

MINUTES OF CONVOCATION

Friday, 27th March, 1992
9:30 a.m.

PRESENT:

The Treasurer (James M. Spence), Bastedo, Bellamy, Bragagnolo, Brennan, Campbell, Carter, Cass, Copeland, Cullity, Elliott, Epstein, Farquharson, Feinstein, Finkelstein, Furlong, Graham, Hickey, Howland, Jarvis, Kiteley, Krishna, Lamek, Lamont, Lax, Legge, Levy, McKinnon, Murphy, Murray, O'Brien, Palmer, Pepper, Peters, Rock, Ruby, Scace, Scott, Somerville, Thom, Topp, Wardlaw, Weaver and Yachetti.

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IN PUBLIC

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The Treasurer announced that the former chief librarian Mr. George Johnston would soon be celebrating his 100th birthday and that on March 26th, Mr. Arnup celebrated his 40th anniversary as a bencher of the Law Society.

The Treasurer also referred to the material distributed to Convocation on the Federation of Law Societies of Canada draft protocol relating to interjurisdictional practice.

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DRAFT MINUTES

The Draft Minutes for February 28th, 1992 were approved by Convocation.

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MOTION

It was moved by Patrick Furlong, seconded by James Wardlaw, THAT the Annual Meeting of The Law Society of Upper Canada be held on Wednesday, November 11th, 1992 at 5:00 p.m. at Osgoode Hall, Toronto.

Carried

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FINANCE AND ADMINISTRATION COMMITTEE

Mr. Wardlaw presented the Reports the Finance and Administration Committee of its meetings on March 12th and March 26th, 1992.

Meeting of March 12th, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE AND ADMINISTRATION COMMITTEE begs to report:

Your Committee met on Thursday, the 12th of March 1992 at three o'clock in the afternoon, the following members being present: J.J. Wardlaw (Vice-Chair in the Chair), D.E. Bellamy (Vice-Chair), R.C. Bragagnolo, A. Feinstein, D.H.L. Lamont, R.W. Murray, and K.J. Palmer. Also in attendance were D.A. Crosbie, D.E. Crack, R.F. Tinsley, M.J. Angevine, D.N. Carey and our Auditors from Ernst & Young, P. Kinch and D. Yule.

B.
ADMINISTRATION

1. FINANCIAL REPORT

The Director presented the highlights memorandum for the three Law Society Funds together with supporting financial statements for the 8 months ended February 29, 1992.

Approved

2. AUDITORS' RECOMMENDATIONS

Our Auditors, Ernst & Young have submitted their "Post Audit Letter" regarding the Society's internal accounting controls. The Director has responded to the recommendations and a copy of the letter was before the Committee.

The Committee recommended that Mr. A. Feinstein meet with the Under Treasurer, the Director of Finance and our auditors to review management responses and report back to the Committee.

3. BUDGET 1992/93

(a) General Fund Consolidated Budget

A preliminary draft of the Law Society's General Fund Consolidated Budget which has been reviewed by senior management, was before the Committee.

27th March, 1992

Committees will be making further amendments to their budgets and senior management will review a second draft of the budget for presentation at a special Finance Committee meeting on March 26, 1992.

At that meeting the Committee will be asked to approve the budget and the Society's Omnibus application to the Law Foundation of Ontario to be presented to the Foundation's Board of Trustees' Meeting on March 31st, 1992.

Noted

(b) Errors & Omissions Insurance Fund - Budget Fiscal 1992

Attached is a copy of the Errors & Omissions Insurance Fund Budget for the year ended December 31, 1992.

This budget was approved by the Insurance Committee in February and presented to Convocation February 28, 1992.

Noted

(c) Review of Legal Aid Budget

In the past the Legal Aid Budget has not come to the Finance Committee for review, but rather been presented by the Legal Aid Committee to Convocation for approval.

Note: Item deferred, see page 71

At February Convocation, the Chair of the Finance Committee had asked that representatives of the Finance and Administration Committee meet with officials of the Legal Aid Plan to review the budget which was before Convocation in February. A report of that meeting was before the Committee.

The Committee recommended that in the future years of a copy of the Legal Aid budget be presented for approval to the Finance Committee before being submitted to Convocation.

Approved

4. REPORT OF THE SALARY AND BENEFITS SUBCOMMITTEE

The report of the Salary and Benefits Subcommittee was before the meeting as follows:

"Following a number of earlier meetings, the subcommittee, consisting of James Wardlaw, Chair, Denise Bellamy and Arthur Scace, met with the Under Treasurer and the Director of Finance and Administration on March 12, 1992.

Having regard for the salary adjustments being made by the provincial government, and the Legal Aid Program and the straightened financial situation facing the Law Society, it is recommended that the salary adjustment for the Law Society should be limited to 1% of salary for the support staff (salary bands 1 to 7). No adjustments will be made to management or professional staff or others in the salary bands 8 to 14.

The total cost of implementation is \$51,230 (including the Education Department).

It is further recommended that the financial position of the Law Society be reviewed in December 1992 and if sufficient funds are available in the salary accounts, that the final 25% of pay equity adjustments be implemented on January 1, 1993.

27th March, 1992

The subcommittee also recommends that staff be advised that the Law Society has not departed from its intent to tie salaries to comparable positions in the City of Toronto. Should this constraint measure result in Law Society salaries falling below the comparable positions, the salaries will be adjusted as soon as economic conditions permit."

Approved

5. REPORT OF THE WOMEN IN THE LEGAL PROFESSION

The Women in the Legal Profession Committee considered a report of its Subcommittee on maternity leaves. A copy of that recommendation was before the meeting.

The Director was asked to prepare a financial impact statement and report back to the Committee.

6. ACQUISITION OF VOICE MAIL

A study for the implementation of voice mail for the Law Society's telephone system has been completed and a memorandum from the Director outlining the system and a cost benefit analysis was before the Committee.

The Committee approved the acquisition of a voice mail system subject to receipt of final quotes and approval by the Chair.

7. ANALYSIS OF THE MANITOBA LEGAL AID STUDY - FUNDING

Deferred until the March 26, 1992 special meeting of the Finance and Administration Committee.

8. CLIC FUNDING REQUEST

Deferred until the March 26, 1992 special meeting of the Finance and Administration Committee.

9. ADVOCATES' SOCIETY INSTITUTE - REVISION OF BUDGET

Deferred until the March 26, 1992 special meeting of the Finance and Administration Committee.

10. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 27 members who have not complied with the requirements respecting annual filing and who have not paid their late filing fee.

In all 27 cases all or part of the late filing fee has been outstanding four months or more. The 27 members owe \$34,830 of which \$15,870 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of the 27 members be suspended on March 27, 1992 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

Note: Motion, see page 72

(see list in Convocation file)

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

The following members paid their Annual Fees with a cheque which was subsequently dishonoured by the bank.

| | |
|-----------------------|------------|
| Waldo Winston Martin | \$1,166.30 |
| Susan Elizabeth Dolan | 1,166.30 |

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on March 27th, 1992 if the Errors and Omissions Insurance levy remains unpaid on that date.

Approved

Note: Motion, see page 71

12. SUSPENSION OF MEMBERS - ARREARS OF ANNUAL FEES

The following members have not paid their annual fees which were due on 1st October, 1991.

| | |
|--------------------------|-----------------|
| Roger Edgar Bellefeuille | Alexandria |
| Edward Winston Wilmore | Worcester, UK |
| Robert John King | Clearwater, FLA |

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on the March 27th, 1992 if the annual fees remain unpaid on that date.

Approved

Note: Motion, see page 71

13. 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 membership in the Society without payment of annual fees:

| | |
|--------------------------|-----------|
| Gordon Neil Guyatt | Hamilton |
| Lawrence Beverley Heath | Toronto |
| Edsworth McAuley Searles | Agincourt |
| Philip Harry Gill Walker | Toronto |
| William Anthes Willson | Windsor |

(b) 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:

| | |
|-------------------------------|---------------------|
| Elma Kimpel | Niagara-on-the-Lake |
| Sean Kevin Mullarkey | Nepean |
| Hugh Evan Murray McGillicuddy | Cameron |
| John Gregory Starzynski | Guelph |

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

Approved

14. RESIGNATION - REGULATION 12

(a) Pierre Michel Bertrand of Ottawa has applied for permission to resign his membership in the Society and has submitted a Declaration in support. He was called to the Bar on the 17th of April 1985 and has never been in private practice. His annual filings are up to date and the member has requested that he be relieved of publication in the Ontario Reports.

(b) Janice Anne Munro of Toronto has applied for permission to resign her membership in the Society and has submitted a Declaration in support. She was called to the Bar on the 7th of April 1982 and has not practised since. Her annual filings are up to date and the member has requested that she be relieved of publication in the Ontario Reports.

(c) Albrecht Wilhelm Albert Bellstedt of Edmonton, Alberta has applied for permission to resign his membership in the Society and has submitted a Declaration in support. He was called to the Bar on the 22nd of March 1974. He practised with Miller, Thompson from his call until May 1978. He has not practised in Ontario since that date. He claims that all trust funds and client's property have been left with Miller, Thompson and that he has not handled trust funds and client's property since his departure from the firm. His annual filings are up to date and the member has requested that he be relieved of publication in the Ontario Reports.

(d) Ronald Lorne Gunning of Reno, Nevada has applied for permission to resign his membership in the Society and has submitted a Declaration in support. He was called to the Bar on the 17th of March 1967 and practised until 1972 when he moved to the United States. He has not practised Ontario law for 20 years and has not handled trust funds or client's property since 1972. His annual filings are up to date and the member requested that he be relieved of publication in the Ontario Reports.

(e) Wendy Lynn Bernfeld of Amsterdam, The Netherlands, Europe, has applied for permission to resign her membership in the Society and has submitted an affidavit in support. She was called to the Bar on the 6th of April 1982 and practised until 1984. She has not handled trust funds or other client's property since that time. Her annual filings are up to date and she requests to be relieved of publication in the Ontario Reports.

(f) Arlene Judith Blatt of Toronto has applied for permission to resign her membership in the Society and has submitted a Declaration in support. She was called to the Bar on the 10th of April 1984 and practised law on a limited freelance basis, which was limited to research, attending motions, teaching and mediation. She has never handled trust funds or client's property. Her rights and privileges as a member of the Society were suspended on the 28th of March 1991 for her failure to pay the 1990-91 annual fees. Arrears of fees now total \$1,348.20. Her annual filings are up to date and she requests to be relieved of publication in the Ontario Reports.

(g) Anne Ethel Scott of Toronto has applied for permission to resign her membership in the Society and has submitted a Declaration in support. She was called to the Bar on the 9th of May 1979 and practised law for five years. She left the practice of law to teach and still continues to do so. Her rights and privileges were suspended on the 27th of February 1986 for her failure to pay the 1985-86 annual fees. She was reinstated on the 22nd of February 1991 upon payment of the 1985-86 fees and the 1990-91 fees with the agreement that the remaining fees be paid within one year. To date she has not paid the outstanding fees nor has she paid the current fees. Arrears of fees total \$4,162.30. Her annual filings are up to date and she requests to be relieved of publication in the Ontario Reports.

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

Approved

C.
INFORMATION

1. CHANGES OF NAME

(a) Members

| <u>From</u> | <u>To</u> |
|-------------------------|---|
| Mary Christine DeFelice | Maria Cristina DiFelice (Change of Name Certificate) |
| Margaret Leigh Flindall | Margaret Leigh Waddell (Married Name) |

Noted

2. ROLLS AND RECORDS

(a) Deaths

The following members have died:

| | |
|---------------------------------------|--|
| Lily I. Sherizen Toronto | Called November 20th 1940 Died August 13th 1991 |
| Alfred John Sneath Toronto | Called September 16th 1920 Died September 10th 1991 |
| Judith Lynne Williams Plymouth, MI | Called April 11th 1983 Died November 30th 1991 |
| Gordon Irving Purvis Dundas | Called June 25th 1953 Died January 5th 1992 |
| Charles Ralph Best Salter Toronto | Called September 20th 1957 Died January 23rd 1992 |
| Leonard Leslie Annett Toronto | Called April 14th 1978 Died February 4th 1992 |
| Joseph James Berry Guelph | Called March 26th 1971 Died February 6th 1992 |
| George Ernest Wallace North Bay | Called June 18th 1936 Died February 19th 1992 |

Noted

3. LEGAL MEETINGS AND ENTERTAINMENT

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

| | |
|----------------|--|
| March 4, 1992 | Legal Aid Seminar Barristers' Lounge |
| March 6, 1992 | Phi Delta Dinner Convocation Hall |
| March 25, 1992 | Judges Retirement Dinner Convocation Hall |
| March 26, 1992 | Lawyers' Club Convocation Hall |

| | |
|----------------|--|
| April 15, 1992 | Medico Legal Convocation Hall |
| April 16, 1992 | Lawyers' Club Convocation Hall |
| April 23, 1992 | Women Legal Assoc. Convocation Hall |
| April 24, 1992 | Criminal Lawyers' Dinner Convocation Hall |

Noted

ALL OF WHICH is respectfully submitted

DATED this 27th day of March 1992

"J. Wardlaw"
for Chair

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

B-Item 1 - Memorandum from Mr. David Crack to the Chair and Members of the Finance Committee dated March 12, 1992 re: Financial Statement Highlights - February 1992. (Pages 9 - 13)

Mr. Wardlaw accepted an amendment from Mr. Copeland that Item 3(c) under Administration be deferred for one month so that the Legal Aid Committee could consider the matter.

THE REPORT AS AMENDED WAS ADOPTED

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MOTION TO SUSPEND: FAILURE TO PAY ANNUAL FEES

It was moved by James Wardlaw, seconded by Denise Bellamy THAT the rights and privileges of each member who has not paid all of their annual fees for 1991-92 and whose name appears below be suspended for a period of one year from March 27, 1992 and from year to year thereafter, or until their fees are paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

| | |
|--------------------------|-----------------|
| Roger Edgar Bellefeuille | Alexandria |
| Edward Winston Wilmore | Worcester, UK |
| Robert John King | Clearwater, FLA |

Carried

MOTION TO SUSPEND: ANNUAL FEE CHEQUES RETURNED N.S.F.

It was moved by James Wardlaw, seconded by Denise Bellamy THAT the rights and privileges of the following members who paid their Annual Fees for the period July 1, 1991 to June 30, 1992 with cheques which were subsequently dishonoured by the bank be suspended from March 27, 1992 for one year and from year to year thereafter until the necessary fees have been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

| | |
|-----------------------|---------|
| Waldo Winston Martin | Toronto |
| Susan Elizabeth Dolan | Ottawa |

Carried

MOTION TO SUSPEND: FAILURE TO PAY ERRORS AND OMISSIONS INSURANCE LEVY

It was moved by James Wardlaw, seconded by Denise Bellamy THAT the rights and privileges of the following member who has not paid the Errors and Omissions fee for the late filing Insurance Levy within four months after the day on which payment was due and whose name appears below be suspended from April 2, 1992 for one year and from year to year thereafter or 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.

Ronald J. Davidson

Carried

MOTION TO SUSPEND: FAILURE TO PAY FEE FOR LATE FILING FORM 2/3

It was moved by James Wardlaw, seconded by Denise Bellamy 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 March 27, 1992 for one year and from year to year thereafter or 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.

(See list in Convocation file)

Carried

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Meeting of March 26th, 1992

The Report was stood down.

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ADMISSIONS COMMITTEE

Mr. Brennan presented the Report of the Admissions Committee of its meeting on March 12th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of March, 1992 at 9:30 a.m., the following members were present: Mr. Goudge (Vice-Chair), Messrs. Brennan and Lamont.

A.
POLICY

1. REGULATION 573 - Section 4(2) - TRANSFERS FROM QUÉBEC

All applicants applying to transfer from the Province of Québec under Regulation 4(2) who do not hold an approved LL.B. degree, must first successfully complete a comprehensive examination on the Common Law of Ontario before moving on to the second step of the transfer process. Candidates failing on their first attempt are permitted to resit the examination. The current policy is that candidates who fail a second time must withdraw from the transfer process until such time as they have acquired an additional 3 years in practice.

The Committee was asked to review this policy and decide if it would be appropriate to limit the applicant to two attempts of the examination.

The Committee recommends that the current policy be amended to permit each applicant to sit the Common Law examination on up to three separate occasions with additional attempts permitted in the discretion the Committee.

Note: Motion, see page 75

B.
ADMINISTRATION

1. DIRECT TRANSFER - QUEBEC - REGULATION 4(2) - SPECIAL PETITION

Stephane Lessard B.C.L from the University of Montreal 1986, Certificate, International Space University, Cambridge, Massachusetts 1988, LL.M in Air and Space Law, McGill University 1989. Mr. Lessard expects to graduate with an LL.B. from the University of Ottawa in May 1992.

Mr. Lessard was called to the Bar of Quebec in November 1988. He practised in that Province from November 1988 until September 1991 (34 months). He then entered the University of Ottawa to commence a common law degree. From September 1991 until the present Mr. Lessard has worked on a part-time basis, with clients in the field of intellectual property, bankruptcy and general commercial law. He has also done some consulting work with colleagues for the Canadian Space Agency.

Mr. Lessard presented a special petition that the Committee consider his 7 months of part-time work, in 1991-92, while at the University of Ottawa, as making up the additional 2 months necessary to complete the 3 years of practice required under Regulation 4(2). Mr. Lessard presented a Certificate of Good Standing and requested permission to proceed under Regulation 4(2) and be excused writing the examination in the Common Law, subject to his receiving an approved LL.B. degree in April.

The recommendation is that the applicant be given permission to proceed under Regulation 4(2) and be excused writing the examination in Common Law, subject to his receiving an approved LL.B. degree in May 1992.

