

MINUTES OF CONVOCATION

Friday 25th May, 1990
9:30 a.m.

PRESENT:

The Treasurer (Mr. Lee K. Ferrier), Mr. Bastedo, Ms. Callwood, Messrs. Campbell, Carey and Cass, Ms. Chapnik, Messrs. Cullity, Epstein, Farquharson, Ferguson and Furlong, Mrs. Graham, Messrs. Ground, Guthrie, Henderson, Hickey and Howie, Ms. Kiteley, Messrs. Lamek, Lamont, Lerner, Lyons, McKinnon, Murphy, Noble, O'Connor and Mr. Pepper, Ms. Peters, Messrs. Rock, Scace, Shaffer, Spence, Strosberg, Thom, Thoman, Topp, Wardlaw and Mr. Yachetti.

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"IN PUBLIC"

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ADMISSIONS COMMITTEE

Ms. Peters presented the Report of the Admissions Committee of its meeting on May 10th, 1990 in regard to the calls to the Bar. She noted that Ms. Gail Nadine Erlichman was to be deleted from the list of those to be called to the Bar.

The Report as it pertained to the call to the Bar was adopted.

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CALL TO THE BAR

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

Ronald Leroy Ashman	31st Bar Admission Course
Mary Catherine Chang	31st Bar Admission Course
Margaret Jane McClure	31st Bar Admission Course
Karen Yin Ming Or	31st Bar Admission Course
David Matthew Ehinger	Transfer, Manitoba
George Glezos	Transfer, Quebec
Mitchell Saul Greenberg	Transfer, Quebec
Joanna Jane Ringrose	Transfer, New Brunswick

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MOTION RE: FINANCIAL IMPACT

At Convocation in April Mr. Ground had given notice that he intended to present a motion to Convocation providing THAT any report to Convocation recommending a new program have attached to it a financial impact statement which has been reviewed by the Finance Committee.

The Motion was seconded by Mr. Topp and carried.

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Convocation then went into in camera session to consider the budget for 1990/1991 and the Report of Chief Justice Parker on the Elliott Dale matter.

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Convocation resumed in public at 11:55 a.m. for the call to the Bar of the Attorney General of Canada, Kim Campbell and the Solicitor General of Canada, Pierre Cadieux.

It was moved by Ms. Peters and seconded by Mr. Yachetti that pursuant to section 1 of the Barristers Act, R.S.O., 1980, c.38, Ms. Kim Campbell, the Attorney General of Canada and Mr. Pierre Cadieux, the Solicitor General of Canada be called to the Bar of Ontario on Friday, 25th May, 1990 without complying with the Rules of the Society as to admission, examination, payment of fees or otherwise.

At 12:15 p.m. Convocation adjourned and accompanied the Attorney General and the Solicitor General to Courtroom No. 1 where the oaths were administered by Chief Justice Dubin.

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Convocation had for its luncheon guests the Attorney General of Canada, Ms. Kim Campbell and her spouse Mr. Howard Eddy, the Solicitor General of Canada, Mr. Pierre Cadieux and his guest Ms. Christine Short, Mr. Ian Scott, the Attorney General for Ontario, Chief Justice Dubin, Chief Justice Callaghan, Associate Chief Justice Morden, Mr. John Tait, the Deputy Attorney General of Canada, Mr. Myles Kirvan, Chief of Staff to the Attorney General of Canada, Mr. James Allan, Senior Advisor to the Solicitor General of Canada and Mr. Joseph Stanford, the Deputy Solicitor General of Canada.

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CONVOCATION RECONVENED AT 2:30 P.M.

PRESENT:

The Treasurer (Mr. Lee K. Ferrier), Mr. Bastedo, Ms. Callwood, Messrs. Campbell, Carey, Cass, Cullity, Ferguson and Furlong, Mrs. Graham, Messrs. Ground, Guthrie, Hickey, Lamek, Lamont, McKinnon, Murphy, Noble and O'Connor, Ms. Peters, Messrs. Rock, Shaffer, Spence, Thom, Topp, Wardlaw and Yachetti.

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LIBRARIES AND REPORTING COMMITTEE

Mr. Murphy presented the Report of the Libraries and Reporting Committee of its meeting on May 10th, 1990.

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 May, 1990 at 9:30 a.m. the following members being present: D. Murphy (Chair), M. Cullity, G. Farquharson, G. Henderson, D. Thoman and R. Topp; and P. Bell and G. Howell also attended.

A.
POLICY

No items

B.
ADMINISTRATION

1. ONTARIO REPORTS - TENDERS - WEEKLY PARTS & DATA BASE

The Secretary reported that the Sub-Committee on the Ontario Reports met all day on April 12th, 1990 and for three hours on April 26th to consider and discuss the tenders submitted on the Weekly Parts contract and the Data Base contract. Gordon Henderson, Chair of the Sub-Committee, presented the report of the Sub-Committee. Mr. Henderson disclosed his conflict of interest as being an editor of a series of law reports for one of the publishers bidding on the contracts, and refrained from voting. Mr. Henderson outlined the advantages and disadvantages of the bids from the tenderers on both the Weekly Parts and Data Base contract. After questions from several members of the Committee, and a thorough discussion, your Committee decided that the Sub-Committee should go back to the bidders and clarify certain items in their tenders on both the Weekly Parts contract and the Data Base contract.

C.
INFORMATION

1. MEETING WITH LAW BOOK PUBLISHERS
RE LOOSE-LEAF SERIES

The Chair has held meetings with the law book publishers concerning the price of loose-leaf subscription series. Some information has been received from the publishers and more is to be sent to the Society by the publishers.

2. BOOK LIST

The Great Library will be adding 54 new titles to its book collection for May, 1990.

3. FINANCIAL STATEMENT

The Financial Statement for the first ten months ending April 30th, 1990 was received.

4. GST CONSEQUENCES

The Secretary reported that Ernst and Young in a letter of April 4th, 1990, indicated that the royalties received on the Ontario Reports will be taxable as they represent royalties paid in respect of a publication.

ALL OF WHICH is respectfully submitted

DATED this 25 day of May, 1990

"D. Murphy"
Chair

THE REPORT WAS ADOPTED

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LEGAL AID COMMITTEE

Mr. Bastedo presented the Report of the Legal Aid Committee of its meeting on May 10th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAATION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of May, 1990, the following members being present: Thomas G. Bastedo (Chair), Mr. Ally, Ms. Campbell, Ms. Callwood, Mr. Durno, Ms. Garton, Ms. Kehoe and Mr. Koenig.

A.

POLICY

1. REPORT OF THE SUB-COMMITTEE ON THE
DELIVERY OF SALARIED DUTY COUNSEL

The Legal Aid Committee recommends the adoption of the Report of the Sub-Committee on the Delivery of Salaried Duty Counsel which is attached here to as SCHEDULE (A).

B.

