

MINUTES OF CONVOCATION

Friday, 25th January, 1991
9:30 a.m.

PRESENT:

The Treasurer (James M. Spence, Q.C.), Bastedo, Bellamy, Bragagnolo, Campbell, Carter, Cass, Chapnik, Copeland, Cullity, Epstein, Farquharson, Ferguson, Ferrier, Furlong, Graham, Ground, Guthrie, Hall, Hickey, Howie, Howland, Kiteley, Lamek, Lamont, Lawrence, Legge, Lerner, Levy, Lyons, McKinnon, Manes, Noble, Pepper, Peters, Rock, Ruby, Scace, Shaffer, Somerville, Stewart, Thom, Topp, Wardlaw, Weaver and Yachetti.

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IN CAMERA

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IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

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IN PUBLIC

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The Treasurer noted the death of former member Margaret P. Hyndman on January 18th, 1991.

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The Treasurer announced the resignation of Philip Epstein as a Bencher.

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MOTIONS

Life Benchers

The matter was stood down.

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Professional Standards Committee

It was moved by Mr. Yachetti, seconded by Ms. Weaver THAT Sandra Chapnik be added as a member of the Professional Standards Committee.

Carried

New Special Committee

It was moved by Mr. Lamek, seconded by Mr. Ruby THAT a Special Committee be established to review the report and recommendation of the Task Force on Paralegals and to report to Convocation with recommendations as to the position the Law Society should adopt in response to the Task Force Report and Recommendations including consideration of affirmative programmes such as pre-paid legal service plans the Law Society might undertake to make routine legal services more readily accessible to members of the general public with the members to be appointed and ratified in February Convocation.

Carried

Clinic Funding Committee

It was moved by Mr. Epstein, seconded by Mr. Bastedo THAT Colin Campbell be appointed Chair to the Clinic Funding Committee, that Paul Copeland be appointed Vice-Chair to fill the vacancy created by the resignation of Earl Levy and Thea Herman remain as the Attorney General's representative.

Carried

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DRAFT MINUTES OF CONVOCATION

It was moved by Mr. Lerner, seconded by Mr. Lamont THAT the draft Minutes of October 12th, October 26th, November 22nd and November 23rd, 1990 be approved.

Carried

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LEGAL EDUCATION COMMITTEE

Mr. Rock presented the Report of the Legal Education Committee of its meeting on January 10th, 1991.

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 10th of January, 1991. The following members were present: Allan Rock (Chair), Maurice Cullity, Donald H.L. Lamont (Vice-Chairs), Denise Bellamy, Sandra Chapnik, Philip Epstein, Laura Legge, Patricia Peters, Marc Somerville, Stuart Thom, James Wardlaw, Roger Yachetti. In attendance representing law schools were: Dean Robert Sharpe, Dean John Whyte. In attendance representing the Bar Admission Advisory Committee was: John Lewis. Staff in attendance were: Marilyn Bode, Brenda Duncan, Holly Harris, Cheryl Keech, Alexandra Rookes, Alexis Singer, Alan Treleaven, Heather Walker.

A.
POLICY

1. BAR ADMISSION COURSE COMPLETION: THE "TEN YEAR RULE"

Mr. William Ernest Bruce requests by letter (pages 1 - 5) permission to begin the Ontario Bar Admission Course. Mr. Bruce graduated from The University of Toronto Faculty of Law in 1978.

Regulation 573, section 22 (5) stipulates: "Every student-at-law must complete the Bar Admission Course within the ten-year period commencing at graduation from a law course in a university in Canada approved by Convocation". Section 22 (6) authorizes the Legal Education Committee to modify the ten-year requirement "in any case involving exceptional circumstances". The "ten-year rule" has been in place since May 16, 1983, prior to which it was a "five-year rule".

The legislation does not provide any guidance for modifying the application of the ten-year requirement.

The rationale for the ten-year requirement is presumably that the applicant's law-related background should be so sufficiently recent that the applicant's law school education has meaningful connection to the Ontario Bar Admission process. In Mr. Bruce's case, the connection is marginal.

It is recommended that the Director confer with the Joint Committee on Accreditation to determine whether Mr. Bruce and applicants in his position might write the Joint Committee administered examinations as a means of updating their legal qualifications for purposes of obtaining admission to the Ontario Bar Admission Course.

Approved

B.
ADMINISTRATION

1. APPOINTMENT OF NEW ASSISTANT DIRECTOR OF EDUCATION

Edward McGrath will be leaving his post as Assistant Director of Education effective January 31, 1991. Mr. McGrath has been supervising the London Bar Admission Course and Continuing Legal Education out of the London office since July 1, 1985. His term of appointment was scheduled to expire on June 30, 1990. Mr. McGrath, however, graciously agreed to an extension of his term until January 31, 1991, in order to see the last session of the traditional Bar Admission Course through to its completion.

The Chair and the Director have considered the matter of a replacement, and are of the view that Margaret McSorley should be appointed as Mr. McGrath's successor effective February 1, 1991. Ms. McSorley has served as a member of the new Bar Admission Course Faculty in London since February 1, 1990, following the practice of law in the London office of Lerner and Associates. Ms. McSorley's curriculum vitae summarizing her career prior to her joining the Law Society is attached. (pages 6 - 8)

It is recommended that Margaret McSorley be appointed as Assistant Director of Education, effective February 1, 1991.

Approved

2. UNIVERSITY OF OTTAWA: PART-TIME LL.B. DEGREE

The University of Ottawa Faculty of Law (Common Law) requests approval of its new half-time studies program leading to an LL.B. degree over a six-year period of studies. Details of the new program are attached. (pages 9 - 14)

The half-time studies program is identical to the traditional three year program with the exception that it is extended over a longer period of time. Approval of the half-time studies program would be consistent with past approval of similar Canadian LL.B. programs.

It is recommended that the University of Ottawa half-time studies program leading to the LL.B. degree be approved.

Approved

3. BAR ADMISSION COURSE LOCATIONS

The Director has visited the six Ontario law schools to discuss the Bar Admission Course with interested students. Students at Queen's University and the University of Windsor expressed an interest in having Phase One offered in their respective cities in order to eliminate the inconvenience of having to move immediately following graduation, an inconvenience which is not faced by law students graduating in London, Ottawa and Toronto.

While a number of factors favour extending Phase One to Kingston and Windsor, as well as to Hamilton, careful consideration must be given to what would be significant financial and administrative challenges.

Given the pressures of offering Phase Three of the Bar Admission Course for the first time in 1991, and the extensive preparation which would be required to offer Phase One in a new location, the Director is of the view that the offering of Phase One in a new location should not take place, if at all, until after 1991.

It is recommended that the Chair appoint a Subcommittee of the Legal Education Committee to consider the desirability of extending Phase One of the Bar Admission Course to one or more new locations after 1991, and that the Subcommittee provide a report and recommendation to the Committee. It is further recommended that the Subcommittee include a student representative of the 33rd Bar Admission Course, to be appointed by the Bar Admission Advisory Committee.

Approved

C.
INFORMATION

1. ARTICLING SUBCOMMITTEE

Marc Somerville has accepted the invitation of the Chair of the Legal Education Committee to serve as Chair of the new Articling Subcommittee.

The Subcommittee is meeting to begin implementation of the Proposals for Articling Reform approved by Convocation in October of 1990.

2. BAR ADMISSION COURSE EXAMINATION RESULTS

The Bar Admission Course examinations have been written and marked in Civil Litigation, Public Law, Business Law, Family Law, and Criminal Procedure.

The results in Civil Litigation are: Honours 37, Pass 1081, and Fail 18. In the related Professional Responsibility question, the results are: Pass 1026, and Fail 106.

The results in Public Law are: Honours 22, Pass 1104, and Fail 11. In the related Professional Responsibility question, the results are: Pass 1005 and Fail 132.

The results in Business Law are: Honours 9, Pass 1030, and Fail 99. In the related Professional Responsibility question, the results are: Pass 1107, and Fail 31.

The results in Family Law are: Honours 27, Pass 1100, and Fail 10. In the related Professional Responsibility question, the results are: Pass 1107, and Fail 29.

The results in Criminal Procedure are: Honours 100, Pass 1038, and Fail 3. In the related Professional Responsibility question, the results are: Pass 1109, and Fail 32.

There is one Professional Responsibility question on each examination. Students must pass six of the eight Professional Responsibility questions in order to receive a passing grade in Professional Responsibility. Students who fail examinations will be permitted to write supplemental examinations in up to three courses, including Professional Responsibility as one of the courses. Before a student is admitted to the Bar, a student must pass all examinations, including the Professional Responsibility component.

3. LAW SOCIETY SPECIAL LECTURES

A proposal has been developed for holding the 1991 Special Lectures in Ottawa in September. Colin McKinnon and Patricia Peters have accepted the invitation of the Chair of the Legal Education Committee to co-chair the 1991 Special Lectures.

A meeting will be held shortly in Ottawa with the co-chairs, and representatives of the judiciary, the profession, and academe to select a topic and begin the planning process.

4. CONTINUING LEGAL EDUCATION REFORM SUBCOMMITTEE

The Continuing Legal Education Reform Subcommittee, chaired by Tom Bastedo, met on November 21, 1990.

Ms. Frances Wright, of the Toronto office of McCarthy Tetrault, presented a Report of her Real Estate Curriculum Committee. The Committee has designated eight major areas for instruction, and is beginning work on writing the supporting papers. There is ongoing discussion of the more detailed structure of the curriculum and scheduling.

The work of the Certification Board was also discussed. The Director of Education is now attending meetings of the Certification Board to ensure that the work of the Continuing Legal Education Reform Subcommittee is coordinated with any recommendations which may be developed by the Certification Board.

In order to offer more effective Continuing Legal Education programming outside of London, Ottawa and Toronto, the Director of Continuing Legal Education, Brenda Duncan, has been meeting with representatives of the County and District Law Associations. The Subcommittee is working with the staff to develop a package for providing more effective Continuing Legal Education programming outside of the major urban centres.

Further work is also being done on Lexitel as an alternate means of providing Continuing Legal Education programming.

5. COMPUTER EDUCATION FACILITY REPORT ON COURSES FOR THE MONTH OF NOVEMBER 1990

The Report is attached (page 15)

6. CONTINUING LEGAL EDUCATION REPORT ON COURSES

The Report is attached. (page 16 - 18)

7. DEPARTMENTAL BUDGET REPORT

The Treasurer, in a Memorandum of November 23, 1990, requested that each Committee consider related budgeting and spending on a monthly basis as a regular item on the Committee agenda.

Because of the timing of delivery of the month-end statements from the Department of Finance, the monthly departmental budget report will be for the month ending approximately six weeks before Committee day. The Department of Education Budget Report is accordingly for the month ending November 30, 1990.

The Department of Education Budget Report was discussed in Committee.

ALL OF WHICH is respectfully submitted

DATED the 10th day of January, 1991

"A. Rock"
Chair

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

- A-Item 1 - Letter from Mr. William Ernest Bruce to Mr. Alan Treleaven dated October 4, 1990 together with supporting documentation. (Numbered 1 - 5)
- B-Item 1 - Curriculum Vitae of Ms. Margaret A. McSorley. (Numbered 6 - 8)
- B-Item 2 - Letter from Dean D.M. McRae to Mr. Allan Rock dated November 14, 1990 together with copy of half-time studies program. (Numbered 9 - 14)
- C-Item 5 - Computer Education Facility Report on Course for the Month of November 1990. (Numbered 15)
- C-Item 6 - Continuing Legal Education Report on Courses. (Numbered 16 - 18)

THE REPORT WAS ADOPTED

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ADMISSIONS COMMITTEE

Ms. Peters presented the Report of the Admissions Committee of its meeting on January 10th, 1991.

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 10th of January, 1991 at 9:30 a.m., the following members being present: Ms. Peters (Chair), Mr. Farquharson (Vice-Chair) and Messrs. Ground, Lamont and Levy.

B.
ADMINISTRATION

1. DIRECT TRANSFERS - COMMON LAW - REGULATION 4(1)

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

David Ian Kilgour
Peter Andrew Westgate

Approved

SPECIAL REQUEST TO HAVE TRANSFER REQUIREMENTS WAIVED

The Committee had before it material from a member of another Canadian law society requesting that the Committee waive the transfer requirements in light of the applicant's lengthy experience and the fact he wished to take up a position in Ontario in the same area of practice. The Committee was of the view that as the requirements for transfer are set out in the Regulations, there is no jurisdiction given to the Committee to alter the basic requirements for transfer.

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

The following have met all the requirements to transfer under Regulation 4(2):

Stephen Ashkenazy
Dougal William Clark
Andrew Michael Cohen
Francois Raymond

Approved

3. FULL-TIME MEMBER OF FACULTIES OF APPROVED LAW SCHOOLS

The following member of an approved law faculty asks to be called to the Bar and admitted as a solicitor without examination under Regulation 5 respecting full-time members of approved law faculties in Ontario:

Michael Patrick Macklem	B.A. 1981 McGill University; LL.B.
Faculty of Law,	1984 The University of Toronto
The University of Toronto	

Approved

4. APPLICATIONS - FOREIGN LEGAL CONSULTANTS

Richard Bradley Alsop - Shearman & Sterling - New York

Richard Bradley Alsop has applied to become licensed as a foreign legal consultant in the Toronto office of Shearman & Sterling.

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

Mr. Alsop will be replacing Mr. Stephan Geisler who was licensed as a foreign legal consultant in March 1989. Mr. Geisler will be returning to the New York office of Shearman and Sterling.

Approved

Raymond Cleeman - Shearman & Sterling - New York

Raymond Cleeman applied to become licensed as a foreign legal consultant in the Toronto office of Shearman & Sterling.

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

Approved

Angelo Musitano - Angelo Musitano P.C. - New York

Angelo Musitano has applied to become licensed as a foreign legal consultant in Ontario.

Mr. Musitano was called to the Bar of the State of New York on the 24th day of January, 1989 and has practised in that jurisdiction as a sole practitioner from the beginning of March 1989 to the present.

Mr. Musitano filed a Certificate of Incorporation with the Secretary of State of New York State in the first week of February 1990 and submits his application as his own employer.

Mr. Musitano has engaged in the practice of law in his home jurisdiction for less than three of the five preceding years. He applies for status as a foreign legal consultant, however, claiming that he does so pursuant to paragraph (b) of the policy which provides that applicants who have been actively engaged in the practice of law in their home jurisdiction for less than three years may be licensed provided

- (i) they are under the supervision of a foreign legal consultant licensed pursuant to paragraph (a) and the supervisory arrangement has been approved by the Admissions Committee or
- (ii) they undertake to comply with terms and conditions approved by the Admissions Committee

Mr. Musitano files his application under the terms of subparagraph (ii). If licensed as a foreign legal consultant, Mr. Musitano will be his own employer. He formally undertakes in his application, as all those applying must, to observe the standards of professional conduct which are accepted by the legal profession in Ontario including those set out in the Society's Rules of Professional Conduct. He also states in his letter of the 17th October that by his undertakings, he definitely would not hold himself out to be an attorney licensed to practise in Ontario. He also states that if licensed he would restrict his practice to those areas where he believes that he has or possesses the most expertise.

Mr. Musitano's letters of December 18th, October 17th, August 15th, and July 9th, 1990, in which he refers to his special situation, were before the Committee for information, together with a copy of his curriculum vitae and five letters of reference in support of Mr. Musitano's application.

Mr. Musitano has filed all necessary documentation and undertakings.

The Committee denied Mr. Musitano's request as he lacks the requisite practice in his home jurisdiction and there were no compelling reasons by way of special expertise on his part that would warrant the Committee exercising its discretion under item (ii) of the terms and conditions set out above.