Approved

2. DIRECT TRANSFER - COMMON LAW - REGULATION 4(1)

The following candidates have met all the requirements to transfer under Regulation 4(1):

| | |
|------------------|----------------------|
| Allan Ludkiewicz | Province of Manitoba |
| Patricia Lane | Province of Manitoba |

Approved

3. CALL TO THE BAR AND CERTIFICATE OF FITNESS

The following candidate having successfully completed the 32nd Bar Admission Course and having deferred his Call, has now filed the necessary documents and paid the required fee and applies for call to the Bar and to be granted a Certificate of Fitness at Regular Convocation on March 27, 1992:

Ian Peach

Approved

27th March, 1992

Robert Kerry Wilkins, B.A. 1967 University of Utah; M.A. 1969 University of Michigan; LL.B. 1986 University of Toronto. Mr. Wilkins successfully completed the 29th Bar Admission Course in 1988.

In February, 1988, he was not entitled to be called to the Ontario Bar because he was not a Canadian citizen. After July, 1989, when the Law Society Act was amended to permit permanent residents of Canada to practise law in Ontario, Mr. Wilkins chose not seek membership in the Ontario Bar because he felt he could not, in conscience, take an oath of allegiance to the Queen.

In light of Convocation's decision in January, 1992 to make the Oath of Allegiance optional, Mr. Wilkins petitioned the Committee to be called to the Bar and granted a Certificate of Fitness at Regular Convocation on March 27, 1992. He has filed the necessary documents including an affidavit of his employment since completing the Bar Admissions Course in 1988.

While he is technically outside the three year deferral period, having regard to all the circumstances, the recommendation is that Mr. Wilkins' petition be granted and he be called to the Bar.

Approved

The following candidates having successfully completed the 33rd Bar Admission Course and having deferred their Call, have now filed the necessary documents and paid the required fee and apply for call to the Bar and to be granted a Certificate of Fitness at Regular Convocation on March 27, 1992:

Maltaise Esmeralda Cini
Mary Shasta Desbarats
Charlene Violet Lonmo

Approved

Note: Amendment, see page 75

The following 33rd Bar Admission Course candidate expects to complete the Course during the month of March, 1992 and wishes to be Called to the Bar at the Regular Convocation on March 27, 1992:

Robert McLean Girvan

This application is approved conditional on the candidate successfully completing the course, filing the necessary documents and paying the required fee prior to March 27, 1992

4. EXAMINATION RESULTS

COMMON LAW EXAMINATIONS

The results of the common Law examinations held in January, 1992 are before the Committee:

The following candidates failed:

Ronald Shacter
Daniel Paul

Noted

C.
INFORMATION

1. ADMISSIONS COMMITTEE HANDBOOK

A copy of the Admissions Committee Handbook was distributed to each of the Committee members at the meeting. This is a new publication prepared by the staff for the assistance of the Committee.

Benchers are invited to offer their suggestions for additions or improvements.

Noted

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"L. Brennan"
for Chair

Mr. Brennan advised that Item 3 under Administration be amended by adding the name of Grant Monck as an additional candidate to be called to the Bar.

It was moved by Colin McKinnon, seconded by Roger Yachetti that Item 1 under Policy re: Transfers from Quebec, be amended to provide that candidates be permitted two attempts to sit the Common Law examination with further attempts at the discretion of the Committee.

Carried

THE REPORT AS AMENDED WAS ADOPTED

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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 each of them by the Treasurer.

| | |
|-----------------------|---------------------------|
| David George Cowling | 33rd Bar Admission Course |
| Mary Shasta Desbarats | 33rd Bar Admission Course |
| Robert McLean Girvan | 33rd Bar Admission Course |
| Grant Monck | 33rd Bar Admission Course |
| Donald James McMahon | 33rd Bar Admission Course |
| Ian Laird Peach | 32nd Bar Admission Course |
| Robert Kerry Wilkins | 29th Bar Admission Course |

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RESUMPTION OF FINANCE AND ADMINISTRATION REPORT

Meeting of March 26th, 1992

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 26th of March, 1992, the following members being present: J.J. Wardlaw (Vice-Chair in Chair), D. Bellamy (Vice-Chair), T.G. Bastedo, R.C. Bragagnolo, L. Brennan, A. Feinstein, D.H.L. Lamont, R.W. Murray, K.J. Palmer, P.B.C. Pepper, M.J. Somerville and M.P. Weaver. Also in attendance were D.A. Crosbie and D.E. Crack.

B.
ADMINISTRATION

1. ANALYSIS OF THE MANITOBA LEGAL AID STUDY - FUNDING

At its meeting in February, the Committee was asked by Robert L. Holden, Provincial Director of Legal Aid, to consider a contribution of up to one half the cost of a \$15,732.50 study prepared by Teri Pristupa. This study reviewed the report on Legal Aid in the Province of Manitoba which had been done at the request of the Government of Canada. The Committee had denied their request.

Ms. Fran Kiteley, Chair of the Legal Aid Committee, having asked the Committee to reconsider its decision, appeared before the meeting and explained how the thrust of the report was to benefit the Law Society and its support of Legal Aid. As administrator of the Plan, the Society should, therefore, pay this portion of the account.

Approved

2. C.L.I.C. - FUNDING REQUEST

The Society is advised in a letter dated March 10, 1992 from Basil D. Stapleton, President of Canadian Legal Information Centre, that CLIC has decided to cease operations as of April 30, 1992. This decision was necessitated by the growing uncertainty about financial support of its principle funders.

In order to facilitate an orderly unwinding of its operations, CLIC has asked for a contribution of \$35,000 by April 30th in order to accomplish this. The details of this request are in the above letter to the Director of Finance which is attached.

The Committee recommended that, since an amount of \$55,000 had been provided in the current budget and a similar amount had been anticipated for the 1992/93 year, that this amount was in fact a reduction and would be a final payment to C.L.I.C..

Approved

3. ADVOCATES' SOCIETY INSTITUTE - REVISION OF BUDGET

The Advocates' Society Institute (ASI) has made revisions to their budgets, outlined in a letter from Terrence O'Sullivan, President of the Advocates' Society which was circulated to all Benchers.

Essentially, the ASI asks that the Committee contribute \$25,000 to their operation on the basis of:

| | |
|---|-----------------|
| Current "In Kind" Contribution(rent) | \$8,992 |
| Revised "In Kind" Contributions (for photocopying, fax, telephone etc.) | 5,000 |
| Cash Contribution | <u>11,008</u> |
| | <u>\$25,000</u> |

This formula to be for the current year and the next two fiscal years of the Institute.

27th March, 1992

The Institute further seeks to have the Society sign, jointly with the Advocates' Society, a letter of intent to Madam Justice Helen McLeod, Chair of the ASI, outlining this commitment.

Mr. O'Sullivan and Eleanore Cronk, First Vice-President of the Advocates' Society, appeared before the committee.

It was recommended that the Society agree to the three year proposal in principal and commit funding as requested for the first year. Funding commitments for years two and three will be subject to approval of Convocation each year following receipt of a report from the Advocates' Society Institute on the results of its annual operations.

Approved

ALL OF WHICH is respectfully submitted

DATED this 27th of March, 1992

"J. Wardlaw"
for Chair

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

B-Item 2 - Letter from the Canadian Legal Information Centre to Mr. David Crack dated March 10, 1992 with attachments. (Marked B3 (Pages (3)))

Mr. Rock spoke in support of the commitment to the Advocates' Society Institute.

Mr. Ruby did not participate.

THE REPORT WAS ADOPTED

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LEGAL EDUCATION COMMITTEE

Mr. Lamek presented the Report of the Legal Education Committee of its meeting on March 12th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL EDUCATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of March, 1992. The following members were present: Paul Lamek (Chair), Maurice Cullity (Vice-Chair), Donald Lamont (Vice-Chair), Denise Bellamy, Lloyd Brennan, Carole Curtis, Philip Epstein, Abraham Feinstein, Stephen Goudge, Vern Krishna, Laura Legge, Colin McKinnon, Ross Murray, Arthur Scace, Marc Somerville. Representing the law schools was: Dean Mercer. Representing the Bar Admission Advisory Committee was: Jan Divok. Staff in attendance were Marilyn Bode, Brenda Duncan, Holly Harris, Mimi Hart, Stephen Hodgett, Cheryl Keech, Alexandra Rookes, Alan Treleven.

A.
POLICY

1. ARTICLING SUBCOMMITTEE

The Legal Education Committee at its February meeting exempted Louis Charlebois from the requirement to complete Phase One. Mr. Charlebois had been granted a waiver of the articling requirement by the Articling Subcommittee and successfully appealed the requirement to take Phase One to the Legal Education Committee.

Until that time, all Bar Admission Course students, regardless of their entitlement to an articling abridgment or waiver, had been required to complete Phases One and Three.

The Articling Subcommittee subsequently considered the effect of the new decision on other applicants who request a waiver of the articling requirement. Its recommendation has been approved by the Legal Education Committee.

It is recommended that applicants who are granted a complete waiver of the articling requirement be exempted from the Phase One requirement.

Approved

C.
INFORMATION

1. REQUEST TO REWRITE BAR ADMISSION COURSE BUSINESS LAW EXAMINATION

The applicant requested permission to write the Bar Admission Course Business Law examination for the fourth time.

The applicant was enrolled in the 31st Bar Admission Course, the teaching term of which ran from September of 1989 to January of 1990. He failed the Public Law examination but was successful in the supplemental examination. He failed the Business Law examination and a subsequent supplemental examination. He received permission from the Legal Education Committee to write a further supplemental examination, which he also failed.

The Legal Education Committee, at its meeting of May 17, 1990, considered the applicant's request to be passed in the Bar Admission Course without the necessity of writing a further Business Law examination. The grounds advanced were medical-psychiatric, and were supported by medical letters.

The Legal Education Committee declined to grant the applicant's request and informed him that it would be necessary for him to repeat the entire teaching term and all of the examinations of the Bar Admission Course. The decision was confirmed by Convocation.

The applicant advised the Director by telephone on June 6, 1990 that he would be unable because of his medical condition to attend the Bar Admission Course or to write any examination, and that accordingly he would not enroll in the 32nd Bar Admission Course, which commenced on September 17, 1990. The applicant also indicated that he wished to have the Legal Education Committee reconsider the decision that he be required to repeat the entire Bar Admission Course. He accepted the Director's advice, however, to defer his request until he considered himself to be sufficiently well to practise law and to attend any classes and write examinations.

27th March, 1992

By letter of October 15, 1990, the Secretary informed the applicant that because of allegations raised about his behaviour while articling the Admissions Committee would have to pass on the issue of "good character". The Secretary suggested that when the applicant felt ready to re-try the Bar Admission Course, that the applicant write to the Secretary to have the matter of "good character" considered by the Admissions Committee.

The applicant's request to re-write the Business Law examination is contained in a letter to the Secretary and a supporting letter from his psychiatrist.

The Director has subsequently discussed the applicant's request with the Secretary. The Secretary recommends that any permission which might be granted to the applicant to re-write the Business Law examination be subject to the applicant successfully applying to the Admissions Committee. The Secretary further recommends that the applicant's right to re-enrol in the Bar Admission Course be subject to approval of the Admissions Committee.

It was decided that the applicant's request to re-write the Business Law examination would be denied and that the applicant would be granted permission to satisfy the Bar Admission Course requirements only by completing Phases One and Three of the Bar Admission Course in their entirety and on condition of having obtained prior approval of the Admissions Committee.

2. CLE SUBCOMMITTEE

The Continuing Legal Education Subcommittee met on Thursday, February 27. In attendance were Colin McKinnon (Chair), Colin Campbell, Susan Elliott, Paul Perell, Gary Watson, Brenda Duncan, Cheryl Keech and Alan Treleven.

Discussions on the subject of Mandatory Continuing Legal Education are at a very preliminary stage, and will continue.

3. ARTICLING SUBCOMMITTEE

The Subcommittee met on February 28. In attendance were Marc Somerville (Chair), Denise Bellamy (Vice-Chair), Janne Burton, Victoria Colby and Jay Rudolph. Staff members attending were Marilyn Bode, Deborah Brown and Mimi Hart.

The Subcommittee considered the membership history of two members who applied to serve as principals for the 1992/93 articling year. One member had two Errors and Omissions claims in the three years immediately preceding the application date. The Professional Standards Committee has recently approved the member as a candidate for a practice review. Both applications were denied by the Articling Subcommittee, in accordance with section 4.2.2 of the Proposals for Articling Reform (page 1).

The Subcommittee spent considerable time discussing a proposal relating to part-time articles. The members recognized the value of such a proposal to students whose access to the profession might otherwise be denied. A limited number of requests for permission to article part-time have recently been received. The requests include a Michigan attorney who would like to pursue a call to the bar in Ontario while maintaining his Detroit area law practice. Other requests are from female students with infants and small children who would reluctantly postpone their articles if required to do them full-time. The members of the Subcommittee noted the favourable experience of other Law Societies in Canada and other professional bodies (pages 2 - 4) with part-time completion of articling or work experience requirements. The Subcommittee wanted further time to consider the issues, including the criteria for approval of part-time articling arrangements. The Subcommittee expects to have a proposal for consideration by the Legal Education Committee at its April meeting.

The Subcommittee considered and granted three requests for waiver of the articling requirement based on experience in a foreign jurisdiction. Two other abridgment applicants were received based on experience other than in articling or practice. One was granted. The other was deferred pending receipt of further information from the applicant.

4. BAR ADMISSION COURSE SUBCOMMITTEE

The Bar Admission Course Subcommittee met at 5:30 p.m. on Wednesday, March 11. In attendance were Donald Lamont (Chair), Lloyd Brennan (Vice-Chair), Carole Curtis, Daniel Kuzmyk, Erika Abner, Sophia Sperdakos, and Alan Treleaven. The Subcommittee will present its recommendations to the Legal Education Committee and to Convocation in April.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"P. Lamek"
Chair

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

C-Item 3 - Copy of the Proposals for Articling Reform, A Report to the Legal Education Committee, October, 1990.

(Page 1)

C-Item 3 - Copy of the Proposal for Part-time Articles, Other jurisdictions/Law Societies/Professional Bodies.

(Pages 2 - 4)

THE REPORT WAS ADOPTED

.....

LEGAL AID COMMITTEE

Ms. Kiteley presented the Report of the Legal Aid Committee of its meeting on March 12th, 1992.

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 12th of March, 1992 at two o'clock in the afternoon, the following members being present: Frances P. Kiteley, Chair, Messrs. Brennan, Bond, Mr. Carter, Ms. Cohen, Mr. Copeland, Ms. Curtis, Mr. Durno, Ms. Fuerst, Messrs. Koenig, Lalonde, Petiquan and Ms. Weir.

A.
POLICY

1.(a) ABT REPORT

The Legal Aid Committee continued its review of the Abt Report. The subject chapter was 7. The review will continue at the April meeting.

27th March, 1992

(b) MANIFEST COMMUNICATIONS

The Executive from Manifest Communications presented a one and one half hour oral report concerning various communications strategies which may be appropriate for the Plan. A written report will be delivered to the Committee prior to its next meeting.

B.
ADMINISTRATION

1. (a) REPORT OF THE PROVINCIAL DIRECTOR FOR THE TEN MONTHS ENDED JANUARY 31, 1992

The Director's report for the ten months ended January 31, 1992 is attached hereto as SCHEDULE (A).

(b) REPORT ON THE PAYMENT OF SOLICITORS ACCOUNTS FOR FEBRUARY, 1992

The Report on the Payment of Solicitors Accounts is attached hereto as SCHEDULE (B).

(c) REPORT ON THE STATUS OF REVIEWS IN THE LEGAL ACCOUNTS DEPARTMENT FOR FEBRUARY, 1992

The Report on the Status of Reviews in the Legal Accounts Department is attached hereto as SCHEDULE (C).

(d) AREA COMMITTEES - APPOINTMENTS & RESIGNATIONS

APPOINTMENTS

Frontenac

Arthur J.R.H. Neadow, solicitor

York County

Mark Winter, solicitor

RESIGNATIONS

Kenora

T.A. Platana

ALL OF WHICH is respectfully submitted

"F. Kiteley"
Chair

March 27, 1992

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

- B-Item 1(a) - Ontario Legal Aid Plan, Statement of Income and Expenditures, 10 Months Ended January 31, 1992 (\$000).
(Schedule (A), pages (2))
- B-Item 1(b) - Report on Final Accounts paid, Month of February, 1992.
(Schedule (B), pages (2))

27th March, 1992

B-Item 1(c) - Legal Accounts Department, Monthly Report, February 29, 1992.
(Schedule (C))

THE REPORT WAS ADOPTED

.....

CLINIC FUNDING COMMITTEE

Mr. Epstein presented the Report of the Clinic Funding Committee of its meeting on March 12th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Director of LEGAL AID begs leave to report:

CLINIC FUNDING

The Clinic Funding Committee submitted a report to the Director recommending funding for various projects.

The Director recommends to Convocation that the Report of the Clinic Funding Committee dated March 16, 1992 be adopted.

Attached is a copy of the Clinic Funding Committee's Report.

ALL OF WHICH is respectfully submitted

"R.L. Holden"
Robert L. Holden
Director
Legal Aid

March 16, 1992

To: Robert Holden, Esq.,
Provincial Director,
The Ontario Legal Aid Plan.

The Clinic Funding Committee met on March 12, 1992. Present were: Philip Epstein, Q.C., Chair, Joan Lax, Jim Frumau, Thea Herman and Pamela Giffin.

A. DECISIONS

1. Applications to the Clinic Funding Committee

a. Supplementary legal disbursements

Pursuant to s.6(1)(m) of the Regulation on clinic funding, the Committee has reviewed and approved applications for supplementary legal disbursements as follows:

Rural Legal Services (North Frontenac) - up to \$1,000
Bloor Information & Legal Services - up to \$2,500
Justice for Children and Youth - up to \$3,000
Jane Finch Community Legal Services - up to \$1,700

2. Purchase of Computer Equipment

The Committee approved the purchase of personal computers, printers and software for six clinics which have indicated that the acquisition of additional equipment was an urgent priority. The Clinic Funding Committee approved an allocation of funds for this purpose, in an amount up to \$21,600, for the following clinics:

- Elliot Lake & Northshore Community Legal Clinic
- Legal Assistance Kent
- Niagara North Community Legal Assistance
- Jane Finch Community Legal Services
- Muskoka Legal Clinic
- Rural Legal Services (North Frontenac)

B. INFORMATION

1. Proposed Amendments to the Ontario Labour Relations Act and Freedom of Information and Protection of Privacy Act

The Committee discussed the potential impact of these legislative reforms on the community legal clinic system and has requested a report concerning these matters from the clinic funding staff. In particular, the Committee noted that the proposed amendments to FIPPA may involve any agency in receipt of more than \$50,000 in public funds annually, and any agency to which the government appoints at least one member.