ADMINISTRATION

1.(a) REPORT OF THE DEPUTY DIRECTOR, FINANCE
FOR THE TWELVE MONTHS ENDED MARCH 31, 1990

Finance

The Director's report pursuant to Section 88(2) of the Regulation for the twelve months ended March 31, 1990 takes the form of the following financial statement:

Ontario Legal Aid Plan
Statement of Income and Expenditures
Twelve Months Ended March 31, 1990 (\$000)

	Actual	Budget	Actual	Favourable
	1988/89	1989/90	1989/90	(Unfavourable)
				Variance
<u>Opening Balance</u>	190.9	369.8	369.8	
<u>Income</u>				
Treasurer of Ontario	105,316.2	125,286.8	125,351.8	65.0
Northern Legal Services		400.0	460.4	60.4
Family Violence Grant	275.0	275.0	150.0	(125.0)
Refugee Claimant Grant		2,932.0	1,836.1	(1,095.9)
Law Foundation	23,084.0	21,000.0	35,678.6	14,678.6
Client Contribution	7,781.8	8,100.0	8,581.7	481.7
Client Recoveries	1,630.4	1,700.0	1,942.3	242.3
Research Sales	119.4	140.0	111.6	(28.4)
The Law Society	3,564.6	3,558.0	4,075.0	517.0
Miscellaneous	915.9	500.0	2,425.9	1,925.9
	<u>142,878.2</u>	<u>164,261.6</u>	<u>180,983.2</u>	<u>16,721.6</u>

Expenditure

Certificate Accounts	98,769.4	112,898.5	120,869.4	(7,970.9)
Refugee Accounts		2,520.0	2,256.9	263.1
Duty Counsel Fees				
& Disbursements	7,486.1	7,560.0	7,923.2	(363.2)
Salaried Duty Counsel	662.4	800.0	750.5	49.5
Northern Legal Services		400.0	391.0	9.0
Community Clinics	19,069.3	22,137.6	22,137.6	-
Student Legal Aid				
Societies	789.6	889.8	889.8	-
Research Facility	1,330.6	1,470.8	1,730.3	(259.5)
Area Office Admin.	8,377.5	8,997.5	9,584.1	(586.6)
Provincial Office Admin.	5,958.3	6,387.4	7,287.0	(899.6)
Refugee Admin.	65.2	200.0	237.6	(37.6)
	<u>142,508.4</u>	<u>164,261.6</u>	<u>174,057.4</u>	<u>(9,795.8)</u>
<u>Closing Balance</u>	<u>369.8</u>	<u>NIL</u>	<u>6,925.8</u>	<u>6,925.8</u>

Statistics

The following table compares reported activity for the twelve months ended March 31, 1990 with activity for the previous fiscal year:

	<u>March 31</u> <u>1990</u>	<u>March 31</u> <u>1989</u>	<u>% Change</u> <u>from Last Year</u>
Summary Legal Advice	53,674	53,973	(0.6)
Referrals to Other Agencies	109,614	91,845	19.3
Applications for Certificates	164,503	138,215	19.0
Refusals	32,057	28,705	11.7
As a Percentage of Applications	19.5%	20.8%	
Certificates Issued	132,439	109,515	20.9
Persons Assisted by			
Duty Counsel:			
Fee for Services	245,575	229,039	7.2
Salaried	73,143	72,288	1.2

2. REPORT ON THE STATUS OF REVIEWS IN
THE LEGAL ACCOUNTS DEPARTMENT, APRIL 30, 1990

The Legal Aid Committee reviewed the Report on the Status of Reviews in the Legal Accounts Department, April 30, 1990 which is attached hereto as SCHEDULE (B).

ALL OF WHICH is respectfully submitted

DATED this 10th day of May, 1990

"T. Bastedo"
Chair

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

- A-Item 1 - Report of the Sub-Committee on the Delivery of Salaried Duty Counsel.
(Schedule A, Pages 1 - 6)
- B-Item 2 - Monthly Report - Legal Accounts Department, April 30, 1990.
(Schedule B)

THE REPORT WAS ADOPTED

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COMPENSATION FUND COMMITTEE

Mr. Yachetti presented the Report of the Compensation Fund Committee of its meeting on May 10th, 1990.

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 May, 1990 at 11:45 a.m. the following members being present: R. Yachetti (Chair), H. Strosberg (Vice-Chair), J. Wardlaw (Vice-Chair), J. Callwood, N. Graham, L. Legge, S. Lerner, S. Thom; and P. Bell, H.A. Werry also attended.

A.

POLICY

1. THE PER CLAIMANT LIMIT
(carried over from April 27/90 Convocation)

The Secretary reported that the Report from Tillinghast Actuaries has been received with the projected grants that will be paid out of the Fund for the fiscal year 1989-90 and 1990-91 based on the three scenarios that were proposed by the Committee.

The Committee discussed removal of the \$60,000 per claimant limit entirely so that there would be no per claimant limit. There was a discussion of increasing the \$60,000 per claimant limit to \$100,000 and there was a discussion of a 2-tiered system. The 2-tiered system would comprise no per claimant limit for claims arising from the normal solicitor/client relationship while there would be a limit of \$100,000 per claimant on claims arising from the syndication of mortgages or brokerage activities.

RECOMMENDATION: Your Committee recommends that the per claimant limit be increased to \$100,000. This increase in the limit is to apply only to the claims in respect of funds advanced to a solicitor on or after the date on which the increased limit is approved by Convocation. The Committee did not think it would be wise to remove the per claimant limit altogether because of the possibility of a catastrophic loss and if the limit was removed it would be hard to impose a limit in the future. The vast majority (90% based on Tillinghast report) of the claims to the Fund are under \$100,000.

The two-tiered system could work an unfairness and would be difficult to administer.

The additional cost of increasing the limit to \$100,000 would be \$300,000 in this fiscal year according to the report prepared by Tillinghast.

B.

ADMINISTRATION

1. COMPENSATION FUND LEVY FOR 1990-91
(carried over from April 27/90 Convocation)

The Secretary reported that the Compensation Fund levy should be set for the next fiscal year. In the 1989-90 fiscal year the levy was \$50 per member.

RECOMMENDATION: Your Committee recommends that the Compensation Fund Levy should be \$25 per member for the 1990-91 fiscal year. The Committee thought that a levy of \$50 seemed high and because of a healthy balance in the Compensation Fund a \$25 levy would be sufficient to meet the Fund's estimated expenses in the next fiscal year.

Subject to the approval of the Finance Committee.

2. GST CONSEQUENCES FOR THE FUND

The Secretary reported that in a letter of April 4th, 1990, Ernst and Young advised that the investment income received by the Fund will not have GST consequences. The annual levy, collected as part of the membership fee and designated at the time of collection for the Fund, is dealt with in a different way. It is recommended that the Society elect to have the levy taxable and then Input Tax Credits could be claimed by the members or their firms. The Finance Committee has recommended that the Society elect to be taxable and Convocation approved that decision on April 27th.

The Committee decided that the Society should elect to be taxed in order that the Input Tax Credits could be claimed by the members of the Society or their firms.

C.
INFORMATION

1. SUB-COMMITTEE ON THE GUIDELINES

The Sub-Committee on the Compensation Fund Guidelines met on Tuesday, February 20th, 1990 to consider changes to the General Guidelines for the Fund. The Sub-Committee is drafting its Report.

2. The total accounts approved by Assistant Secretaries for the month of April, 1990 was \$16,153.45.

3. REFEREES REPORTS AND ASSISTANT SECRETARY MEMORANDA

The Secretary reported that the following Reports of Referees, and Memoranda of an Assistant Secretary, Peter B. Bell, were approved by the Review Sub-Committee and amounts of grants are shown on Schedule "A" attached.

