a Certificate of Fitness at Regular Convocation on September 23, 1994:

- Arnold Hyman Bornstein
- Antonietta A. Brion
- Lori Burke
- Stanley Carl Frisch
- Patricia Lynn Graham
- Lynn Marie Kowalla
- May Yin May Lau
- Karen Dale Logan
- Jordanna Rochelle Enig Stockhamer
- Marie Louise Anne Alexia Taschereau-Moncion

Approved

B.5.2. The following candidate expects to successfully complete the 35th Bar Admission Course by mid-September and asks to be called to the Bar and granted a Certificate of Fitness at Regular Convocation on September 32, 1994:

Manuel Jesudasan

Approved

B.5.3. Full Time Members of Faculties of Approved Law Schools

The following members of approved law faculties ask to be called to the Bar and admitted as solicitors without examination under s. 5 Reg. 708. They have filed the necessary documents and complied with the requirements of the Society:

- |                      |   |
|----------------------|---|
| Gabrielle St-Hilaire | Faculty of Law<br>University of Ottawa          |
| Jinyan Li            | Faculty of Law<br>University of Western Ontario |

Approved

B.6. APPLICATION TO BE LICENSED AS A FOREIGN LEGAL CONSULTANT

B.6.1. Bruce Czachor has applied to be licensed as a foreign legal consultant in the Toronto office of Shearman & Sterling.

B.6.2. Mr. Czachor's application is complete and both he and the firm have filed all necessary undertakings.

B.6.3. The application and supporting material were before the Committee for consideration.

Your Committee recommends that Mr. Czachor's application be approved.

B.7. REINSTATEMENT FOLLOWING SUSPENSION - PETITION FOR WAIVER OF EXAMINATION

B.7.1. Victoria Meikle was called to the Bar April 10, 1980. She was suspended for non-payment of the annual fee February 27, 1987. Ms. Meikle now seeks reinstatement to membership in good standing.

B.7.2. The applicant requests a waiver of the requirement to write the requalification examination. She practised law in Ontario for approximately five years. In 1985 she commenced an LL.M. at McGill University and on completion of this degree in 1988 enrolled in the doctoral programme at the University of Oxford.

Your Committee recommends that the applicant be reinstated to a non-practising membership category conditional on her signing an undertaking that she will not engage in the practice of Ontario law without first obtaining the Society's permission and, in the Society's discretion, completing its requirements for requalification at that time.

B.8. SPECIAL PETITION TO BE CALLED WITHOUT EXAMINATION

B.8.1. Inderpaul Singh Chandhoke. In May 1993 your Committee considered Mr. Chandhoke's petition to be called to the Bar without examination under section 5 of Regulation 708.

B.8.2. Mr. Chandhoke (B.A. and LL.B. from Meerut University, India) moved to Canada in July 1974 and worked for two years with an investment company in the legal department and then with the law firm of Gordon A. Macartney for three years until his appointment in 1979 to the Ontario Court (Provincial Division) as a presiding Justice of the Peace. Mr. Chandhoke continues in that position.

B.8.3. In his petition dated 30th April, 1993 Mr. Chandhoke provided details of his career as a Justice of the Peace, and of the law courses he has taken at both the College and University levels; the teaching experience he has gained in the courtroom through the direction of law students, agents and lawyers; and the educational seminars and lectures he has given on various aspects of law and procedure.

B.8.4. Mr. Chandhoke petitioned that, in light of his job experience, legal education, and teaching experience both within the courtroom and through giving seminars and lectures, he be granted the privilege of being called to the Bar without examination similar to the privilege given law professors who apply for admission under s.5 of Regulation 708. The petitioner stated that he would undertake to continue to preside at the Ontario Court of Justice (Provincial Division) as a full time Justice of the Peace and did not intend to become a member of the Law Society to practise law.

B.8.5. The Admissions Committee recommended that Mr. Chandhoke's petition be denied. Section 5 of Regulation 708 is very specific and limited in its application. Mr. Chandhoke does not fall within the specific provisions and there is no discretion in the Admissions Committee to extend the application of this section to grant Mr. Chandhoke's petition. Convocation adopted the Committee's recommendation.