2. Community Legal Clinic System - Operational Review

The Committee had a two-hour meeting with Sue Corlett and Associates to discuss the role of the Committee in the operation of the clinic system, and to review the timelines for completion of a draft report in September, 1992.

ALL OF WHICH is respectfully submitted

"P. Epstein"
Philip Epstein, Q.C.,
Chair
Clinic Funding Committee

March 16, 1992

THE REPORT WAS ADOPTED

.....

PROFESSIONAL STANDARDS COMMITTEE

Mr. Yachetti presented the Reports of the Professional Standards Committee of its meetings on January 9th, February 13th and March 12th, 1992.

Meeting of January 9th, 1992

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 9th of January, 1992 at eleven thirty in the morning the following members being present: Mr. Yachetti (Chair), Mrs. Weaver (Vice-Chair), Mr. Finkelstein, Mr. Furlong, Ms. Graham, and Mrs. Legge.

Also present were Mrs. Devlin, Ms. McCaffrey, Ms. Poworoznyk, Ms. Smith and Messrs. Grieve and Kerr.

A.
POLICY

1. PRACTICE ADVISORY SERVICE - TRANSITIONS IN THE ONTARIO LEGAL PROFESSION

The Committee re-considered a request from the Committee on Women in the Legal Profession to review the practices and procedures employed by the Practice Advisory Service and the Practice Review Programme to ensure that they conform with the guidelines contained in the Transitions Report. More specifically, it was suggested that one of the steps which could be taken in carrying out this process would be to research statistical data to differentiate between men and women involved in the programmes.

Concerns were raised by the Committee as to the purpose for which statistical data distinguishing between men and women members of the profession would be used. Given the Law Society's emphasis on gender neutrality, the Committee felt that statistics could be manipulated to suggest that gender was responsible for demands being made on the two programmes by members.

The Committee was therefore unanimously opposed to statistical data of this nature being provided.

C.
INFORMATION

1. PRACTICE ADVISORY SERVICE - STATUS REPORT

Felicia Smith, '84, has joined the Practice Advisory Service as a staff lawyer effective November 25, 1991, bringing the Service up to its full complement of lawyers and secretarial staff. The Service responded to 8,000 requests for assistance in 1991; in 1983, with the same personnel resources, the Service responded to 3,000 matters.

Adviser #15 was distributed to the membership in December 1991.

The Committee recommended that the Adviser be published on a bi-annual basis, but that mailing costs of same, being the greatest expense associated with the Adviser, be kept to a minimum. The Committee further recommended that staff prepare a proposal on the expense issue for the February meeting.

2. PROFESSIONAL STANDARDS DEPARTMENT - STATUS REPORT

The total number of solicitors who have been involved in the Practice Review Programme to date is 101. Referrals to the programme have increased and are expected to continue to do so as departments such as Errors & Omissions, Discipline, Complaints, Audit & Investigations and Practice Advisory become more familiar with the Review Programme.

3. LINK - LAWYERS' ASSISTANCE PROGRAM - CLINICAL AUDIT

Paragraph 3.6 of the Consulting Agreement entered into by LINK Lawyers' Assistance Program and Corporate Health Consultants Ltd. provides for the LINK auditors to have access to CHC's books and records to conduct both a financial and clinical audit. To date, the Law Society has been dependent upon the quarterly statistical report prepared by CHC for information about program use and effectiveness. The nature and content of that report raises some questions about the reliability of the data provided. The Committee therefore authorized the expenditure of a contracted maximum of \$5,000. for a clinical audit as provided for in the Professional Standards Department budget. Staff are reviewing audit resources available in the community for this purpose.

ALL OF WHICH is respectfully submitted

DATED this 24th day of January, 1992

"R. Yachetti"
Chair

THE REPORT WAS ADOPTED

Meeting of February 13th, 1992

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 13th of February, 1992 at eleven thirty in the morning the following members being present: Mr. Yachetti (Chair), Mrs. Weaver (Vice-Chair), Mr. Finkelstein, Mr. Furlong, Ms. Graham, Mr. O'Connor and Mr. Wardlaw.

Also present were Mrs. Devlin, Ms. McCaffrey, Ms. Poworoznyk, and Messrs. Grieve and Kerr.

B.
ADMINISTRATION

1. PROFESSIONAL STANDARDS DEPARTMENT BUDGET - FISCAL 1992/93

A working copy of the Professional Standards Department Fiscal 1992/93 Operating Expense Budget was distributed to the Committee members for their consideration at the February meeting.

The Committee reviewed the proposed figures and requested that staff redraft the budget proposals to reflect the Committee's concerns regarding budgetary constraints in order that it may be revisited at the March meeting.

2. PRACTICE ADVISORY SERVICE BUDGET - FISCAL 1992/93

A working copy of the Practice Advisory Service Fiscal 1992/93 Operating Expense Budget was distributed to the Committee members for their consideration at the February meeting.

The Committee reviewed the proposed figures and requested that staff redraft the budget proposals to reflect the Committee's concerns regarding budgetary constraints in order that it may be revisited at the March meeting.

3. SUB-COMMITTEE WILLS & TRUSTS LAW

A copy of the Wills & Trusts Checklist was tabled at the January Committee meeting and Committee members were asked to review the form and content of the checklist with a view to its approval at the February meeting.

The Committee deferred its consideration of the checklist to the March meeting.

C.
INFORMATION

1. PRACTICE ADVISORY SERVICE - STATUS REPORT

The Practice Advisory Service is presently considering the prospect of reviewing its overall service to the profession; in particular, it is reviewing the feasibility of establishing a network of competent practitioners throughout the province who would be prepared from time to time to review on request members' practices on a pro bono basis in areas convenient to their home towns. The need for such a network is born out of the demand being placed on the Service to visit solicitors' offices in remote parts of the province. In this regard, the County and District Presidents' Association has been contacted to assist in the development of this network.

The Adviser will be published quarterly and will be distributed to the profession in conjunction with general mailings from the Law Society originating from the Communications Department.

2. PROFESSIONAL STANDARDS - STATUS REPORT

The total number of solicitors who have been involved in the Practice Review Programme to date is 108. Referrals to the programme have increased and are expected to continue to do so.

The Standards Department is consulting with the Director of Education in the Bar Admission Course to develop a course designed to educate students as to appropriate practice management techniques.

3. LINK - LAWYERS' ASSISTANCE PROGRAM - CLINICAL AUDIT

At the January 14th meeting, the Committee was advised about the need for a clinical audit of Corporate Health Consultants and authorized the expenditure for same.

Staff have concluded their discussions with the Clarke Institute and are awaiting a report from it containing proposals for different audits which can be conducted and the related costs thereof. A report from staff on the proposals is expected in the near future.

4. PROFESSIONAL STANDARDS CHECKLIST - RESIDENTIAL REAL ESTATE LAW

The Law Society was approached by CCH with a request to publish the Real Estate Checklist. Mr. Lamont was consulted and has agreed to the publication.

CCH has indicated that it will acknowledge the Law Society's copyright.

The publishing of the checklist is being done to give effect to the Committee's position that the checklist receive the widest possible distribution.

5. FAMILY LAW CHECKLIST

The Family Law Checklist was considered by the County and District Law Presidents at their November Plenary. Concern was raised with respect to the requirements regarding conflict of interest contained in the checklist because it was felt that these requirements were more stringent than those contained in Rule 5 of the Rules of Professional Conduct.

Members of the sub-committee were advised of these concerns and the issue was raised with Senior Counsel Professional Conduct. The matter was referred to the Professional Conduct Committee for its consideration at the February meeting.

ALL OF WHICH is respectfully submitted

DATED this 28th day of February, 1992

"R. Yachetti"
Chair

THE REPORT WAS ADOPTED

Meeting of March 12th, 1992

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 12th of March, 1992 at eleven thirty in the morning the following members being present: Mr. Yachetti (Chair), Mr. Finkelstein, Mrs. Legge, Mr. Manes and Mr. Wardlaw.

Also present were Mrs. Devlin, Ms. McCaffrey, Ms. Poworoznyk, and Messrs. Grieve and Kerr.

A.
POLICY

1. NON-BENCHERS SERVING AS MEMBERS ON THE PROFESSIONAL STANDARDS COMMITTEE

In June 1991, Convocation adopted a recommendation of the Research & Planning Committee that an advertisement be placed in the Ontario Reports inviting members interested in serving on Committees to submit their names to the Secretary of the Law Society. Accordingly, an advertisement was placed in the September 27, October 4 and November 1, 1991 issues of the Ontario Reports and over 100 letters of interest were received.

The Committee discussed this issue and requested that a copy of the Research and Planning Committee's Report to Convocation be distributed to all members for their consideration.

Further discussion with regard to this issue was deferred to the April Committee meeting.

2. FAMILY LAW CHECKLIST

The Family Law Checklist was considered by the County and District Law Presidents at their November Plenary. Concern was raised with respect to the requirements regarding conflict of interest contained in the checklist because it felt that these requirements were more stringent than those contained in Rule 5 of the Rules of Professional Conduct.

Members of the sub-committee were advised of these concerns and the issue was raised with Senior Counsel Professional Conduct. The matter was considered by the Professional Conduct Committee at its February meeting, and a recommendation regarding wording was made to Convocation. Convocation raised concern about the checklist being inconsistent with the provisions of Rule 5 and in light of contemplated amendments for Rule 5, referred the issue back to the Committee for further consideration.

The Committee proposes that the language in the checklist be re-drafted as follows:

Notwithstanding the provisions of Rule 5 of the Rules of Professional Conduct, the practice of acting for both parties to a marriage or cohabitation agreement is prohibited. It should be recognized that any agreement executed in these circumstances may subsequently be open to attack on a number of fronts with the lawyer left vulnerable to Errors and Omissions claims on the basis of a conflict of interest.

Note: Motions, see pages 89 and 95

B.
ADMINISTRATION

1. PROFESSIONAL STANDARDS DEPARTMENT BUDGET - FISCAL 1992/93

The Professional Standards Department Expense Budget for the upcoming 1992/93 Fiscal year was reviewed and approved by the Committee and will be forwarded to the Finance Committee for its consideration.

2. PRACTICE ADVISORY SERVICE BUDGET - FISCAL 1992/93

The Practice Advisory Service Expense Budget for the upcoming 1992/93 Fiscal year was reviewed and approved by the Committee and will be forwarded to the Finance Committee for its consideration.

C.
INFORMATION

1. PRACTICE ADVISORY SERVICE - STATUS REPORT

The Practice Advisory Service receives, on average, 50 requests for assistance per working day. Virtually all calls are dealt with on a 24-hour turn around basis, while urgent requests receive immediate attention.

The Director of the Service is meeting in early April with the Practice Advisers of Alberta and British Columbia, in order to formalize an on-going exchange of information. In addition, the Director is discussing with the President of the County and District Law Associations, Michael O'Dea, the formation of a province-wide mentor/advisor network of senior practitioners who would be available to review the practices of and assist members who request such a service.

2. PROFESSIONAL STANDARDS - STATUS REPORT

The Chair of the Professional Standards Committee authorized the participation in the Practice Review Programme of an additional 9 solicitors, bringing total involvement in the Programme to date to 117 members. An increase in referrals to the Programme from the Audit and Investigation Department is anticipated as a result of an educational meeting held in early March between that Department and Professional Standards Department staff.

The Professional Standards Department offers jointly with the Practice Advisory Service on a monthly basis a workshop for members who are contemplating establishing their own practices. The workshops review the cost considerations of so doing, and discuss issues such as advertising and marketing, retainers and fees, books and records, computerization, and similar relevant topics. Global Television filmed a portion of the workshop held on March 10, 1992, for a forthcoming documentary on the professions and economic constraints.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"R. Yachetti"
Chair

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

- B-Item 1 - Professional Standards - operating expense budget fiscal 1992/93 (approved by Committee March 12, 1992). (Marked B1 - B11)
- B-Item 2 - The Law Society of Upper Canada Practice Advisory, interim operating expense budget, year ended June 30, 1993. (Marked B12 - B18)

It was moved by Philip Epstein, seconded by Tom Bastedo that the phrase "domestic contracts" be inserted in place of "marriage or cohabitation agreement" set out in the Committee's proposal in Item 2 under Policy.

Item 2 under Policy was stood down.

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

LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE

Mr. Ruby presented the Reports of the Lawyers Fund for Client Compensation Committee of its meeting on February 13th and March 12th, 1992.

Meeting of February 13th, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of February, 1992, at 11:45 a.m. the following members being present:

Ross Murray (a Vice-Chair in the Chair), H. Strosberg (a Vice-Chair), L. Brennan, K. Howie, M. Somerville and S. Thom; D. Crack, P. Bell, H. Werry and G. Zecchini also attended.

A.
POLICY

1. PRESS RELEASE OF GRANTS PAID OUT OF THE FUND

The Chair asked that this matter be considered. The staff have met with the Director of Communications to discuss the form and content of a press release. A draft press release of the grant payments in October, November and December 1991 was discussed. After a discussion of this matter it was decided to defer this matter for further consideration by the Committee.

B.
ADMINISTRATION

1. USER QUESTIONNAIRE TO FUND CLAIMANTS

It was reported that this matter was on the January agenda at the request of the Chair. It was deferred to the February meeting at the request of the Committee. After a discussion of the cost analysis of the staff and the draft questionnaire that was prepared by staff working with the Director of Communications, the Committee decided not to send a User Questionnaire to Fund claimants.

2. EXHAUSTING CIVIL REMEDIES UNDER THE GUIDELINES

The Report of Mr. Strosberg, a Vice-Chair, concerning his review of the Referee's Report, in the claim against the Fund of two claimants, was before the Committee for consideration. The Review Committee decided that the claimants should exhaust all civil remedies against the retired solicitor before a grant is made from the Fund. Mr. Strosberg's Report, after reviewing the facts and the material, concludes that the claimants should complete the civil litigation against the retired solicitor, as recommended by the Referee. The Committee after discussion approved Mr. Strosberg's Report.

C.
INFORMATION

1. DEPARTMENT BUDGET

The Secretary reported to the Committee on this matter.

2. Accounts approved by Assistant Secretaries in January amounted to \$8,607.18.

3. MEMORANDA OF ASSISTANT SECRETARIES

The Secretary of the Committee reported that two memoranda of Assistant Secretaries were approved by the Review Sub-Committee and the grants appear on Schedule "A" attached.

4. Copies of the Financial Summary and the Activity Report for January 1992 are attached.
(Pgs. C1 - C3)

5. It was reported that excerpts of the Committee's report with recommendations to reduce defalcations have been sent to three benchers who practise real estate law for their comments and the proposed amendments to Forms 2 and 3 and new Forms 4 and 5 have been sent to three lawyers, whose firms do mortgage work for their comments.

ALL OF WHICH is respectfully submitted

DATED this 28th day of February, 1992

"C. Ruby"
Chair

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

- C-Item 3 - Schedule "A", Grants approved by the Review Committee and by the Lawyers' Fund for Client Compensation Committee, Thursday, February 13th, 1992. (Schedule "A")
- C-Item 4 - The Law Society of Upper Canada, Financial Summary for the period July 1, 1991 - January 31, 1992. (Marked C1 - C3)

THE REPORT WAS ADOPTED
.....

Meeting of March 12th, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of March, 1992, at 11:45 a.m. the following members being present:

C. Ruby (Chair), R. Murray (a Vice-Chair), L. Brennan, and S. Thom; D. Crosbie, P. Bell, H. Werry and J. Yakimovich also attended.

A.
POLICY

1. SPECIAL REPORT ON REDUCING DEFALCATIONS

A special report on reducing defalcations was before the Committee for consideration. The draft report has been sent to the Presidents of the 47 County Law Associations, three Benchers whose practices include mortgage work, and three law firms that do mortgage work. A copy of the draft report has also been sent to the Treasurer, the Chair of the Insurance Committee, the Chair of Professional Conduct, the Chair of Discipline (Policy Section), the Under-Treasurer and the Secretary of the Society.

After a discussion of the matter the Committee made some changes to the draft report and approved it.

IT IS RECOMMENDED that the Special Report on Reducing Defalcations be approved respecting changes to the Regulation and approved in principle subject to consultation with the County and District Law Presidents Association at their May meeting respecting the "two lawyer rule" for private mortgage transactions.

The regulatory changes require urgent action if they are to be in place in time for the September mailing of Forms 2 and 3 to all Law Society members. A copy of the special report is attached. (Pgs. A1 - A65)

Note: Motion, see page 94

B.
ADMINISTRATION

1. BUDGET ESTIMATES FOR FISCAL 1992 - 1993

The revised 1992 - 1993 Budget Estimates were considered by the Committee. The Committee discussed a number of budget items and approved the budget, with revisions, to be forwarded to the Finance Committee.

The Committee considered a report of the Director of Finance concerning the effect of the recession on claims to the Fund. A copy of the report is attached.