5. ADMISSION OF STUDENTS-AT-LAW

Bar Admission Course

The following candidates, having complied with the relevant Regulations, paid the required fee of \$101.00 and filed the necessary documents, now apply for admission to the Law Society as students-at-law in the Bar Admission Course:

Under Bar Admission Course Regulation 22(7)
32nd B.A.C. (Entering Articles 1989)

555. Austin, Ami DuPree	B.Mus. Toronto/86; LL.B. York/89;
556. Bickley, Catherine Mary	B.A. Guelph/85; LL.B. Toronto/89;
557. Birkness, Peter Brian	3 yrs. Arts, Western; LL.B. Toronto/89;
558. Black, John Francis	B.A. Queen's/85; LL.B. Windsor/89;
559. Bobechko, Janet Lynn	B.A. York/86; LL.B. Windsor/89;
560. Bocci, Carla Laura	B.A. Allegheny, USA/85; LL.B. New Brunswick/89;
561. Boomer, Edward Wayne	3 yrs. Arts, York; LL.B. Queen's/89;
562. Borenstein, Howard Joseph Arnold	B.A. Concordia/85; LL.B. Ottawa/89;
563. Boshart-McCleary, Margaret Jane	Mature Student; LL.B. York/89;
564. Boswell, Duncan Charles	B.Sc. Queen's/86; LL.B. York/89;
565. Brook, Ronda Jean	B.A. Manitoba/84; LL.B. Ottawa/90;
566. Chartrand, Christine	B.Soc.Sc. Ottawa/85; LL.B. Ottawa/88;
567. Chartrand, Larry Norman	B.Ed. Alberta/86; LL.B. York/89;
568. Chetner, Saara Laia	2 yrs. Arts, Alberta; LL.B. Queen's/85;
569. Chrom, Solomon Abraham	B.A. Queen's/84; LL.B. Western/89;
570. Chun, Kam Man	B.A. Alberta/78; M.L.S. Western/83; LL.B. Windsor/89;
571. Citron, Elliot Randolph	3 yrs. Arts, Toronto; LL.B. Western/89;
572. Clark, Dean Hugh Korah	B.A. McMaster/80; M.A. Windsor/82; LL.B. Windsor/89;

573. Cleaver, Adrian Robert B.A. Carleton/85;
LL.B. Ottawa/88;
574. Clifford, Walter Vincent B.Sc. St. Mary's/85;
LL.B. Dalhousie/89;
575. Cohen, Barbara Susan B.A. Carleton/84;
LL.B. Ottawa/89;
576. Cohen, Robert Brian 2 yrs. Arts, Western;
LL.B. York/89;
577. Colavecchia, Maria Luisa B.A. York/86;
B.Ed. York/86;
LL.B. Windsor/89;
578. Cole, Belinda Mary B.A. Concordia/84;
LL.B. Dalhousie/89;
579. Cole, Kenneth Lynn B.A. Western/86;
LL.B. Western/89;
580. Coleman, Gregory Scott B.A. British Columbia/85;
LL.B. York/89;
581. Comeau, Louise Anne 3 yrs. Arts, Ottawa;
LL.B. Toronto/89;
582. Comery, John William B.Comm. Toronto/86;
LL.B. Western/89;
583. Cooper, Rosalind Hope B.Sc. Toronto/86;
LL.B. Ottawa/89;
584. Corkery, Johanna Bennery
Marion B.A. Trent/86;
LL.B. Ottawa/89;
585. Cox, Joseph Dale B.A. Waterloo/86;
LL.B. Western/89;
586. Dossetor, John Bernard B.A. Alberta/82;
LL.B. Dalhousie/86;
587. Dumais, Joseph Reginald
Pierre 2 yrs. Arts, Ottawa;
LL.B. Ottawa/89;
588. Dumanski, Robert John B.A. Western/86;
LL.B. Western/89;
589. Dunn, William Bryan B.A. British Columbia/80;
LL.B. British
Columbia/89;
590. Durant, Margaret Joanne B.A. York/86;
LL.B. York/89;
591. Dwyer, Denise Rosalin B.A. McGill/85;
LL.B. Windsor/89;
592. Fagan, Thomas Francis B.A. Moncton/71;
LL.B., New Brunswick/74;
593. Ford, Andrew James B.A. New Brunswick/86;
LL.B. New Brunswick/89;
594. Fortino, Benito B.A. Western/87;
LL.B. York/89;
595. Fouillade, Brigitte Josephine
Marie-Lucie M.Eng. Alberta/83;
LL.B. Alberta/89;

596. Franklin, Melany Virginia B.A. Wilfrid Laurier/86;
LL.B. Western/89;
597. Freedman, Bonnie Ann B.A. American College,
France/85;
M.A. Middlebury College,
USA/86;
LL.B. Toronto/89;
598. Fremit, Susan Frances B.A. Calgary/79;
LL.B. Calgary/89;
599. Freudmann, Sharona 3 yrs. Arts, McGill;
LL.B. Ottawa/89;
600. Fruchter, Peter 4 yrs. Arts, Waterloo;
LL.B. York/89;
601. Fryer, Toba Gail B.A. Toronto/86;
LL.B. York/89;
602. Fuerst, Fay Arlene B.A. Toronto/80;
LL.B. York/89;
603. Fulford, Susan Ann B.A. Western/85;
LL.B. York/89;
604. Fung, Greta Mei Chi B.S. San Diego State,
USA/72;
M.B.A. British
Columbia/73;
LL.B. York/90;
605. Furlan, Danilo-Raymond 4 yrs. Arts, York;
LL.B. Western/89;
606. Gibson, Cheryl Anne B.Sc. Arizona, USA/82;
LL.B. Toronto/89;
607. Gibson, David Michael Robert B.A. McGill/86;
LL.B. York/89;
608. Gill, Genevieve Alice B.B.A. Ryerson/85;
LL.B. Queen's/89;
609. Giller, Leslie Susan B.A. McGill/86;
LL.B. York/89;
610. Gillis, Michael David 2 yrs. Arts, Queen's;
LL.B. Queen's/89;
611. Giordano, Franco 3 yrs. Arts, Toronto;
LL.B. Windsor/89;
612. Giorno, Guy William James 3 yrs Arts, Toronto;
LL.B. Toronto/89;
613. Glas, Theo B.A. Simon Fraser/80;
LL.B. Ottawa/89;
614. Glass, Jeffrey Laurence B.A. Western/84;
LL.B. Western/89;
615. Go, Yao Yao B.A. Waterloo/86;
LL.B. Toronto/89;
616. Goddard, Thomas Harold B.A. Trent/86;
LL.B. Queen's/89;

617. Godfrey, Ian Valentine
Horwood B.E.S. Waterloo/80;
B.Arch. Waterloo/82;
LL.B. Queen's/89;
618. Goh, Choo-Eng Joint Committee on
Accreditation/90;
619. Gold, Solomon Maxwell William B.Sc. Toronto/84;
M.Sc. York/87;
LL.B. Western/89;
620. Goldfarb, Alonna Lynn B.A. Toronto/86;
LL.B. York/89;
621. Goldman, Richard Evan B.A. Western/86;
LL.B. York/89;
622. Goodman, Gordon Peter B.A. Simon Fraser/82;
LL.B. British
Columbia/86;
623. Goodtrack, Kirk Dennis 3 yrs. Arts, Saskatchewan;
LL.B. Queen's/89;

Approved

Under Bar Admission Course Regulation 22(7)
33rd B.A.C. (Entering Articles 1990)

194. Hawley, Sharon Heather B.A. Western/87;
LL.B. Western/90;
195. Hazlett, Valerie Anne
Winnifred B.A. Western/87;
LL.B. Western/90;
196. Heacock, Leanne Michelle B.Comm. McMaster/87;
LL.B. York/90;
197. Heale, Ronald Arthur B.A. Toronto/87;
LL.B. Queen's/90;
198. Healey, Martha Anne B.A. Wilfrid Laurier/86;
M.A. Carleton/87;
LL.B. Western/90;
199. Hegney, Jane Elizabeth B.Sc. Western/85;
LL.B. Western/90;
200. Henderson, Anita Taimi B.A. Toronto/87;
LL.B. Windsor/90;
201. Henderson, Lisa Diane 2 yrs. Arts, Carleton;
LL.B. York/90;
202. Henderson, Neil William B.A.Sc. Toronto/86;
LL.B. Western/90;
203. Herbert, Joseph William
Bradley 2 yrs. Arts, Ottawa;
LL.B. Ottawa/90;
204. Hersch, Anthony Zane B.Proc. Rhodes, USA/81;
LL. Windsor/90;
205. Hession, Grace Elizabeth B.A. Saskatchewan/80;
M.L.I.S. Western/87;
LL.B. Saskatchewan/85;

206. Hilliard, Sandra Lynn B.A. Toronto/86;
LL.B. Queen's/90;
207. Hirsch, Allan Theodore B.A. McGill/85;
LL.B. Ottawa/89;
208. Howard, Judith Ann B.A. Hebrew, Israel/77;
LL.B. York/90;
209. Howarth, Teresa Louise B.A. York/87;
LL.B. Western/90;
210. Hu, Helena B.A. McGill/83;
M.B.A. Concordia/85;
LL.B. Windsor/90;
211. Hughes, Geraldine Kerry B.A. Toronto/85;
LL.B. Ottawa/90;
212. Hupman, Tina Mae B.A. Dalhousie/87;
LL.B. Dalhousie/90;
213. Hynes, Clare Frances B.A. Mount Allison/87;
LL.B. Western/90;
214. Janczaruk, Katharina Helena B.A. Carleton/87;
LL.B. York/90;
215. Jansen, Rhonda May B.A. Alberta/85;
LL.B. Toronto/90;
216. Jardine, Diana Arline B.A. Carleton/87;
LL.B. Ottawa/90;
217. Jazvac, Daniel Michael B.A.A. Ryerson/83;
B.A. McMaster/84;
LL.B. York/90;
218. Jedlinski, John B.Comm. Windsor/84;
LL.B. Windsor/90;
219. Jelich Clapperton, Emily B.A. Carleton/87;
LL.B. York/90;
220. Jessop, Gary Owen B.Comm. Carleton/85;
LL.B. Ottawa/90;
221. Joffe, Larry Brian 2 yrs. Arts, York;
LL.B. York/90;
222. Johnston, Michael Bruce B.A. McMaster/85;
LL.B. Windsor/90;
223. Kalm, Kerry Lee B.Sc. Queen's/87;
LL.B. Alberta/90;
224. Kalsi, Paula Harbalwinder B.A. Toronto/87;
LL.B. British
Columbia/90;
225. Kantor, Michael Earl B.A. Manitoba/83;
LL.B. Queen's/90;
226. Kassab, Jawad Anthony Mansour B.A. St. Mary's/82;
M.Div. Toronto/90;
LL.B. Dalhousie/85;

227. Katz, Amy-Lynn Patrice B.A. Western/86;
LL.B. Western/90;
228. Kay, James Alexander B.A. St. Petersburg, USA/85;
B.A. Florida, USA/87;
LL.B. York/90;
229. Keenan, Jennifer Elizabeth B.A. Lethbridge/85;
LL.B. Queen's/90;
230. Kehoe, Jeffrey Kevin B.A. Windsor/86;
LL.B. Windsor/90;
231. Kelly, Corina Jeanette B.A. Wilfrid Laurier/87;
LL.B. Windsor/90;
232. Kelly, Fiona Jane B.A. British Columbia/87;
LL.B. Toronto/90;
233. Kelly, Lisa Elaine B.A. Queen's/87;
LL.B. Queen's/90;
234. Kerr, Charon Tesserina Graham B.A. Queen's/88;
LL.B. Queen's/90;
235. Kerzner, David Stuart B.A. Western/87;
LL.B. Queen's/90;
236. Killeen, Michael Joseph B.Sc. Western/87;
LL.B. Western/90;
237. Kim, Jennifer Marissa Sung
Hee 3 yrs. Arts, Toronto;
LL.B. York/90;
238. Kim, Sung-Rim B.Sc. Toronto/86;
LL.B. Windsor/89;
239. King, Murray Ewan B.A. Ottawa/87;
LL.B. Ottawa/90;
240. Kirsh, Jeffrey Lorne Stephen B.A. Toronto/87;
LL.B. Toronto/90;
241. Kirshin, Toba Lynn B.A. York/87;
LL.B. York/90;
242. Klady, Michael Sean B.A. York/87;
LL.B. Western/90;
243. Klein, Rosemary Anne B.A. Western/82;
LL.B. Windsor/90;
244. Knott, Richard Todd B.A. Queen's/87;
LL.B. Queen's/90;
245. Knowles, Jacqueline May B.A. Carleton/87;
LL.B. York/90;
246. Ko, Kin Ming Thomas Joint Committee on
Accreditation/90;
247. Kolada, John Andrew B.A. Queen's/87;
LL.B. York/90;
248. Korbee, Chico B.A. Toronto/79;
LL.B. Toronto/90;
249. Kozakavich, Douglas Andrew B.A. Toronto/87;
LL.B. Toronto/90;

272. Liznick, Timothy Peter
B.Comm. Queen's/86;
M.I.R. Queen's/87;
LL.B. Western/90;
273. Lloyd, Jeffrey Stewart
B.S.B.A. Denver, USA/87;
LL.B. York/90;
274. Locke, Michael Andrew Beecher
B.A. Western/87;
LL.B. Ottawa/90;
275. Lonmo, Charlene Violet
B.A. Carleton/86;
LL.B. Western/90;
276. Low, Garth
B.A. Victoria/87;
LL.B. York/90;
277. Luck, Donald Francis
B.Comm. Queen's/84;
LL.B. Queen's/90;
278. Lythgoe, Catherine Victoria
B.A. Concordia/87;
LL.B. New Brunswick/90;
279. MacDonald, Karen Elizabeth
B.A. Western/87;
LL.B. Western/90;
280. MacDonald, Murray Alan
B.A. Guelph/86;
LL.B. Windsor/90;
281. MacKenzie, Ian Reginald
B.A. Ottawa/84;
LL.B. Windsor/90;
282. MacKenzie, William Ronald
B.A. Carleton/86;
LL.B. Windsor/90;
283. MacMillan, Leanne Margaret
Mature Student;
LL.B. York/90;
284. Main, Sally-Ann Ferens
B.A. Western/80;
LL.B. Western/90;
285. Mak, Audrey Hung
B.A. Western/87;
LL.B. Western/90;
286. Manin, Nadia
B.A. Wilfrid Laurier/86;
M.A. Wilfrid Laurier/87;
LL.B. Western/90;
287. Manson, Margot Lee
B.A. York/88;
LL.B. Windsor/90;
288. Martin, Christopher Robert
B.A. York/86;
LL.B. Western/90;
289. Martino, Maria Giueppina
2 yrs. Arts, Western;
LL.B. Ottawa/90;
290. Martyn, John Scott
B.A. Carleton/84;
LL.B. Dalhousie/90;
291. Masterson, Joseph John Martin
B.A. Kenyon USA/86;
LL.B. Western/90;
292. Mazzuca, Michele
B.A. Toronto/87;
LL.B. Toronto/90;
293. McCallum, Diane Thelma
B.A. York/87;
LL.B. York/90;

294. McClure, Anne Elizabeth B.Sc. Toronto/81;
M.B.A. York/85;
LL.B. York/90;
295. McCrea, Fiona Merle B.A. Guelph/86;
LL.B. McGill/90;
296. McDiarmid, William Bailey B.A. Toronto/83;
M.B.A. Western/86;
LL.B. Western/90;
297. McDonald, Bruce Allan B.A. Ottawa/77;
M.A. Carleton/80;
LL.B. Queen's/90;
298. McGoey, Darcy David B.A. York/87;
LL.B. Western/90;
299. McGrath, Kevin Andrew B.A. McGill/87;
LL.B. Toronto/90;
300. McHugh, Mary Maureen B.Sc. Windsor/87;
LL.B. Windsor/90;
301. McInnis, Victoria Dawn B.A. Western/82;
LL.B. Western/90;
302. McIntosh, Michael James B.Soc.Sc. Ottawa/84;
LL.B. Windsor/90;
303. McKeachie, James Thomas Mature Student;
LL.B. York/90;
304. McKechnie, Donna Arlene B.Sc. Queen's/66;
LL.B. Western/90;
305. McKeown, Christine Anne B.A. Queen's/87;
LL.B. Western/90;
306. McMurray, Andrew James B.Soc.Sc. Ottawa/87;
LL.B. Ottawa/90;
307. Meneguzzi, Pamela Luigia B.Sc. Western/87;
LL.B. Western/90;
308. Miller, Shawna Mae 2 yrs. Commerce, Red Deer;
LL.B. York/90;
309. Miron, Luc Marc 2 yrs. Arts, Ottawa;
LL.B. Ottawa/90;
310. Mladen, Caryn B.A. Toronto/88;
LL.B. Victoria/89;
311. Mohammed, Ana Robaida B.A. Manitoba/86;
LL.B. Western/90;
312. Montgomery, Debra Lynn Mature Student;
LL.B. Western/90;
313. Moore, Kathryn Elizabeth B.A. Western/87;
LL.B. York/90;
314. Morin, Suzanne Laura Marie B.A. Ottawa/87;
LL.B. Ottawa/90;
315. Morris, Marie Christine Louise 2 yrs. Arts, Ottawa;
LL.B. Ottawa/90;
316. Moss, George William David B.A. Toronto/86;
LL.B. York/90;

Transfer from another province - Regulation 4(1)

The following candidates having successfully completed the Statutes and Procedure in Ontario examination, filed the necessary documents and paid the required fee now apply for call to the Bar and to be granted a Certificate of Fitness:

Peggy Janice Blair	Province of Alberta
Harvey Sheldon Goldstein	Province of Saskatchewan
Muriel Ann Gomer Sunahara	Province of Alberta

Approved

The following candidates having successfully completed the Bar Admission Course Transfer Examinations, filed the necessary documents and paid the required fee now apply for call to the Bar and to be granted a Certificate of Fitness:

Gregory Howard Barnett	Province of British Columbia
Jonathan Barry Kroft	Province of Manitoba

Approved

Transfer from another province - Regulation 4(2)

The following candidate having successfully competed the Bar Admission Course Transfer Examinations, filed the necessary documents and paid the required fee now applies for call to the Bar and to be granted a Certificate of Fitness:

James Grant Cameron	Province of Quebec
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Approved

Full-Time Members of Faculties of Approved Law Schools

The following candidate, having filed the necessary documents and complied with the requirements of the Society in his particular case, is now entitled to be called to the Bar of Ontario and to be granted a Certificate of Fitness:

Professor Michael Patrick Macklem	Faculty of Law, The University of Toronto.
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Fee: \$200.00

Approved

9. OTHER ITEMS

Petition - Exemption from Requalification Exams Required After Five or More Consecutive Years' Suspension

The Committee had before it an application from a suspended member, requesting exemption from requalification examinations. The member was called to the Bar in April 1982 and suspended in February, 1983 for failure to pay the annual fee.