(Pg. 4)

- a) Report of a Referee, Helen L. Murray, Q.C., re Roger Morris
(disbarred May 26/88) re three claims \$38,143.62
- b) Report of a Referee, B.W. Grossberg, Q.C., re Albin Rogala
(disbarred Feb. 22/89) re six claims \$258,000.00
- c) Memoranda of an Assistant Secretary, Peter B. Bell
re Kalmen N. Goldstein (indefinite suspension October 26th, 1989)
re four claims: \$11,300.00

4. The Financial Summary for the ten months July 1st to April 30th, 1990, and the Activity Report are attached.

(Pgs. 5-7)

5. COMPENSATION FUND RETREAT/CONFERENCE

The Retreat/Conference to discuss policy and procedure of the Fund has not been finalized. When details are available, the Secretary will advise the Committee.

ALL OF WHICH is respectfully submitted

DATED the 25th day of May, 1990

"R. Yachetti"
Chair

S C H E D U L E "A"
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COMPENSATION FUND GRANTS APPROVED BY
THE REVIEW COMMITTEE AND
BY THE COMPENSATION FUND COMMITTEE,
Thursday, May 10th, 1990

REFEREE/ ASSISTANT SECRETARY	SOLICITOR	NUMBER OF CLAIMANTS	TOTAL
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H.L. Murray, Q.C.			
	R. MORRIS (DISBARRED MAY 26/88)	3	\$38,143.62
B.W. GROSSBERG, Q.C.			
	A. ROGALA (DISBARRED FEB. 22/89)	6	\$258,000.00
PETER B. BELL			
	K.N. GOLDSTEIN (INDEFINITE SUSPENSION OCT. 26/89)	4	\$11,300.00
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	T O T A L	13	\$307,443.62

Attached to original Report in Convocation File, copy of:

- C-Item 3 - Schedule "A" re: Compensation Fund Grants Approved By The Review Committee And By The Compensation Fund Committee, Thursday, May 10th, 1990. (Page 4)
- C-Item 4 - Financial Summary For the Period July 1st, 1989 - Apr. 30th, 1990 and the Compensation Fund Activity Report Apr. 30th, 1990. (Pages 5 - 7)

It was moved by Mr. Hickey, seconded by Mr. McKinnon that there be no Compensation Fund levy this year. Lost

THE REPORT WAS ADOPTED

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PROFESSIONAL CONDUCT COMMITTEE

Mr. Strosberg presented the Report of the Professional Conduct Committee of its meeting on May 10th, 1990.

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 of May, 1990 at three o'clock in the afternoon, the following members being present: Messrs. Strosberg (Vice-Chair in the Chair), Campbell, Carey, Hickey, Somerville, Thoman and Mrs. Graham.

A.
POLICY

1. BILL 108 - BUSINESS NAMES ACT - ITS
EFFECT ON LAWYERS IF IT IS PASSED

A Bill (No. 108) has been introduced in the Legislature which, if passed in its present form, will require a lawyer who practises under a name other than his own to register under the Business Names Act.

Set out is a short memo on the Act prepared by Andrew Brockett, the Society's new Research Director. It has been revised for greater clarity.

1. Bill 108 was on the agenda for 2nd Reading on March 28. It was not reached on that day and as of April 3 had still not progressed beyond 1st Reading.
2. Under the Partnerships Registration Act, R.S.O. 1980, c.371, a law partnership is not required to register: that Act applies only to partnerships for trading, manufacturing or mining purposes. Bill 108, if enacted, will repeal the Partnerships Registration Act. Its effect would appear to be to require many law practices to register.
3. The provisions of Bill 108 that appear relevant are as follows:
 - s.1: The practice of law, as a profession carried on with a view to profit, will be a "business" for purposes of the Act.
 - s.2(2): A lawyer without partners who practises under a name other than her own (I understand this is permitted under Professional Conduct Rule 12:7) will be required to register.

- ss.2(3)
and 2(4): I think the combined effect of these provisions is that any partnership of which the name is other than the names of all the partners, will be required to register. Thus, if a firm name includes:
(i) the name of a past partner; or
(ii) something less than the names of all current partners
I think it would be required to register.
- s.2(6): Where a law practice is required to register under the preceding sections, s.2(6) will apply: a firm carrying on business under a registered name is required to set out its name in all contracts, invoices, negotiable instruments and orders for goods or services. This does not appear to be onerous and I doubt whether it represents a change of practice for law firms.
- ss.4(1)
and 5(1): Registration will have to be renewed every five years.
- ss.4(4) Any change in the information registered is to be registered within fifteen days of the change. The effect of this will presumably be that every time there is a change in the partnership, the registration will have to be amended. This could be a troublesome requirement.
- s.7(1): Lawyers who are required to register, but who fail to do so, or who fail to amend the registration, will be under legal disability. The disability appears to be more comprehensive ("not capable of maintaining a proceeding in a court in Ontario in connection with that business") than the disability under s.11(1) of the Partnerships Registration Act which is limited to proceedings "in respect of any contract made in connection with the business...".
- s.10(1): Contravention of the registration requirements (including the amending requirement) renders a person liable to conviction and a fine of \$2,000. It seems possible that this fine could be imposed on each individual partner of a firm.
- s.11(e): The Lieutenant Governor in Council may make regulations exempting any class of person or business from the registration requirements. It would, therefore, be possible for the Cabinet to exempt law firms by regulation.

Mr. Brockett made inquiries of a lawyer, Mr. Allen Doppelt, with the Ministry of Consumer and Commercial Relations, respecting this draft legislation. Set out below is a memo respecting his conversation with Mr. Doppelt.

1. I have today spoken with Mr. Allen Doppelt, a lawyer in the Corporate Law Branch of the Ministry of Consumer and Commercial Relations. He is very familiar with Bill 108 and indicated that he had been involved in its drafting.
2. The bill has still not received 2nd Reading. He expects this any day. There are a few small amendments to be proposed. He hopes that it will receive Royal Assent by the end of the current session. (It will not come into force until proclaimed.)

3. Subsections 2(3) and 2(4) read:

(3) No persons associated in partnership shall carry on business or identify themselves to the public, except as a limited partnership carrying on business in accordance with the Limited Partnerships Act, unless the name of the partnership is registered by all of the partners.

(4) Subsection (3) does not apply to prohibit persons associated in partnership from carrying on business or identifying themselves to the public under a name that is composed of the names of the partners.

I asked for his interpretation of ss.2(3), with particular reference to the large law firm of, say, 100 partners.

4. Mr. Doppelt's view is that the clear meaning of ss.2(3) is that in such a case, all 100 partners would have to sign the registration form.
5. He said that the Ministry was aware of potential difficulties and was considering a regulation under s.11(e) of the bill whereby large partnerships might be exempted from some of the provisions of the bill. I understand that such an exemption might apply to firms with more than 20 partners, and that it might place the responsibility for registration upon a managing partner. If I understood him correctly, I think that a regulation of this nature would exempt the individual partners from the requirement of registering.
6. He said that recent amendments to the Limited Partnerships Act (contained in s.5 of Bill 79, which is now S.O. 1989, c.69) were an indication of how this matter might be dealt with. These amendments require the general partners of a limited partnership to maintain, at the limited partnership's principal place of business in Ontario, a current record of the limited partners.
7. He indicated that the Minister was probably not prepared to grant an exemption to the legal profession as a whole.
8. I asked about changes in the partnership, and what obligations would be imposed in terms of registering the changes. Subsection 4(4) reads:

(4) If there is a change in information set out in the registration, the registrant shall register, in the prescribed form within fifteen days after the change, an amended registration showing the change.

Mr. Doppelt was of the view that a change in the partnership would not require every partner once again to register. He referred to well-established practice under the Partnerships Registration Act. He suggested that, once a partnership had been initially registered, the requirement that changes be registered within fifteen days would be satisfied

- (a) in the case of new partners, by the new partners registering;
- (b) in the case of partners leaving the partnership, by the managing partner registering the change.
9. Mr. Doppelt was careful to make clear that these were his thoughts only. He said that drafting of the regulations had not yet begun.