Your Committee recommends, subject to the approval of the Finance Committee, that the levy remain at \$1.00 per member for the fiscal year 1992 - 1993. (Pgs. B1 - B3)

2. LENGTH OF TIME FOR PAYMENT OF GRANTS OUT OF THE COMPENSATION FUND

The Chair asked that the analysis prepared by staff for the Chair of the Investments Committee as to the length of time for payments of grants from the Fund be reviewed. The Committee considered an up-dated analysis prepared by staff showing payments in 1991 and to March 4th, 1992. The Committee instructed the staff to write to the Chair of the Investments Committee and thank him for drawing this matter to the Committee's attention. A copy of the letter is attached. (Pg. B4)

3. PRESS RELEASE OF GRANTS PAID OUT OF THE FUND

The staff met with the Director of Communications, the Secretary of the Law Society and the Chair to discuss the form and content of a press release. A draft press release relating to the grant payments in October, November and December 1991, was before the Committee on February 12th, 1992 and deferred to this meeting. The Committee considered another draft press release prepared by the Director of Communications, that would be included in the Discipline Communique after Discipline Special Convocations. Your Committee decided to revise the draft press release and instructed the staff to meet with the Director of Communications in order that the revised press release could be finalized and sent out at the end of March. The wording of the press release is to be approved by the Under-Treasurer and the Chair before it is sent out.

4. POTENTIAL NON-BENCHER MEMBERS OF THE COMMITTEE

It was reported that as a result of advertisements in the Ontario Reports soliciting the names of members who would be interested in being on Law Society Committees, several members indicated an interest in being on this Committee. The names of several other persons, who had indicated an interest in being on a Law Society Committee without specifying this Committee, were also considered.

Your Committee decided to defer this matter until interviews of some interested potential non-Bencher members of the Committee could be completed.

C.
INFORMATION

1. MEMORANDA OF ASSISTANT SECRETARIES

The memoranda of Assistant Secretaries, that were approved by the Review Sub-Committee were before the Committee for information purposes only with the grants to be paid from the Fund shown on Schedule "A".

2. Accounts approved by Assistant Secretaries in February amounted to \$24,623.75.

3. Copies of the Financial Summary and the Activity Report for February 1992 are attached. (Pgs. C1 - C3)

4. DEPARTMENT BUDGET

The Secretary of the Committee reported on this matter.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"C. Ruby"
Chair

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

- A-Item 1 - Report on Reducing Defalcations. (Marked A1 - A65)
- B-Item 1 - Memorandum from Mr. David Crack, Director of Finance to Mr. Kenneth E. Howie, Q.C., Chair of Finance and Administration Committee dated February 12, 1992 re: Update on Report Re: Effect of Recession on Compensation Fund. (Marked B1 - B3)
- B-Item 2 - Letter from Ms. Heather A. Werry to Mr. J. James Wardlaw, Q.C. dated March 13, 1992 re: Aging of Compensation Fund payouts. (Marked B4)
- C-Item 1 - Schedule "A", Grants approved by the Review Committee and by the Lawyers Fund for Client Compensation Committee, Thursday, March 12th, 1992. (Schedule "A")
- C-Item 3 - The Law Society of Upper Canada, Financial Summary, for the period July 1, 1991 - February 29, 1992. (Marked C1 - C3)

The matter was stood down.

.....

DISCIPLINE COMMITTEE

Re: WILLIAM GORDON WINSOR, North York

It was moved by Marc Somerville, seconded by Tom Bastedo that Mr. Winsor's suspension be effective April 1st, 1992.

Carried

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CONVOCATION ADJOURNED FOR LUNCHEON AT 12:50 P.M.

.....

The Treasurer and Benchers had as their guest for luncheon Mr. Robert McElligott, President of Meurseault Investments.

.....

CONVOCATION RECONVENED AT 2:35 P.M.

.....

PRESENT:

The Treasurer, Bastedo, Bellamy, Brennan, Campbell, Carter, Cass, Cullity, Elliott, Epstein, Feinstein, Finkelstein, Furlong, Graham, Hickey, Howland, Jarvis, Krishna, Lamek, Lamont, Lax, Legge, McKinnon, Murphy, Murray, O'Brien, Palmer, Peters, Rock, Ruby, Scott, Somerville, Thom, Topp and Wardlaw.

.....

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IN PUBLIC

.....

RESUMPTION OF LAWYERS FUND FOR CLIENT COMPENSATION COMMITTEE

Meeting of March 12th, 1992

It was moved by Marc Somerville, seconded by Dan Murphy that the proposals set out in the Special Report on reducing defalcations and the family law issues raised in the Professional Standards Report, Item 2 re: Family Law Checklist, in so far as they relate to Rule 5 be put to the profession as soon as possible.

Withdrawn

It was moved by Laura Legge, seconded by Michael Hickey that the matter of solicitors acting as mortgage brokers and acting on both sides be referred to a committee of solicitors and County and District Presidents.

Withdrawn

It was moved by David Scott, seconded by Neil Finkelstein that the aspect of the report which deals with Rule 5 amendment be deferred and be brought back in the fall with other amendments to Rule 5.

Withdrawn

It was moved by Stuart Thom, seconded by James Wardlaw that Convocation adopt recommendation (3) on page A5 of the Special Report re: Form 2/3.

Carried

It was moved by Colin Campbell, seconded by Laura Legge that the balance of the Report be deferred and that there be consultation with the profession by several publications in regard to Recommendations 1 and 2 and the general issue of Rule 5 with a report to be made to Convocation in June 1992.

Carried

THE REPORT AS AMENDED WAS ADOPTED

.....

RESUMPTION ON PROFESSIONAL STANDARDS COMMITTEE

Meeting of March 12th, 1992

It was moved by Philip Epstein, seconded by Marc Somerville that the following amendment to Item 2 under Policy, be made to the wording in the checklist:

"Convocation is reviewing Rule 5 respecting conflicts of interest. The results of that debate and potential changes to the Rule will not be determined until at least the fall of 1992. Accordingly, until Convocation deals further with Rule 5, the Law Society strongly recommends that the practice of acting for both sides to a domestic arrangement, including marriage, cohabitation, separation and paternity agreements be discouraged and that the profession recognize the advisability of independent legal advice in connection with these agreements."

Carried

THE REPORT AS AMENDED WAS ADOPTED

.....

DISCIPLINE COMMITTEE

Mr. Rock presented the Reports of the Discipline Committee of its meetings on March 12th and March 26th, 1992.

Meeting of March 12th, 1992

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 12th of March, 1992 at one-thirty in the afternoon, the following members being present:

A. Rock (Chair), P. Peters (a Vice-Chair), R. Topp (a Vice-Chair), D. Bellamy, N. Finkelstein, C. McKinnon, R. Murray D. Scott; S. Thom and R. Yachetti; J. Lax and D. Crosbie, S. Kerr, G. MacKenzie, G. Macri, M. O'Connor, J. Varro, H. Werry, and J. Yakimovich also attended.

A.
POLICY

1A. CIRCULATION OF REASONS OF CONVOCATION
RESPECTING DISCIPLINARY MATTERS

The Chair sought your Committee's views on the appropriate manner of circulating the reasons of Convocation after disposition of discipline matters. Gavin MacKenzie, Senior Counsel - Discipline, given the particular matter out of which this issue arose, left the meeting during this discussion.

The Committee reached a consensus, reflected in the following paragraphs, which the Chair will communicate to the Treasurer:

Situations may arise where, in the disposition of disciplinary matters at Convocation, there may be dissenting opinions on penalty. In such cases, the reasons of Convocation, reflecting its rationale for the penalty decided upon, are prepared by a Bencher or Benchers and circulated to Convocation for its comment and approval. Benchers who have expressed a dissenting opinion may also prepare reasons reflecting the dissent, which

may also be circulated for information only. There may also be Benchers who, while originally supporting a more serious or less serious penalty, agree with the disposition of Convocation and prepare reasons reflecting their views and support, however reluctantly, for Convocation's disposition. These reasons may also be circulated to Convocation for information only.

Note: Amendment, see page 100

2A. PARTICIPATION BY BENCHERS IN CASES WHERE THEIR PARTNERS GIVE EVIDENCE

At its January, 1992 meeting, your Committee recommended to Convocation that where evidence is to be led either before a hearing panel or in Convocation from a lawyer who is associated in practice with a Bencher, the following procedure should be followed:

- i) the Bencher in question should declare the relationship, and then withdraw;
- ii) counsel for the parties should be invited to make submissions on the question whether the Bencher should be disqualified from further participation; and
- iii) the issue should then be determined by the remaining members of the discipline hearing panel or Convocation, as the case may be, without the participation of the Bencher in question.

After reviewing the recommendation, Convocation noted that the Committee did not discuss the policy in terms of Benchers who were not partners or associates, but who were, for example, government lawyers, law professors or lawyers with the Ontario Legal Aid Plan. Convocation referred the matter back to the Committee for consideration of the applicability of the procedure to persons other than law partners or associates.

In order that the policy may apply to all cases in which there are grounds for a Bencher to anticipate that bias or conflict may be alleged, the Committee approved the following paragraph, which would precede the explanation of the above procedure:

There may be many grounds upon which a party might object to the participation of a particular Bencher as a member of a hearing panel or Convocation in discipline matters. For example, such an objection might be made where evidence is to be led either before a hearing panel or in Convocation from a lawyer who is associated in practice with a Bencher who is participating in the proceedings. The Discipline Committee recommends that the following procedure should be followed in any case in which a Bencher is aware of any circumstances that might give rise to an allegation either of conflict of interest or bias.

Your Committee recommends that Convocation adopt the procedure with the proposed addition.

3A. NEGOTIATED RESOLUTION PROCEDURE

Your Committee considered a report of its Sub-Committee comprised of D. Bellamy (Chair), C. McKinnon and D. Scott studying negotiated resolution procedures.

The Sub-Committee reviewed the policy adopted on June 26, 1986 by Convocation on negotiated resolutions, as follows:

- . That Convocation should endorse the practice, at the Committee level, of having counsel approach the Committee on an informal basis to review a proposed disposition of the matter.

- . If the Committee rejects the Joint Submission, and counsel cannot satisfy the Committee by way of additional evidence or submission, the Committee should disqualify itself from hearing the case.
- . If a Joint Submission is rejected, the matter should be adjourned and presented to another committee. Both parties should be at liberty to withdraw from the Agreed Statement and Joint Submission. If counsel choose to go before another panel with an Agreed Statement and Joint Submission, however, the informal procedure would not be repeated, and the parties should then take their chances.
- . Where the Committee indicates that it is inclined to accept the Joint Submission, at the commencement of the formal hearing counsel for the solicitor or for the Society should state for the record that both counsel appeared before the Committee off the record and reviewed the Agreed Facts and Joint Submission with the Committee and now propose to proceed on the basis of Agreed Facts and Joint Submission.
- . Complainants will be advised prior to the hearing of proposed Agreed Facts and Joint Submissions.
- . Where a committee recommends to Convocation that a Joint Submission be adopted, Convocation must deal with the matter as it sees fit and is not bound to accept the Committee's recommendation. However, as a matter of policy, Convocation should give favourable consideration to the recommendation. In the event that Convocation is unable to accept the recommendation of the Committee based upon the Joint Submission, it should so state by way of motion indicating the penalty it is considering and should offer counsel for the solicitor, at his or her option, the opportunity to make further submissions or to have the matter referred back to the Committee for the hearing of further evidence. At this stage, withdrawal of the Agreed Statement of Facts would not normally be permitted.

In reviewing the policy, the Sub-Committee discovered that it is infrequently used. Indeed, despite its formal entrenchment over five years ago, many Benchers remain unaware of its existence and most counsel acting for solicitors are in complete ignorance of it.

The sub-Committee reviewed some of the advantages and dis-advantages of the existing policy. In brief, these are as follows:

Advantages:

- . reduction in risk and greater certainty in the result for the solicitor;
- . reduction in cost to the solicitor and to the Society, especially if hearing time is saved; and
- . more efficient use of hearing time.

Disadvantages:

- . the wrong message is conveyed to the public about the openness of the discipline process at precisely the time when the Law Society is encouraging more openness in its complaints and discipline process;
- . the process bears the appearance of the Society being a party to "forum shopping";
- . while the solicitor's risk may be perceived to be reduced, there is still no certainty as to the ultimate penalty under the current disciplinary system where the Committee's recommendation can be rejected by Convocation;

- . there is no evidence to demonstrate that the procedure has been of great value, or that it has saved any appreciable amount of time; and
- . when the policy has been utilized, complaints have been expressed about the process and, sometimes, the result.

The Sub-Committee was particularly troubled by the negative perception that this practice could engender. A member of the public could reasonably conclude that the legal profession is engaged in a secret and collusionary practice, a practice which is specifically designed to be more favourable to lawyers than to the public. This is fundamentally contrary to the Law Society's very progressive moves towards openness in recent years.

The Sub-Committee saw no reason to continue a rarely-used practice that has no appreciable benefit, especially when it could erode the Society's constructive attempts to be - and to appear to be - more open in its deliberations and handling of complaints.

The Sub-Committee concluded that the current policy on negotiated resolution procedures should be abandoned. This decision was arrived at after a careful assessment of the experience over the last few years, which illustrated that the disadvantages outweighed the benefits of the policy.

In its place, the Sub-Committee suggested concentrating on enhancing the existing pre-hearing conference mechanism. That mechanism permits the solicitor and the Society to meet with an experienced Benchers to attempt to resolve difficult aspects of the case. The results of those meetings are as beneficial as the negotiated resolution procedure. At the same time, they are not "tainted" with the negative connotations that can arise from apparently secret negotiations involving "plea bargaining", "sentence bargaining", or "panel/forum shopping".

The Sub-Committee is completely supportive of attempts by counsel to arrive at consensus. Agreed Statements of Fact have proven to be very useful and time-saving, and should be encouraged. As well, the Sub-Committee supports the Society's existing practice of considering the views of the solicitor or his or her counsel as to the appropriate penalty; where possible agreeing thereupon; and where not possible, providing the solicitor with a clear indication of the penalty or range of penalties which the Society will urge upon the Committee before the hearing takes place. These existing practices are fair to the public and to the solicitor and should be continued.

The Committee considered the findings of the Sub-Committee and agreed with its conclusions.

Your Committee, therefore, recommends to Convocation that:

1. the policy of negotiated resolution procedures in the discipline process adopted in June 1986 be rescinded;
2. the existing practice of pre-hearing conferences before experienced Benchers be continued;
3. Convocation endorse the existing practice at Discipline Committee of the solicitor and counsel for the Society presenting an Agreed Statement of Facts of the case, and encourage counsel for the Society to continue its attempts to obtain such statements;
4. Convocation endorse the current practice of the Society's discipline counsel considering the views of the solicitor or his or her counsel as to the appropriate penalty, and where possible, agreeing thereupon; and, where not possible, providing the solicitor, before the hearing takes place, with a clear indication of the penalty or range of penalties which the Society will urge upon the Committee; and

- 5a. Convocation encourage Benchers sitting on discipline committees to accept a Joint Submission except where the committee concludes that the Joint Submission is outside a range of penalties that is reasonable in the circumstances;
- b. If the Committee, after hearing and considering submissions of counsel, does not accept the Joint Submission as to a particular penalty or as to the shared submission as to a range of penalties, the Committee will be at liberty to impose the penalty that it deems proper and should give reasons for not accepting the Joint Submission.

4A. VICTIM IMPACT STATEMENTS AND REPRESENTATION OF COMPLAINANTS
AT DISCIPLINE HEARINGS

At its January, 1992 meeting your Committee considered the request of counsel for a complainant in a disciplinary proceeding to make submissions on behalf of his client before Convocation relating to the impact of the solicitor's alleged misconduct on the complainant's mental health and financial well-being. After dealing with the specific request of counsel, the Committee discussed the broad policy question of whether "victim impact statements" ought to be permitted in disciplinary proceedings.

Colin McKinnon has researched the subject and submitted material to the Committee for staff's use in the preparation of a submission for the April, 1992 meeting, which will outline a policy on use of victim impact statements in disciplinary proceedings.

B.
ADMINISTRATION

1B. BUDGET - FISCAL 1992-93

Your Committee reviewed and approved budgets from the Audit, Complaints and Discipline Departments, for referral to the Finance Committee.

C.
INFORMATION

1C. AUTHORIZATION OF DISCIPLINE CHARGES

Once each month, the Chair and/or one or both of the Vice-Chairs of the Discipline Committee meet with the Complaints and Discipline staff to consider requests for formal disciplinary action against individual lawyers.

The following table shows the number of requests made by Discipline and Complaints staff for the month of February, 1992.

| | <u>Sought</u> | <u>Obtained</u> |
|------------|---------------|-----------------|
| Discipline | 5 | 5 |
| Complaints | 14 | 11 |

27th March, 1992

Total number of charges authorized to date for 1992

| | |
|----------|-----------|
| January | 20 |
| February | <u>16</u> |
| Total: | 36 |

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"A. Rock"
Chair

It was moved by Stuart Tom, seconded by Ron Cass that Item 1A. under Policy re: Circulation of reasons be referred back to the Committee for reconsideration particularly on the point of view that Convocation speak with one voice and more specific wording re: circulation.

Lost

It was moved by Stuart Thom, seconded by Lloyd Brennan that 5(a) under Item 3A. under Policy, be deleted.

Lost

The Chair accepted an amendment to 1A. under Policy re: Circulation of reasons, to indicate that reasons will go to the parties and by adding the words "and shall be made part of the proceedings in Convocation" so that the sentence now reads:

In such cases, the reasons of Convocation reflecting its rationale for the penalty decided upon, are prepared by a Bencher or Benchers and circulated to the parties and Convocation for its comment and approval and shall be made part of the proceedings in Convocation.

THE REPORT AS AMENDED WAS ADOPTED

Meeting of March 26th, 1992

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 26th of March, 1992 at eight o'clock in the morning, the following members being present:

A. Rock (Chair), P. Peters (a Vice-Chair), N. Finkelstein, N. Graham, C. McKinnon, R. Murray and D. Scott; P. Bell, S. Kerr, G. MacKenzie, R. Tinsley, J. Varro, H. Werry, J. Yakimovich and G. Zecchini also attended.

A.
POLICY

1A. ADVANCE PUBLICATION OF INFORMATION RESPECTING
DISCIPLINARY PROCEEDINGS

Your Committee received a report from its sub-Committee comprised of Mr. Finkelstein (Chair), Mr. Murphy and Mr. Scott which was struck to discuss issues relating to the advance publication of information on members facing disciplinary action.