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- B.8.6. In a further petition dated August 15, 1994 Mr. Chandhoke through Counsel argues that the Admissions Committee, in deciding against the petition and having found s. 5 of Regulation 708 inapplicable, should have considered whether:
- (a) The rationale for Section 5 (which justifies admission of law professors) obtains in the situation of other professionals involved in the legal system such as justice of the peace.
  - (b) Section 5 is underinclusive in its failure to extend such privilege to other professionals.
- B.8.4. Counsel further submits that the Admissions Committee has power to recommend:
- (c) That Section 5 be amended to extend the privilege, that is now limited to law professors, to other professionals similarly situated as law professors;
  - (d) That Mr. Chandhoke, being qualified, be extended the privilege established by the amended Section of Regulation 708.
- B.8.5. The letter of Mr. Binavince, Counsel for Mr. Chandhoke, dated August 15, 1994 together with the sworn statement of Mr. Chandhoke was before the Committee.
- B.8.6. As set out at paragraph 6 of the sworn statement Mr. Chandhoke has been granted a Certificate of Qualification from the Joint Committee on Accreditation. He has been exempted from Phase One and Two of the Bar Admission Course, and has successfully completed the Accounting Course in Phase Three. It remains for him to complete the balance of Phase Three to be eligible for call to the Bar.

Your Committee reviewed the further material submitted by the applicant and concluded that there is no basis on which to grant Mr. Chandhoke's further petition.

C.  
INFORMATION

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C.1. EXAMINATION RESULTS - COMMON LAW

The following candidate has successfully completed the May 1994 Common Law Examination:

Gilbert Forest

Noted

C.2. LIFE MEMBERS

Pursuant to Rule 49, the following are eligible to become Life Members of the Society with an effective date of September 21, 1994:

(a)

Olga Chumak	Toronto
Benjamin Laker	Downsview
Francis Joseph Matthews	Niagara Falls
Nathan Sherwin	Willowdale
Ronald Harper Smith	Scarborough
John Yaremko	Toronto

Noted

C.3. CHANGES OF NAME

C.3.1. (a) Members

<u>From</u>	<u>To</u>
Diane Beryl <u>Courtney</u>	Diane Beryl <u>Staples</u> (Marriage Certificate)
Lisa Marion <u>Grant</u>	Lisa Marion <u>Cameron</u> (Marriage Certificate)
Pamela Lynn <u>George</u>	Pamela Lynn <u>Hebner</u> (Marriage Certificate)
Diane Bridget <u>Indovina</u>	Diane Bridget <u>Skrow</u> (Marriage Certificate)
Maureen Catherine <u>Hodgins</u>	Maureen Catherine <u>Tabuchi</u> (Change of Name Certificate)
David Steven <u>Umansky</u>	David Steven <u>Orman</u> (Birth Certificate)
<u>Nathale Pilcow</u>	<u>Natalie Watson</u> (Change of Name Certificate)
Chang Ping Sun	<u>Alvin</u> Chang Ping Sun (Change of Name Certificate)

Noted

C.4. MEMBERSHIP RESTORED

The following members gave notice under Section 31 of The Law Society Act that they had ceased to hold judicial office and wished to be restored to the Rolls and records of the Society:

Effective Date

Jean-Pierre Beaulne	October 14, 1992
Ontario Court of Justice	(Provincial Division)
* Herbert Ronald Patterson	September 24, 1993
Ontario Court of Justice	(General Division)

\* see also Membership under Rule 50

Noted

C.5. ROLLS AND RECORDS

C.5.1. (a) Deaths

The following members have died:

Albert Bernard Jackson Victoria, BC	Called June 18, 1965 Died January 1, 1990
John Gaskin Wallace Sands Kingston	Called June 18, 1936 Died June 10, 1993
Gerald Dalton Sanagan Willowdale	Called September 17, 1936 Died November 22, 1993
John Harley Crawford Wingham	Called November 15, 1928 Died February 4, 1994
Wilfred Orlando Davis Burlington	Called November 22, 1923 Died February 28, 1994
Edwin Delbert Hickey Hamilton	Called September 19, 1935 Died April 5, 1994
Robert Allington Bowlby Toronto	Called June 17, 1943 Died April 24, 1994
Gordon Edward Harold Betts Toronto	Called October 15, 1976 Died May 12, 1994
William Goldwin Carrington Howland Toronto	Called June 15, 1939 Died May 13, 1994
Benjamin Harry Yuffy Windsor	Called September 18, 1930 Died May 14, 1994
Leo Joseph Leavey St. Catharines	Called September 20, 1934 Died May 21, 1994
Robert Eric Mountain Stratford	Called June 24, 1954 Died May 30, 1994
Sherburne Tupper Bigelow Toronto	Called October 16, 1930 Died June 14, 1994
Benson Clarke Howard Willowdale	Called June 29, 1949 Died June 20, 1994
Cynthia Jean McCulloch Ottawa	Called February 5, 1993 Died June 20, 1994
Murray John Haesler Milton	Called April 19, 1963 Died June 25, 1994
James Joseph Kinahan Sarnia	Called June 26, 1958 Died June 29, 1994
John Ellis Hopkins Ottawa	Called April 19, 1978 Died July 10, 1994

Douglas Alexander Bell Stratford	Called June 24, 1954 Died July 12, 1994
Edward Alexander Tory Toronto	Called March 25, 1966 Died July 12, 1994
David James Ongley Caesarea	Called June 15, 1939 Died July 19, 1994
Elton Gerald Keenan Oshawa	Called April 14, 1988 Died July 21, 1994
Robert Allan Barr Brockville	Called April 19, 1963 Died July 22, 1994
Alastair MacLean MacDonald Ottawa	Called January 20, 1927 Died July 27, 1994
George James McIlraith Ottawa	Called September 17, 1931 Died July 27, 1994
Max Albert Brown Willowdale	Called June 27, 1957 Died August 5, 1994
Walter George Baker Thornhill	Called September 16, 1954 Died August 8, 1994
Norman Alan Ferguson London	Called October 21, 1937 Died August 18, 1994
Louis Simon Allore Whitby	Called March 24, 1972 Died August 18, 1994
John Alexander Sproule Toronto	Called September 15, 1955 Died August 19, 1994

Noted

C.5.2. (b) Permission to Resign

The following member was permitted to resign his membership in the Society and his name has been removed from the rolls and records of the Society:

Andrew Earl Steepe London	Called April 17, 1978 Permitted to Resign - Convocation January 27, 1994
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Noted

C.5.3. (c) Disbarments

The following member has been disbarred and struck off the rolls and his name has been removed from the rolls and records of the Society:

Carl Eric Logan Hamilton	Called April 13, 1962 Disbarred - Convocation June 23, 1994
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Noted

C.5.4. (d) Membership in Abeyance

Upon their appointments to the offices shown below, the membership of the following members has been placed in abeyance under Section 31 of The Law Society Act:

23rd September, 1994

Grace Rachel Maitland-Carter Toronto	Called March 26, 1971 Appointed to Ontario Court (General Division) November 1, 1993
Michael William Allen Melling Toronto	Called April 9, 1987 Appointed to Ontario Municipal Board December 1, 1993
Thomas Patrick Cleary Barrie	Called March 26, 1971 Appointed to Ontario Court of Justice (Provincial Division) May 15, 1994
Norman Scott Douglas Brampton	Called March 23, 1973 Appointed to Ontario Court of Justice (Provincial Division) May 16, 1994
Stephen Casey Hill Brampton	Called March 29, 1977 Appointed to Ontario Court of Justice (General Division) May 31, 1994
Paula Helen Marjoh Agro Oakville	Called March 23, 1973 Appointed to Ontario Court (Provincial Division)

Noted

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

C. Campbell  
Chair

THE REPORT WITH THE EXCEPTION OF ITEMS A.-A.1. & A.2. WAS ADOPTED

NOTICE OF MOTION

Ms. Kiteley gave notice that she intended to bring a motion before Convocation THAT section 18 of the Law Society Act be amended as follows:

"Any Bencher is eligible for re-election only for a total of two four-year consecutive terms."

SPECIALIST CERTIFICATION BOARD

Meetings of August 29 and September 8, 1994

Item A.-A.5. re: Plan for Expansion, was deferred to the October Convocation.