The Committee discussed the matter and was gratified that Mr. Doppelt and the Ministry (see paragraph 5 above) were aware of the complications the registration requirement would create for large partnerships.

The Committee concluded that the Law Society should request the Ministry to put in place a regulation that would allow the managing partner and the new partner to register again when the composition of the partnership was changed by the addition of another partner. Where a partner left, the managing partner would register again on behalf of the remaining partners.

The Committee did not think it reasonable to request an exemption from registration for all practising lawyers.

The Committee asks Convocation to adopt its position.

2. REQUEST FOR ADVICE - LAW FIRM ASSUMING THE
COST OF GST TAX IN FEE CHARGED TO CLIENT

A law firm has asked about the propriety of an arrangement described as follows:

I have heard several lawyers indicate that in the future, when the Goods and Services Tax comes into effect, they are going to be advertising to existing and potential clients, indicating that as part of their advertising, they will quote a fee "including the G.S.T." In other words, in order to have a client come to them, they would indicate that the lawyer or the law firm in question would pay the GST as part of the fee charged and would not charge the GST on top of a quoted fee. So for example if a fee of \$1000.00 was quoted, this would include the GST and therefore the law firm's actual fee would be \$930.00 given that they have to remit \$70.00 to the government.

Would you advise me in writing as to whether or not the Law Society would consider this a proper and acceptable form of advertising.

The relevant provisions of Rule 12 (Advertising and Making Legal Services Available) paragraphs 2 and 3 are set out below:

2. Subject to paragraph 3 of this Rule individual lawyers or firms may advertise their services or fees in any medium including the use of brochures and similar documents provided the advertising:

(a) is not false or misleading and any factual information in the advertisement is verifiable;

(b) is in good taste and not such as to bring the profession or the administration of justice into disrepute;

(c) does not compare services or charges with other lawyers or firms.

3. Individual lawyers or firms may advertise fees charged for their services subject to the following conditions:

(a) advertisement of fees for consultation or for specific services shall contain an accurate statement of the services provided for the fee and the circumstances in which higher fees may be charged;

(b) if fees are advertised the fact that disbursements are an additional cost must be made clear in the advertisement;

(c) advertisements shall not use words or expressions such as "from...", "minimum" or "...and up" or the like in referring to the fees to be charged nor shall advertisements indicate that a price is a discount or reduction or special rate;

(d) services covered by advertised fees shall be provided at the advertised rate to all clients who retain the advertising lawyer or firm during the 30 day period following upon the last publication of the fee unless there are special circumstances which would not have been foreseen, the burden of proving which rests upon the lawyer.

The Committee concluded that this type of advertising failed to meet the requirement of good taste set out in Rule 12.

The Committee requests Convocation to adopt this position.

3. REQUEST FOR ADVICE - OFFERING TO
DISCOUNT FEES TO ENSURE PROMPT PAYMENT

A law firm has asked for guidance on the propriety of indicating to clients when accounts are submitted that, if they are paid promptly, a discount will be given.

Set out below is the inquiry from the firm:

Further to our telephone conversation today, in this firm we were discussing cash flow which always becomes a little more of a problem as the economy turns downwards, in the context of the GST which will seriously aggravate cash flow problems in Toronto firms.

Some clients religiously pay promptly, a great many do not. All firms have various expedients to deal with the problem.

Our right to charge interest is not relevant except in formal collection proceedings which of course any of us keep to the last since it invariably means the end of the relationship. Litigators and all of the rest of us sometimes are able to obtain a retainer at the outset, often a retainer for disbursements when these are expected to be substantial, sometimes a retainer which is security for some proportion of the fees. But when all is said and done neither of these expedients really meets the main problem.

A great many businesses and public utilities routinely offer a discount for prompt payment. My question to the Society is as to the propriety of this procedure. We would bill in the ordinary way a figure for fees and disbursements. In a covering letter we would offer the client a substantial discount in respect of the fees (perhaps 5% or 10% of the total of the fees and disbursements) if payment is received within thirty days from the date of the account.

In practical terms we think that a good many clients would appreciate the reason for the device and would seek to take advantage of it without cavil. Some clients undoubtedly would be nasty enough to pay the reduced amount late. In this case we will be left with the unpaid portion of the bill and would probably very often ultimately choose to write it off.

You may properly ask how we would arrive at the larger or the smaller amounts. On the whole, I think the smaller amount would be the amount which the computer churns out based on time and hourly rates. If we were later to seek to have the accounts assessed or sue upon it in the Small Claims Court we would claim based on the smaller amount plus interest, as indicated in small print at the foot of our accounts. The larger account would be made up of a notional smaller account plus a factor roughly based on the amount of interest we charge times the average delay in payment.

For example, if the average delay in payment were six months and the rate of interest is $12\frac{1}{2}\%$ the increase in the fee portion of the account might be equal to 6% of the sum of fees and disbursements. The amount would not be shown as a separate addition. It would represent a material inducement to the client to pay promptly and some kind of compensation for the firm as against those who do pay but do so late.

Now, our accounts are paid much more quickly than 180 days average. If the real average were something like 60 or 70 days the proportion of interest represented thereby might be too small to make a significant discount. I think the discount should be at least 5% to make an impact.

Is there anything in principle wrong with discounting the amount of an account as a routine practice? Would it matter if we did it to some and not to others?

The relevant provisions of Rule 12 are set out in item 2 above.

Mr. Campbell expressed the opinion at the April meeting that the lawyer might in these circumstances be required to charge tax on the full amount of the bill regardless of the discount.

Section 161 of the GST legislation addresses this issue.

S.161 - For the purposes of this Part, where tangible personal property or services are supplied and the amount of consideration for the supply shown in the invoice in respect of the supply may be reduced if the amount thereof is paid within a time specified in the invoice or an additional amount is charged to the recipient by the supplier if the amount of the consideration is not paid within a reasonable period specified in the invoice, the consideration due shall be deemed to be the amount of the consideration shown in the invoice.

The Committee concluded that this practice would not meet the requirement of good taste set out in Rule 12. Moreover, the Committee thinks the lawyer should be referred to Section 161 of the GST legislation.

The Committee asks Convocation to adopt this position.

4. REQUEST OF QUEBEC LAWYER TO BE
REPRESENTED AS LAWYER ON THE
LETTERHEAD OF AN ONTARIO FIRM

During the past 4 years the Professional Conduct Committee has given permission for 5 non-Ontario lawyers to be shown on the letterhead of Ontario firms as long as the words "of the B.C. bar only" or "of the Quebec bar only" are present so it is clear there is no holding out that the lawyer is an Ontario lawyer.

Mr. John Lawrence of Ontario has made a request that he be permitted to indicate on the stationery of the Ottawa office of Blake, Cassels & Graydon that he is of the Quebec bar only.

Set out below is his request:

I have this week joined the Ottawa office of Blake, Cassels & Graydon. I was previously with the Ottawa office of Lang Michener Lawrence & Shaw.

It is intended that I will continue to engage in the practice of federal public law, broadcasting and telecommunications with the Ottawa office of Blake, Cassels & Graydon and that my practice will be before federal departments and agencies. I am writing to ask permission of the Law Society to have my name appear on firm documents such as announcements and business cards, as well as on letters I may send out on the firm's letterhead. Since I am a member of the Bar of Quebec but not of the Law Society, it is understood that, in all cases where my name so appears, it would be indicated that I am a member of the Quebec Bar only.