The sub-Committee reviewed a discussion paper prepared by Gavin MacKenzie, Senior Counsel - Discipline which explained the background to the issue and the development of the current policy on publication.

The sub-Committee observed that the media have argued that the Society cannot validly claim that its disciplinary process is truly open unless it announces or at least makes available on request the names of lawyers who have been charged with professional misconduct or conduct unbecoming a barrister and solicitor, together with full descriptions of the allegation in the complaints, and the dates and locations of hearings. The media also argued that the information supplied to it by the Society until late 1991, being a list of forthcoming hearings which included a summary of each complaint, the geographical area of the Province in which the solicitor in question practised and the date and location of the hearing but not the name of the solicitor involved, was inadequate.

The Benchers Special Committee on Discipline Procedures (the Yachetti Committee), in its final report dated September 7, 1990, recommended reforms which were designed to accommodate the media's concerns. The relevant portion of the Committee's report consists of six recommendations and a brief explanatory note, as follows:

1. The Society should discontinue its current practice of issuing press releases announcing discipline proceedings against an unnamed member in a general geographical location;
2. The Society should not take positive steps to publish a list of authorized discipline complaints, but that information should be made available upon request;
3. On a weekly basis, a list of cases to be heard by a discipline hearing panel or the designated appeal panel that week should be made available to the public;
4. A copy of the authorized discipline complaints themselves should be made available to the public upon request at any stage after authorization;
5. The weekly list of upcoming authorized discipline complaints hearings and appeals should include the name and location of the solicitor, as well as the nature of the complaint; and
6. All matters to be heard by the discipline hearing panel or the designated appeal panel on a particular day (including first appearances, matters to be spoken to and hearings) should be listed and made available to the public.

As Convocation has accepted the concept of open discipline hearings, it is fitting that the Society should be prepared to respond fully to any enquiry from the public regarding the existence and status of discipline proceedings against a member once a complaint has been authorized.

These recommendations of the Committee were approved by Convocation on September 28, 1990, and as they did not require legislative change, steps were taken to implement them in 1991.

As a result, the current practice of the Society is to provide to interested news organizations a list of the names of solicitors whose hearings are scheduled to proceed during the following two months, together with a brief summary of the misconduct and the date the hearing is to proceed. The list does not include cases which will be before the Discipline Committee to set a date for hearing only. The list is reviewed and approved by the discipline counsel responsible for matters on the list prior to release. This review was implemented to ensure that problems which resulted from release of the list for the first time in October, 1991, which was published in the Law Times later that month, would not re-occur. That particular list contained several errors.

The sub-Committee focused on the concerns that errors could be made in publishing names and summarizing complaints and that publication of names and summaries prior to a hearing could do serious harm to a lawyer's reputation and may render nugatory the privacy element of the sanction of a reprimand in Committee, where the lawyer's name is not published.

The sub-Committee therefore proposed that a procedure analogous to that in criminal cases be instituted, whereby the Society would prepare a book to be made available at the beginning of each month which contained copies of all authorized complaints to be heard that month, together with the hearing date. The public or the media could inspect the book and attend on that date. With respect to media outside of Toronto, a subscription list would be prepared and if such media were willing to cover the cost of xeroxing and mailing the book, it would be forwarded to them. The sub-Committee reasoned that this procedure should ensure that the Society does not make errors or lose the substance of a complaint in the summarization process. It would be up to the media to prepare its own summaries of the authorized complaints, the incentive to be careful being the threat of a defamation action by the aggrieved party where its summary is unfair. The procedure would also obviate the need for the media to attend all discipline hearings, as it could make its own determination at the beginning of each month as to which hearings it wished to attend.

Note: Motion, see page 106

After discussing the proposal, the consensus of the Committee was that the current practice should continue. The Committee was of the view that the sub-Committee's proposal would lead to inaccurate, sensational and perhaps prejudicial reporting of disciplinary matters.

Your Committee therefore recommends that the current practice respecting advanced publication of information on disciplinary proceedings, consisting of disclosure of a list of members' names, a brief summary of the charge and proceed dates, be maintained.

2A. COMPLAINTS REVIEW POLICIES AND PROCEDURES

Your Committee reviewed certain aspects of the Complaints Review procedure, which has operated in its present form since 1988. During that period, Lay Benchers, sitting as Complaints Commissioners, have held in excess of 400 reviews.

The stated objectives of the Complaints Review procedure are as follows:

- a) to provide a forum for aggrieved parties to voice a range of concerns including the conduct of lawyers, the investigative methods of the Law Society and the legal system generally;
- b) to demonstrate to the public the Society's commitment to the concerns of individual citizens as they relate to the legal profession; and

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- c) to provide an effective means of monitoring the work of Complaints staff.

To ensure a degree of independence from the Complaints process, reviews are always conducted by a Lay Benchers with the assistance of a legal advisor who is not an employee of the Law Society. As well, neither Complaints staff nor the lawyer who was the subject of the investigation attend the meeting between the Lay Benchers and the complainant.

After completing a review, the existing procedure allows for the Complaints Commissioner to choose one of three courses:

- a) agree with staff's finding and close the file;
- b) send the file back for further investigation by the Complaints staff; and
- c) direct the file to the Chair of the Discipline Committee for an opinion.

Regardless of which option is chosen, it is envisaged that the role of the Lay Benchers in the matter is ended.

In the period since 1988, this format has satisfactorily dealt with the majority of cases reviewed. In a recent meeting with the Chair of the Committee, the Lay Benchers identified matters which, in their view, could not be satisfactorily concluded by one of the three courses presently available. The paragraphs set out below summarize the issues identified and are followed by specific recommendations.

A. Competency Issues

The present format was established at a time when the work of the Professional Standards Committee was in its infancy.

Since that time, the Committee's Practice Review Programme has become an effective tool for assisting lawyers with recognized problems in providing competent legal services.

In hearing reviews, the Lay Benchers often come across information which indicates that a lawyer may benefit from involvement with the Review Programme. In practice, the Complaints Review procedure has indirectly resulted in referrals to the Review Programme.

Your Committee recommends that this practice be formally recognized and that Commissioners be given the option of referring matters directly to the Chair of the Professional Standards Committee who is responsible for authorizing members' participation in the Practice Review Programme.

B. Negligence Issues

In a significant number of cases, Commissioners conclude that, although no further action by the Complaints Department is warranted, there are concerns that a lawyer's actions were negligent and that the client has suffered a resulting loss. In practice, reviewers refer matters to the Errors and Omissions Department for evaluation.

Your Committee recommends that this practice be formally recognized and that Commissioners be given an option of referring matters to the Director of Insurance at the conclusion of a review.

C. Communications with the Lawyer Being Investigated

In all cases, Commissioners will communicate their findings to the complainant and to the relevant Complaints staff. Such communications are necessary to give effect to the objectives of the procedure and to dispose of the matter pursuant to the options available under the existing format.

In a few cases, the Commissioner, at the conclusion of the review, has decided that no further action by the Law Society is warranted. At the same time, however, the Commissioner had some minor concern about the lawyer's conduct and corresponded directly with the lawyer and the complainant on this point. In two such cases, this action resulted in subsequent correspondence involving the Commissioner and centering on the propriety of the Commissioner's finding. In one case, the matter was resolved by a second review conducted by a different Complaints Commissioner. In another case, the Chair and Vice-Chairs of the Discipline Committee effectively reviewed the entire matter.

In both of these cases, the Commissioner's decision was questioned, either by the lawyer or the complainant and the Commissioner and the Law Society were placed in the position of having to defend their decision.

It is submitted that this practice is not consistent with the stated objectives of Complaints Review or with the approved format for disposing of cases after Complaints Review. By engaging the lawyer directly, it is submitted that the independence or detachment which underlies the effectiveness of the procedure is jeopardized. Such action also places a commissioner in the role of adjudicator. Such a role is untenable given the practice of excluding both staff and the lawyer being investigated from the review procedure. Finally, contact with the lawyer undermines the 'finality' of Complaints Review. Under the existing format, the Commissioner's role is ended once the review is completed. Any subsequent actions in such cases must be performed by others (i.e. the Chair of Discipline, Complaints staff, etc.) Any other format leaves a Commissioner's decisions open to questioning and may necessitate further reviews for purposes of examining the merits of the findings made.

Your Committee recommends that the existing format not be altered so as to involve Commissioners in direct communication with the lawyers being investigated.

It is further recommended that any concerns Commissioners have about a lawyer's conduct be referred either to staff or the Chair of the Discipline Committee or the Chair of the Standards Committee, as appropriate, so that further enquiries can be made.

It is further recommended that the decisions of Commissioners be final and non-reviewable.

D. Referrals to Discipline

As set out above, the present format gives a Commissioner the option of referring a case to the Chair of the Discipline Committee for an opinion. In practice, this option is chosen when a Commissioner is satisfied that the matter has been adequately investigated but disagrees with staff's position that no form of sanction against a member is warranted. Such referrals often contain a recommendation that some further action against a member be taken by the Law Society.

The Commissioners have expressed concern that the present format treats their concerns about lawyer misconduct differently than similar concerns expressed by staff. In latter instances, staff seek authorization from the Chair and Vice-Chairs of the Discipline Policy Committee whose function it is to determine whether further action is warranted.

Given that referrals made to the Chair of Discipline by Commissioners are done for the same purpose as such referrals by Law Society staff, your Committee recommends that Discipline referrals by Commissioners be considered by the Chair and Vice-Chairs in the same way as the authorization requests of staff.

E. Fee Disputes and Negligence

Concern has been expressed by the Lay Benchers that cases dealing exclusively with fee disputes and issues of negligence are not appropriate for the Complaints Review process. The Complaints Commissioners have absolutely nothing to offer these complainants and it takes the complainants a considerable period of time to reach this part of the Complaints process only to be told that the Society cannot help them in any way.

It was determined that in matters where the complaint truly involves just a dispute about the amount charged or the allegation of actionable negligence, the staff shall be instructed to inform these complainants that their complaints will not be received or processed, and that the appropriate remedy lies elsewhere. As a means of addressing the concerns of the complainants in these cases in a more personalized manner, the Lay Benchers are of the view that further steps on the part of staff are necessary. A related aspect is the communication difficulties experienced between Society staff and complainants. The Lay Benchers are aware that a large number of the complainants who appear in Complaints Review matters are from cultural and ethnic minorities and are either intimidated by or do not understand the procedures which the Society has attempted to explain to them in largely bureaucratic fashion. The Commissioners are of the view that more personal contact between these parties and the Law Society staff could overcome some of these problems. Staff should also have better material dealing with these core issues and it should be translated into a variety of languages.

Your Committee therefore recommends that:

- a. staff arrange more meetings with complainants and assist them in understanding the Society's position, and also provide them with details (in writing, in plain language and in various different languages) of the court procedures in which they would be involved in order to pursue their fee dispute or negligence claim;
- b. transcriptions in various languages be made of the Dial-A-Law tapes dealing with items such as assessment, negligence, Small Claims Court and the Lawyer Referral Service, which could be augmented by court documents such as Small Claims Court claims and applications for assessment; and
- c. staff meet with groups of complainants, if necessary, to explain to them certain procedures such as those related to assessment.

The Committee requested staff to prepare information for the April, 1992 meeting on a proposal earlier discussed between the Lay Benchers and the Chair whereby the activities of the Lay Benchers relating to their involvement in the Complaints process be reported to Convocation through the Committee. Staff were also requested to prepare material dealing with the mediation system established for lawyers and doctors respecting payment of accounts for medical-legal reports, given the difficulties arising when these matters come before the Lay Benchers at Complaints Review.

B.
ADMINISTRATION

1B. NON-BENCHERS SERVING ON THE COMMITTEE

In June, 1991, Convocation adopted a recommendation of the Research and Planning Committee that an advertisement be placed in the Ontario Reports inviting members of the Society interested in serving on committees to submit their names to the Secretary. Letters of interest have been received from 115 members and the list of names has been distributed to the Chair of the Committee.

To ensure consistency in this matter, the Committee decided to await the direction of Convocation before extending invitations to non-Benchers for service on the Committee.

C.
INFORMATION

No matters to report.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"A. Rock"
Chair

It was moved by Dan Murphy, seconded by James Wardlaw that Item 1A. under Policy re: Advance Publication, be referred back to the Committee.

Lost

It was moved by Julaine Palmer, seconded by Denise Bellamy that the Sub-Committee's recommendation under A-Item 1A be adopted.

Carried

THE REPORT AS AMENDED WAS ADOPTED

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PROFESSIONAL CONDUCT COMMITTEE

Mr. Somerville presented the Report of the Professional Conduct Committee of its meeting of March 12th, 1992.

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 12th of March, 1992 at three o'clock in the afternoon, the following members being present: Messrs. Campbell (in the Chair), Cullity and Finkelstein.

A.
POLICY

1. CAN A LAWYER INCORPORATE A
COMPANY TO COLLECT BAD DEBTS?

A lawyer has put the following proposal to the Law Society:

My firm is proposing the incorporation of an Ontario Company to collect accounts that are over 120 days old and which have been written off by my firm as bad debts.

The incorporation will be related to the law firm, that is to say that the Directors and shareholders of the company will be the spouses of the three partners.

The bad debts will be assigned for \$1.00. The Company will then institute proceedings (by way of Small Claims Court) to collect the debts. We propose to use the attached Assignment from time to time. In talking to Practice Advisory today, a concern has arisen with respect to the last paragraph of the Assignment, and the payment to the firm of 25 per cent of the net proceeds that are collected. Rule 9 deals with splitting of legal fees with another Party.

Is the Law Society prepared to confirm in writing that the proposed assignment and subsequent payment of the 25 per cent to the firm is permitted under Rule 9?

It is assumed that at all times client confidentiality will be kept.

Attached is a copy of the Assignment (numbered 1).

The Committee was of the opinion that there would be no breach of the Rules of Professional Conduct.

The Committee asks Convocation to adopt its view.

2. ADVERTISING - DOES THE PRESENT RULE
PERMIT TESTIMONIAL ADVERTISING?

A law firm has asked the question as to whether it can use testimonials in its firm brochure. The position taken in the past is that such testimonials are "tacky" and hence do not meet the requirement of good taste specified in Rule 12. Some holding this view point to the profiles in the Dewar Scotch Whisky advertisements in support of their position.

An argument in favour of testimonials is that they are legitimately informational and hence in keeping with one of the three criteria in Rule 12 (accuracy of information; good taste; and nothing that would offend the administration of justice). Persons giving the testimonials could be contacted by readers so that they could amplify their remarks as to why a particular lawyer or law firm was excellent. There are two other points to be raised in the discussion. A survey of law firm brochures has revealed a number of criticisms, one of which is that the brochures are almost indistinguishable. The accounting profession now permits testimonials. At the meeting a couple of pages from a Cooper and Lybrand brochure were distributed. These pages include testimonials from persons such as Matthew Barrett of the Bank of Montreal and Marshall Cohen of Molsons. (This material is not attached.)

The Committee was of the opinion that the use of testimonials was in conformity with Rule 12 because they are legitimately informational.

27th March, 1992

The Committee asks Convocation to adopt its opinion.

B.
ADMINISTRATION

1. BUDGET 1992-1993

The Committee approved its budget for 1992-1993.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"M. Somerville"
Chair

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

A-Item 1 - Copy of an Assignment - re: Assignment of Bad Debts.

(Number 1)

THE REPORT WAS ADOPTED

.....

RESEARCH AND PLANNING COMMITTEE

Mr. Bastedo presented the Report of the Research and Planning Committee of its meeting on March 12th, 1992.

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 12th of March, 1992, at 8:00 a.m., the following members being present: R. Manes (in the Chair), L. Brennan, P. Copeland, C. Curtis, A. Feinstein, S. Goudge, F. Mohideen, D. Scott, R. Smith.

Also present: S. Hodgett, R. Tinsley, A. Brockett.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

B.1. STRATEGIC PLANNING CONFERENCE: CHANGE OF DATE AND LOCATION

B.1.1. Background

B.1.1.1. At its meeting in November, 1991, Convocation approved in principle (subject to budget) a proposal to hold a Strategic Planning Conference at Geneva Park Conference Centre, Orillia, over the dates October 29-31, 1992. As part of the proposal, the Special Convocation originally scheduled for October 22 was to be cancelled and the Regular Convocation originally scheduled for October 23 was to be re-scheduled to October 29.

B.1.1.2. It was subsequently learned that the Joint National Committee on Legal Education of the Federation of Law Societies of Canada will be holding a conference in Calgary over the same dates (October 29-31) on a subject ("Professional Responsibility") similar to that being developed for the Strategic Planning Conference. It is expected that a number of benchers and staff will be attending the Calgary conference. Your Committee therefore considers it essential to change the date of the Strategic Planning Conference.

B.1.1.3. Geneva Park Conference Centre is not available on any other date that would be suitable.

B.1.2. Recommendation

Your Committee recommends:

- that the Special Convocation scheduled for Thursday, September 24, 1992, be cancelled;
- that the Regular Convocation scheduled for Friday, September 25, 1992, be re-scheduled for Thursday, September 24;
- that, subject to budgetary approval, the Strategic Planning Conference be held over the period, Thursday evening, September 24 to Saturday afternoon, September 26, 1992;
- that the conference meetings on Friday, September 25, be held at Osgoode Hall Law School, York University;
- that the conference meetings on Saturday, September 26, be held at the Faculty of Law, University of Toronto; and
- that the dates for Convocation in October 1992 be as originally scheduled, viz. Thursday, October 22 and Friday, October 23.

B.1.3. Further details

B.1.3.1. In order to keep costs to a minimum, it has always been an integral part of the proposal that the Strategic Planning Conference be held at the same time as a scheduled meeting of Convocation, thereby saving on travelling and accommodation expenses.

B.1.3.2. It is proposed that benchers from outside Toronto should stay at the Toronto Hilton and that bus transportation to Osgoode Hall Law School be available on the Friday.