The applicant, since being suspended in 1983, had been engaged in businesses which, it was claimed, required a continuous and extensive application of legal training.

After reviewing the material, including an extensive and detailed affidavit, the Committee was of the view that the applicant's experience since call to the Bar and subsequent suspension was not of such a calibre as to warrant the granting of an exemption from the requirement to write requalification exams.

COMMON LAW EXAMINERS FEES - RAISED

Professors at the University of Toronto, who for years have rendered services for the Law Society in relation to the comprehensive examination on the common law of Ontario, have raised the fee of both setting and marking questions from \$15.00 to \$30.00 per question.

Noted

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

"P. Peters"
Chair

THE REPORT WAS ADOPTED

.....

CALL TO THE BAR

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

Peter James Barnacle	31st Bar Admission Course
Gregory Johnson Lyndon	31st Bar Admission Course
Peggy Janice Blair	Special, Transfer, Alberta
Harvey Sheldon Goldstein	Special, Transfer, Saskatchewan
Gregory Howard Barnett	Special, Transfer, British Columbia
Jonathan Barry Kroft	Special, Transfer, Manitoba
Michael Patrick Macklem	Professor, Faculty of Law, University of Toronto

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FINANCE AND ADMINISTRATION COMMITTEE

Mr. Ground presented the Report of the Finance and Administration Committee of its meeting on January 10th, 1991.

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 10th of January 1991 at three o'clock in the afternoon, the following members being present: Messrs. Ground (Chair), Furlong, Hall, Ms. Harvey, Messrs. Lamont, Pepper, Shaffer, Wardlaw and Mrs. Weaver.

A.

POLICY

1. RESIGNATIONS - DISPOSITION OF LAWYERS' FILES

In November the Committee asked about procedures with respect to resignations, particularly concerning the disposition of lawyers' files in these cases. In addition there was some discussion about the requirement to publish in the Ontario Reports.

A copy of Regulation 573 section 12 of the Law Society Act is attached for reference. Each lawyer wishing to resign must complete a statutory declaration as described before resignation is granted. Members often ask that the provision to publish in the Ontario Reports be waived. This matter has been discussed and a policy established that the committee reserve the right to review each case on its own merits, but that in any event a reason for requesting the publishing waiver must be given.

In the matter of disposition of lawyers' files, our Audit Department indicates that in cases where resignation is voluntary, or where members are suspended for non-payment of fees and levies, no action is taken. However, where members are granted permission to resign or are suspended for discipline purposes, the staff Trustees are involved to ensure orderly disposition of lawyers' files.

The Committee recommended that the matter be referred to Discipline Policy Section in order to ask the Staff Trustees to prepare a report as to whether there are any problems with current policy and whether they might make recommendations with respect to disposition of files of lawyers (there was particular concern about wills and other such documents held by lawyers).

2. LAW FIRMS - "DESIGNATED PARTIES"

A memorandum from Scott Kerr concerning the above matter was before the Committee.

Essentially it is asked that each committee consider the implications of a program whereby the Society would notify a designated person in a law firm concerning matters between a member of that firm and the Law Society (i.e. complaints, discipline proceedings, suspensions, etc.).

The Committee considered the issue and expressed the concern that, while in principle the program was worthwhile, there did not appear to have been any consideration of the financial impact such as additional staff requirements.

B.

ADMINISTRATION

1. FINANCIAL IMPACT STATEMENTS

(a) Bencher Elections

Two proposals have been made by the Committee on Bencher Elections each having a cost implication.

- (i) Addition of one page policy statement in addition to having biographical statement for each candidate for Bencher. (This was included in the report which was before Convocation in November)

approximately \$52,000

- (ii) Inclusion in the election package of an information booklet describing responsibilities of Convocation and workload of benchers.

approximately \$10,000

The approved budget for Benchers' election of \$90,000 is included in Secretariat. These two items will increase it to \$152,000.

The Financial Impact Statement was reviewed by the Committee and appeared to be a reasonable estimate.

(b) Publication of Record of Bencher Attendance and Votes

The Committee considered a financial impact statement of a proposal to publish the record of Benchers who attend each meeting of Convocation and the way in which each Bencher votes on each significant motion. A financial impact statement was prepared indicating a cost of \$15,300 annually. The Committee had some difficulty determining how this amount was arrived at and asked that the financial impact statement be sent back to the Research and Planning Committee for further consideration.

2. LEGAL MEETINGS AND ENTERTAINMENT - Trial Lawyers of America

At the September meeting the Committee approved the use of the Barristers' Lounge for a reception and Convocation Hall for a dinner on the evening of Saturday, July 20th, 1991.

Mr. T.H. Rachlin, co-chair of the Convention also requests the possibility of the Law Society hosting a garden party as they did at their convention in 1975. At that time Convocation approved \$3,500 for that occasion.

The Committee approved the request and an amount not to exceed \$12,000 for costs.

3. FINANCIAL REPORTS

(a) The Director presented the highlights memorandum for the three Law Society Funds together with supporting financial statements for the six months ended December 31st, 1990.

Approved

(b) The Director presented a detailed report with explanatory notes for Finance and Administration expenses compared to budget for the five months ended November 30th, 1990.

Noted

4. BUILDING FINANCING

The Director reported that negotiations with the financial institutions were ongoing but that a draw of funding would not be needed until February. Rates are still declining and, as approved in November, financing was being pursued on the basis of a "revolving line of credit" with a view to securing at least a portion of the borrowings at a fixed long term rate at a later date but only if it was felt that rates had reached their lowest point.

5. OUTSIDE RENTAL REQUIREMENTS

A memorandum from the Director was before the Committee outlining the current status of efforts to locate off-site rental for those departments which will not be returning to Osgoode Hall once construction has been completed (namely Errors and Omissions Insurance and Law Foundation).

The Committee asked that a study of space west of University Avenue be done in order to ensure the best economic value is obtained.

6. EMERGING POLICY ISSUES

A copy of a memorandum dated May 11, 1990 from James Spence, then Chair of the Research and Planning Committee, asking that each committee discuss the matter of "Emerging Policy Issues" (matters that might be considered by the Research and Planning Committee).

The Committee was asked to respond to this issue.

The Committee suggested that the Research and Planning Committee might consider the impact of greatly reduced revenue as a result of a severe recession or depression, on the operations and programs of the Society.

7. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 18 members who have not complied with the requirements respecting annual filing and who have not paid the late filing fee.

In all 18 cases all or part of the late filing fee has been outstanding four months or more. The members owe \$22,500 of which \$7,410.00 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of the 18 members be suspended on January 25th, 1991 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

Note: see motion, page 74

8. MEMBERSHIP IN ABEYANCE - SECTION 31 OF THE LAW SOCIETY ACT

In 1985, Peter Albright King Giles of Toronto was appointed a Prothonotary of the Federal Court of Canada, the first member of this Society to hold such office. By letter dated 23rd November 1990, Mr. Giles asked that consideration be given to exempting him from payment of annual fees in view of his quasi judicial function. Relevant sections of the Federal Court act are attached from which it will be noted that comments under Rule 336 read in part as follows:

"....a prothonotary has wide powers to deal with default judgments. The powers of a Master of the Supreme Court of Ontario may be compared under 1987-88 Ontario Supreme Court Rule 37."

The membership of Masters of the Ontario Court is in abeyance under section 31 of The Law Society Act which was amended in June 1990 to extend its provisions for placing membership in the Society in abeyance to full-time members of the Ontario Municipal Board or of a tribunal that has a judicial or quasi-judicial function.

The Committee was asked if prothonotaries qualify under section 31.

Denied

9. MEMBERSHIP UNDER RULE 50

Retired Members

(a) 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:

- | | |
|---------------------------------|------------|
| Walter Donald Bark | Cavan |
| George Emerson Bell | Toronto |
| Alfred William Rooke Carrothers | Manotick |
| Philip Harry Routley Childs | Elgin |
| James Hudson Clarke | Markham |
| George Blackstone Cooke | Renfrew |
| Cornell George Ebers | Toronto |
| Jack Kenneth Doner | Kenora |
| High Alexander Gregory | London |
| Edward Oscar King | Toronto |
| Terence Barry Nelligan | London |
| Bruce Malcolm Ralph | North York |
| Stuart Douglas Thom | Etobicoke |
| Gulam Ahmed Moledina | Toronto |
| * Philip Gerald Givens | Toronto |

*see also Membership Restored

Approved

(b) Berko Devor, of Israel, was called to the Bar on the 20th of September 1956. He left the practise of law in Ontario in 1968 to live in Israel. He advises that retirement had to be taken early due to ill health. Mr. Devor let his membership lapse and was unaware that the retirement age under Rule 50 was changed to 60 in January 1984. Mr. Devor asks for consideration of his request to continue membership as a retired member beginning with the period 1983-84, without payment of arrears of fees that now total \$4,413.

His application is in order and the Committee was asked to approve it.

Approved

(c) Incapacitated Members

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

Leonard Leslie Annett	Toronto
Shirley Joanne Tucker Parks	Ottawa

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

Approved

(d) John Edward Tovey, of London, Ontario, was called to the Bar on the 16th of November 1956. He engaged in private practice until 30th June 1983 at which time he was forced into ceasing to practise due to ill health. That information was not known to the Society until recently. Mr. Tovey never asked about the options open to him and he was never told of the provisions of Rule 50 for permanently disabled members. In October 1990, Mr. Tovey tendered his resignation and only then was he made aware of the alternative.

Mr. Tovey's rights and privileges were suspended on the 24th of February 1984 for his failure to pay his fees. Arrears now total \$5,449.00. He is up to date on his annual filings. The member requests that he be granted retired status, without payment of annual fees, beginning with the period 1983-84.

Approved

10. RESIGNATION - REGULATION 12

(a) Judith Kathleen Doyle of Calgary, Alberta 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 29th of March 1977 and has never practised law in Ontario. For this reason the member has asked that she be relieved of publication in the Ontario Reports.

(b) David Frawley Lamont of Toronto, Ontario 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 9th of April 1981 and practised law in Ontario only until 1988. For this reason the member has asked that he be relieved of publication in the Ontario Reports.

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

Approved

(c) Eric Martin Tucker of Toronto, Ontario 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 23rd of March 1984 and has never practised law in Ontario since his call to the bar. His rights and privileges as a member of the Society were suspended on the 21st of February 1985 for his failure to pay the 1984-85 fees. Arrears of fees now total \$4,746.00. His annual filings are up to date. The member has requested that he be relieved of publication in the Ontario reports.

His application is in order and the Committee was asked to approve his resignation without publication and without payment of arrears of fees.

Approved

C.
INFORMATION

1. ROLLS AND RECORDS

(a) Deaths

The following members have died:

Andre Antione Joseph Pigeon Blind River	Called March 17th 1967 Died April 23rd 1987
Frank George Foster Peterborough	Called November 17th 1932 Died March 22nd 1988
John Alan Charles Macrobie Toronto	Called June 17th 1962 Died January 11th 1990
David Alexander Reid Toronto	Called April 19th 1985 Died June 13th 1990
Arthur Robert Jessup Toronto	Called September 21st 1939 Died August 5th 1990
Paul Irwin Henry Willowdale	Called September 21st 1939 Died August 23rd 1990
Oscar Rechtshaffen Don Mills	Called September 20th 1956 Died September 25th 1990
Thomas Paul O'Gorman Toronto	Called September 16th 1948 Died October 13th 1990
William Dennis O'Malley North York	Called February 17th 1949 Died November 3rd 1990
Alan Roy Parker Markham	Called April 10th 1981 Died November 4th 1990
Wayne Edward Dourley Toronto	Called April 10th 1980 Died November 12th 1990
Alastair Rose Paterson Toronto	Called April 21st 1954 Died November 18th 1990
Francis O'Brien Gerity Shelburne	Called April 19th 1951 Died November 21st 1990
Angus Hugh Laidlaw Ottawa	Called June 19th 1947 Died December 5th 1990
Morris Gross Toronto	Called June 29th 1950 Died December 12th 1990

Noted

(b) Permission to Resign

The following members were permitted to resign their membership in the Society and their names have been removed from the rolls and records of the Society:

Frances Alice Murphy Oakville	Called April 5th 1979 Permitted to resign - Convocation November 22nd 1990
Michael David Thomas Campbell Toronto	Called April 9th 1984 Permitted to resign - Convocation November 22nd 1990

Noted

(c) Disbarments

The following members have been disbarred and struck off the rolls and their names have been removed from the rolls and records of the Society:

Donovan Jackson Blakeman Toronto	Called March 22nd 1974 Disbarred - Convocation November 22nd 1990
William Edward McCaughey Ottawa	Called October 17th 1975 Disbarred - Convocation November 22nd 1990
Robert Walter Dvorak Bronxville, New York	Called April 6th 1983 Disbarred - Convocation November 22nd 1990

Noted

2. CHANGES OF NAME

(a) Members

<u>From</u>	<u>To</u>
Barbara Ann Bidner	Barbara Ann <u>Pitblado</u> (Married Name) Karen
Karen Mostyn	Karen Mostyn <u>Kahansky</u> (Married Name)
Christine-Joanne Heselmann Duncan	Christine-Joanne Heselmann (Maiden Name)
Laurie Lane Tuz	Laurie Lane <u>Lafleur</u> (Married Name)

(b) Student Members

<u>From</u>	<u>To</u>
Jyoti Varma-Zuidema	Jyoti Varma <u>Zuidema</u> (Married Name)

Noted

3. MEMBERSHIP RESTORED

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

Effective Date

Robert Franklin Reid
(Ontario Court of Justice) 2nd November 1990

* Philip Gerald Givens
(Provincial Court of Ontario) 14th December 1990

* see also Membership under Rule 50

Noted

4. STAFF CHANGES

The Director reports that 2 employees have left the employ of the Law Society and twelve have joined. No new positions have been created and staff complement remains at 313.

Noted

ALL OF WHICH is respectfully submitted

DATED this 25th day of January 1991

"J. Ground"
Chair

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

A-Item 1 - Copy of Regulation 573, section 12 of the Law Society Act
re: Resignations. (Pages 1 - 2)

B-Item 3 - Memorandum dated January 10, 1991 to the Chair and Members
of Finance Committee from Mr. David Crack re: Financial
Statements - Highlights as at December 31st, 1990.
(Pages 3 - 9)

B-Item 8 - Sections of the Federal Court Act re: Prothonotaries.
(Pages 10 - 13)

THE REPORT WAS ADOPTED

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

It was moved by Mr. Ground, seconded by Mr. Guthrie 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 the 25th of January 1991 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.

Carried

(See list in Convocation file)

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LEGAL AID COMMITTEE

Mr. Bastedo presented the Report of the Legal Aid Committee of its meeting on January 10th, 1991.

Ms. Bellamy did not participate.

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 10th of January, 1991, at 3 p.m., the following members being present: Thomas G. Bastedo, Chair, Messrs. Ally, Bond, Ms. Campbell, Ms. Cohen, Ms. Curtis, Mr. Durno, Ms. Garton, Ms. Kehoe, Ms. Kiteley, Messrs. Koenig, Lalande, Murphy and Ms. Tsao.

The following observer member was also present:

Ms. Fraser, representing the Ministry of Community and Social Services.