The Committee recommends to Convocation that Mr. Lawrence be given permission to appear on the letterhead of Blake, Cassels & Graydon provided that it is indicated that he is "of the Quebec bar only".

5. REQUEST FOR ADVICE

A law firm in London wants to know if it can participate in a Welcome Wagon project whereby its firm would be referred to new executives moving into the London area.

Set out below is the proposal:

Executive Welcome Wagon is a branch of the traditional Welcome Wagon organization. This group is provided with the names of new executives who are either moving into London or are London residents being promoted to a new position. The names are provided by the employers of these individuals. Executive Welcome Wagon has a number of sponsors. An introductory letter from the sponsor is included in the package of material which a Welcome Wagon representative presents to the executive at a brief meeting. I enclose a copy of a letter which is used by the Royal Bank, the contents of which are representative of letters from most sponsors. (numbered 1)

Following the meeting with the executive, Executive Welcome Wagon provides the sponsors with the names of the executives with whom they have met, as well as some brief comments about those individuals - for example, whether they are buying a home, whether they have children, what the nature of their new position is. The suggestion is that sponsors, if they then wish to attract business from the executives, follow up with a telephone call or a letter.

I understand from Executive Welcome Wagon that another London firm participated in this program for a period of time, but has now decided to discontinue its involvement. Our firm has been approached to participate, but we did not wish to do so without ensuring that our participation would not put us in breach of the Rules of Professional Conduct. I would be obliged if you could give us your thoughts on this point.

Carrying on, on an unrelated matter which arose since we spoke, another London law firm, on April 30, had an advertisement running in the local newspaper which described the firm as "London's Leading Firm". We have some concerns that this advertisement might reasonably be interpreted as a representation that this firm's services are superior to those of other law firms. The particular Rule that causes us concern is Rule 12.2(c). I would appreciate it if we could also have your comments on whether this practice is acceptable.

The Committee reached two conclusions:

1. The law firm could participate in the Executive Welcome Wagon program provided other London law firms could also participate.
2. The London law firm referred to in the last paragraph of the lawyer's letter as "London's Leading Firm" should be advised that this description is not in conformity with Rule 12.

The Committee asks Convocation to adopt its position.

6. REQUEST FOR ADVICE

A Mississauga law firm asks if a proposal set out below would contravene paragraph 4 of Rule 12.

We are writing to request clarification with respect to paragraph 4 of Rule 12, which prohibits a lawyer from soliciting professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, by mail, in-person or otherwise, when a significant motive for a lawyer's so doing is to be retained in a particular matter except as a public service.

We are a firm in Mississauga. We are members of the Mississauga Board of Trade. Each month, the Mississauga Board of Trade acquires a number of new members. As part of our marketing initiatives, we have considered contacting these new members with a view to ascertaining whether they are represented by legal counsel and, if they are not, or if they are but are not satisfied with the services provided by their legal counsel, making them aware of the services which our firm may provide. Such a telephone call would, perhaps, be followed up by a letter enclosing our firm's brochure and other material which may be of interest to them.

In our view, neither the telephone call nor the letter should come within the prohibition in paragraph 4 of Rule 12, since our "significant motive" is not to be retained in a "particular" matter. On the contrary, our purpose is to make the new Board of Trade members aware of the legal services offered by our firm and, of course, to be retained by a member for the provision of legal services from time to time.

Paragraph 4 of Rule 12 reads as follows:

A lawyer may not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, by mail, in-person or otherwise, when a significant motive for the lawyer's so doing is to be retained in a particular matter except as a public service. The term "solicit" includes contact in person, by telephone or telegraph, by letter or other writing, or by other communication directed to a specific recipient, but does not include letters addressed or advertising circulars distributed generally to persons not known to need legal services of the kind provided by the lawyer in a particular matter, but who are so situated that they might in general find such services useful. All such letters or advertising circulars shall be clearly marked "advertisement" on each page thereof.

The Committee concluded that the law firm could contact the new members because they were persons "not known to need legal services of the kind provided by the lawyer".

The Committee asks Convocation to adopt this opinion.

C.
INFORMATION

1. RETIRED JUDGES RETURNING TO PRACTICE (RULE 15)

The Committee will revisit this issue at the June meeting. By that time the Law Society will have received the views of the Canadian Bar Association - Ontario and the Advocates' Society.

2. DUTY OF DISCLOSURE BY THE CROWN
- REFERRAL FROM THE CRIMINAL
LAWYER'S ASSOCIATION

The Committee reported this matter to Convocation in April with specific recommendations.

Convocation has asked the Committee to reconsider the matter.

It will be back before the Committee in June. There will be a further submission from Douglas Hunt, Q.C. the Assistant Deputy Attorney General - Criminal Law.

ALL OF WHICH is respectfully submitted

DATED this 25th day of May, 1990

"R. Yachetti"
Chair

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

A-Item 5 - Introductory letter from the Royal Bank signed by Mr. Colin D. Liptrot, Manager. (Numbered 1)

It was moved by Mr. McKinnon, seconded by Mr. Wardlaw that Item 3 under the Policy section (page 6 of the Report) be amended by deleting the sentence "the Committee concluded that this practice would not meet the requirements of good taste set out in Rule 12."

Lost

THE REPORT WAS ADOPTED

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LEGAL EDUCATION COMMITTEE

Mr. Rock presented the Report of the Legal Education Committee of its meeting on May 10th, 1990.

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 May, 1990. The following members were present: A. Rock (Chair), M. Cullity, D.H.L. Lamont (Vice-Chairs), T. Bastedo, C. Campbell, R. Ferguson, L. Legge, E. Levy, P. Peters, J. Spence, S. Thom, J. Wardlaw, R. Yachetti.

A.
POLICY

1. ARTICLING REFORM SUBCOMMITTEE: COURT REFORM

The merger of the District Court and the High Court requires revision of the Rule governing the rights of articling students to appear before the Courts. (page 1)

The Director and Sophia Sperdakos (a member of the Bar Admission Course faculty) met with officials of the Supreme Court of Ontario to discuss the matter. It was determined that changes ought to be made, and that Convocation should present a proposal to the Chief Justice of the High Court for his approval.

The matter was subsequently considered by the Articling Reform Subcommittee, chaired by Philip Epstein, at its meeting of April 26, 1990. It was decided that the Director would prepare a draft proposal for review by the Articling Reform Subcommittee, with a view to presenting the proposal to the Legal Education Committee and to Convocation.

It is recommended that the Articling Reform Subcommittee develop new Rules governing the rights of articling students to appear before the Courts, and that the new Rules be presented to the Legal Education Committee and to Convocation for approval, and to the Chief Justice of the High Court.

Approved

B.
ADMINISTRATION

1. J. WAYNE O'HANLEY

Mr. O'Hanley requests exemption from the one month teaching term of the Bar Admission Course. His reasons are contained in a letter of March 12, 1990 to Denise Bellamy. (pages 2 - 3)

Mr. O'Hanley will complete articling in late August of 1990. He plans to defer the teaching term of the Bar Admission Course in order to travel and work outside of Canada for twelve months, returning in September of 1991 to commence the teaching portion of the Bar Admission Course.

The Committee must consider whether Mr. O'Hanley and other applicants who have already articulated but are deferring the teaching term are required to complete the one month teaching term of the Bar Admission Course.