B.1.4. Financial impact

B.1.4.1. It is estimated that the cost of holding the conference at Osgoode Hall Law School and the University of Toronto Faculty of Law will be \$1,000 less than holding it at Geneva Park Conference Centre. The saving arises because there will be no overnight accommodation costs for benchers who live in Toronto.

B.1.4.2. A budget for the conference has been submitted to the Finance and Administration Committee. The additional cost over and above the cost that would have been incurred had the September 1992 meetings of Convocation taken place as originally scheduled, is estimated at \$37,554. If the 1992-1993 budget for the Research and Planning Committee is approved at the same figure as for 1991-1992, (\$54,400) the Committee will be able to contribute \$7,050 towards the cost of the Strategic Planning Conference, thereby reducing the net additional cost of the conference to \$30,504.

B.1.5. Conference agenda

B.1.5.1. A Subcommittee (A. Feinstein, D. Scott, T. Bastedo, C. Campbell, S. Goudge) has met on four occasions to develop an agenda. Professor Marilyn Pilkington (Osgoode Hall Law School) and Professor Donald Buckingham (University of Western Ontario Faculty of Law and Westminster Institute for Ethics and Human Values) have assisted the Subcommittee.

B.1.5.2. The current thinking of the Subcommittee is that the conference should focus upon professionalism in the light of social change. It is proposed that speakers should be invited to describe and explain the changes that have taken place in society and in the legal profession over the past 30 years. There will be a particular emphasis on changes in ethical values. The conference will then divide into discussion groups to consider the impact of these changes upon specific aspects of the practice of law. The objective will be to define a series of practical steps for the Law Society to take in response to ethical and other social changes.

C.
INFORMATION

C.1. LAW SOCIETY PRIORITIES

C.1.1. Your Committee is studying the respective roles of benchers, staff and committees in the government and the administration of the Law Society. In reviewing past reports (Special Committee on Convocation 1980 and 1981; Peat Marwick Review and Report of Benchers Ad Hoc Committee 1981; Benchers' Responsibilities Subcommittee 1991) it appears that the issue of an appropriate structure for establishing Law Society priorities has frequently arisen but has never been conclusively addressed.

C.1.2. In the absence of any other formal structure, priorities are likely to be determined by the Finance and Administration Committee as part of the budgetary process. Your Committee suggests that although financial considerations are important they ought not necessarily to be determinative: in establishing its priorities, Convocation will also wish to take into account considerations of policy and principle.

C.1.3. The Research and Planning Committee will continue to study this matter. In the meantime, as a Committee with responsibility for planning, it asks Convocation to note its concern that, in the absence of any other formal structure, priorities are likely to be determined by the Finance and Administration Committee. Your Committee will be considering the possibility of a mechanism that will involve representation from a wider group of committees in the establishment of priorities.

C.2. RECORD OF HOURS SPENT ON LAW SOCIETY BUSINESS

C.2.1. At its meeting on November 22, 1991, Convocation adopted a recommendation from the Research and Planning Committee that all benchers be asked to record the hours they spend on Law Society business over the period January 1 to April 30, 1992. Forms were duly sent to all benchers in December and a reminder was sent by fax at the end of January.

C.2.2. As at February 27, record sheets for the month of January had been received from 14 elected and 5 *ex officio* benchers.

C.2.3. Preliminary analysis suggests that the median number of hours (excluding travel) in the month of January spent by elected benchers on Law Society business was approximately 40 hours.

C.2.4. In order to ensure a more accurate analysis, your Committee will be sending a reminder to all benchers, asking them to submit a record of hours if they have not already done so.

C.3. DISPUTE RESOLUTION SUBCOMMITTEE: INTERIM REPORT

C.3.1. The Dispute Resolution Subcommittee has submitted an Interim Report. Your Committee intends to consider this at the April meeting.

C.4. FUTURE AGENDA ITEMS

C.4.1. Listed below are those matters which your Committee intends to consider at future meetings.

C.4.1.1. Interim Report of the Dispute Resolution Subcommittee.

C.4.1.2. Proposal to recommend establishment of a Lay Bencher Standing Committee.

C.4.1.3. Appointment of non-benchers to membership of the Committee.

C.4.1.4. The role of the Law Society in keeping the profession informed about technological developments.

C.4.1.5. Suggestion that an index be prepared listing past reports and policy documents received by Convocation.

C.4.1.6. Areas of research arising from the Transitions Report.

C.4.1.7. A review of the Rules of Order followed in Convocation.

C.4.1.8. Whether to recommend that the Policy Section of the Discipline Committee review the procedures followed in discipline hearings.

27th March, 1992

C.4.1.9. Whether to recommend that the Policy Section of the Discipline Committee consider the need for precedents and guidelines in relation to discipline penalties.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"T. Bastedo"
Chair

THE REPORT WAS ADOPTED

.....

LIBRARIES AND REPORTING COMMITTEE

Mr. Murphy presented the Report of the Libraries and Reporting Committee of its meeting of March 12th, 1992.

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 12th of March, 1992, at 9:00 a.m., the following members being present:

R. Topp (Vice-Chair in the Chair), R. Bragagnolo, M. Cullity, M. Hickey, and R. Lalonde; G. Howell and P. Bell also attended.

A.
POLICY

No Items

B.
ADMINISTRATION

1. BUDGET ESTIMATES FOR 1992 -1993

The Chief Librarian submitted the budget estimates and reported on the areas of concern. The Committee approved the budget estimates to be forwarded to the Finance Committee, on the understanding that the Budget Estimates will be reviewed again at the April meeting of the Committee.

2. ACCOUNT OF COUNSEL FOR THE SOCIETY

A legal account of counsel for the Society for the period January 1st to February 15th, 1992, was approved by the Committee.

3. COUNTY LIBRARIES' INSURANCE

The 47 county libraries have property and liability insurance through a "blanket coverage" contract administered by the Chief Librarian's office. The Law Society changed its broker and insurers on insurance coverage of Osgoode Hall (including the Great Library) last year, and the recommendation is to change the counties' coverage to the same broker, at a substantial saving of close to 50%. Pro-rata insurance premiums are deducted from the Annual Grant received by each law association in June. The Committee decided to approve the recommendation.

4. ONTARIO REPORTS CONSOLIDATED INDEX -
CONTRACT EXTENSION

The ten year contract with Butterworths on the Consolidated Index to the Ontario Reports is due to expire in October of 1993. Several circumstances have intervened to suggest that the contract could be extended to June of 1995, namely:

- (a) the publishing contract for the weekly parts is for five years, expiring June 1995; and
- (b) the supplements to the Consolidated Index for the Ontario Reports second series (75 vols., 1974 to 1991) fall naturally into four annual updates ending with a March 1995 supplement, thereby allowing a new contract to begin with a new five year Consolidated Index.

The Committee discussed the matter and recommends that the Society should extend the contract with Butterworths to June 30th of 1995 when the publishing contract for the Weekly Parts expires.

5. POTENTIAL NON-BENCHER MEMBERS OF THE
LIBRARIES AND REPORTING COMMITTEE

It was reported that as a result of advertisements placed in the Ontario Reports soliciting the names of members interested in serving as non-bencher members of the Law Society Committees, several members indicated an interest in being a member of this Committee. After discussing the fact that the Committee already has one non-Bencher member, the Committee decided to ask the Staff to obtain further information and report back to the Committee.

C.
INFORMATION

1. COUNTY LIBRARIES - C.L.E. VIDEOTAPES

The Chief Librarian advised the Committee that the Society's C.L.E. Department has agreed to continue the pilot project of distributing video tapes of core C.L.E. programs to each Law Association Library. The videotapes of five programs have been recently distributed.

2. LETTERS OF APPRECIATION - REFERENCE BRANCH
AND SEARCH LAW BRANCH OF GREAT LIBRARY

One letter to the Head of the Library's Reference Department and four letters of appreciation to Search-Law were before the Committee for information.

27th March, 1992

3. RIDDELL EXHIBITION - ART GALLERY OF NORTHUMBERLAND (COBOURG)
COOPERATIVE ACTIVITY WITH THE ARCHIVES DEPARTMENT

The Riddell Exhibition was displayed in the Rotunda at Osgoode Hall for two months last fall, with the Treasurer and Chief Librarian providing welcoming remarks at the opening reception. The exhibition now travels to the Art Gallery of Northumberland in Cobourg, where W.R. Riddell practised law before arriving in Toronto and ultimately joining the judicial ranks.

Representatives from the Great Library and Archives department will be attending the opening reception in Cobourg on Friday, April 3rd, 1992, at 8:00 p.m.

4. PRESCOTT-RUSSELL LIBRARY DEDICATION IN NAME OF HENRI PROULX -
CHIEF LIBRARIAN REPRESENTATIVE OF LAW SOCIETY

The Chief Librarian represented the Law Society at a recent ceremony in L'Original dedicating the newly renovated Prescott-Russell Library in the name of an eminent Eastern Ontario lawyer, Henri Proulx, Q.C. The Chief Librarian was the guest of Madeleine Hebert, President of the Association. Mr. Howell delivered short welcoming remarks on behalf of the Benchers.

5. BOOK LIST

The Great Library added 39 new titles to its book collection for March 1992.

6. MEETING WITH CHIEF JUSTICE CALLAGHAN

It was reported that the Society is trying to arrange a meeting with Chief Justice Callaghan in connection with the reporting of judgments.

7. MEETING WITH REPRESENTATIVE OF THE
MINISTRY OF THE ATTORNEY GENERAL

It was reported that the Society is attempting to arrange a meeting with a representative of the Ministry of the Attorney General concerning distribution of the weekly parts of the Ontario Reports to Judges.

8. MEETING WITH LAW BOOK PUBLISHERS

It was reported that the Society will be arranging a meeting with the law book publishers when the year-end cost figures are finalized.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"D. Murphy"
Chair

THE REPORT WAS ADOPTED

.....

27th March, 1992

UNAUTHORIZED PRACTICE COMMITTEE

Mr. Hickey presented the Reports of the Unauthorized Practice Committee of its meetings of January 9th, February 13th and March 12th, 1992.

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 9th of January, 1992 at 10:30 a.m., the following members were present: Mr. Hickey (Acting Chair), Ms. Graham, Messrs. Lawrence and Scott and Ms. Weaver. Also in attendance were: Mr. John and Ms. West.

B.
ADMINISTRATION

1. INVESTIGATIONS

The Society does not have sufficient evidence in two cases to commence prosecution for breach of Section 50 of the Law Society Act and has requested further information from the complainants.

C.
INFORMATION

Attached hereto is a list of current prosecutions.

Approved

ALL OF WHICH is respectfully submitted

DATED the 24th day of January, 1992

"M. Hickey"
for Chair

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

List of current prosecutions - "Matters Pending".

(Page 2)

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 13th of February, 1992 at 10:30 a.m., the following members were present: Mr. Carter (Chair), Ms. Mohideen, Ms. O'Connor and Mr. Scott. Also in attendance were: Mr. John and Ms. West.

27th March, 1992

B.
ADMINISTRATION

1. COMPLAINTS/INVESTIGATIONS

Your Committee authorized prosecution pursuant to S. 50 of the Law Society Act in four cases and further suggested investigation in two other matters.

C.
INFORMATION

Attached hereto is a list of current prosecutions.

ALL OF WHICH is respectfully submitted

DATED the 28th day of February, 1992

"M. Hickey"
for Chair

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

List of current prosecutions - "Matters Pending".

(Page 2)

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 12th of March, 1992 at 10:30 a.m., the following members were present: Mr. Carter (Chair), Mr. Cass, Ms. Mohideen and Mr. Scott. Also in attendance were: Messrs. John and Tinsley.

B.
ADMINISTRATION

1. COMPLAINTS/INVESTIGATIONS

Your Committee authorized further investigation in three new matters.

C.
INFORMATION

Attached hereto is a list of current prosecutions.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"M. Hickey"
for Chair

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

List of current prosecutions.

(Page 2)

THE REPORTS WERE ADOPTED

.....

COMMUNICATIONS COMMITTEE

Ms. Elliott presented the Reports of the Communications Committee of its meetings on February 13th and March 12th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMMUNICATIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of February, 1992, the following members were present: Colin McKinnon (Chair), Thomas Bastedo, Robert Carter, Fran Kiteley, Ross Murray and Roger Yachetti. Also in attendance: Theresa Starkes, and Gemma Zecchini.

C.
INFORMATION

1. Preliminary Budget

The Communications Committee reviewed the preliminary budget and made recommendations to assist in the preparation of the draft to be presented to Convocation in March.

2. Media Activity

A summary of media activity for the month of January is attached (C-1).

27th March, 1992

3. Call Statistics

Call statistics for the Dial-A-Law and Lawyer Referral Service are attached (C-2).

ALL OF WHICH is respectfully submitted

DATED this 28th day of February, 1992

"S. Elliott"
for Chair

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

C-Item 2 - Summary of Media Activity - January 1992.

(Marked C-1)

C-Item 3 - Call statistics for Dial-A-Law and Lawyer Referral Service -January 1992.

(Marked C-2)

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMMUNICATIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of March, 1992, the following members were present: Colin McKinnon (Chair), Robert Carter, Fran Kiteley, Ross Murray, Julaine Palmer, Stuart Thom and Roger Yachetti. Also in attendance: Richard Tinsley, Theresa Starkes, and Gemma Zecchini.

C.
INFORMATION

1. Preliminary Budget

The Communications Committee reviewed a preliminary budget document. The final document will be presented to Convocation in May.

2. Media Activity

A summary of media activity for the month of February is attached (C-1).

3. Call Statistics

Call statistics for the Dial-A-Law and Lawyer Referral Service are attached (C-2).

ALL OF WHICH is respectfully submitted
DATED this 27th day of March, 1992

"S. Elliott"
for Chair

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

- C-Item 2 - Summary of Media Activity - February 1992. (Marked C-1)
- C-Item 3 - Call statistics for Dial-A-Law and Lawyer Referral Service. (Marked C-2)

THE REPORTS WERE ADOPTED
.....

LEGISLATION AND RULES COMMITTEE

Ms. Elliott presented the Report of the Legislation and Rules Committee of its meeting on March 12th, 1992.

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 12th of March, 1992, at 2:30 p.m. the following members being present:

M. Cullity (Chair), R. Cass and S. Thom; P. Bell also attended.

A.
POLICY

No items

B.
ADMINISTRATION

1. BUDGET ESTIMATES 1992 - 1993

The revised budget estimates were considered and further revised and approved to be forwarded to the Finance Committee.

2. AMENDMENTS OF THE LAW SOCIETY ACT RE LIFE BENCHERS

It was reported that at its meetings of January 9th and February 13th, 1992, the Research and Planning Committee considered amendments to Section 12(1) of the Law Society Act concerning life benchers, and Convocation adopted the recommendations of that Committee on February 28th, 1992.

It was decided to draft and circulate the necessary amendments so that they can be considered at the April meeting.

3. POTENTIAL NON-BENCHER MEMBERS OF THE COMMITTEE

It was reported that as a result of advertisements placed in the Ontario Reports soliciting the names of members interested in serving as non-bencher members of Law Society Committees several members indicated an interest in being a member of this Committee. After discussing the matter your Committee decided to defer this matter and instructed staff to obtain further information with respect to the policies to be followed.

C.
INFORMATION

1. INCORPORATION OF THE LAW SOCIETY

At the last meeting of the Committee the Secretary of the Committee was asked to research the incorporation of the Law Society. After discussing the matter the Committee noted the comment from the Director of Research.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"S. Elliott"
for Chair

THE REPORT WAS ADOPTED

.....

INSURANCE COMMITTEE

Mr. Campbell presented the Report of the Insurance Committee of its meeting on March 12th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of March, 1992 at 1:30 in the afternoon, the following members being present: Messrs. Campbell (Chair), Feinstein, Bragagnolo, Epstein, Cass, Hickey, Wardlaw, Scace and Ms. Palmer.

Also in attendance were Messrs. Whitman and O'Toole.

ITEM

1. DIRECTOR'S MONTHLY REPORT

The Director's monthly report is attached as Appendix "A".

2. E & O FINANCIAL REPORT

The Director's monthly Errors & Omissions General Expense Budget Report is attached as Appendix "B".

3. OUTSTANDING ITEMS

(a) Impact of increase in claim frequency and severity; review of mandatory program

The substantial increase in both claim frequency and severity during the eighteen month period ending December 31, 1991 has given rise to the creation of a Sub-committee consisting of Messrs. Campbell, Epstein and Wardlaw to review the LSUC Mandatory Program with particular attention focusing on short and long term loss prevention measures, a possible additional supplementary levy in light of the increased deficit, and possible levy rating amendments. The Sub-committee will be meeting again with the Director on March 31, 1992 to pursue its consideration of these issues with a view to presenting recommendations to the Committee shortly thereafter.

(b) Coverage for members acting as mediators and arbitrators

A Sub-committee of the Research and Planning Committee on alternate dispute resolution methods requested that the LSUC Mandatory Errors and Omissions Program provide full coverage for members acting as mediators or arbitrators. The Committee had previously approved this request in principle subject to review and acceptance of the required amendments to the LPIC Professional Liability Insurance Policy which were tabled at the March 12, 1992 Committee meeting. Your Committee recommends adopting the changes to the Policy wording as contained in Appendix "C".

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"C. Campbell"
Chair

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

- Item 1 - Director's Monthly Report - Net Claims Summary - January 1, 1992 - February 28, 1992. ((Appendix "A"))
- Item 2 - Errors & Omissions General Expense Budget, period ending February 29, 1992. (Appendix "B")
- Item 3(b) LPIC Professional Liability Insurance Policy re: Mediators and Arbitrators. (Appendix "C")

THE REPORT WAS ADOPTED

.....