23rd September, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The SPECIALIST CERTIFICATION BOARD begs leave to report:

Your Board met on Monday, the 29th of August, 1994 at ten o'clock in the morning, the following members being present: R.D. Yachetti (Chair), R.D. Manes (Vice-Chair), J. Callwood, A.M. Cooper, P.G. Furlong and G.P. Sadvari. M.J. Angevine, Deputy Secretary, and S. Thomson, Program Administrator, also participated.

Your Board met on Thursday, the 8th of September, 1994 at nine-thirty in the morning, the following members being present: R.D. Yachetti (Chair), R.D. Manes (Vice-Chair), J. Callwood, C.D. McKinnon and M.L. Pilkington. S. Thomson, Program Administrator, was also present.

Since the last report, Specialty Committees have met as follows:

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 14th of June, 1994 at eight-thirty in the morning.

The Workers' Compensation Law Specialty Committee met on Thursday, the 23rd of June, 1994 at five o'clock in the afternoon.

The Criminal Law Specialty Committee met (conference call) on Friday, the 24th of June, 1994 at one o'clock in the afternoon.

The Labour Law Specialty Committee met on Tuesday, the 28th of June, 1994 at five o'clock in the afternoon.

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 12th of July, 1994 at eight-thirty in the morning.

The Workers' Compensation Law Specialty Committee met on Thursday, the 28th of July, 1994 at five o'clock in the afternoon.

The Criminal Law Specialty Committee met (conference call) on Friday, the 29th of July, 1994 at one o'clock in the afternoon.

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 9th of August, 1994 at eight-thirty in the morning.

The Workers' Compensation Law Specialty Committee met on Thursday, the 25th of August, 1994 at five o'clock in the afternoon.

The Criminal Law Specialty Committee met (conference call) on Friday, the 26th of August, 1994 at one o'clock in the afternoon.

The Bankruptcy and Insolvency Law Specialty Committee met (in person / conference call) on Monday, the 29th of August, 1994 at five-thirty in the afternoon.

A.  
POLICY

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A.1.           SPECIALTY COMMITTEE MEMBERSHIP REQUIREMENT

A.1.1.       The Workers' Compensation Law Specialty Committee has recommended the inclusion of a member who comes highly recommended by the Committee to fill a vacancy on the Committee but who has let her membership in the Law Society lapse.

A.1.2.       The Board recommends that membership in good standing of the Law Society must be a requirement for participation on the Board (lay members excepted) or any of the Specialty Committees.

A.1.3.       The Board would be pleased to reconsider this individual should she become a member in good standing of the Law Society.

A.2.           CIVIL LITIGATION STANDARDS

A.2.1.       The Civil Litigation Specialty Committee has requested that the Board provide a policy statement for the situation where an applicant applies for and is certified in civil litigation, and subsequently a new Specialty area is implemented and the same applicant applies for and obtains certification in that area as well, and subsequently seeks (through a recertification application) to maintain certification in the broader civil litigation field.

A.2.2.       A couple of examples were provided to the Board. Both were Civil Litigation recertification applicants, one of whom is currently certified as an Intellectual Property Law Specialist, and the other of whom has submitted an application for certification as an Intellectual Property Law Specialist. Both applicants answered "no" in the recertification application to the statement "I maintain a broad and varied practice within my specialty field", and expanded on that response with the following comments:

A.2.2.1.     EXAMPLE 1: "During the past five years, I have been engaged almost exclusively in intellectual property litigation practice, involving a number of major litigation cases that have been a subject of lengthy (up to 44 days) trials in the Federal Court of Canada. During the past thirteen months, I have been engaged in three major patent trials in the Federal Court of Canada, which represent a large proportion of all of the patent trials heard by the Federal Court in a twelve or thirteen-month period. During the past five years, I have also been engaged in interlocutory injunction hearings, and many extensive examinations for discovery and pre-trial motions in the Federal Court. I continue to have an active practice in intellectual property litigation, primarily within the area of civil litigation."

A.2.2.2.     EXAMPLE 2: "... the last five years has been almost exclusively devoted to litigation most of which is in the field of Intellectual Property. I have appeared in Courts in the Ontario, the Federal Court, the Supreme Court of Canada and the Alberta Court's Trial Division and Court of Appeal.... With respect to Civil Litigation other than Intellectual Property, these cases would include cases relating to contracts and distributorship and the like. Let me add that

as far as I am aware, the qualification with respect to Civil Litigation for a broad and varied practice is dependent on the Courts in which one appears rather than the subject of the litigation. I would expect that many of those who are qualified specialists in Civil Litigation may, in fact, restrict their practice to, for instance motor vehicle, negligence, board work and so forth. I have a vigorous practice, most of which deals with Intellectual Property. None the less, all of it deals with litigation and the Courts."