Convocation on January 26, 1990 confirmed the January 4, 1990 decision of the Legal Education Committee on the timing of the Bar Admission Course. The decision of the Committee was to approve a policy that students articling in the 1989-90 term who wish to defer the teaching term must complete the one month teaching term either in 1990 or 1991 and the three month term in 1991. (pages 4 - 5)

The rationale for the policy is that the one month session is an integral part of the Bar Admission process, and is not merely a session designed to prepare students for articling.

It is recommended that Mr. O'Hanley be required to complete the one month teaching term of the Bar Admission Course and that he do so before entering the three month teaching term.

Approved

2. DABI DIAL

Mr. Dial requests that the balance of his articling requirement be eliminated and that he be admitted to the Bar at the earliest reasonable opportunity. He has submitted a letter together with a supporting letter from his articling Principal. (pages 6 - 8)

Mr. Dial was granted an abridgment of the articling requirement to six months, including two weeks of vacation, by the Committee at its meeting of April 9, 1989. On the recommendation of the then Director, George Thomson, he was permitted to split the six month articling requirement around the 1989-90 teaching term of the Bar Admission Course. He completed six weeks of the articling requirement before the teaching term of the Bar Admission Course. He states in his letter that he has a balance remaining of two months, as of April 23, 1990. His request is based on substantial experience in the practice of law in other jurisdictions and on personal compassionate grounds.

It is recommended that Mr. Dial be required to complete the full six month articling requirement, including two weeks of vacation.

Approved

C.
INFORMATION

1. BUDGET: BAR ADMISSION COURSE REFORM

At a meeting of Friday, April 27, the projected expenses and revenues of the new Bar Admission Course for the upcoming fiscal years were considered by John Ground (Chair of the Finance Committee), James Spence (Chair of the Bar Admission Reform Subcommittee), David Crack (Director of Finance), David Carey (Assistant Director of Finance), Marilyn Bode (Project Manager, Bar Admission Course Reform), and the Director. In preparation for the meeting, the Director of Finance, the Assistant Director of Finance, and the Project Manager of Bar Admission Course Reform had prepared a forecast of Bar Admission Course budget estimates for the years 1990-91, 1991-92, 1992-93.

It was decided that further study would be conducted by the Director of Finance, the Assistant Director of Finance, and the Project Manager of Bar Admission Course Reform relating to the expenses and revenues of the Bar Admission Course beginning in fiscal year 1991-92.

On April 30, a letter was received from the Deputy Minister of Colleges and Universities confirming continuation of the Ontario government grant-in-aid (pages 9 - 11).

2. BAR ADMISSION COURSE REFORM

The first one month session of the Bar Admission Course begins on May 14, 1990 in London, Ottawa, and Toronto (at Ryerson Polytechnical Institute). In Ottawa, the students elect to be either in the English or French language section.

In the French language section all of the small group teaching will be in French and a portion of the written materials will be in French. The French language component will increase in future years.

The Instructor and Student Course Materials have been prepared and printed. The recruitment of Instructors from the practising Bar has been completed as well as the Instructor training sessions in London, Ottawa, and Toronto.

The curriculum for phase one of the Bar Admission Course comprises six units: Professional Responsibility and Practice Management, Interviewing, Legal Research, Writing Skills, Negotiations, and Basic Advocacy. The final day will be dedicated to course review, including principally an articling preparation discussion. All of the unit activities are scheduled in the mornings, with optional sessions being scheduled in the afternoons.

An outline of the program is contained in the course timetable.
(pages 12 - 14)

3. ARTICLING REFORM SUBCOMMITTEE

The following members of the Articling Reform Subcommittee met on April 26, 1990: Philip Epstein (Chair), Roderic Ferguson, Janne Burton, Marilyn Bode, and the Director. The next meeting of the Subcommittee is scheduled for June 13, 1990, with the intention that the final Report be presented to the Legal Education Committee and Convocation in September of 1990. At the June 13 meeting, the Subcommittee will consider letters from the practising Bar and the recommendations of the Bar Admission Advisory Subcommittee and the Canadian Bar Association-Ontario.

4. COMPUTER EDUCATION FACILITY
Monthly Report on Activities, April, 1990

The report is attached. (page 15)

5. CONTINUING LEGAL EDUCATION REFORM SUBCOMMITTEE

The Continuing Legal Education Reform Subcommittee met on April 23, 1990, with the following members in attendance: Thomas Bastedo (Chair), Denise Bellamy, Colin Campbell, Sandra Chapnik, Loretta Merritt, Brenda Duncan, Cheryl Keech Barr, and Alan Treleaven.

The Subcommittee has had two meetings to date: April 12, 1990 and April 23, 1990. The next meeting is scheduled for May 7, 1990 and will be held at the Society's CLE offices at Suite 101, 204 Richmond St. West at 4:30 p.m.

The Committee was established by the Chair of the Legal Education Committee to examine and make recommendations concerning the Society's Continuing Legal Education operations.

Among topics to be discussed and considered by the Subcommittee are the following:

- a) The creation of "Core Curricula"
- b) The determination as to whether there are any respects in which the internal organization and administration of the CLE department should be changed, so as to better enable it to achieve its objectives
- c) The consideration and articulation of a specific mandate for CLE, together with a list of priorities in the appropriate order
- d) The determination as to whether CLE is being provided with sufficient resources to achieve its mandate
- e) The examination of the quality of the CLE curriculum
- f) The review of the process by which curriculum is developed
- g) The provision of CLE courses throughout the province

- h) The consideration of French Language Services in CLE programs
- i) The manner in which CLE can best serve the needs of practitioners who wish to qualify for certification as specialists.

The Committee may also consider the issue of mandatory CLE.

6. CONTINUING LEGAL EDUCATION REFORM SUBCOMMITTEE: EXPENSES

The Continuing Legal Education Reform Subcommittee, at its meeting of April 12, 1990, considered special expenses to be incurred in relation to the work of the Subcommittee, such as visits to other jurisdictions and invitations to individuals from other jurisdictions to meet with the Subcommittee in Ontario. There will also be the travel expenses of Marc Bode, a Subcommittee member from Thunder Bay. It is estimated that \$10,000.00 will be sufficient to cover the special expenses of the Subcommittee.

The Director recommended that the Finance Committee and the Legal Education Committee jointly approve the expenditure of up to \$10,000.00 for the expenses of the Subcommittee, and that the expenses be covered by carrying forward the required amount from the Continuing Legal Education surplus in fiscal year 1988-89.

On May 10, 1990, the Legal Education Committee approved the Director's recommendation. (The Finance Committee, however, did not approve the recommendation and recommended that the expenditure be included in the Continuing Legal Education budget.)

7. CONTINUING LEGAL EDUCATION: REPORT ON COURSES

Video Replay Programs

The following programs were presented to the profession in the form of a video replay:

<u>Date</u>	<u>Program Name</u>	<u>Location</u>	<u>Registrations</u>
April 6	OMB	Kenora	2
April 20	P.P.S.A.	Kenora	5
April 25	Civil Litigation for Support Staff	Barrie	13
April 28	Basic Real Property	Bracebridge	8

Live Programs - Toronto

Equipment Leases

This one day program was held at the Holiday Inn in Toronto on April 4, 1990 for 63 registrants. This program had originally been scheduled for February 15, 1990.

Canadian Communications Law and Policy in the 1990's

This two day conference, jointly sponsored by the Media and Communications Law Section of the Canadian Bar Association, was held at the Hotel Intercontinental and Park Plaza on April 6 and 7, 1990 for 113 registrants. Peter Grant of McCarthy Tetrault and Robert Buchan of Johnson & Buchan in Ottawa, co-chaired this conference.