A.
POLICY

1.(a) REPORT OF THE SUB-COMMITTEE ON THE DELIVERY OF LEGAL AID IN FAMILY LAW

The Sub-Committee on the Delivery of Legal Aid in Family Law was established in September, 1989 to investigate the delivery of services to legal aid clients in family law matters in Metropolitan Toronto.

The Legal Aid Committee recommends the adoption of the Report of the Sub-Committee on the Delivery of Legal Aid in Family Law which is attached hereto as SCHEDULE (A).

(b) IMMIGRATION TARIFF SUB-COMMITTEE

The Immigration Tariff Sub-Committee has been established to analyze the civil tariff with respect to immigration and refugee matters and to make recommendations as to how the tariff should be amended.

A list of the members of the Immigration Tariff Sub-Committee is attached hereto as SCHEDULE (B).

B.
ADMINISTRATION

1.(a) REPORT OF THE DEPUTY DIRECTOR, FINANCE OR THE EIGHT MONTHS ENDED NOVEMBER 30, 1990

(a) Finance

The Director's report pursuant to Section 88(2) of the Regulation for the eight months ended November 30, 1990 takes the form of the following financial statement:

Ontario Legal Aid Plan
Statement of Income and Expenditures
Eight Months Ended November 30, 1990 (\$000)

	<u>Actual</u> <u>Nov.30</u> <u>1989</u>	<u>Estimate</u> <u>Nov.30</u> <u>1990</u>	<u>Actual</u> <u>Nov.30</u> <u>1990</u>	<u>Favorable</u> <u>(Unfavorable)</u> <u>Variance</u>
<u>Opening Balance</u>	369.8	6,925.8	6,925.8	-

<u>Income</u>				
Treasurer of Ontario	86,587.0	91,891.8	91,891.8	-
Northern Legal Services	65.5	600.0	675.0	75.0
Family Violence Grant	200.0	183.3	150.0	(33.3)
Refugee Claimant Grant	936.3	3,653.3	4,414.8	761.5
Law Foundation	18,108.6	16,000.	18,785.6	2,785.6
Client Contributions	5,808.2	6,266.7	6,270.9	4.2
Client Recoveries	1,243.3	1,333.3	1,320.7	(12.6)
Research Sales	71.2	100.0	132.4	32.4
The Law Society	-	-	226.7	226.7
Miscellaneous	1,378.5	1,666.7	2,272.0	605.3
	<u>114,768.4</u>	<u>128,620.9</u>	<u>133,065.7</u>	<u>4,444.8</u>
<u>Expenditure</u>				
Certificate Accounts	63,834.9	96,013.4	73,025.5	22,987.9
Refugee Accounts	1,465.3	3,453.3	3,124.9	328.4
Duty Counsel Fees & Disbursements	4,813.3	5,154.0	4,771.0	383.0
Salaried Duty Counsel	487.3	662.7	1,122.0	(456.3)
Northern legal Services	122.0	600.0	750.0	(150.0)
Community Clinics	14,273.8	17,344.2	17,801.1	(459.9)
Student Legal Aid societies	880.2	1,339.4	1,339.4	-
Research Facility	933.0	1,178.6	1,235.6	(57.0)
Area Office Admin.	6,149.9	7,648.3	7,437.0	211.3
Provincial Office Admin.	4,011.6	5,261.1	4,894.5	366.6
Refugee Administration	153.9	200.0	161.8	38.2
	<u>97,125.2</u>	<u>138,855.0</u>	<u>115,662.8</u>	<u>23,192.2</u>
<u>Closing Balance</u>	<u>17,643.2</u>	<u>(10,234.1)</u>	<u>17,402.9</u>	<u>27,637.0</u>

(b) Statistics

The following table compares reported activity for the eight months ended November 30, 1990 with activity for the previous fiscal year:

	<u>Nov. 30</u> <u>1989</u>	<u>Nov. 30</u> <u>1990</u>	<u>% Change From</u> <u>Previous Year</u>
Summary Legal Advice	35,493	37,509	5.7%
Referrals to Other Agencies	69,249	86,090	24.3%
Applications for Certificates	105,866	127,490	20.4%
Refusals	21,879	22,330	2.1%
As a Percentage of Applications	20.7%	17.5%	-
Certificates Issued	83,987	105,160	25.2%
Persons Assisted by Duty Counsel			
Fee for Service	149,482	152,773	2.2%
Salaried	51,228	63,233	23.3%
Telephone Advice	-	10,353	-

(b) REPORT ON THE PAYMENT OF SOLICITORS
ACCOUNTS FOR THE MONTH OF DECEMBER, 1990

The Report on the Payment of Solicitors Accounts for the Month of December, 1990 is attached hereto and marked as SCHEDULE (C).

(c) REPORT ON THE STATUS OF REVIEWS
AS OF DECEMBER, 1990

A Report on the Status of Reviews in the Legal Accounts Department as of December, 1990 is attached hereto and marked as SCHEDULE (D).

C.
INFORMATION

1. LEGAL AID SEMINAR FOR IMMIGRATION PANEL COUNSEL

The Agenda for the Legal Aid Seminar for Immigration Panel Counsel is attached hereto and marked as SCHEDULE (E).

ALL OF WHICH is respectfully submitted

"T. Bastedo"
Chair

January 10, 1991

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

- A-Item 1(a) - Report of the Sub-Committee on the Delivery of Legal Aid in Family Law. (Schedule A, Pages 1 to 57)
- A-Item 1(b) - List of Members of the Immigration Tariff Sub-Committee. (Schedule B)
- B-Item 1(b) - Payment of Solicitors Accounts for month of December 1990. (Schedule C, Pages 1 to 2)
- B-Item 1(c) - Legal Accounts Department Monthly Report, December 31, 1990. (Schedule D)
- C-Item 1 - Agenda for Legal Aid Seminar for Immigration Panel Counsel, November 22, 1990. (Schedule E, Pages 1 to 2)

THE REPORT WAS ADOPTED

.....

CLINIC FUNDING COMMITTEE

Mr. Epstein presented the Report of the Clinic Funding Committee of its meetings on December 20th, 1990 and January 15, 1991.

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 January 16, 1991 be adopted.

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

ALL OF WHICH is respectfully submitted

Robert L. Holden
Director
Legal Aid.

January 16, 1991

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

The Clinic Funding Committee met on December 20, 1990. Present were: Philip Epstein, Q.C., Chair, Earl Levy, Q.C., Thea Herman, Jim Frumau. The Committee met again on January 15, 1991. Present were: Thea Herman, Earl Levy, Jim Frumau.

1. DECISIONS

A. 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 from the following clinics:

Algoma Community Legal Clinic - up to \$5,000
Bloor Information & Legal Services - up to \$1,000
Community Legal Services of Niagara South - up to \$2,000
Hastings & Prince Edward Legal Services - up to \$10,000
Niagara North Community Legal Assistance - up to \$15,000
Parkdale Community Legal Services - up to \$30,640

B. Applications for Incorporation

Pursuant to the directions of Convocation, the Clinic Funding Committee has reviewed, as to name and objects, two applications for incorporation, from Lanark County Legal Clinic and Muskoka Legal Clinic. The Committee recommends Convocation's approval of these applications.

C. New Clinic Decision 1990/91

The Clinic Funding Committee reviewed the initial decision of the clinic funding staff and heard an appeal from the Public Interest Advocacy Centre. After hearing submissions on behalf of the appellants, the Committee denied the appeal and affirmed the initial funding decision. The Lakeshore Help Centre and Legal Clinic in Cobourg will provide poverty law services to the residents of the County of Northumberland. A clinic serving the Elliot Lake and Northshore community will be funded for one year on a pilot project basis, to be administered by Algoma Community Legal Clinic Inc. in Sault Ste. Marie. Aboriginal Legal Services of Toronto will serve the native community in Metropolitan Toronto.

The Committee therefore recommends Convocation's approval of funding to three new clinics, effective January 1, 1991, for start-up and initial operating costs to March 31, 1991, as follows:

- Lakeshore Help Centre and Legal Clinic - up to \$50,000
- Algoma Community Legal Clinic Inc. - up to \$50,000
- Aboriginal Legal Services of Toronto - up to \$50,000

2. INFORMATION

A. Composition of Clinic Funding Committee

Mr. Philip Epstein, Q.C., has resigned as Chair and a member of the Clinic Funding Committee, effective January 25, 1991. The Committee recommends that Colin Campbell, Q.C. be appointed to the Committee, and that Mr. Levy remains as Vice-Chair and that Thea Herman be named Acting Chair until the next Benchers election.

Note: see below

ALL OF WHICH is respectfully submitted

"P. Epstein"
Chair
Clinic Funding Committee

January 16, 1991

Item A under Information was superseded by Motion in Convocation.

THE REPORT AS AMENDED WAS ADOPTED

.....

DISCIPLINE COMMITTEE

Mr. Lamek presented the Reports of the Discipline Committee of its meetings on December 10th, 1990 and January 10th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA
IN CONVOCATION ASSEMBLED

The DISCIPLINE COMMITTEE begs leave to report:

Your committee met on Monday, the 10th of December, 1990 at one thirty in the afternoon, the following members being present: Mr. Paul Lamek (Chair), Messrs. Carey, Cooper, Thom, Thoman and Topp.

Also in attendance were Mr. Anderson, Ms. Angevine, Mr. Cohen, Ms. Goodfield, Messrs. Jenkins, Kerr, MacKenzie, Maker, Sheppard, Ms. Southey, Messrs. Traviss, Varro and Yakimovich.

A.

POLICY

1A. Adjournments of Discipline Hearings

At its meeting on October 11, 1990, your Committee requested staff to prepare for discussion recommendations on a policy to govern applications for adjournments of discipline hearings. This matter was raised by Sandra Chapnik in her memo of August 8, 1990, which was considered by the Committee at the October meeting.

Senior Counsel-Discipline, presented to the Committee, as a result of his meeting with discipline counsel, a proposal to amend the practice direction sent to solicitors who are charged with professional misconduct or conduct unbecoming, by including a paragraph advising the parties that on the date set for the hearing, they will be expected to proceed and that adjournments will not be granted routinely.

After discussion of and amendment to draft wording presented by staff, your Committee agreed with the proposal, and recommends that Convocation adopt the policy with respect to adjournments as reflected in the following proposed amendment to the practice direction:

Adjournments (d) When a date has been set for the hearing, both parties will be required to proceed on that date fixed for the hearing. Requests for adjournments will be granted only in exceptional circumstances.

Note: motion, see page 83

2A. Discipline Hearings Outside Toronto

At its October 11, 1990 meeting, your Committee requested staff to propose recommendations respecting a suggestion that discipline hearings outside Toronto be held more frequently.

Senior Counsel-Discipline presented to the Committee comments and suggestions for a policy which reflected the views expressed on this issue at a meeting of discipline counsel. After reviewing the material, the Committee decided that it would be unable to effectively deal with the proposal unless information with respect to its cost-effectiveness was available. Staff were requested to provide information on the potential costs of holding more discipline hearings outside Toronto and on the number of discipline complaints to date against members outside Toronto for consideration at the January, 1991 meeting.

3A. Conduct Unbecoming

At its September 13, 1990 meeting, your Committee decided it should address the issue of whether a conviction or repeated convictions for driving while impaired constitute "conduct unbecoming". At its October 11, 1990 meeting, the Committee further decided that it would not confine its discussion of "conduct unbecoming" to matters of impaired driving.

The Committee initiated its discussion of this issue by considering a memorandum prepared by one of the audit counsel which discussed a recent authorization request for conduct unbecoming based on impaired driving convictions and which illustrated other jurisdictions' consideration of the issue.

Your Committee agreed that it would be inappropriate to establish a policy whereby a conviction or convictions for impaired driving would automatically constitute the basis for a discipline charge of conduct unbecoming. Rather, it recommends that Convocation adopt the policy that each matter will be dealt with on a case by case basis with no prejudgment of the circumstances and with full consideration of the merits of each case. Your Committee also recommends that Convocation communicate this policy to the profession through the appropriate means, which may include the following: the proceedings of Convocation as published in the Ontario Reports, a special notice to the profession to be published in the Ontario Reports, an article composed by staff for publication in the Gazette or an inclusion in communications to the profession about the new complaints process.

Note: motion, see page 83

B.
ADMINISTRATION

1B. Amendment of Form 2 From a Statutory Declaration To a Certificate

Your Committee considered a memorandum, from one of the audit counsel concerning the possibility of changing the first three and last two lines of the Form 2, eliminating the need to declare before a Commissioner for taking oaths and substituting a witness with disclosure of his or her full name, address and telephone number. The Committee also considered the views of the Under Treasurer as set out in his letter to the Chair.

The Committee agreed that if the mischief to be prevented related to a solicitor misleading the Society, it would not matter if the form were a certificate or a statutory declaration. Your Committee therefore recommends that Convocation approve the amendment to Form 2 to change it to a simple certificate from a statutory declaration, which would also require amendment of Sub-section 16(2) of Regulation 573 under the Law Society Act.

2B. Advising the Profession of Matters Considered for Discipline

Convocation recently adopted a recommendation of your Committee which called for the publication of certain fact situations considered by the Chair and Vice-Chairs of Discipline at authorization meetings. It was envisaged that these scenarios would be set out on a no-name basis and approved by the Committee before they would appear in the buff pages of the Ontario Reports.

At the November 8, 1990 authorization meeting, the two Vice-Chairs identified two authorization requests which they felt contained fact situations which should be brought to the attention of the profession. The Committee approved one of the draft scenarios, and requested staff to amend the other to more accurately reflect the factual situation.

Your Committee recommends that Convocation approve the following summary for inclusion in the buff pages of the Ontario Reports:

The solicitor faxed a four-page letter to a client's place of employment which contained information of a sensitive and confidential nature. In this case, no prior attempt was made to alert the client of the forthcoming fax transmission or to ensure that confidentiality was maintained.

The Committee was of the view that members must always take reasonable steps to ensure that information contained in fax transmissions to clients is kept confidential.

In this case, the solicitor was Invited to Attend before a Discipline Committee.

C.
INFORMATION

1C. Deposit of Uncertified Cheques Into Trust Accounts

The Discipline Policy/Professional Conduct Joint Sub-Committee, studying the practice of disbursing funds from trust accounts where funds against which the disbursements are made are in the form of an uncertified cheque which has not yet cleared, met on October 25, 1990.

At that meeting, approval in principle was given to a Rule of Professional Conduct prohibiting withdrawal of funds from trust accounts unless the funds have been deposited by certified cheque or the uncertified deposit is known to have been paid by the bank or other financial institution upon which the cheque was drawn. The Chair of the Sub-Committee, Allan M. Rock, will be contacting the Canadian Bankers Association and the Trust Companies Association of Canada to inform them of the proposal and to invite their co-operation. The Sub-Committee plans to meet again in early December to discuss the comments of these organizations.

Note: amendment, see page 83

2C. Authorization of Discipline Charges

Once each month, the Chair and/or one or both of the Vice-Chairs of the Discipline Committee meet with 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, Complaints and Audit staff for the months of October and November, 1990:

October

	<u>Sought</u>	<u>Obtained</u>
Discipline	10	10
Complaints	27	23
Audit	1	1

November

Discipline	11	10
Complaints	11	8
Audit	1	0

Total Number of charges Authorized to Date for 1990

January	17	
February	47	(35 of the February authorizations were for failure to file Forms 2/3)
March	19	
April	7	
May	4	
June	47	(17 of the June authorizations were for failure to file Forms 2/3)
July	5	
August	30	
September	26	(14 of the September authorizations were for failure to file Forms 2/3)
October	34	
November	18	(6 of the November authorizations were for failure to file Forms 2/3)

ALL OF WHICH is respectfully submitted

DATED this 17th day of December, 1990

"P. Lamek"
Chair

It was moved by Ms. Kiteley, seconded by Mr. Noble that Item 3A re: Conduct Unbecoming be deleted.

Carried

It was moved by Mr. Ruby, seconded by Mr. Rock that under 1A of the Report re: adjournments (d) the word "ordinarily" be added after the word "will", and that the second sentence be amended to read "Counsel should expect that requests for adjournments will not be granted where there are no compelling circumstances". The paragraph would then read:

When a date has been set for the hearing, both parties will ordinarily be required to proceed on that date fixed for the hearing. Counsel should expect that requests for adjournments will not be granted where there are no compelling circumstances.

Withdrawn

Mr. Lamek accepted a motion put by Mr. Rock that the words "approval in principle" be deleted from the second paragraph under Item 1C of the Report.

It was moved by Ms. Bellamy, seconded by Ms. Weaver that Item 1A re: Adjournments, set out in the Report be referred back to the Committee for further consideration.

Carried

THE REPORT AS AMENDED WITH THE EXCEPTION OF A-1A AND A-3A WAS ADOPTED
.....