A.2.3. The Board reaffirmed the definition of Civil Litigation of December 4, 1990, as set out below, and concluded that applicants meeting the definition and criteria for Civil Litigation Specialists should be so certified.

A.2.3.1. "A broad experience and generic skills will have to be demonstrated by a lawyer wishing to be certified as a Civil Litigation Specialist.

A.2.3.2. A lawyer whose litigation practice is concentrated in one field (e.g. personal injury) but who has extensive experience with various court proceedings could qualify as a Civil Litigation Specialist, whereas a lawyer whose practice consists primarily of advocacy before a specialized tribunal (e.g. Energy Board) might not. In the latter case, the lawyer might not qualify as a Specialist until such time as the particular field of practice is recognized as a separate specialty."

A.2.4. It is expected that this issue will be revisited, and the Board will encourage the Civil Litigation Specialty Committee to offer recommendations at any time to enhance the above definition.

A.3. CONCERNS REGARDING FINANCIAL HEALTH OF SPECIALIST APPLICANTS

A.3.1. A Specialty Committee has sought the Board's guidance on dealing with any information coming to its attention which may suggest that the applicant is undergoing financial difficulties. Should such information be disregarded unless it appears to be impacting negatively on the applicant's professional performance?

A.3.2. The Board dealt with a similar issue in April 1994, when a Committee had become aware of a matter suggesting professional misconduct on the part of an applicant. As a result, the Board adopted the following resolution:

A.3.2.1. "Should any allegation of professional misconduct come to the attention of a Specialty Committee, the Committee shall notify the Specialist Certification Board and take no further investigative action. The assessment of the application shall be put in abeyance until the matter has been dealt with by the Board."

A.3.3. The Board will instruct the Specialty Committees that any concerns about applicants, including those related to possible financial difficulties, should be referred to the Board, which will exercise its discretion regarding the appropriate course of action. The Committee will reserve on making a recommendation until the Board has dealt with the matter of concern.

A.4. CERTIFICATE EXTENSIONS FOR RECERTIFICATION APPLICANTS IN THE PRACTICE REVIEW PROGRAMME

- A.4.1. The Board was asked to determine the extent to which certificate extensions, enabling the Specialist to continue advertising the designation, should be granted to recertification applicants who have been authorized for participation in the Practice Review Programme.
- A.4.2. The Board concluded that a certificate extension should be granted for six months or the time of Practice Review completion, whichever comes first. Further extensions will be considered on a case-by-case basis after six months.

A.5. PLAN FOR EXPANSION

- A.5.1. The Board has resolved that an expert should be retained to prepare a detailed and professional plan for the expansion of the Specialist Certification Program, building into that plan the training, testing and educating of Specialists in cooperation with other programs or organizations including law schools.
- A.5.2. The Board recognizes the need for an increase in staffing and space to accommodate the Program's expansion.

Note: Item deferred

B.  
ADMINISTRATION

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B.1. ADMINISTRATOR POSITION

- B.1.1. The present Administrator S. Thomson has agreed to remain at the Law Society at least until October 7th during the Board's consideration of successor candidates.

C.  
INFORMATION

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C.1. CERTIFICATION OF SPECIALIST

- C.1.1. Your Board is pleased to report the certification of the following lawyer as a Civil Litigation Specialist:

John F. Graham (of London)

C.2. RECERTIFICATION OF SPECIALISTS

- C.2.1. Your Board is pleased to report the recertification for an additional five years of the following lawyers as Civil Litigation Specialists:

23rd September, 1994

Lawrence A. Berg (of Ajax)  
Brian J.E. Brock (of Toronto)  
Lloyd D. Cadsby (of Toronto)  
Terence J. Collier (of Toronto)  
Lyle F. Curran (of Sarnia)  
William G. Dingwall (of Toronto)  
Ernest A. DuVernet (of Toronto)  
Igor Ellyn (of Toronto)  
Irwin W. Fefergrad (of Toronto)  
Eric R. Finn (of Toronto)  
John F. Howard (of Toronto)  
Terence V. Kelly (of Oshawa)  
George B. Kilpatrick (of Toronto)  
Leon Klug (of Toronto)  
Paul M. Ledroit (of London)  
Michael D. Lipton (of Toronto)  
Nelson A. McKay (of Niagara Falls)  
Roger G. Oatley (of Barrie)  
Timothy D. Ray (of Ottawa)  
James M. Regan (of Toronto)  
Bruce R. Robinson (of Toronto)  
Martin Sclisizzi (of Toronto)  
Donald E. Short (of Toronto)

C.2.2. Your Board is pleased to report the recertification for an additional five years of the following lawyers as Criminal Law (Litigation) Specialists:

D. Fletcher Dawson (of London)  
Patrick S. Duffy (of Toronto)  
David Allan Harris (of Oakville)  
William B. Horkins (of Toronto)  
George Paul Smith (of Brampton)  
Donald H. Tait (of Windsor)

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1994

R. Yachetti  
Chair

THE REPORT WITH THE EXCEPTION OF A.-A.5. WAS ADOPTED

UNAUTHORIZED PRACTICE COMMITTEE

Meeting of September 8, 1994

Item B.-2. re: Section 50 Prosecutions, was deferred to the October Convocation.

23rd September, 1994

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The UNAUTHORIZED PRACTICE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of September, 1994 at 9:30 a.m., the following members being present: P. Peters (Chair), N. Finkelstein (Vice Chair), N. Graham and S. Lerner. Staff in attendance was: A. John (Secretary).

B.  
ADMINISTRATION

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1. COMPLAINTS AND INVESTIGATIONS

Two new prosecutions were authorized.

2. SECTION 50 PROSECUTIONS

Your Committee reported to Convocation in June 1994 that a full discussion of the Law Society's role in section 50 prosecution would take place this fall. Attached at B-1 to B-39 is a memorandum setting out the issues for discussion and the options available. It contains the following recommendations which received the unanimous approval of your Committee:

1. That the Law Society continue to maintain the current level of s. 50 prosecutions until June 1995, after which prosecutions by the Law Society will cease.
2. That the Law Society invite the Attorney General of Ontario to consider legislation which establishes the training, licensing and regulation of paralegals. In particular, the Law Society should:
  - a) Implement Convocation's Recommendation to establish a tri-partite committee.
  - b) Establish an information sharing network among the Law Society, the courts and various government agencies [e.g., Ontario Court (General Division), Ontario Court (Provincial Division), the Ministry of the Attorney General, the Department of Employment and Immigration, the local provincial and federal Police Forces] to notify interested parties of all complaints against paralegals in the province.

ALL OF WHICH is respectfully submitted

DATED the 23rd day of September, 1994

P. Peters  
Chair

23rd September, 1994

Prosecutions

Next Court Date

Nicola Iamonico (Milton)	September 12, 1994 at 9 a.m. Ontario Court (Prov. Div.) Milton Court To be spoken to
Michael Campbell (Toronto)	September 20, 1994 at 9 a.m. Ontario Court (Prov. Div.) Courtroom L Old City Hall To be spoken to
Domenico Rosso (Toronto)	September 20, 1994 at 9 a.m. Ontario Court (Prov. Div.) Courtroom L Old City Hall To be spoken to
James Plummer (Toronto)	September 20, 1994 at 9 a.m. Ontario Court (Prov. Div.) Courtroom L Old City Hall To be spoken to
WCB Claims and Paralegal Consultants c.o.b. DeELL Paralegal Service (Toronto)	September 20, 1994 at 9 a.m. Ontario Court (Prov. Div.) Courtroom L Old City Hall To be spoken to
Thomas E. Hensel (Toronto Region)	September 28, 1994 at 9 a.m. 1000 Finch Avenue West Courtroom 301 Trial
Kulwant Chandel (Toronto Region)	October 13 & 14, 1994 at 10 a.m. 80 The East Mall Courtroom 210 Trial Pre-emptory - 2 days
Gurdial Singh Fiji (Toronto Region)	October 25, 1994 at 10 a.m. Ontario Court (General Division) 361 University Avenue Appeal
Michael Baldasaro (Hamilton)	November 4, 1994 at 10 a.m. Ontario Court (General Division) Appeal to be heard

Attached to the original Report in Convocation file, copies of:

B. - Item 2. - Attachments to Memorandum for Discussion.

(pages 1 - 39)

THE REPORT WITH THE EXCEPTION OF ITEM B-2. WAS ADOPTED

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23rd September, 1994

ORDERS

The following Orders were filed.