COUNTY AND DISTRICT LIAISON COMMITTEE

Ms. Elliott presented the Reports of the County and District Liaison Committee of its meetings on January 9th, February 13th and March 12th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COUNTY AND DISTRICT LIAISON COMMITTEE begs leave to report:

Your Committee met on Thursday, the 9th of January, 1992 at 11:30 a.m., the following members were present: Mr. Bragagnolo (Chair), Ms. Curtis, Ms. Elliott, Mr. Feinstein. The following members of the County and District Law Association Executive were also in attendance: Mr. Bode, Messrs. Foley, Gates, Ms. Hebert, Messrs. Hennessey and Smith. Staff in attendance were: Mr. Howell (Librarian) and Mr. John (Secretary).

1. "TRANSITIONS" REPORT

Your Committee received copies of the "Transitions" Report and was asked to review the Statement of Policy commencing at page 15. This item will be carried over onto the agenda for the February 1992 meeting.

2. RESOLUTIONS OF COUNTY AND DISTRICT LAW PRESIDENTS' ASSOCIATION

Attached and numbered as pages A-1 to A-10, are the Resolutions passed by the Plenary Session of the County and District Law Presidents' Association in November 1991. They relate to the following issues:

- (a) A Resolution seeking an additional grant from the Law Foundation for the County and District Law Libraries.

With respect to a shortfall in the annual budget for the Law Foundation, your Committee was advised by the Law Society's Librarian, Glen Howell, that he will be meeting with the County and District Library Committee in April 1992 with a view to preparing a report for Convocation by May 1992.

- (b) A Resolution to increase the local library fee in order to generate additional revenue for the Library Committee.
- (c) A Resolution urging the Law Society to delay the implementation of mandatory Continuing Legal Education until the County and District Law Presidents' Association has heard from the various member associations.
- (d) A Resolution urging the Legal Education Department of the Law Society to continue its pilot project distributing Legal Education Video Tapes to each County Library.
- e) A Resolution urging the Attorney General to allow more time for Local Management Advisory Committees to review changes in the justice system.
- (f) A Resolution recommending changes in the Rules and Procedures for the Small Claims Court.
- (g) A Resolution authorizing the County and District Law Presidents' Association to consider whether existing boundaries of each County and District need to be changed.

27th March, 1992

- (h) A Resolution urging early implementation of a single trial court for family matters in the province and a discontinuance of any further unified family law projects.
- (i) A Resolution supporting a pilot project for a single trial court in criminal matters.
- (j) A Resolution urging the Law Society to establish a committee to examine the policy and administration of the non-profit insurance plan and requesting representation by the County and District Law Presidents' Association on any committee established for such purpose.

At the Committee's meeting on January 9, 1992, the County and District Law Presidents' Association asked that consideration be given to adjusting the insurance levy according to each member's area of practice. Your Committee has arranged for a discussion on this matter at its next meeting on February 1992. Colin Campbell, Chair of the Insurance Committee, will be in attendance at the February meeting as will Lin Whitman, Director of Insurance.

3. ROLE OF NON-BENCHER MEMBERS OF THE COUNTY AND DISTRICT LIAISON COMMITTEE

The County and District Law Presidents' Association has asked for clarification of the role of the non-bencher members of your Committee. Materials will be prepared for the assistance of Committee members when this matter is discussed at the February 1992 meeting.

ALL OF WHICH is respectfully submitted

DATED the 24th day of January, 1992

"S. Elliott"
for Chair

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

- Item 2 - Copy of the Resolutions passed by the Plenary Session of the County and District Law Presidents' Association in November 1991.
(Marked A-1 - A-10)

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COUNTY AND DISTRICT LIAISON COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of February 1992 at 11:30 a.m., the following members were present: Mr. Bragagnolo (Chair), Mr. Campbell, Ms. Curtis, Ms. Elliott and Mr. Feinstein. The following members of the County and District Law Association Executive were also in attendance: Messrs. Arrell, Bode, Foley, Ms. Hebert, Messrs. Hennessey, Lovell, Ms. Mossip, Messrs. O'Dea and Smith. Staff in attendance were: Ms. Angevine, Mr. Howell and Mr. John (Secretary).

27th March, 1992

1. INSURANCE LEVY

Colin Campbell, Chair of the Insurance Committee, attended the meeting and briefed members on the steps being taken to review the existing Errors and Omission Insurance Plan. The Chair indicated that a special committee has been struck to determine the primary areas in which claims are occurring and what can be done to reduce the rising number of claims against the Plan.

2. PREPAID NON-PROFIT INSURANCE

Your Committee discussed a resolution of the County and District Law Presidents' Association calling for a thorough review of the feasibility of a publicly marketable, non-profit insurance plan to allow people who do not qualify for Legal Aid to bear the cost of legal services. Your Committee inquired about the status of the Law Society's Committee on prepaid legal service plans and was advised that it was now subsumed under the Access to Justice Subcommittee. Your Committee asked that the matter be referred to that Subcommittee.

3. BUDGET

Your Committee reviewed the current year's budget and had a preliminary discussion on the 1992 - 1993 budget.

4. MISCELLANEOUS

The following matters were raised at the meeting on February 13, 1992:

- a) Update on composition of the Benchers Elections Committee.
- b) The following dates were fixed for the Plenary Session of the County and District Law Presidents' Association:

May 14th and 15th, 1992

November 12th and 13th, 1992
- c) There was a discussion of the funding problems faced by the Ontario Legal Aid Plan. Members of your Committee expressed concern over some of the proposals which may be put forward by the government to make up the anticipated shortfall.
- d) A Draft Special Report on Reducing Defalcations dated January 29, 1992 and prepared for the Lawyers' Fund for Client Compensation was tabled.

ALL OF WHICH is respectfully submitted

DATED the 28th day of February, 1992

"S. Elliott"
for Chair

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COUNTY AND DISTRICT LIAISON COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of March 1992 at 11:30 a.m., the following members were present: Mr. Bragagnolo (Chair), Ms. Curtis and Mr. Feinstein. The following members of the County and District Law Association Executive were also in attendance: Messrs. Bode, Foley and Gates, Ms. Hebert, Mr. Lovell, Ms. Mossip and Mr. Smith. Staff in attendance were: Ms. Angevine, Mr. Howell and Mr. John (Secretary).

1. FUNDING FOR L.I.N.K. PROGRAMME

The following Resolution passed by the County and District Law Presidents' Association in March 1992 was tabled:

"The County and District Law Presidents' Association confirms its support of the goals and the services provided by the L.I.N.K. programme and urges the Law Society of Upper Canada to continue its support and funding to permit the programme to continue without any loss of, or reduction in, services."

2. REGARDING THE SPECIAL COMMITTEE ON BENCHER ELECTION

Your Committee has requested a meeting of the Special Committee on Bencher Elections. Your Committee also requested a report on the changes made by Convocation to the Ferguson Report in 1991.

3. C.I.B.C. HOME PURCHASE LEGAL FEES

Members of your Committee expressed concern about the advertisements run by the C.I.B.C. in which a Legal Fee Package was offered for mortgage refinancing. As the matter was already on the March 1992 Agenda for the Professional Conduct Committee, your Committee referred its concerns to that Committee and deferred further consideration of the matter until the Professional Conduct Committee has reported.

ALL OF WHICH is respectfully submitted

DATED the 27th day of March, 1992

"S. Elliott"
for Chair

THE REPORTS WERE ADOPTED

.....

CERTIFICATION BOARD

Mr. Scott presented the Reports of the Certification Board dated January 24th, February 28th, 1992 and March 27th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CERTIFICATION BOARD begs leave to report:

Your Board met on Friday, the 22nd of November, 1991 at eight o'clock in the morning, the following members being present: D.R. O'Connor (Chair), D.W. Scott (Vice-Chair), J. Callwood, V. Krishna, R.D. Manes, M.L. Pilkington and G.P. Sadvari. A. Treleaven, B. Duncan, S. Thomson, E. Greenall and D. Moreira, of the Law Society, were also present.

Your Board held a round-table discussion with Specialty Committee Chairs on Monday, the 16th of December, 1991 at five o'clock in the afternoon, the following members being present: D.R. O'Connor (Chair), D.W. Scott (Vice-Chair), J. Callwood, A. Feinstein, M.L. Pilkington and G.P. Sadvari. The following Specialty Committee members were present: T.G. Bastedo (Chair - Family Law Specialty Committee), D.W. Brady (Chair - Workers' Compensation Law Specialty Committee), R.A. Cotton (Chair - Environmental Law Specialty Committee), R.E. Dimock (Chair - Intellectual Property Law Specialty Committee), R.C. Filion (Chair - Labour Law Specialty Committee), A.D. Gold (Chair - Criminal Litigation Specialty Committee), R.N. Robertson (Chair - Bankruptcy and Insolvency Specialty Committee), C.L. Rotenberg (Member - Immigration Law Specialty Committee) and P. Webb (Chair - Civil Litigation Specialty Committee). A. Treleaven, B. Duncan, S. Thomson and E. Greenall, of the Law Society, were also present.

The Education Sub-Committee of the Certification Board met on Wednesday, the 18th of December, 1991 at eight o'clock in the morning, the following members being present: M.L. Pilkington (Chair), R.D. Manes, G.P. Sadvari and A. Treleaven. B. Duncan and S. Thomson, of the Law Society, were also present.

Specialty Committees met as follows:

The Workers' Compensation Law Specialty Committee met on Friday, the 15th of November, 1991 at four-fifteen in the afternoon.

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 19th of November, 1991 at eight-thirty in the morning.

The Labour Law Specialty Committee met on Monday, the 25th of November, 1991 at five o'clock in the afternoon.

The Criminal Litigation Specialty Committee met on Friday, the 29th of November, 1991 at one o'clock in the afternoon.

The Immigration Law Specialty Committee met on Tuesday, the 3rd of December at five o'clock in the afternoon.

On behalf of the Family Law Specialty Committee, the Committee Chair met with the Certification Program Administrator on Tuesday, the 10th of December, 1991 at eight-thirty in the morning.

The Civil Litigation Specialty Committee met (conference call) on Tuesday, the 17th of December, 1991 at eight-thirty in the morning.

A.
POLICY

1. CERTIFICATION PROCESS - SOLICITOR-CLIENT PRIVILEGE

The Board considered a letter from B. Fishbein (ATTACHMENT "1") regarding solicitor-client privilege in the context of applying for certification as a Specialist.

Members were of the opinion that the points raised in Mr. Fishbein's letter were entirely appropriate. They were advised that this issue is particularly relevant to the interview process.

27th March, 1992

Clear instructions regarding disclosure by applicants of the names of people whom they have represented, in order to substantiate the applicant's claim to have had certain types of experience, will become a standard feature of the interview process. Both applicants and interviewers will be advised that names of clients must not be disclosed unless they are already in the public domain.

It has also been recommended that the application forms should include a statement to the effect that the provision of names of clients is not called for, and indeed is not permissible, unless those names have already been made public.

B.
ADMINISTRATION

1. EDUCATION SUB-COMMITTEE

An Education Sub-Committee, composed of M.L. Pilkington (Chair), R.D. Manes, G.P. Sadvari and A. Treleaven, has been established to consider and make recommendations to the Board with respect to:

- (a) the establishment of examinations as a means of evaluating the qualifications of Specialists;
- (b) the establishment of programs to prepare lawyers for certification;
- (c) the establishment of courses or workshops for certified Specialists;
- (d) variation in the education requirements of the various specialties;
- (e) the approval of Law Society and non-Law Society programs and courses for the purposes of meeting the education requirements of various specialties for initial certification and maintenance of certification.

2. TRANSITIONS REPORT

A Sub-Committee to Consider the Transitions Report, composed of J. Callwood and M.L. Pilkington, was established to consider whether any matters contained therein are applicable to the work of the Certification Board.

3. FINANCIAL UPDATE

Below is a brief financial statement for the period July 1, 1991 to January 7, 1992:

| | |
|-------------------------------|--------------|
| Revenue (Certification Fees): | \$12,200.00 |
| Expenses: | \$72,583.75 |
| VARIANCE: | \$60,383.75- |

The single greatest cost, other than salaries, is "Travel Costs - Committees".

C.
INFORMATION

1. CERTIFIED SPECIALISTS

The Board is pleased to report the certification of the following lawyers as Civil Litigation Specialists (2 names):

W. Bruce Drake (of Toronto)
Paul B. Vickery (of Downsview)

The Board is pleased to report the certification of the following lawyers as Criminal Litigation Specialists (2 names):

Alexander Sosna (of Whitby)
Kenneth D. Murray (of Newmarket)

The Board is pleased to report the certification of the following lawyers as Family Law Specialists (3 names):

C. Richard Buck (of Kitchener)
Barry T. Paquette (of Kitchener)
Gary Stuart Joseph (of Toronto)

2. NEW SPECIALTY COMMITTEES - SUBMISSION OF REPORTS

Specialty Committees have been advised that the Certification Board now requires each new Specialty Committee to include the following in its final report to the Board:

1. An assessment of how the public may benefit from the implementation of the Specialty, by facilitating informed access to legal services and/or enhancing standards of practice within the field of specialty.
2. An opinion about the extent to which the Specialty will be accessible for lawyers practising in various regions of the province.

The Board has instructed that these matters may be addressed in any way each Committee finds appropriate and has suggested that supporting data would be helpful.

ALL OF WHICH is respectfully submitted

DATED this 24th day of January, 1992

"D. Scott"
for Chair

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

- A-Item 1 - Letter from Mr. Bernard Fishbein of Koskie and Minsky to Ms. Sarah Thomson dated November 4, 1991 re: Law Society of Upper Canada Certification Programme-Labour Law Specialists.
(Attachment 1, pages (2))

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CERTIFICATION BOARD begs leave to report:

27th March, 1992

Your Board met on Friday, the 24th of January, 1992 at eight o'clock in the morning, the following members being present: D.W. Scott (Vice-Chair), V. Krishna, R.D. Manes, M.L. Pilkington, G.P. Sadvari and R.D. Yachetti. A. Treleaven, B. Duncan, and S. Thomson of the Law Society were also present.

The Education Sub-Committee of the Certification Board met on Wednesday, the 15th of January, 1992 at eight o'clock in the morning, the following members being present: M.L. Pilkington (Chair), R.D. Manes, G.P. Sadvari and A. Treleaven. B. Duncan and S. Thomson, of the Law Society, were also present.

Specialty Committees met as follows:

The Criminal Litigation Specialty Committee met on Friday, the 31st of January, 1992 at one o'clock in the afternoon.

A.
POLICY

1. ADVERTISING THE SPECIALIST DESIGNATION

The Board reviewed its position on advertising the Specialist designation. At this time, the manner in which a Specialist may identify the designation in any written material, including letterhead and professional cards, is restricted to exactly the following:

ENGLISH
VERSION

Certified by the Law Society as a
Specialist in
Civil Litigation. *
Criminal Litigation.
Civil and Criminal Litigation.
Family Law.
Immigration Law.

FRENCH
VERSION

Reconnu(e) par le Barreau du Haut-Canada
comme spécialiste en
litige civil.
litige criminel.
litige civil et criminel.
droit de la famille.
droit de l'immigration.

* When using the designation outside Ontario, or in cases where there is any possibility that the designation, without identifying the certifying body, may be misleading, the more complete wording "Certified by the Law Society of Upper Canada as a Specialist in [area of law]" is required.

The Board considered whether it should persist in its ruling on advertising and its rejection of the use of initials. The Board concluded, in the interest of consistency and to avoid confusion on the part of the public, that there should be no change to its ruling at the present time.

However, the Board concluded that it would have no objection if certified Specialists expand on their professional background, so long as the advertising complies with Rule 12 of the Rules of Professional Conduct, e.g.

"Certified by the Law Society as a Specialist in Family Law. Over 25 years of experience. Senior instructor in the Family Law Section of the Bar Admission Course. Emphasis on [specific areas of expertise]. Appearances in all courts. Also a member of the New York State Bar."

B.
ADMINISTRATION

1. SPECIALTY COMMITTEES - YEAR-END

For administrative purposes, the Board has set December 31st as the annual year-end for terms of service of all Specialty Committee members.

2. SPECIALTY COMMITTEES - MEMBERSHIPS FOR 1992

(a) "Active" Specialty Committees

The Board recommends that all memberships be extended for an additional year. The Board is of the opinion that consistency in membership will be advantageous during the period of transition to a more structured certification process:

Civil Litigation Specialty Committee

- Peter Webb (Chair)
- Kathryn Chalmers
- Scott Ritchie
- Margaret Ross
- Mary Anne Sanderson

Criminal Litigation Specialty Committee

- Alan Gold (Chair)
- Casey Hill (Vice-Chair)
- Patrick Ducharme
- Susan Ficek
- Jeffrey Manishen
- David McCombs
- Norman Peel
- Michael Neville

Family Law Specialty Committee

- Thomas Bastedo (Chair)
- George Czutrin
- Ian Fisher
- Stephen Grant
- William Inch
- Evelyn McGivney
- Ruth Mesbur
- Nancy Mossip
- Hunter Phillips

Immigration Law Specialty Committee

- Mendel Green (Chair)
- William Angus
- Kathryn Barnard
- Marshall Drukarsh
- Nancy Goodman
- Howard Greenberg
- Carter Hoppe
- Barbara Jackman
- Roderick McDowell
- Cecil Rotenberg
- Marlene Thomas

27th March, 1992

(b) New Specialty Committees

The Board recommends that all memberships of the following Specialty Committees be extended for one year so that the Committees can remain intact for enough time to see their projects properly implemented:

Bankruptcy and Insolvency Law Specialty Committee

- Ronald Robertson (Chair)
- John Honsberger (Vice-Chair)
- David Baird
- Jules Berman
- Christopher Fournier
- Frank Highley
- Carl Morawetz
- Gale Rubenstein
- Diane Winters

Entertainment Law Specialty Committee

- Peter Steinmetz (Chair)
- Doug Barrett
- Peter Grant
- Eric Gross
- Alexandra Hoy
- Gordon Kirke
- Heather Mitchell
- Susan Peacock
- Stephen Stohn

Environmental Law Specialty Committee

- Roger Cotton (Chair)
- Jack Coop
- Stephen Garrod
- Lloyd Greenspoon
- Thomas Lederer
- John Manzig
- Linda McCaffrey
- Donald Oraziatti
- Harry Poch
- Douglas Robertson
- Dianne Saxe
- Toby Vigod

Intellectual Property Law Specialty Committee

- Ronald E. Dimock (Chair)
- Joseph Day
- Carol Hitchman
- Malcolm Johnston
- Charles Kent
- John Macera
- David Morrow
- Cynthia Rowden
- Colleen Spring Zimmerman

Labour Law Specialty Committee

- Roy Fillion (Chair)
- Alan Minsky (Vice-Chair)
- Janice Baker
- Jacques Emond
- Leonard Kavanaugh
- Elizabeth McIntyre
- Chris Paliare
- Paula Rusak
- Jeffrey Sack
- John West

27th March, 1992

Workers' Compensation Law Specialty Committee

- David Brady (Chair)
- David Cameletti
- David Craig
- Pauline Dietrich
- Douglas Gilbert
- Michael Green
- Perry McCuaig
- Roslyn Pauker
- Daniel Revington

C.
INFORMATION

1. CERTIFIED SPECIALISTS

The Board is pleased to report the certification of the following lawyers as Civil Litigation Specialists (3 names):

Charles A. Harnick (of Toronto)
John S. Kelly (of Toronto)
John S. McKeown (of Toronto)

2. EDUCATION SUB-COMMITTEE REPORT

Meetings of the various Specialty Committees to consider the Report of the Education Sub-Committee are being scheduled prior to the Certification Board's next meeting on February 28th.