Tax Planning for the General Practitioner in the 1990's

This program was originally held in Ottawa and chaired by Vern Krishna. There were 104 registrants in Toronto attending at the Canadian Bar Association facility on April 19, 1990.

1990 Corporate Law Update

This program was held at the Holiday Inn on April 25, 1990 for 56 registrants.

Harvard Negotiations

This intensive two day negotiation workshop program was held at the Ontario Institute for Studies and Education on Friday, April 27 and Saturday, April 28, 1990 for 79 registrants. This is the third consecutive year that the Law Society and Conflict Management Inc. joined forces to put on a program designed to teach participants how to strengthen their negotiation skills and broaden their negotiation repertoire.

ALL OF WHICH is respectfully submitted

DATED this 10th day of May, 1990

"A. Rock"
Chair

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

- A-Item 1 - Rule: Articled Student's Right to Appear as Counsel.
(Page 1)
- B-Item 1 - Letter from Mr. J. Wayne O'Hanley (Ministry of the Attorney General) dated March 12, 1990 to Ms. Denise Bellamy re: Articling Reform.
(Pages 2 - 3)
- B-Item 1 - Policy re: Timing of the New Bar Admission Course.
(Pages 4 - 5)
- B-Item 2 - Letter from Mr. Dabi Dial dated April 23, 1990 to the Legal Education Committee re: Dabi Dial-Application for Relief of Balance of Articling Period. Letter from Mr. Larry R. Plener dated March 9, 1990 to The Law Society of Upper Canada re: Dabi Dial.
(Pages 6 - 8)
- C-Item 1 - Letter from Mr. Thomas A. Brzustowski, Deputy Minister (Ministry of Colleges and Universities) dated April 24, 1990 to Executive heads of provincially-assisted Universities. Letter from Mr. Sean Conway, Minister (Ministry of Colleges and Universities) dated April 6, 1990 to Dr. H. V. Nelles.
(Pages 9 - 11)
- C-Item 2 - Timetable - Curriculum for Phase One of the Bar Admission Course.
(Pages 12 - 14)
- C-Item 4 - Computer Education Facility re: Monthly Report on Activities for April 1990.
(Page 15)

THE REPORT WAS ADOPTED

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MOTIONS

RULES COMMITTEE

It was moved by Mr. Carey, seconded by Mr. Rock THAT the following members be re-appointed to the Rules Committee: Mr. R. Rolls, Mr. R. Ferguson, Mr. W. Millar and Mr. L. Taman.

COURT COMMITTEES

It was moved by Mr. Ground, seconded by Mr. Rock THAT Mr. Roderic Ferguson, Mr. Ronald Rolls and Mr. Peter Webb be appointed to the Civil Rules Committee.

THAT Mr. Ian Fisher, Mr. Stephen Grant, Ms. Frances Kiteley and Ms. Jennifer Mackinnon be appointed to the Family Rules Committee.

THAT Ms. Nola Garton and Mr. Leonard Shore be appointed to the Criminal Rules Committee.

THAT Mr. Kenneth Howie and Mr. Roger Oatley be appointed to the Ontario Courts Management Advisory Committee.

Carried

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FINANCE COMMITTEE

Mr. Ground presented the Report of the Finance Committee of its meeting on May 10th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of May 1990 at three o'clock in the afternoon, the following members being present: Messrs. Ground (Chair), Guthrie (Vice Chair), Furlong, Lamek, Lamont, Lerner, Pepper, Topp, Wardlaw and Mrs. Weaver.

A.

POLICY

1. REVIEW OF PROPOSED AMENDMENTS TO SECTION 31 OF THE LAW SOCIETY ACT

Mr. John Parkinson, of Gardiner, Roberts appeared before the Committee to support a request by the members of the Ontario Municipal Board that the Law Society Act be amended so as to include in Section 31 such members of the O.M.B. and other tribunals with similar quasi-judicial functions, who are also members in good standing of the Law Society, such persons being like judges and masters, precluded from practising law.

The Committee recommends that Section 31 of the Law Society Act be amended to include full-time members of the O.M.B. who are precluded from practising law.

Note: See amendment, page 48.

B.

ADMINISTRATION

1. FINANCIAL REPORT

The Director presented the highlights memorandum for the three Law Society Funds together with supporting financial statements for the ten months ended April 30th 1990.

Approved

2. LEGAL AID LEVY

Mr. Tom Bastedo, Chair of the Legal Aid Committee addressed the Committee on the issue of the Legal Aid Levy including projections for the upcoming fiscal year and the Society's continuing obligation to fund the administrative expenses of the Ontario Legal Aid Plan.

The Legal Aid Committee recommends that the Legal Aid Levy remain at \$175.00 for the 1990/91 fiscal year.

Noted

3. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 26 members who have not complied with the requirements respecting annual filing and who have not paid the late filing fee.

In all 26 cases all or part of the late filing fee has been outstanding four months or more. The 26 members owe \$15,600.00 of which \$3,960.00 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of the 26 members be suspended on May 25th 1990 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 49.

4. SUSPENSION OF MEMBERS - ERRORS AND OMISSIONS INSURANCE

There are many members who have neither paid their Errors and Omissions Insurance Levy nor filed a claim for exemption for the period January to June 1990. Three notices have been sent.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on 25th May, 1990.

Approved

Note: See Motion, page 48.

5. MEMBERSHIP UNDER RULE 50

(a) Retired Member

The following member who is sixty-five years of age and fully retired from the practice of law, has requested permission to continue his membership in the Society without payment of annual fees:

Gerard Charles Evans

Timmins

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

Approved

6. RESIGNATION - REGULATION 12

Ronald Findlay Booth of London, England, has applied for permission to resign his membership in the Society and has submitted a Declaration in support. Mr. Booth was called to the Bar in 1964 and has not engaged in the private practice of law, having been a full-time employee of a Corporation. He is now non-resident of Canada. For these reasons, Mr. Booth is requesting to be relieved of the necessity of publishing in the Ontario Reports.

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

Approved

C.
INFORMATION

1. ROLLS AND RECORDS

(a) Deaths

The following members have died:

Howard Douglas Graham Oakville (Life Member)	Called May 19th 1921 Died November 1st 1986
David Cuzner Doney North Bay	Called June 22nd 1960 Died January 26th 1989
Donald Scarth Thorson Toronto	Called June 21st 1951 Died April 13th 1989
Jerome Lynch Cronin Scarborough	Called September 21st 1944 Died December 31st 1989
William Ernest Middleton Lee Kincardine (Life Member)	Called June 17th 1926 Died February 22nd 1990
John Bell Aylesworth Don Mills (Life Member)	Called June 21st 1923 Died April 6th 1990
Roderick Angus Cormack Toronto	Called June 25th 1953 Died April 9th 1990
Harold Alexander McLearn Burlington (Life Member)	Called September 16th 1937 Died April 13th 1990
Stephen Barry Norris Toronto	Called March 21st 1975 Died April 13th 1990

Noted

(b) Membership in Abeyance

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

Bernd Edmund Zabel Hamilton	Called April 6th 1979 Appointed to Provincial Court, Criminal Division March 27th 1990
Mary Jane Hatton Toronto	Called April 8th 1976 Appointed to Provincial Court, Family Division April 2nd 1990
Bruce Edward MacPhee Brampton	Called April 19th 1978 Appointed to Provincial Court, Criminal Division April 2nd 1990

Noted

2. CHANGES OF NAME

Members

<u>From</u>	<u>To</u>	
Laurel Anne Foster	Laurel Anne <u>Maguire</u> (Married Name)	
Brenda Colleen Stokes	Brenda Colleen Stokes <u>Verworn</u> (Married Name)	<u>Noted</u>

ALL OF WHICH is respectfully submitted

DATED this 25th day of May 1990

"J. Ground"
Chair

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

B-Item 1 - Memorandum (together with enclosures) to Chair and Members
of Finance Committee dated May 7, 1990 from Mr. David Crack
re: Financial Statements - Highlights as at April 30, 1990.
(Pages 1 - 7)

It was moved by Mr. Bastedo, seconded by Ms. Peters that the recommendation regarding the Ontario Municipal Board appointees be expanded to include other quasi-administrative tribunals. The motion was withdrawn as a result of an amendment accepted by Mr. Ground.