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Botond Gabor Fejes, of the City of Toronto, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 9th day of May, 1994, in the presence of Counsel for the Society and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Botond Gabor Fejes be suspended for a period of nine months, such suspension to commence at midnight the 30th day of June, 1994.

DATED this 23rd day of June, 1994

"P. Epstein"  
Acting Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"  
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF John Louis Rossi, of the City of Windsor, a Barrister and Solicitor (hereafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Reports and Decisions of the Discipline Committees dated the 22nd day of December, 1993 and the 12th day of May, 1994 in the presence of Counsel for the Society and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

23rd September, 1994

CONVOCATION HEREBY ORDERS that John Louis Rossi be reprimanded in Convocation.

DATED this 23rd day of June, 1994

"P. Epstein"  
Acting Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"  
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Bryan Thomas Davies, of the Town of Whitby, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the majority of the Discipline Committee dated the 19th day of April, 1994 and the minority of the Discipline Committee dated the 14th day of April, 1994 in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Bryan Thomas Davies be suspended for a period of one year. The terms of the suspension are:

- (1) the Solicitor is to be credited with a period of five months and ten days during which time he voluntarily withdrew from practice, resulting in a suspension of six months and twenty days.
- (2) upon termination of the suspension, the Solicitor is to be permitted to practise law, but only as a Crown Attorney.
- (3) Should the Solicitor wish at any subsequent time to practise law otherwise than as a Crown Attorney, he must apply to Convocation for permission to do so.
- (4) the Solicitor to pay costs of \$2,000.00 and

23rd September, 1994

(5) the Solicitor to provide a Direction to his attending physicians to disclose to the Law Society medical evidence of his continuing treatment and its impact on the Solicitor's professional responsibilities.

DATED this 23rd day of June, 1994

"P. Epstein"  
Acting Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"  
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Yaroslav Mikitchook, of the City of Toronto, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 9th day of May, 1994, in the presence of Counsel for the Society and the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Yaroslav Mikitchook be Reprimanded in Convocation, that he pay costs in the amount of \$500.00 before the matter reaches Convocation and that he perform 40 hours of community service at the Toronto Food Bank to the satisfaction of Senior Counsel, Discipline, within three months of the Order of Convocation.

DATED this 23rd day of June, 1994

"P. Epstein"  
Acting Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"  
Secretary

Filed

23rd September, 1994

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Giovanni Faraci,  
of the City of Toronto, a Barrister  
and Solicitor (hereinafter referred  
to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 2nd day of May, 1994, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Giovanni Faraci be Reprimanded in Convocation, pay costs in the amount of \$1,500.00 and that he file trust reconciliations with the Law Society every three months for a period of two years.

DATED this 23rd day of June, 1994

"P. Epstein"  
Acting Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"  
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Carl Eric Logan,  
of the City of Hamilton, a Barrister  
and Solicitor (hereinafter referred  
to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 12th day of May, 1994, in the presence of Counsel for the Society, the Solicitor nor Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

23rd September, 1994

CONVOCATION HEREBY ORDERS that Carl Eric Logan be disbarred as a Barrister and that his name be struck off the Roll of Solicitors and that his membership in the said Society be cancelled.

DATED this 23rd day of June, 1994

"P. Epstein"  
Acting Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"  
Secretary

Filed

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Kishore Premji Tanna, of the City of Etobicoke, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 12th day of October, 1993, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that Kishore Premji Tanna be suspended for a period of one month commencing July 1st, 1994, such suspension to continue thereafter, indefinitely, until all the outstanding matters have been attended to by the Solicitor to the satisfaction of the Law Society and that he pay costs in the amount of \$500.00.

DATED this 23rd day of June, 1994

"P. Epstein"  
Acting Treasurer

(SEAL - The Law Society of Upper Canada)

"R. Tinsley"  
Secretary

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