The Board will report to Convocation on the recommendations of the Sub-Committee following its consultation with the various Specialty Committees.

ALL OF WHICH is respectfully submitted

DATED this 28th day of February, 1992

"D. Scott"
for Chair

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CERTIFICATION BOARD begs leave to report:

Your Board met on Friday, the 28th of February, 1992 at eight o'clock in the morning, the following members being present: D.R. O'Connor (Chair), D.W. Scott (Vice-Chair), J. Callwood, A. Feinstein and G.P. Sadvari. B. Duncan, S. Thomson and E. Greenall of the Law Society were also present.

Your Board met on Thursday, the 12th of March, 1992 at four o'clock in the afternoon, the following members being present: D.W. Scott (Vice-Chair), J. Callwood, A. Feinstein, R.D. Manes and M.L. Pilkington. R.E. Dimock (Chair - Intellectual Property Law Specialty Committee) and H. Poch (Vice-Chair - Environmental Law Specialty Committee) attended the meeting. A. Treleaven, B. Duncan and S. Thomson of the Law Society were also present.

Specialty Committees met as follows:

The Intellectual Property Law Specialty Committee met on Monday, the 17th of February, 1992 at five o'clock in the afternoon.

The Entertainment Law Specialty Committee met on Tuesday, the 18th of February, 1992 at twelve noon.

The Workers' Compensation Law Specialty Committee met on Wednesday, the 19th of February, 1992 at four-thirty in the afternoon.

The Family Law Specialty Committee met on Wednesday, the 19th of February, 1992 at five-thirty in the afternoon.

The Workers' Compensation Law Specialty Committee met on Thursday, the 20th of February, 1992 at four-thirty in the afternoon.

The Environmental Law Specialty Committee met on Monday, the 24th of February, 1992 at twelve-thirty in the afternoon.

The Labour Law Specialty Committee met on Monday, the 24th of February, 1992 at five o'clock in the afternoon.

The Immigration Law Specialty Committee met on Tuesday, the 25th of February, 1992 at four o'clock in the afternoon.

The Civil Litigation Specialty Committee met (conference call) on Wednesday, the 26th of February, 1992 at eight-thirty in the morning.

The Bankruptcy and Insolvency Law Specialty Committee met on Wednesday, the 26th of February, 1992 at six o'clock in the evening.

The Civil Litigation Specialty Committee met (conference call) on Thursday, the 27th of February, 1992 at ten-thirty in the morning.

The Workers' Compensation Law Specialty Committee met on Thursday, the 5th of March, 1992 at four-thirty in the afternoon.

A.
POLICY

1. RIGHT OF SPECIALTY COMMITTEE MEMBERS TO IDENTIFY THEIR PARTICIPATION ON THE COMMITTEE WHEN GIVING PERSONAL OPINIONS

Mendel Green had questioned whether he, as Chair of the Immigration Law Specialty Committee, could identify his participation on the Committee when giving his personal opinion on matters such as ethics, conduct, Federal Court Immigration Rules and any other matters not pertaining to certification of Specialists to the media or others. He questioned whether Specialty Committee members should be able to speak out on these matters, and the role that Committee members, as Specialists in the field, have in educating the public.

The Board noted that to state one is the Chair or a member of a Specialty Committee, if that is the case, is a statement of fact. The Board is of the opinion that so long as it is made clear that the member is expressing the member's personal opinion and is not speaking on behalf of the Committee of the Law Society, the member should be free to identify his/her participation on the Committee.

27th March, 1992

2. IMMIGRATION LAW STANDARDS - PERCENTAGE
OF TIME DEVOTED TO THE SPECIALTY AREA

The Immigration Law Specialty Committee recommended that par. 5.ii(b). be amended to read [underline indicates revision]: "As a general rule, in each of those five years, the applicant must have devoted at least one-half of professional time to the practice of immigration law."

The Board is of the opinion that the proposed degree of flexibility is not unreasonable and recommends the amendment.

3. SUB-COMMITTEE TO CONSIDER THE TRANSITIONS REPORT

The Sub-Committee of the Certification Board, composed of J. Callwood and M.L. Pilkington, has recommended that a greater effort should be made to achieve a better balance of women and men on the interviewing panels and that some of the Chairs of the Specialty Committees ought to be women (currently there are no women Chairs or Vice-Chairs).

The Sub-Committee also recommended that the composition of Committees and panels ought to be more reflective of the Ontario legal community, including improved small community and multi-cultural representation.

B.
ADMINISTRATION

1. SPECIALTY COMMITTEES - MEMBERSHIPS

The Board recommends that William J. Festeryga (of Sullivan, Festeryga, Lawlor & Arrell in Hamilton) be appointed to the Civil Litigation Specialty Committee.

The Board recommends that Diana L. Fuller (of Sudbury - Crown Attorney - Regional Director of the north-east region) and Michael Anne MacDonald (of Lee, Roche & Kelly in Bracebridge) be appointed to the Criminal Litigation Specialty Committee.

C.
INFORMATION

1. CERTIFIED SPECIALISTS

The Board is pleased to report the certification of the following lawyers as Civil Litigation Specialists:

Bernard Koffman (of Toronto)
William J. Manuel (of Toronto)

The Board is pleased to report the certification of the following lawyer as a Criminal Litigation Specialist:

N. Douglas Gaetz (of Sault Ste. Marie)

27th March, 1992

The Board is pleased to report the certification of the following lawyers as a Family Law Specialists:

- Ronald Burnett (of Windsor)
- Ester L. Lenkinski (of Toronto)
- Cheryl L. Robertson (of Hamilton)
- Silja Seppi (of Mississauga)

2. EDUCATION SUB-COMMITTEE REPORT

Meetings of the various Specialty Committees to consider the Report of the Education Sub-Committee took place over a period of a month (end of January to the end of February).

The Board will further review the comments of the Specialty Committees and will report to Convocation in due course.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"D. Scott"
for Chair

THE REPORTS WERE ADOPTED

.....

WOMEN IN THE LEGAL PROFESSION COMMITTEE

Ms. Bellamy presented the Reports of the Women in the Legal Profession Committee of its meetings on February 13th and March 12th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The WOMEN IN THE LEGAL PROFESSION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 13th of February, 1992, at 11:30 a.m., the following members being present: F. Mohideen (in the Chair), T. Bastedo, S. Goudge, S. O'Connor, A-M. Stewart, D. Scott.

Also present: H. Roger, L. Johnstone, H. Sava, A. Brockett.

A.
POLICY

1. RECOMMENDED PERSONNEL POLICY REGARDING EMPLOYMENT-RELATED SEXUAL HARASSMENT

Your Committee heard from Mr. Howard Roger, a member of the Law Society. Mr. Roger expressed concern about the procedure that had been followed in the development of the Recommended Personnel Policy Regarding Employment-Related Sexual Harassment. In his opinion, the Committee had not consulted adequately with members of the profession and he felt that he had been denied the

27th March, 1992

opportunity to comment on the policy at draft stage. He had doubts about the suitability of some of the procedural arrangements recommended in the policy. Mr. Roger asked that distribution of the Recommended Personnel Policy be halted to allow for further discussion and possible revision of the document.

It was explained to Mr. Roger that a number of members with specialist knowledge had been consulted while the policy was in process of development.

Your Committee decided that distribution of the Recommended Personnel Policy should continue. It was agreed, however, that the covering letter to managing partners of law firms would make clear that:

- Convocation recognizes that sexual harassment is a complex problem that raises contentious issues;
- the approach recommended in the policy is not the only approach that can be taken;
- the Committee will review the Recommended Policy in the light of experience; and
- the Committee would welcome comments and suggestions from members and their firms.

ALL OF WHICH is respectfully submitted

DATED this 28th day of February, 1992

"D. Bellamy"
Chair

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The WOMEN IN THE LEGAL PROFESSION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of March, 1992, at 11:30 a.m., the following members being present: D. Bellamy (Chair), P. Copeland, J. Lax, F. Mohideen, D. Scott.

Also present: C. McKinnon, D. Crack, S. Hodgett, L. Johnstone, A. Brockett.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

B.1. MEMBERSHIP FEES PAYABLE BY MEMBERS DURING MATERNITY, PATERNITY OR ADOPTION LEAVES

B.1.1. Under the current policy governing annual membership fees in the Law Society, members who take leave for reasons of maternity, paternity or adoption, may not be entitled to any reduction of fee. Entitlement to a fee reduction is dependent upon the length of the leave and the time of year at which it is taken.

B.1.2. Two members who had taken maternity leave had suggested that the requirement that they pay the full fee was discriminatory. The Finance and Administration Committee referred the matter to the Women in the Legal Profession Committee for a report.

B.1.3. A Subcommittee (P. Copeland, S. Goudge, J. Lax) was appointed to consider the matter.

B.1.4. The Subcommittee considered three alternative proposals:

B.1.4.1. Six months free membership for mothers and fathers who, for reasons of maternity, paternity or adoption, cease their employment.

B.1.4.2. Six months membership at a 25% fee for mothers and fathers who, for reasons of maternity, paternity or adoption, cease their employment.

B.1.4.3. An automatic six-month reduction of fees to 25% for every member who becomes a parent, irrespective of whether that member ceases practising or otherwise reduces his or her working hours.

B.1.5. Your Committee accepted the proposal of its Subcommittee that the first alternative, set out in B.1.4.1. above, should be recommended to the Finance and Administration Committee. Your Committee accordingly recommended that the Finance and Administration Committee consider the following scheme:

B.1.5.1. For purposes of determining fees, leaves from employment for reasons of maternity, paternity and adoption should be treated identically.

B.1.5.2. The annual fee for any year in which a member wishes to take advantage of a special fee for reasons of maternity, paternity or adoption, should be calculated on a monthly basis, one month's fee being equal to one-twelfth of the annual fee.

B.1.5.3. Any member (female or male) who has been practising the law of Ontario (fee category 1) and who, for purposes of

(i) preparing for the birth or adoption of a child, and/or

(ii) caring for a new-born or newly-adopted child,

ceases to practise the law of Ontario, should be entitled to maintain membership in the Society without payment of the monthly membership fee, for a period not exceeding six months.

- B.1.5.4. Any member (female or male) who has been gainfully employed but not practising the law of Ontario (fee category 2) and who, for purposes of
- (i) preparing for the birth or adoption of a child, and/or
 - (ii) caring for a new-born or newly-adopted child,
- ceases to be gainfully employed, should be entitled to maintain membership in the Society without payment of the monthly membership fee, for a period not exceeding six months.
- B.1.6. The recommendation treats members on maternity, paternity or adoption leave more generously than those who, for other reasons, are not gainfully employed. Under existing policy, members who are not gainfully employed (fee category 3) are required to pay a fee of 25%. Your Committee is of the opinion that its recommendation is justified on the ground that the Law Society wishes to encourage members who take time off for parental reasons to play a full part in the profession. The proposal is in keeping with the recommendations of the Transitions Report adopted by Convocation in April 1991.
- B.1.7. Your Committee was asked to look only at the question of fees for members who take short-term maternity, paternity or adoption leave. This is a narrow issue. Some parents may take extended leave, or reduce their working hours over a period longer than six months. Members also take leave (or reduce their working hours) for other reasons -- for instance because of sickness, or to care for an aged parent -- and these reasons may also justify some reduction in the membership fee. Your Committee does not think it would be appropriate to postpone action on the issue of maternity/paternity/adoption leave for the purpose of conducting a comprehensive review of these matters. Nevertheless, the Committee has drawn to the attention of the Finance and Administration Committee the fact that action on the one issue necessarily raises the question of whether special provisions should be made for members who take leave for other reasons that may be considered to be outside their control.
- B.2. NON-BENCHERS INTERESTED IN SERVING ON THE COMMITTEE
- B.2.1. Your Committee noted that 115 members had responded to the advertisement addressed to those interested in serving on a Law Society committee. Twenty-six of the respondents had expressed a specific interest in the Women in the Legal Profession Committee. The Committee discussed procedures that might be recommended to the Treasurer for selecting members to serve.
- B.2.2. Your Committee is of the view that, as far as possible, each committee should follow the same procedures in this matter.
- B.2.3. It was agreed to recommend the following general criteria to the Treasurer:
- B.2.3.1. The desirability of having balanced geographical representation on each committee.
 - B.2.3.2. The desirability of achieving a balance between different types of practice and professional activity.
 - B.2.3.3. The desirability of having, on each committee, a representative cross-section in terms of number of years at the bar.

27th March, 1992

- B.2.4. In addition to the general criteria in B.2.3. above, your Committee has suggested to the Treasurer that it would be desirable that the Women in the Legal Profession Committee include a representative of those members who have been called for five years or less.
- B.2.5. Your Committee has informed the Treasurer that it proposes to select two or three non-benchers to join its membership.

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"D. Bellamy"
Chair

THE REPORTS WERE ADOPTED
.....

INVESTMENT COMMITTEE

Mr. Wardlaw presented the Reports of the Investment Committee of its meetings on February 13th and March 12th, 1992.

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 13th of February, 1992 at two-thirty in the afternoon, the following members being present: Messrs. Wardlaw (Chair) and Feinstein. Staff members present were David Crack and David Carey.

B.
ADMINISTRATION

1. Investment Report

The Deputy Director of Finance presented to the Committee two investment report summaries for the various Law Society Funds together with supporting documentations for the months ended December 31st, 1991 and January 31st, 1992.

Approved

2. Investment Activity - Lawyers' Fund for Client Compensation

| <u>Purchase</u> | <u>Broker</u> | <u>Current Market</u> | <u>Yield</u> |
|---|----------------|-----------------------|--------------|
| \$400,000 8.25% Gov't of Canada Bonds due March 1, 1997 | TD Bank | 99.80 | 8.29% |
| \$100,000 8.25% Gov't of Cda. Bonds due March 1, 1997 | Midland Walwyn | 99.80 | 8.29% |

27th March, 1992

3. Investment Activity - Errors and Omissions Insurance Fund

| | | | |
|---|--------------------|-------|--------|
| \$800,000 8.50% BCE Inc. S.6 Notes due January 31, 1997 | Nesbitt Thomson | 99.75 | 8.56% |
| \$200,000 8.625% Gov't of Cda. Bonds due February 6, 2002 | Scotia McLeod | 99.35 | 8.724% |

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 28th day of February, 1992

"J. Wardlaw"
Chair

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

B-Item 1 - Two investment report summaries for the various Law Society Funds for months ending December 31, 1991 and January 31, 1992.
(Pages (2))

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 12th of March, 1992 at two-thirty in the afternoon, the following members being present: Messrs. Wardlaw (Chair) and Hickey. Staff members present were David Crack and David Carey.

A.
Policy

1. The Law Society's current investment policy does not allow for the acquisition of "Stripped Bonds". A stripped bond is a bond that has all the semi-annual coupons removed and is then sold in a fashion similar to a money-market instrument, that is discounted.

The Committee is asked to approve the inclusion of stripped bonds as an investment vehicle within the investment policy as long as other policy criteria are met.

Approved

B.
ADMINISTRATION

1. Investment Report

The Deputy Director of Finance presented to the Committee an investment report summary (Schedule A) for the various Law Society Funds together with supporting documentation for the month ended February 29, 1992.

Approved

2. Investment Activity - Errors and Omissions Insurance Fund

| <u>Purchase</u> | <u>Broker</u> | <u>Current Market</u> | <u>Yield</u> |
|---|---------------|-----------------------|--------------|
| \$1,000,000 7.5% Gov't of Cda. Bonds due July 1, 1997 | TD Bank | 99.64 | 7.58% |
| \$200,000 Ontario Hydro Bonds due February 6, 2002 | Scotia McLeod | 99.35 | 8.72% |

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

C.

1. Other Matters

At the request of the Lawyers Fund for Client Compensation staff a schedule showing payments from 1982-83 to date has been prepared. The details can be seen on Schedule B. This payment analysis indicates that 87.65% of claims are paid within three years, however, some claims take up to nine years for final payment.

Noted

ALL OF WHICH is respectfully submitted

DATED this 27th day of March, 1992

"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 for month ending February 29, 1992. (Schedule A)

27th March, 1992

C-Item 1 - Schedule re: Lawyers Fund for Client Compensation - showing
payments from 1982-83 to date. (Schedule B)

THE REPORTS WERE ADOPTED

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The following Reports were deferred:

French Language Services Committee (3 Reports)
Special Committee on Contingency Fees
Special Committee on Requalification

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CONVOCATION ADJOURNED AT 5:10 P.M.

.....

Confirmed in Convocation this *29th* day of *May*, 1992.


Treasurer