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 10th of January, 1991 at one thirty in the afternoon, the following members being present: Mr. C.L. Campbell (in the Chair), Mr. Carey, Ms. Graham, Messrs. Thom, Thoman and Topp.

Also in attendance were Mr. Anderson, Ms. Angevine, Ms. Bellamy, Ms. Chapnick, Mr. Cohen, Ms. Goodfield, Messrs. Jenkins, Kerr, MacKenzie, Maker, Sheppard, Traviss, Varro and Yakimovich.

A.
POLICY

1A. Discipline Hearings Outside Toronto

At its December, 1990 meeting, your Committee discussed staff's proposal respecting a suggestion that discipline hearings outside Toronto be held more frequently. The Committee decided that to effectively deal with the proposal, information respecting its cost-effectiveness should be reviewed, and staff were requested to prepare relevant information.

The Committee reviewed the information prepared by Gavin MacKenzie, Senior Counsel - Discipline, which indicated that:

1. Approximately 40% of all complaints sworn in each of the last three years have involved members who have practised outside Metropolitan Toronto. Two hundred twenty-four complaints have been sworn over the last three years against members who practise outside Toronto. One hundred and five of these 224 involved members practising within a 100 kilometer radius of Metropolitan Toronto. Most of the complaints proceeded on the basis of an agreed statement of facts, without vive voce evidence.

2. For the fiscal year ended June 30, 1988, the Society paid \$1595.32 to witnesses as attendance monies, including travelling expenses, in relation to hearings involving lawyers practising outside Metropolitan Toronto. For the fiscal year ended June, 1990, the Society paid \$3005.37 to witnesses in relation to hearings involving lawyers practising outside Toronto. The comparable statistic for the fiscal year ending June 30, 1989, is not available. This year to date, the Society has paid \$314.35 to witnesses in relation to lawyers practising outside Toronto.

Mr. MacKenzie concluded that the cost factor relating to the proposal was not of great significance.

The Committee further discussed the proposal, which at staff's suggestion took the form of an amendment to the practice direction, sent to solicitors charged with professional misconduct or conduct unbecoming, by including the following language:

Place of Hearing

Either party may request that the hearing of the complaint take place outside Toronto for reasons relating to the convenience of witnesses or the solicitor, Convocation's policy of promoting public participation and scrutiny of the discipline process, or otherwise.

Note: motion, see page 87

The Committee noted that one hearing outside Toronto has already been scheduled and that there is nothing in the Law Society Act, Regulations or Rules to prevent hearings from being held outside Toronto.

Your Committee therefore decided that no formal policy should be adopted on holding discipline hearings outside Toronto more frequently.

2A. Discipline Procedures

Your Committee reviewed a memorandum from Sandra Chapnick to the Treasurer, which expressed a need for Benchers to be fully familiar with the procedural aspects of and the substantive issues relating to discipline hearings, suggested methods to assist Benchers in this regard and outlined guidelines for Benchers respecting hearing procedures.

The Committee noted that the Implementation Committee is compiling a discipline procedures manual which will incorporate information about the reform of the discipline process and which will eventually be distributed to every Bencher and to solicitors involved in the discipline process.

Your Committee therefore decided that Ms. Chapnick's memorandum should be referred to the Implementation Committee as information to be considered for the discipline procedures manual.

B.
ADMINISTRATION

1B. Amendment of Form 2 From a Statutory Declaration To a Certificate

At its December, 1990 meeting, your Committee recommended that Form 2 be amended to change it from a statutory declaration to a simple certificate.

Staff in the Audit department advised that some 25,000 blank copies of the Forms 2/3 remain for distribution to members for the next fiscal year. It was suggested that to avoid waste, it may be appropriate to implement the amended form commencing with filings due as at November 30, 1991 and subsequent.

Your Committee recommends that the amended Form 2 be implemented for filings due as at November 30, 1991 and subsequent.

2B. Advising the Profession of Matters Considered for Discipline

At its December 1990 meeting, the Committee reviewed a draft scenario prepared by staff respecting an authorization request which the two Vice-Chairs reviewed in November, 1990. They identified the request as containing a fact situation which should be brought to the attention of the profession through publication in the buff pages of the Ontario Reports, according to a policy established by Convocation. The Committee requested staff to revise the draft to more accurately reflect the factual situation and to indicate the disposition of the matter by the Authorization Committee.

Your Committee approved the following revised version and recommends that Convocation approve it for inclusion in the buff pages of the Ontario Reports:

The Client was lending money to a third party, and he retained the Solicitor to prepare the documentation necessary to effect and secure the transaction. The terms of the transaction had been previously arranged between the Client and the borrower, who had independent legal advice.

The Solicitor prepared the necessary documentation and the transaction closed. The Client subsequently raised with the Solicitor the suggestion that the terms of the loan, when the interest rate and other fees were considered, were such as to cause the loan to contravene Section 347 of the Criminal Code as a criminal interest rate.

The Committee was of the view that the Solicitor was not guilty of professional misconduct, but rather of the failure to be sufficiently careful regarding the terms of the transaction and the potential consequences thereof.

The attention of the profession is drawn to this Section and members are urged to be vigilant when acting for lender or borrower clients.

3B. Draft Regulation Under the Proceeds of Crime (Money Laundering) Act

Stephen Traviss, Senior Counsel - Professional Conduct, requested the Committee's consideration of certain issues relating to a draft regulation under the Proceeds of Crime (Money Laundering) Act. The material presented by Mr. Traviss included the relevant legislation, draft regulation, the Benchers' Bulletin Supplement from the Law Society of British Columbia (LSBC) relating to the impact of the legislation on the practice of law, memoranda from our Audit and Professional Conduct departments and an excerpt from a government report dealing with money laundering by professionals.

After reviewing the material, the Committee decided that it should not enter into the formulation of a submission to the federal government on behalf of the Society respecting its views on the draft regulation. The Committee agreed, however, that the Society should inform members of the legislation and recommends that Convocation authorize the publication and dissemination of the information to members, which could be in a form similar to that presented by the LSBC, on the existing legislation and proposed draft regulation. The relevant material from the LSBC is attached at pages A-1 to A-12.

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 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, Complaints and Audit staff for the month of December, 1990:

	<u>Sought</u>	<u>Obtained</u>
Discipline	3	3
Complaints	13	12
Audit	1	1

Total Number of Charges Authorized for 1990

January	17	
February	47	(35 of the February authorizations were for failure to file Forms 2/3)
March	19	
April	7	
May	4	
June	47	(17 of the June authorizations were for failure to file Forms 2/3)
July	5	
August	30	
September	26	(14 of the September authorizations were for failure to file Forms 2/3)
October	34	
November	18	(6 of the November authorizations were for failure to file Forms 2/3)
December	16	(1 of the December authorizations was for failure to file Forms 2/3)

	270	

ALL OF WHICH is respectfully submitted

DATED this 10th day of January, 1991

"P. Lamek"
Chair

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

B-Item 3B - Benchers' Bulletin Supplement from the Law Society of British Columbia (LSBC) re: The impact of proceeds of crime legislation on the practice of law.

(Marked A-1 to A-12)

It was moved by Mr. McKinnon, seconded by Mr. Somerville that the wording under "Place of Hearing" in Item 1A of the Report, be adopted.

Carried

THE REPORT AS AMENDED WAS ADOPTED

.....

PROFESSIONAL CONDUCT COMMITTEE

Mr. Somerville presented the Report of the Professional Conduct Committee of its meeting on January 10th, 1991.

The Hon. W. Howland and Mr. Lerner did not participate.

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 10th day of January, 1991 at three o'clock in the afternoon, the following members being present: Messrs. Somerville (Chair), Thoman (Vice-Chair), Campbell, Carey, Cullity and Ms Chapnik.

A.

POLICY

1. RETIRED JUDGES RETURNING TO PRACTICE (RULE 15)

The Professional Conduct Committee has been discussing for 20 months whether Rule 15 (set out below) needs to be revised.

Without the express approval of Convocation, no member who was formerly a Judge of the Supreme Court of Canada, the Federal Court of Canada, the Supreme Court of Ontario or of a County or District Court and who has retired, resigned or been removed from the Bench and has returned to practice, shall appear as counsel or advocate in any court, or in chambers, or before any administrative board or tribunal.

COMMENTARY

1. Litigants are bound to think that a former judge will be in a preferred position before the courts, whether or not such is the fact. If in a given case the former judge should be in a preferred position by reason of having held judicial office, the administration of justice would suffer; if the reverse were true, the client might suffer. There may, however, be cases where the Society would consider that no impropriety or appearance of impropriety would result, for example in the case of a judge who resigned for good reason after only a very brief time on the Bench.

In January 1990 after receiving submissions from the Chief Justices and Chief Judges of the various courts the Professional Conduct Committee sent a report to Convocation that read in part:

The Committee discussed the issue at some length and in the process identified five questions.

1. Should there be a blanket rule to apply to all judges whereby they could not practise before the courts without Convocation's permission?
2. Should we continue to differentiate, as we do with the present Rule 15, between federally appointed judges and provincially appointed judges?
3. Should we amend our Rule to set in place a cooling off period or periods before a retired judge could return to practise in the courts as is done in other jurisdictions?
4. Should we act upon Chief Judge Hayes' suggestion that any amendment to Rule 15 affecting provincially appointed judges should not apply to those appointed before such a Rule change?
5. How should the Law Society deal with the immediate question raised by Chief Judge Callaghan in his letter?

The unseemly perception on the part of the public of a former judge practising in the courts was the dominant consideration in the minds of the members of the Committee and outweighed all arguments in favour of a removal or easing of the existing restriction in Rule 15.

The Committee has concluded that Rule 15 should not be amended to include provincially appointed judges notwithstanding the recommendation of Professor Marilyn Pilkington in her opinion. A number of the circumstances under which they operate are sufficiently different to justify exclusion from our Rule. Moreover, the attempt by the Attorney General to recruit persons to take provincial appointments for terms of five, ten and fifteen years would be frustrated by such a Rule change.

The Committee is of the opinion that those judges who wish to retire because of court reform and who wish to return to practise in the courts may make the necessary application to Convocation as is provided for in the present Rule.

The Committee recommends to Convocation that no change be made to the existing Rule.

A few minutes after the Committee had risen a communication was received by the Secretary to the effect that the Canadian Bar Association - Ontario and the Advocates' Society wished to be canvassed for their views on this issue.

At Convocation it was decided that the matter be sent back to the Committee in order that the views of the Advocates' Society and the Canadian Bar Association - Ontario be obtained.

The Committee also obtained the views of Professor Peter Russell who chairs the Province of Ontario's Judicial Appointments Advisory Committee.

Opinion of the Judicial Appointments Advisory Committee

I was pleased to see that Rule 15 does not apply to Provincial Court Judges and to learn that the Law Society did not intend to amend the rule in this respect. This certainly fits in

with our Committee's approach. We are very sensitive to the problem of "burn out" on the Provincial Court bench and would not like to see any barriers erected that would make it difficult for Provincial Court Judges who have served for some years to return to practice. Indeed, in our published criteria we state that, "The provincial judiciary should be open to those who wish to serve for a limited number of years and resign before reaching retirement age as well as those who wish to finish their professional career on the bench."

Submission of the Advocates' Society

The Civil Justice Committee of the Society has studied this issue. It investigated the rules in force in other provinces. It held discussions with counsel practicing both in large and small communities and in the civil as well as the criminal fields. The views of several members of the judiciary were also obtained. The issue was fully debated by the directors of the Society at a recent meeting. We concluded that the present rule is unnecessarily restrictive. The Advocates' Society puts forward the following proposal for consideration by the Professional Conduct Committee.

It is our view that there should be a two-year waiting period after a Judge leaves the Bench before the former Judge appears as an advocate in court. The prohibition against appearing as advocate should only apply to the court of which the Judge was a member as well as a court of inferior jurisdiction. Accordingly, the former Judge would be allowed to practice in higher courts and before administrative tribunals.

In coming to our proposal, we were of course concerned about the possible perception of litigants that former Judges will receive preferential treatment from a court. We do not however believe that a former Judge would in fact receive any special consideration. This would become clear to litigants and to the public in a short period of time after a former Judge began to practice. Unless former Judges are very selective in the briefs taken on, they will lose their fair share of cases as do counsel who have never been on the Bench.

A waiting period of two years puts a reasonable period of time and distance between a former Judge and the court on which he or she served. This should reduce, if not eliminate, the perception of possible advantage. Quebec has a one-year waiting period, Saskatchewan's is two years, and Manitoba's is three-years. Two years seemed to us to be the reasonable length of time.

There does not appear to be any valid reason to prevent a former Judge from appearing in a superior court or before administrative boards and tribunals. Even the appearance of advantage cannot reasonably be found when a former Judge appears before a court or tribunal other than the one of which he or she was a member.

Our proposed rule introduces certainty which is lacking in the present Rule 15. A Judge contemplating leaving the Bench would know the ground rules and when and where he would be able to practice as counsel. The present rule, which gives total discretion to convocation, without any criteria for its exercise, leaves a Judge in the position of not knowing whether he or she will ever be able to practice as an advocate.

Our Society has changed dramatically in many ways in the past two decades. Lawyers no longer work their entire careers at the firm they joined from law school. Career moves are made more frequently during a lawyer's working life. It is not surprising therefore that some Judges may want to make a career change after serving say ten years on the Bench. We do not believe there is any reason today to keep a Judge on the Bench who would prefer to leave but cannot do so without the ability to practice as counsel.

Submission of the Canadian Bar Association - Ontario

A copy of their 18 page submission (together with its numerous appendices) is attached (numbered 1 - 48).

The thrust of its recommendations is to be found on pages 3 and 4 in the following paragraph:

It is the Committee's view that the present provisions of Rule 15 should continue to apply to appellate judges. However, the Committee feels that trial court judges should not be forever prevented from returning to practice. In the Committee's view, the interests of justice require that there should be a reasonable period of time and distance put between a former Judge and the court on which he or she served and courts of inferior jurisdiction before a former Judge is permitted to appear as counsel or advocate in those courts. Similarly, a former Judge should not be allowed to appear for the same period of time in front of an administrative board or tribunal if the Judge sat on a Court which had jurisdiction to hear and decide judicial review applications or appeals from the board or tribunal. Finally, we see no reason to distinguish between judges of the Ontario Court of Justice (General Division), the Ontario Court of Justice (Provincial Division) or other judicial officers such as Masters and Family Law Commissioners except as is hereinafter set out.

After receipt of the CBAO report a submission was sent in by the Association of Provincial Criminal Court Judges of Ontario.

Submission of the Provincial Criminal Court Judges Association

It has come to the attention of the Association of Provincial Criminal Court Judges of Ontario that the above-noted matter is still under active consideration by the Law Society of Upper Canada.

You may recall that some time ago the Law Society solicited the views of our Association on this matter. It was the consensus of the Executive, as evidenced by a motion passed and approved by the members at large at our Annual Meeting in May, 1990, that at the very least, any change in the current position allowing Provincially appointed Judges to return to practice ought to "red-circle" or "grandfather" those presently appointed and sitting in the then Provincial Court (Criminal Division). This position was and is taken for a number of reasons.

First, for those of us who accepted appointments to the Provincial Bench, prior to the inception of the Judicial Appointments Advisory Committee ("Russell Committee"), at the time of so accepting, it was an option to retire or resign and return to private or public practice, including but not limited to appearing before the Provincial Courts (as they were once known). Many of the members of our bench, prior to appointment to the Bench, had practices which were restricted for the most part to criminal or family law, as the case may be, or were Crown Attorneys. In the event that any Judge wished to return to practice, he or she was able to do so upon payment of the required fees to the Law Society.

Since approximately 95% of all criminal work occurs at the Provincial Division level, when viewed in conjunction with most Judges' prior restricted practices as previously noted, to prevent a return to practice for even one year in the Court on which the Judge presided, would in reality be almost a total denial of the means to earn a livelihood in the profession of one's choice for that period of time.

Second, in the same vein, since the inception of the Judicial Appointments Advisory Committee process in Ontario, applicants have been encouraged to apply for appointment to the bench envisaging the possibility of a return to practice in 5 to 10 years. In fact the application form, if not expressly, then by implication, suggests this possibility. Therefore, insofar as appointments to the Bench, since the inception of the Judicial Appointments Advisory Committee these able men and women may very well have been misled in accepting an appointment by virtue of this possible future action.

Federally appointed Judges, on the other hand, have accepted their appointments subject to the specific provisions in the Judges Act dealing with court appearance subsequent to retirement or resignation.

While I appreciate the desirability for some type of uniformity, vis-a-vis Federal and Provincial appointees to the bench and their respective positions subsequent to retirement or resignation, let us not forget the vast and unconscionable differences in salaries and benefits between a Federal appointee and a Provincial appointee. On a salary comparison alone there is at present an approximate difference of \$35,000.00 per year in favour of Federal appointees. It would seem reasonable then that a Federal appointee can well withstand a longer period of time, economically, prior to returning to court practice.

While our Association clearly recognizes the "perceived" difficulties arising from a Judge returning to immediate practice before the Court, and the consequent "unease" this may cause to the court, and perhaps to a litigant, we are of the view that the problem is minimal.

Having personally experienced the situation with two such Judges returning to practice in the Courts over which they presided in Windsor, there was no perceived public outcry or comment on the propriety of such occurrences, nor was there any great rush of clients to either. Further, both have conducted themselves in a manner consistent with the due administration of justice.

In conclusion then, the position of our Association is that if there is to be a change in the Law Society's present position which allows Provincially appointed Judges to return to practice before the Courts, then due recognition ought to be given to those who have accepted appointments in the past, with that option available. If a change is thought desirable, although no need presently has been demonstrated, then at the very least those accepting appointments will be aware of the proposed limitation prior to accepting an appointment.

The Committee also had the benefit of opinions from the Chief Justice and Chief Judges of all the courts. This was done in 1989 and was reported to Convocation in January 1990. A copy of those opinions are attached (numbered 49 - 59).

The Committee was impressed with the approach taken by the CBAO but is concerned with implementing a Rule that would hinder the present policy of the Judicial Appointments Advisory Committee of trying to attract candidates to the bench who would serve as Judges for short periods of two years or less. Moreover, the Committee is aware that the Law Society's Rule has not in the past applied to provincially appointed judges.

The Committee recommends to Convocation that the existing Rule 15 be repealed and replaced by the following:

RETIRED JUDGES RETURNING TO PRACTICE

Rule 15

1. Without the express approval of Convocation which approval may only be granted in exceptional circumstances and may be restricted as Convocation sees fit, no member who was formerly a Judge of the Supreme Court of Canada, the Ontario Court of Appeal or the Federal Court of Canada, Appeal Division and who has retired, resigned or been removed from the Bench and has returned to practice, shall appear as counsel or advocate in any court, or in chambers, or before any administrative board or tribunal.

2. Without the express approval of Convocation which approval may only be granted in exceptional circumstances and may be restricted as Convocation sees fit, no member who was formerly a Judge of the Federal Court of Canada, Trial Division, the Supreme Court of Ontario, Trial Division, a County or District Court or the Ontario Court of Justice (General Division) and who has retired, resigned or been removed from the Bench and has returned to practice, shall appear as counsel or advocate:

Note: amendment, see page 99

(a) before the court on which the Judge served or any lesser court; and

(b) before any administrative board or tribunal over which the court on which the Judge served exercised an appellate or judicial review jurisdiction

for a period of two years from the date of such retirement, resignation or removal.

3. Without the express approval of Convocation which approval may only be granted in exceptional circumstances and may be restricted as Convocation sees fit, no member who was formerly a Judge of the Ontario Court of Justice (Provincial Division) or a Judge of the Small Claims Court and who has retired, resigned or been removed from the Bench and has returned to practice, shall appear as counsel or advocate before the court on which the Judge served for a period of one year from the date of such retirement, resignation or removal.

4. Notwithstanding paragraph 3, a member who is a Judge of the Ontario Court of Justice (Provincial Division) or a Judge of the Small Claims Court at the time this Rule comes into force may upon returning to practice appear as counsel or advocate in any court or before any administrative board or tribunal if the Judge leaves the Ontario Court of Justice (Provincial Division) at any time during the two year period following the coming into force of this Rule.

5. Notwithstanding paragraph 3, a member who takes an appointment as a Judge of the Ontario Court of Justice (Provincial Division) after this Rule comes into force may prior to the completion of five years as a Judge of the Ontario Court of Justice (Provincial Division) return to the practice of law and may appear as counsel or advocate in any court or before any administrative board or tribunal.

(See number 6 of Rule 15 in Convocation file)

The Committee makes no recommendation as to a Commentary to the new Rule but notes that Convocation has three options:

1. That there not be a Commentary to the Rule.
2. That the Commentary to the present Rule 15 be used.
3. That a new Commentary be drafted reflecting the concerns raised by the recommended Rule.

C.
INFORMATION

1. SUB-COMMITTEE ON THE MARTIN CASE

The Chair will shortly be appointing a sub-committee to consider the Supreme Court of Canada decision in the Martin case which was released on December 20th 1990 and which addresses conflict of interest created by lawyers moving from one firm to another.

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

"M. Somerville"
Chair

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

A-Item 1 - Submission of the Canadian Bar Association-Ontario.
(Numbered 1 to 48)

A-Item 1 - Opinions from the Chief Justice and Chief Judges of all courts.
(Numbered 49 to 59)

It was moved by Mr. Bastedo, seconded by Mr. Strosberg that the word "two" in the second paragraph of Proposed Rule 15 (Retired Judges Returning to Practice) be deleted and replaced by the word "one".

Lost

It was moved by Mr. Bastedo, seconded by Mr. Strosberg that subparagraph (b) in paragraph 2 of Proposed Rule 15 be deleted.

Lost

It was moved by Mr. Strosberg, seconded by Mr. Bastedo that the Proposed Rule 15 not apply to Provincial Court Judges.

Carried

Further discussion on the Professional Conduct Report was stood down.

.....

ORDERS

Mr. Lamek presented seven Orders of Convocation to be recorded in the Minutes of Convocation.

Re: WILLIAM EDWARD MCCAUGHEY, Ottawa

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF William Edward McCaughey, of the City of Ottawa, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 8th day of November, 1990, in the presence of Counsel for the Society, the Solicitor not being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

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

DATED this 22nd day of November, 1990

"James M. Spence"
Treasurer

(SEAL - The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

.....

Re: ROBERT WALTER DVORAK, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 6th day of November, 1990, in the presence of Counsel for the Society, the Solicitor not being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

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

DATED this 22nd day of November, 1990

"James M. Spence"
Treasurer

(SEAL - The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

.....

Re: DONOVAN JACKSON BLAKEMAN, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 6th day of November, 1990, in the presence of Counsel for the Society, the Solicitor not being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

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

DATED this 22nd day of November, 1990

"James M. Spence"
Treasurer

(SEAL - The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

.....

Re: MICHAEL DAVID THOMAS CAMPBELL, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Michael David Thomas Campbell, of the City of Toronto, a Barrister and Solicitor (hereinafter referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 6th day of November, 1990, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the said Michael David Thomas Campbell be granted permission to resign his membership in The Law Society of Upper Canada, such suspension to take effect the 22nd day of November, 1990.

DATED this 22nd day of November, 1990

"James M. Spence"
Treasurer

(SEAL - The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

.....

Re: FRANCES ALICE MURPHY, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 6th day of November, 1990, in the presence of Counsel for the Society and the Solicitor, wherein the Solicitor was found guilty of conduct unbecoming and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the said Frances Alice Murphy be granted permission to resign her membership in The Law Society of Upper Canada, such resignation to take effect the 22nd day of November, 1990.

DATED this 22nd day of November, 1990

"James M. Spence"
Treasurer

(SEAL - The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

.....

Re: TIMOTHY JOHN LUTES, Orillia

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Timothy John Lutes,
of the City of Orillia, a
Barrister and Solicitor (hereinafter
referred to as "the Solicitor")

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 2nd day of August, 1990, in the presence of Counsel for the Society, the Solicitor not being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the rights and privileges of the said Timothy John Lutes be suspended for a period of two months and thereafter until such time as all outstanding matters are completed.

DATED this 22nd day of November, 1990

"James M. Spence"
Treasurer

(SEAL - The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

.....

Re: JOHN WILLIAM WRIGHT, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 15th day of November, 1990, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the rights and privileges of the said John William Wright be suspended for a period of thirty (30) days, such suspension to commence the 1st day of December, 1990.

DATED this 22nd day of November, 1990

"James M. Spence"
Treasurer

(SEAL - The Law Society of Upper Canada)

"Richard F. Tinsley"
Secretary

Filed

.....

RESUMPTION OF DEBATE ON MOTION RE: LIFE BENCHERS

It was moved by Mr. Lerner, seconded by Mr. Noble

- (1) THAT the qualification for appointment by The Law Society of Upper Canada of Life Bencher be amended so a Bencher who has been elected for three consecutive four year terms and has served for a continuous twelve years as a Bencher, automatically becomes a Life Bencher at the termination of the third four year term.
- (2) THAT Life Benchers be entitled to vote in Committee, in Convocation, and to serve as members of the Discipline panels.

It was moved by Mr. Shaffer that Mr. Lerner's motion be amended by deleting the word "consecutive". The motion failed for want of a seconder.

The debate on the main motion was deferred to the February Convocation.

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CONVOCATION ADJOURNED FOR LUNCHEON AT 12:45 P.M.

.....

The Treasurer and Benchers had as their guest for luncheon, Mr. Peter Jarvis, former President of the Advocates Society.

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CONVOCATION RECONVENED AT 2:30 P.M.

.....

PRESENT:

The Treasurer (James M. Spence, Q.C.), Arnup, Bastedo, Bellamy, Bragagnolo, Campbell, Carey, Carter, Cass, Chapnik, Cullity, Farquharson, Ferguson, Ferrier, Furlong, Graham, Ground, Hall, Hickey, Kiteley, Lawrence, McKinnon, Manes, Noble, Peters, Rock, Shaffer, Somerville, Strosberg, Thom, Wardlaw, Weaver and Yachetti.

.....

RESUMPTION OF PROFESSIONAL CONDUCT COMMITTEE REPORT

It was moved by Mr. Noble, seconded by Mr. Bastedo that paragraph 5 of Proposed Rule 15 be deleted.

Not Put

The Chair accepted an amendment that the "Tax Court of Canada" be added to paragraph 2 of Proposed Rule 15.

Paragraphs 1 and 2 of the Proposed Rule 15 were adopted.

THE REPORT AS AMENDED WAS ADOPTED

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MOTIONS

It was moved by Mr. Thom, seconded by Mr. Campbell

THAT John Perry Borden a member in good standing of this Society, be appointed Treasurer's representative for the 1991 Election of Benchers.

THAT Harrison S. Arrell, W. Michael Adams, Frederick Innis and Janette MacDonald all members in good standing of this Society, be appointed scrutineers for the 1991 Election of Benchers.

THAT Denise Bellamy and Allan Rock be appointed the Society's delegates to the Federation of Law Societies of Canada.

Carried

It was moved by Mr. Somerville, seconded by Mr. Strosberg

THAT Robert Topp and Doug Thoman be added as members of the Libraries and Reporting Committee.

THAT Victoria Prince be appointed as a non-Bencher member of the Research and Planning Committee.

Carried

.....

RESUMPTION OF DISCIPLINE MATTER RE: ROBERT WALTER DVORAK

Mr. Campbell placed the matter before Convocation.

Mr. Rock withdrew and did not participate.

Mr. Gavin MacKenzie appeared for the Society and Mr. Edward Greenspan appeared for Mr. Dvorak who was present.

Representations were made by both counsel and a Memorandum of Fact and Law was filed by Mr. MacKenzie.

Counsel answered questions from the Bench.

Mr. Dvorak, counsel, the reporter and the public withdrew.

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IN CAMERA

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IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

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IN PUBLIC

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Mr. Dvorak and counsel were informed of Convocation 's decision.

Mr. Dvorak and counsel retired.

.....

LIBRARIES AND REPORTING COMMITTEE

Mr. Cullity presented the Report of the Libraries and Reporting Committee of its meeting on January 10th, 1991.

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 10th of January, 1991 at 9:00 a.m., the following members being present: D. Murphy (Chair), R. Bragagnolo (Vice-Chair), M. Cullity, M. Hickey, R. Lalande, D. Thoman, R. Topp and Mrs. Weaver. G. Howell and P. Bell also attended.

A.

POLICY

No items

B.

ADMINISTRATION

1. ONTARIO REPORTS - SELECTION OF CASES

Stephen Grant, an Editor of the Ontario Reports Editorial Board, addressed the committee on the process for selecting family law cases to be reported in the Ontario Reports. The Committee discussed the case selection guidelines with Mr. Grant.

NOTED

2. ONTARIO REPORTS - REQUEST TO START A NEW SERIES

The Secretary reported that a letter was received from Butterworths requesting that a new series, 3rd edition, be started at the conclusion of Volume 75. After a discussion of the marketing considerations involved, the Committee decided to approve the request and instructed the Secretary to notify Butterworths that a new series of Ontario Reports could be started after Volume 75.

3. ONTARIO REPORTS - MEMBERS OPTING NOT TO RECEIVE ONTARIO REPORTS

The Secretary reported that a letter was received from D.E. Buckingham, Visiting Assistant Professor, Faculty of Law, Western University regarding the possibility of reducing the number of members who receive the weekly parts of the Ontario Reports in order to save printing, mailing and paper costs. Catherine Campbell, the Executive Vice-President Publishing of Butterworths, indicated that the cost savings would not result; rather, there would be a substantial loss of advertising revenue. The Committee was unanimously of the view that the Ontario Reports is the official source for case law and legal and judicial information, and as such, should go to each and every member of the Society.

RECOMMENDATION: It is recommended that the Chair of the Committee send a reply to Professor Buckingham indicating that the Society is of the opinion that every member should receive a copy of the Ontario Reports.

4. ONTARIO REPORTS - TIMELY REPORTING OF CASES

Catherine Campbell, Executive Vice-President Publishing, of Butterworths, attended to discuss the timeliness of reporting of Ontario Court of Appeal and some Supreme Court of Canada cases in the Ontario Reports. Ms. Campbell agreed to investigate ways of reducing the time between the release date and the date cases are reported in the Ontario Reports and report back to the Committee by the next meeting.

C.

INFORMATION

1. BOOK LIST

The Great Library will be adding 71 new titles to its book collection for December 1990 and January 1991.

2. FINANCIAL STATEMENT

The Financial Statements for the five months ending November 30th, 1990, and the six months ending December 31st, 1990 were received.

3. ONTARIO REPORTS - TENDERS - DATA BASE

The Secretary reported that meetings took place on July 19th, 20th and 30th, and October 2nd, and November 8th, 1990 with Canada Law Book and Q.L. Systems to clarify a number of outstanding issues. Further meetings are planned in early 1991.

4. DEPARTMENT BUDGETS

The Treasurer sent a memo to all Chairs of Committees requesting that the staff prepare a monthly financial report to the Committee. The Libraries and Reporting Committee Financial Summary for the six months ending December 31st, 1990, shows that the Committee is within budget, but an over expenditure is anticipated in the Legal Fees and Other account due to special long term contracts being negotiated on the Ontario Reports Weekly Parts, the Ontario Reports Data Base and the Ontario Reports on CD-ROM.

The expected over expenditure is caused by a legal bill that should have been paid out of last year's budget. This over expenditure is expected to be covered by revenues from the Ontario Reports Data Base.

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

"M. Cullity"
for Chair

THE REPORT WAS ADOPTED

.....

UNAUTHORIZED PRACTICE COMMITTEE

Mr. Carter presented the Report of the Unauthorized Practice Committee of its meeting on January 10th, 1991.

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 10th of January, 1991 at 10:30 a.m., the following members were present: Mr. Carter (Chair), Mr. Cass, Ms. Graham, Ms. Harvey, Messrs. Hickey, Lawrence, Shaffer and Ms. Weaver. Also in attendance was: Ms. Gerber.

B.
ADMINISTRATION

1. ACCOUNTS

Accounts of counsel and investigators were approved in the total amount of \$4,591.90.

2. ONTARIO TASK FORCE ON PARALEGALS - REPORT

The Report of the Ontario Task Force on Paralegals was tabled in the Legislature on December 18, 1990. Attorney General Howard Hampton has stated that he welcomes comments from the public, organizations and associations interested in the role of paralegals and the justice system. The Treasurer of the Law Society has reactivated the Special Committee on Paralegals to review the report and report to Convocation.

3. TRADEMARKS

Your Committee instructed its Secretary to contact the other Law Societies across Canada regarding the trademarks matters. The results of this survey have shown the unanimity of the Societies in that they do not conduct such searches. Your Committee has instructed its Secretary to correspond with the Federation of Law Societies in order to determine whether it has any practice or policy with respect to trademarks.

Approved

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

"R. Carter"
Chair

THE REPORT WAS ADOPTED

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COMMUNICATIONS COMMITTEE

The Report of the Communications Committee was deferred to the February Convocation.

.....

LEGISLATION AND RULES COMMITTEE

Mr. Noble presented the Report of the Legislation and Rules Committee of its meeting on January 10th, 1991.

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 10th of January, 1991, at 11:15 a.m. the following members being present:

B. Noble, (Chair), R. Cass, M. Cullity, D. Murphy; and A. Stone and P. Bell also attended.

A.

POLICY

1. THE RULES UNDER THE LAW SOCIETY ACT - GENDER NEUTRAL

Convocation on September 28th, 1990, referred the Rules under the Law Society Act to the Women in the Legal Profession Committee. That Committee, considered at its meeting on January 8th, 1991, changes to the draft that was before Convocation on September 28th, 1990. A number of changes were suggested by the Women in the Legal Profession Committee. This Committee approved of the majority of the changes but did not approve changing the word, "her", in Rule 2, Line 5 to the word, "the".

RECOMMENDATION: It is recommended that the existing Rules under the Law Society Act be repealed and contemporaneously therewith that the gender neutral Rules be approved. A copy of the gender neutral Rules is attached.

B.
ADMINISTRATION

1. AGENTS TO BE APPOINTED IN ONTARIO ON OCCASIONAL APPEARANCE APPLICATIONS

Convocation on May 25th, 1990, approved the Report of the Admissions Committee of May 10th, 1990, in which it was recommended that the Society seek an amendment to Regulation 573 subsection 6(2) requiring an applicant for an occasional court appearance in Ontario to provide the name of an agent who is a member of the Law Society in good standing and resident in Ontario, who will serve as the applicant's agent for service of documents in Ontario. Subsequently, on September 13th, 1990 this Committee approved an amendment to subsection 6(2) of Regulation 573 to provide for an agent who has an office for service of documents, and Convocation on September 28th, 1990 adopted that part of the report. The Attorney Generals Department has now asked whether the amendment applies only to subsection 6(1)(a) of Regulation 573 concerning occasional appearances of counsel from other jurisdictions or whether it also applies to subsection 6(1)(b) concerning Crown Attorneys working for the Attorney General for a specific time, from other jurisdictions. The amendment should only apply to subsection 6(1)(a) occasional appearance counsel and not 6(1)(b) Crown Attorneys in Ontario for a specific time. Mr. Stone has drafted the following amendment to clarify the matter:

RECOMMENDATION: It is recommended that subsection 6(2) of Regulation 573 of the Revised Regulations of Ontario, 1980, be amended as follows:-

- 6(2) The applicant shall undertake to Convocation that he or she will not otherwise engage in the practice of law in Ontario and, where the applicant is called to the Bar and admitted as a solicitor for the purpose of clause (a), the applicant shall file with the Society the name and address of a member of the Society who has an office in Ontario and who will act as the applicant's agent for service in Ontario.

2. AMENDMENT OF REGULATION 573 SUBSECTION 22
RE: THREE YEAR BAR ADMISSION REFRESHER

The Secretary reported that the Report of this Committee of November 8th, 1990 was dealt with by Convocation on December 1st, 1990 only concerning Item 1 under B - Administration, Benchers Elections. This item was deferred by Convocation both on November 23rd and December 1st, 1990.

Legislative Counsel at Queen's Park has indicated that the amendment to subsection 22(5a) of Regulation 573 approved by the Committee on March 8th, and Convocation on March 22nd, 1990, gave too broad a discretion to Convocation. Counsel for the Law Society has redrafted the proposed amendment that will accomplish the same result.

RECOMMENDATION: It is recommended that subsection 22 of Regulation 573 of the Revised Regulations of Ontario, 1980, be amended by adding after subsection 22(5), subsection 22(5a) as follows:-

- (5a) Where three years have elapsed after a person has completed the Bar Admission Course during which the person has not been called to the bar and enrolled as a solicitor, the Bar Admission Course is not completed until the person successfully completes such further experience and studies as Convocation considers necessary to ensure that the person remains current with the law.

3. COURT MERGER - COURTS TO WHICH SOLICITORS ARE ENROLLED

The Secretary reported that this matter was included in the Report of this Committee in November 8th, 1990 but this item was deferred by Convocation on November 23rd and December 1st, 1990. Since the Committee's recommendation in its Report of November 8th, 1990 a further amendment of Subrule 53(4) under the Law Society Act has been requested by Boris Krivy, Executive Director to Chief Justice Dubin.

The recommendation in the Report of this Committee approving of Chief Justice Dubin's view that solicitors should be sworn in and enrolled as solicitors "of the Court of Appeal for Ontario and of the Ontario Court of Justice (General Division)" was approved by this Committee on October 11th, 1990 and was one of the items deferred in our Report to Convocation of November 23rd, 1990. Boris Krivy, Executive Director to Chief Justice Dubin, has informed the Society that the above wording in quotation marks should be amended by deleting the words (General Division).

RECOMMENDATION: It is recommended that sub-rule 53(4) be amended as follows:

Sub-rule 53(4) of the rules made pursuant to subsection 62(1) of the Law Society Act, R.S.O. 1980, c. 233, is repealed and the following substituted therefor:

- (4) Immediately after a candidate is called to the bar he or she shall be presented to the Court of Appeal for Ontario or the Ontario Court of Justice by any bencher present in the court and the presiding judge shall administer the oaths prescribed by rule 51 and the court may cause the candidate to be admitted and his or her name to be enrolled on the Rolls of the Society as a solicitor of the Court of Appeal for Ontario and of the Ontario Court of Justice.

It is recommended that Convocation pass the recommended rule change.

C. INFORMATION

1. LEGISLATION AND RULES BUDGET

The Treasurer has requested that a monthly financial report be made to the Committee. The Committee is advised that the Legislation and Rules Committee is within budget and no over expenditures are expected.

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

"B. Noble"
Chair

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

- A-Item 1 - Copy of the gender neutral Rules under the Law Society Act. (Pages 1 to 35)

The Committee was asked to give consideration to deleting "1822" set out in paragraph number 2 Re: SEAL under the Rules made under the Law Society Act.

THE REPORT WAS ADOPTED

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PROFESSIONAL STANDARDS COMMITTEE

Ms. Weaver presented the Reports of the Professional Standards Committee of its meetings on November 8th, 1990 and January 10th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 8th of November, 1990 at eleven thirty in the morning the following members being present: Mr. Yachetti (Chair), Mrs. Weaver (Vice-Chair), Mr. Carter, Ms. Graham and Mrs. Legge.

Also in attendance was Mr. Lamont, Chair of the Professional Standards Sub-committee on Real Estate Law.

Also present were Ms. McCaffrey, Ms. Poworoznyk, and Messrs. Kerr, and Stephany.

A.
POLICY

1. INTERVIEW FEE - METROPOLITAN TORONTO POLICE

The Committee was asked to consider correspondence from Ian Outerbridge dealing with the question of whether it is proper for the Metro Police Force to charge a fee to parties wishing to interview its officers.

After reviewing this material, the Committee members adopted the concerns as expressed by Mr. Outerbridge, and recommended that a delegation including Mr. Carter make representations to the Police Commission requesting that the policy be reconsidered.

Attached as A1 - A3 is a copy of the correspondence from Mr. Outerbridge.

B.
ADMINISTRATION

1. SUB-COMMITTEE ON REAL ESTATE LAW

The Committee approved the form and content of the draft checklist prepared by the Sub-committee and recommended that it be published in both English and French.

The Committee also recommended that the checklist receive the widest possible circulation.

Attached as B1 - B54 is a copy of the checklist.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of November, 1990

"M. Weaver"
for Chair

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

- A-Item 1 - Letter to the Treasurer, Mr. James Spence, Q.C. from Mr. Ian W. Outerbridge dated October 9, 1990 together with a copy of Mr. Outerbridge's letter to Commissioner June Rowlands. (Marked A1 to A3)
- B-Item 1 - Draft checklist re: Real Estate Law. (Marked B1 to B54)

THE REPORT WAS ADOPTED

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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 10th of January, 1991 at eleven thirty in the morning the following members being present: Mr. Yachetti (Chair), Mrs. Weaver (Vice-Chair), Mr. Carter, Mr. Furlong, Ms. Graham, Mrs. Legge and Mr. Wardlaw.

Also present were Ms. Ashby, Ms. McCaffrey, Ms. Poworoznyk, and Messrs. Kerr, and Stephany.

A.

POLICY

1. PRACTICE REVIEW PROGRAMME - PRIVATE SECTOR PROGRAMMES
CASE - COUNSELLING ASSISTANCE TO SMALL BUSINESSES

At its January 11, 1990 meeting, the Committee approved in principle the use of private sector organizations in circumstances where their services might assist the member in remedying practice problems identified by the Practice Review Programme. It also decided that all organizations proposed by staff receive the prior approval of the Committee before being recommended. To date, 2 such organizations have received the approval of the Committee.

Staff have recently held discussions with the Coordinator of the Federal Business & Development Bank's CASE (Counselling Assistance to Small Business) programme whose organization could, in some cases, assist lawyers with business-related problems.

The programme draws on a roster of counsellors all of whom are experienced business people who have successfully owned and operated their own business or who have held executive positions in larger corporations. Some of the counsellors are retired lawyers with backgrounds in the corporate sector.

CASE assignments are conducted on a one on one basis and usually fall into two categories:

- a) curative - clients who seek counselling where a problem is apparent and,
- b) preventative - clients who seek counselling to minimize or avoid anticipated future problems.

The CASE programme is operated Canada-wide and is financed primarily by the Federal Government. There are currently 43 offices across Canada, 11 of which are located in Ontario.

The Committee approved in principle the use of the CASE programme as an alternate resource for the Review Programme.

3. PROFESSIONAL STANDARDS COMMITTEE - POLICY MANUAL

At the September and October, 1990 meetings, the Committee members were provided with a copy of the Policy Manual containing a complete collection of all policy proposals made by the Committee that were subsequently approved by Convocation.

The Committee accepted the format of the Policy Manual with a provision that the existing Index be expanded and a Table of Contents added.

B.

ADMINISTRATION

1. DEPARTMENT BUDGET - FISCAL 1990-1991

In a recent letter to all Committee Chairs, the Treasurer requested that Committees consider the expenditures made by each Law Society Department reporting to it in order to determine if there are or will likely be shortages.

At present, the Standards budget is running at or below the rate of expenditures set for the various items.

C.

INFORMATION

1. PRACTICE REVIEW PROGRAMME - DISCUSSION PAPER
AMENDMENTS TO THE LAW SOCIETY ACT

Following approval by Convocation in September, the recommendations contained in the Committee's Discussions Paper were referred to the Implementation Committee chaired by Dennis O'Connor.

2. PRACTICE ADVISORY SERVICE - STATUS REPORT

Attached as C1 is a copy of the monthly status report. Included in this report is a brief summary of the present budgetary status of the service.

3. LINK - LAWYERS' ASSISTANCE PROGRAM

Attached as C16 - C28 is a copy of the Interim Report.

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

"M. Weaver"
for Chair

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

C-Item 2 - Copy of the Practice Advisory Service Monthly Report.
(Marked C1)

C-Item 3 - Memo to Standards Committee from Ms. B. Denise Ashby dated
January 11, 1991 re: LINK - Lawyers' Assistance Program of
Ontario Incorporation Interim Report.
(Marked C16 to C28)

THE REPORT WAS ADOPTED

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COMPENSATION FUND COMMITTEE

Mr. Noble presented the Report of the Compensation Fund Committee of its meeting of January 10th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA
IN CONVOCATION ASSEMBLED

The COMPENSATION FUND COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of January, 1991 at 11:45 a.m. the following members being present:

C. Ruby (Chair), H. Strosberg (a Vice-Chair), R. Hall, B. Noble and S. Thom; and James Spence (Treasurer), D. Crosbie, D. Crack, R. Tinsley, P. Bell, H.A. Werry, and G. Zecchini also attended.

A.
POLICY

1. NATIONAL DEFALCATION FUND

The Secretary reported that the Federation of Law Societies of Canada sent a draft Report, dated October 3rd, 1990, from its Inter-Jurisdictional Practice Committee for discussion purposes. The National Fund would be made up of \$10-\$20 annual per member assessments. There would be a per lawyer cap of \$1,000,000. There would be exclusions - damages, interest, legal fees or investment losses would not be covered. Financial institutions would be compensated, where appropriate. The National Fund would have a discretion. There would be a refund if the money raised from each Province, resulted in a large surplus. The Treasurer led a discussion of this issue and the position of the other provinces respecting the matter.

RECOMMENDATION: It is recommended that this matter be deferred until the next meeting and that a summary be prepared by the staff of how the National Fund would work, and of any alternatives to the present proposal that might be sent forward on behalf of the Law Society of Upper Canada.

2. PUBLICITY FOR THE COMPENSATION FUND

The Chair asked that the Secretary contact other jurisdictions to ascertain if any publicize their funds. The replies from the Canadian provinces indicated that very little publicity is done by the Law Societies. The replies from Australia are similar. The replies from the American states indicate that where substantial payouts are made from the funds, some states publicize the role of lawyers in compensating clients from loss and the amounts paid.

A proposal, drafted by Gemma Zecchini, Communications Director of the Society, was considered by the Committee.

RECOMMENDATION: It is recommended;

- (1) that approval in principle be given to publicizing the work of the Compensation Fund in general;
- (2) that approval be given to publicity by the Society on a selective basis of appropriate cases where a substantial pay-out from the Fund has been made;
- (3) that the name of the Fund be changed to Lawyers Fund for Clients' Compensation and that until statutory change in that respect is effected the usage be authorized by Convocation;
- (4) that no publicity will take place until the Committee has approved the actual text of the material to be released;
- (5) that publicity should issue in the name of the Treasurer on behalf of the Law Society and the Chair of the Committee.

B.

ADMINISTRATION

1. POLICY OF THE COMPENSATION FUND WHERE
PROCEEDS OF AN INSURANCE SETTLEMENT ARE STOLEN

The Secretary reported that Mr. Strosberg, a Vice-Chair of the Committee, asked to have this matter on the agenda. A dishonest lawyer acts for the plaintiff and the defendant is represented by an insurance company. The litigation, as far as the insurance company is concerned, is settled in that funds have been sent from the insurance company to the plaintiff's lawyer in trust, to hold in escrow pending the plaintiff executing a release of his claim. The release is never executed by the plaintiff and the plaintiff's solicitor steals the monies received from the insurance. The plaintiff makes a claim to the fund for the amount stolen. Should the Compensation Fund pay the plaintiff the amount stolen or should the plaintiff be advised to pursue the main action against the defendant as if there had been no settlement.

RECOMMENDATION: It is recommended that this matter be deferred until the next meeting.

2. BILINGUAL REFEREES

The Secretary reported that on the instructions of the Committee, advertisements were placed in the Ontario Reports, Lawyers Weekly, Law Times and Le Droit for the part-time position of bilingual referee for the Compensation Fund. As a result of the replies, six candidates were interviewed by the staff. Dominique Paquet, the Society's French Language Services Coordinator, sat in on all of the interviews to assess the candidates ability to speak French.

RECOMMENDATION: It is recommended that Anthony Keith, Q.C., be appointed a referee and that a report be prepared by the staff as to the number of referees now hearing Compensation claims and on a method for appointing younger members of the profession, more women, and more members from an ethnic background. The object is to have referees who better reflect the composition of the province of Ontario.

3. UPDATING THE TILLINGHAST REPORT

The Secretary reported that at the October meeting of the Committee, consideration was given to updating the report of Tillinghast Actuaries of February 16th, 1990. A report was requested from David Crack, Director of Finance. The Committee discussed Mr. Crack's report.

RECOMMENDATION: It is recommended that this matter be deferred until Mr. Crack provides the Committee with further information which is to include;

(1) the amount that probably will be paid out of the Fund on the claims in the Schedules to his report;

(2) an analysis of the several large defalcations that are presently being investigated and may indicate an alarming trend. Mr. Crack's report is attached. (Pg. B1 - B5)

C.
INFORMATION

1. REFEREE'S REPORT AND MEMORANDA OF ASSISTANT SECRETARIES

The Secretary reported that the following Referee's Report and memos of Peter B. Bell and Heather A. Werry, Assistant Secretaries were approved by the Review Sub-Committee and are shown on Schedule "A" attached:-

a.) B.W. Grossberg, Q.C. - Referee

Kalmen N. Goldstein (Indefinitely suspended Oct. 26/89)
one claim \$5,000.00

Peter B. Bell, Assistant Secretary

b.) H. Gordon Mylks (Permitted to resign Apr. 27/89)
three claims \$4,274.50

c.) Ernest V. Swain (Pending discipline)
one claim \$2,500.00

Heather A. Werry, Assistant Secretary

d.) David C. Bird (Disbarred Sept. 27/90)
three claims \$58,325.00

e.) Roger Morris (Disbarred May 26/88)
one claim \$38,340.70

2. The Secretary reported that at a conference of the Law Society of England some suggestions were made for controls on sole practitioners, none of which have as yet been adopted by the Council. These ranged from a total ban on allowing sole practitioners holding clients' money to requiring their accounts to be managed by accountants.

3. The total amount of accounts approved by Assistant Secretaries for the months of November and December, 1990 was \$3,670.48.

4. The Financial Summary and the Activity Report for the month of November, 1990, and the Financial Summary as of December 31, 1990, are attached. (Pgs. C1 - C5)

5. DEPARTMENT BUDGETS

The Treasurer sent a memo to all Chairs of Committees requesting

that the staff prepare a monthly financial report to the committee. The Compensation Fund financial summary, attached, shows the Fund is within budget and no over expenditures are anticipated at this time.

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

"B. Noble"
for Chair

SCHEDULE "A"

COMPENSATION FUND GRANTS APPROVED BY THE REVIEW COMMITTEE AND
BY THE COMPENSATION FUND COMMITTEE, THURSDAY, JANUARY 10TH, 1991

REFEREE AND/OR ASSISTANT SECRETARY	SOLICITOR	NUMBER OF CLAIMANTS	TOTAL
B.W. Grossberg, Q.C. K.N. Goldstein (Indefinitely suspended Oct. 26\89)		1	\$5,000.00
P.B. Bell (Permitted to resign Apr. 27\89)	H.G. Mylks	3	\$4,274.50
P.B. Bell (Pending discipline)	E.V. Swain	1	\$2,500.00
H.A. Werry (Disbarred Sept. 27\90)	D.C. Bird	3	\$58,325.00
H.A. Werry (Disbarred May 26\88)	R. Morris	1	\$38,340.70
TOTAL		nine	\$108,440.20

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

- C-Item 1 - Referee's Report and memos of Mr. Peter B. Bell and Ms. Heather A. Werry. (Schedule A)
- B-Item 3(2) Memo to Mr. Clayton Ruby, Chair, Compensation Fund from Mr. David E. Crack dated January 9, 1991 re: Effect of Recession on Compensation Fund. Schedules 1 to 3 attached. (Marked B1 to B5)

C-Item 4 - Financial Summary and Activity Report for month of November 1990 and Financial Summary as at December 31, 1990.
(Marked C1 to C5)

THE REPORT WAS ADOPTED

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INSURANCE COMMITTEE

The Reports of the Insurance Committee were deferred to the February Convocation.

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COUNTY & DISTRICT LIAISON COMMITTEE

Mr. Carey presented the Report of the County & District Liaison Committee of its meeting on January 10th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA
IN CONVOCAION ASSEMBLED

The COUNTY & DISTRICT LIAISON COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of January, 1991 at four o'clock in the afternoon, the following members being present: J.S. Lyons (Chair), T.J.P. Carey; P.J. Peters; B. Shaffer. M. O'Dea; H. Arrell; M. Bode; S. Foley; M. Hennessy; D. Lovell; N. Mossip; R. Smith and R. Weekes were present from the County & District Executive. Staff members present were M. Angevine and G. Howell.

1. 1991 Plenary Sessions

Your Committee discussed possible dates for the 1991 Plenary Sessions of the County & District Law Presidents' Association and was advised by the Executive that there was a preference for holding the sessions in May and November rather than May and October. The Secretary undertook to convey the view of the Executive to the Treasurer. In addition, consideration was given to what facilities in Osgoode Hall would be available for use during the Plenary Sessions taking into account the building renovations and additions underway during 1991. It was concluded that off-site arrangements should be made for at least the May session and the issue revisited with respect to the November session later in the year when more information on the progress of the work would be available.

2. Bencher Election Reform

Your Committee reviewed the proposal for reform of the bencher election process and the timing considerations involved with reference to the Society's agenda and that of the Ontario legislature.

After some discussion, the following motions were made, seconded and carried:

- (i) that the Law Society's submission to the government regarding reform of the bencher election process be deferred pending further study of the issues by a special committee to be appointed by the Treasurer immediately following the benchers' election in 1991;

- (ii) that one member of the special committee referred to in (i) be a representative selected by the County & District Law Presidents' Association;
- (iii) that any amendment to the Law Society Act in respect of the election process should be so drafted to give the Society the authority to change its election process without further recourse to the legislature;

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

Chair

THE REPORT WAS RECEIVED

.....

RESEARCH AND PLANNING COMMITTEE

Mr. Campbell presented the Report of the Research and Planning Committee of its meeting on January 10th, 1991.

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 10th of January, 1991, at 8:00 a.m, the following members being present: H.T. Strosberg (Chair), D.E. Bellamy, R.C. Bragagnolo, C.L. Campbell, L.K. Ferrier, P.G. Furlong, J.I. Laskin, R.J. Smith.

Also present: M.J. Angevine, A.M. Brockett, G. Mew, V. Prince.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

No matters to report.

C.
INFORMATION

1. PUBLICATION OF ATTENDANCE AND VOTES AT CONVOCATION

At the Annual Meeting of the Law Society on November 7, 1990, a resolution was adopted, calling for the Society to publish a record of attendance at meetings of Convocation and a record of the way in which each bencher votes on each motion brought before Convocation. At its November meeting, your Committee appointed a subcommittee to consider how this resolution might be implemented.

A detailed report has been received and discussed by your Committee. A series of recommendations is being prepared and it is anticipated that these will be ready for presentation to Convocation at its February meeting.

2. SUITABILITY OF TITLES EMPLOYED BY THE LAW SOCIETY

Your Committee established a subcommittee in the fall of 1990 to review the suitability of the titles employed by the Law Society. A preliminary report has been received, recommending that the title "Treasurer" be changed to "President". Your Committee has asked for recommendations on other titles employed by the Law Society, and will consider these before bringing any recommendations to Convocation.

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

"C. Campbell"
for Chair

THE REPORT WAS ADOPTED

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FRENCH LANGUAGE SERVICES COMMITTEE

Ms. Bellamy presented the Report of the French Language Services Committee of its meeting on January 10th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA
IN CONVOCATION ASSEMBLED

The FRENCH LANGUAGE SERVICES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of January, 1991 at 11:30 a.m. The following members attended the meeting: Bencher representation: Ms. D.E. Bellamy (Chair), Mr. R.C. Topp (Vice-Chair), Mr. J.D. Ground, Ms. P.J. Peters, Mr. J.D. Thoman, Ms. A.-M. Stewart. Staff representation: Ms. M.J. Angevine, Mr. A. Treleaven, Ms. H. Harris, Ms. G. Zecchini, Ms. D. Paquet (Secretary). Special representation: Ms. G. Cortis, Legal Aid, Mr. M. Charbonneau, CBAO and Mr. P. Jones, AJEFO.

C.
INFORMATION

1. Gender usage in French

The Chair presented three options on the feminization of French texts and suggested that the University of Ottawa's policy be considered. Since a number of concerns regarding the gender neutral issue have been voiced by Bar Admission students in Ottawa, the Chair requested that the three options be presented to a sample of students for their input. It was also suggested that the policy on gender neutralization in French should not be different from the one adopted by Convocation in English.

2. Joint Continuing Legal Education Task Force on French Seminars

It was reported that pending a policy decision on the part of the Association des juristes d'expression française (AJEFO), the Law Society

and the Canadian Bar Association - Ontario (CBAO) have initiated discussions and plans to host a Continuing Legal Education seminar in French in March or April, 1991. The Law Society remains committed to the tripartite task force idea that was originally put forward by this Committee, but is concerned about delaying the project further. The Chair suggested that the representatives from the three organizations - all present at this meeting - meet today and reach a consensus on AJEFO's participation. They are to report back to the Committee at the next meeting.

3. Distribution of French Language Services Implementation Plan

It was agreed that the updated version (October, 1990) of the French Language Services Implementation Plan would not be released before the Secretariat has had an opportunity to edit it. The French Language Services Coordinator indicated that there was some urgency in releasing the report to Law Society staff, who will begin the budgetary process, and to those who have requested copies, including granting agency representatives.

4. French Language Skills Upgrading and Financial Incentive Programmes

The French Language Skills Upgrading Programme and Financial Incentive Programme for bilingual staff were not presented to the Finance Committee and Convocation this January, as planned, pending further consultation with department and programme heads. A comprehensive financial report is to be presented to the Finance Committee in February, 1991 for its approval. It was pointed out that this programme should be implemented as soon as possible.

5. Advertising campaign

It was reported that the advertising campaign that was to be launched in December, 1991 on French language services in trade and consumer publications was put on hold until the Law Society receives a formal plan and creative recommendations from its advertising agency. A meeting with Advance Planning and Camp Associates representatives has been scheduled by the Communications Branch for this month.

The meeting was adjourned at 12:35 p.m.

ALL OF WHICH is respectfully submitted.

DATED this 25th day of January, 1991

"D. Bellamy"
Chair

THE REPORT WAS ADOPTED

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CERTIFICATION BOARD

The Report of the Certification Board was deferred to the February Convocation.

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WOMEN IN THE LEGAL PROFESSION COMMITTEE

Ms. Kiteley presented the Reports of the Women in the Legal Profession Committee of its meetings on November 22nd, 1990 and January 10th, 1991.

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 22nd of November, 1990, at 8:00 a.m, the following members being present: D. Bellamy (in the Chair), T.G. Bastedo, S.R. Birenbaum, C.L. Campbell, D.M. Hunt, F.P. Kiteley, M.J. Mossman, A-M Stewart.

Also present: M.J. Angevine, A.M. Brockett, L.M. Johnstone, F.Kay, H. Sava, R.F. Tinsley, A.D. Treleaven.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

1. COPYRIGHT IN THE RESEARCH PAPER: "SEGMENTATION AND STRATIFICATION IN THE PRACTICE OF LAW"

In 1988, the Standing Subcommittee on Women in the Legal Profession hired Fiona Kay to undertake research on Law Society membership records. Ms. Kay produced a report "Women in the Legal Profession", a summary of which was distributed to all Standing Committees of Convocation in November, 1989. In May 1990, Ms. Kay presented a paper entitled "Segmentation and Stratification in the Practice of Law: Locating Gender Dynamics in a Changing Profession" to the annual meeting of the Canadian Law and Society Association. The paper is based upon the results of Ms. Kay's earlier research into Law Society membership records.

Ms. Kay asked for permission from the Committee to distribute the paper. Your Committee approved the text of the paper for distribution.

It has been agreed with Ms. Kay that the right to publish or distribute the paper will be a right shared by the Committee and Ms. Kay, to be exercised only by agreement between the Committee and Ms. Kay.

C.
INFORMATION

1. SEXUAL HARASSMENT

Your Committee is developing materials on sexual harassment, to serve as the basis for:

- (a) a Law Society personnel policy: and
- (b) guidelines for law firms.

The possibility of developing a personnel policy for the Law Society will be pursued in consultation with the Under Treasurer and the Human Resources Manager. In respect of the profession at large, your Committee considers it important to provide information that will alert members to the nature of the conduct which has been held to constitute sexual harassment. To this end, a statement of the law concerning sexual harassment is being prepared for distribution.

2. SPECIAL COMMITTEE TO INVESTIGATE COMPLAINTS AGAINST THE UNIVERSITY OF OTTAWA STUDENT LEGAL AID SOCIETY

Diana Hunt absented herself from the meeting during consideration of this issue.

Tom Bastedo reported on the work of the Special Committee. It was noted that, under its terms of reference, the Special Committee was to report to Convocation after consultation with the Professional Conduct Committee and the Legal Aid Committee. Mr. Bastedo was of the view that there was no reason why the report of the Special Committee should not also be made available to the Women in the Legal Profession Committee before being submitted to Convocation.

3. APPLICATION OF GENDER-NEUTRAL COMMUNICATION POLICY TO FRENCH TEXTS

Denise Bellamy, Chair of the French Language Services Committee, reported that the Committee was considering the manner in which the Gender-Neutral Communication Policy was to be applied to texts in the French Language. The Committee was informed that the Académie française, the Québec Bar Association and the Ontario Office of Legislative Counsel employed the masculine form. It was noted, however, that these policies were not uncontroversial.

4. RESPONSE FROM THE PROFESSION TO THE DISTRIBUTION OF THE GENDER-NEUTRAL COMMUNICATION POLICY

It was reported that in response to the distribution, in April 1990, of the Society's Gender-Neutral Communication Policy, there had been 56 requests for the booklet "Communicating Gender Parity."

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

"F. Kiteley"
Chair

THE REPORT WAS ADOPTED

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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 Tuesday the 8th of January, 1991, at 8:00 a.m, the following members being present: F.P. Kiteley (Chair), D.E. Bellamy, S.R. Birenbaum, C.L. Campbell, M.A. Eberts, L.K. Ferrier.

Also present: M.J. Angevine, A.M. Brockett, L.M. Johnstone, F.M. Kay, H. Sava, R.F. Tinsley, A.D. Treleaven.

A.
POLICY

No matters to report.

B.
ADMINISTRATION

1. GENDER-NEUTRALIZATION OF THE RULES MADE UNDER s. 62(1) OF THE LAW SOCIETY ACT

At its meeting on September 28, 1990, Convocation referred to the Committee certain proposed amendments to the Rules made under s. 62(1) of the Law Society Act. The amendments were designed to bring the wording of the Rules into conformity with the Society's Gender Neutral Communications Policy.

Your Committee has reviewed the proposed amendments and has recommended a number of changes to the Legislation and Rules Committee.

C.
INFORMATION

1. TRANSITIONS IN THE ONTARIO LEGAL PROFESSION

Your Committee considered the first draft of a report by Fiona Kay, entitled Transitions in the Ontario Legal Profession: A Survey of Lawyers From the Past Fifteen Years of Bar Admissions. The report is based upon a survey commissioned by the Committee. It was conducted among 2,358 members of the Law Society, made up of approximately equal numbers of men and women. The report includes information concerning:

- First professional position held by respondents.
- Current professional position.
- Professional duties, responsibilities and working conditions.
- Time investment in the practice of law.
- Participation in professionally-related activities.
- Benefits offered by law firms.
- Satisfaction in the practice of law.
- Perceived experiences of discrimination in the practice of law.
- Distribution of work in the home.
- Professional work histories.
- "Exits" from the profession of law.

The Committee will be meeting again to consider the conclusions arising from the report and to draft a series of recommendations. It is hoped that the report will be ready for distribution to benchers at the March 28, 1991 meeting of Convocation and that it can be fully considered by Convocation at its meeting on April 26, 1991.

ALL OF WHICH is respectfully submitted

DATED this 25th day of January, 1991

"F. Kiteley"
Chair

THE REPORT WAS ADOPTED
.....

INVESTMENT COMMITTEE

Mr. Noble presented the Report of the Investment Committee of its meeting on January 10th, 1991.

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 10th day of November at two o'clock in the afternoon, the following members being present: Messrs. Guthrie (Chair), and Noble. Also present: David Carey (Deputy Director of Finance).

Note: date should be January 1991

A.
ADMINISTRATION

Note: Administration - Section "B"

1. INVESTMENT REPORT

The Deputy Director of Finance presented to the Committee, an investment report summary for the various Law Society Funds together with supporting documentation for the month ended December 31st 1990.

Approved

2. INVESTMENT ACTIVITY - ERRORS AND OMISSIONS FUND

<u>Purchase</u>	<u>Broker</u>	<u>Current Market</u>	<u>Yield</u>
\$250,000 10.25% Gov't of Canada Bonds due Feb 1/94	Burns Fry	99.600	10.30%

This investment was made on the advice of Martin, Lucas and Seagram. The Committee was asked to ratify the purchase of this investment.

Ratified

3. INVESTMENT ACTIVITY - COMPENSATION FUND

<u>Purchase</u>	<u>Broker</u>	<u>Current Market</u>	<u>Yield</u>
\$250,000 10.25% Ontario Hydro Bonds due Dec 16/93	Scotia McLeod	98.875	10.65%

This investment was made on the advice of Martin, Lucas and Seagram Limited. The Committee was asked to ratify the purchase of this investment.

Ratified

ALL OF WHICH is respectfully submitted

DATED this 25th day of January 1991

"B. Noble"
for Chair

THE REPORT WAS ADOPTED

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The Reports on the SPECIAL COMMITTEE ON REFORMS IMPLEMENTATION and the SPECIAL COMMITTEE ON EQUITY IN LEGAL EDUCATION AND PRACTICE were deferred to the February Convocation.

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CONVOCATION ADJOURNED AT 4:55 P.M.

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Confirmed in Convocation this *15th* day of *February*, 1991.



Treasurer