It was moved by Mr. Cass, seconded by Mr. Carey that the matter be referred back to the Committee for further study.

Lost

It was moved by Mr. Rock and not seconded that Item 1 under the Policy section regarding the amendment to Rule 31 be amended by providing that the Committee be authorized to return to Convocation with specific recommendations concerning other tribunals.

It was agreed by Mr. Ground and Mr. Topp who seconded the adoption of the Report that the Item be amended to provide that section 31 of the Law Society Act be amended to include members of the Ontario Municipal Board and other full-time members of other tribunals exercising quasi-judicial functions as approved by Convocation.

THE REPORT AS AMENDED WAS ADOPTED

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MOTIONS

MOTION TO SUSPENDED: FAILURE TO PAY ERRORS AND OMISSIONS LEVY

It was moved by Mr. Ground, seconded by Mr. Topp THAT the rights and privileges of each member who has neither paid the Errors and Omissions Insurance levy which was due on 1st of January 1990 nor filed an approved application for exemption from coverage and whose name appears on the attached list, be suspended from the 25th day of May 1990 for one year and from year to year thereafter or until an application for exemption has been approved or the necessary levy has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

Carried

(List of Names in Convocation File)

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

It was moved by Mr. Ground, seconded by Mr. Topp 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 who name appears on the attached list be suspended from the 25th of May 1990 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

(List of Names in Convocation File)

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SPECIAL COMMITTEE ON COMPLAINTS PROCEDURES

Ms. Callwood presented the Report of the Special Committee on Complaints Procedures. The main item was dealing with Recommendation 3 under section "A" regarding assistance to complainants in formulating letters to the Law Society.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Special Committee on Complaints Procedures is comprised of the following members: Meg Angevine (Staff), Harry Arthurs (President, York University), Patrick Ballantyne (Staff), June Callwood, Tom Carey, Phil Epstein, Roderic Ferguson, Netty Graham, Scott Kerr (Staff), Jeff Lyons, Colin McKinnon, Ann Merritt (Observer, Attorney-General's Department), Rita Mosevich (Staff), Mark Orkin (Consultant), Kevin O'Toole (Staff), Allan Rock, Clay Ruby, Arthur Scafe, Jim Spence, Jim Wardlaw, John Whyte (Dean, Queen's University Faculty of Law).

A. FIRST REPORT

The Committee's first report was tabled at Convocation in February, 1990 and was discussed at the March meeting. The third recommendation in the report dealt with the establishment of Complaints Assistance Panels to assist parties who appear to have difficulty formulating written complaints. The Committee has since consulted with the Legal Aid Committee and wishes to submit a revised recommendation which reads as follows:

3. Recommendation

The Law Society of Upper Canada adopt a policy of assisting complainants who have difficulty filing a written complaint through lack of literacy or competence in English or French, or a state of confusion over the central misconduct issue in the complaint. The process will be initiated by the Complaints Department staff who, for a two-year trial period shall have the discretion to refer such complainants to district offices of the Legal Aid Plan. The Complaints Department will bear the cost of disbursements such as translators' fees.

B. SECOND REPORT

This is the second in a series of reports setting out the results of the Special Committee's deliberations.

INTRODUCTION

Part of the mandate given the Special Committee on Complaints Procedures by the Treasurer was examination of the following:

"Alternative complaint resolution procedures that can efficiently and effectively deal with complaints involving shoddy work or negligence where the amount of money involved does not warrant litigation to settle the matter."

The Special Committee studied the incidence of such "shoddy work" complaints. The results were startling.

The following chart provides figures for 1987 through 1989 on types of complaints in which allegations of shoddy work are normally made:

<u>NATURE</u>	<u>1987</u>	<u>1988</u>	<u>1989*</u>	<u>TOTAL</u>
Undertakings	162	171	125	458
Delay	407	368	189	964
Failure to Account/Report	231	273	179	683
Failure to Follow Client's Instructions	198	115	179	683
Negligence	278	352	192	822
Failure to Communicate	301	195	152	648
Misleading Clients & Others	43	41	14	98
Total	1620	1515	917*	4052

*1989 figures are incomplete because many files remain open and the nature and area of the complaint is not as yet identified.

The total of 4052 represents approximately 40 % of all complaints files opened by the Law Society's Complaints Department over the past three years. The discipline process as presently constituted is not being used nor does the Committee believe it is suitable for the disposition of this type of complaint. In some cases where a pattern of such matters are reported, the lawyer is referred to the Professional Standards Committee's Practice Review Programme. While this may ultimately enhance a lawyer's competence, it will not address the frustration or dissatisfaction a complainant has experienced. Essentially, the present complaints process offers no remedy to complainants in these circumstances nor do these matters result in disciplinary action even through the lawyer has, strictly speaking, breached the provisions of Rule 2 of the Professional Conduct Handbook.

Lay Benchers who sit as Complaints Commissioners have become aware of this situation. Many complainants bring legitimate grievances which the Society has no apparatus even to acknowledge. Complainants usually are people who are driven to emotional extremes by the loss of property, spouse, child, money, job, or simple dignity. One man was in grief because his beloved garden was flooded and his lawyer had failed to take preventative measures; his sorrow was real and compelled a response.

On the other hand, the Committee recognizes that people are not infrequently wrong to blame lawyers for the disaster that has befallen them. In some 73 % of cases heard by Complaints Commissioners, no fault of the lawyer's could be seen. In the other 27% of cases, however, the Commissioners believed that the complaint was a valid one and were unhappy that nothing could be done.

The problem is one of degree. The matter may be referred to the Chair of Discipline, but that person understandably is unwilling to bring a lawyer before a panel for minor matters.

As a result, cases sent from Complaints Commissioners almost never result in action by the Discipline process. Of 90 cases heard by Complaints Commissioners in 1988, 31 were returned for further action. In only two cases the concerns of the Commissioners were upheld. In 1989, 143 complaints were reviewed of which 35 were referred for further action. Only one was upheld.

The situation causes Complaints Commissioners great distress. More importantly, it leads the public to feel a lack of confidence in the Society.

RECOMMENDATIONS

The Special Committee wishes to address this difficulty with the following recommendations.

1. Recommendation

That a procedure be developed within the Complaints process to deal more effectively with justified complaints alleging shoddy work and minor instances of unprofessional conduct.

Explanation

In its first Working Paper which was submitted at February Convocation, the Committee proposed that a multifaceted complaints process be developed that would be characterized by different "streams" into which complaints could be placed, depending on their nature and gravity. One stream referred to in that paper would see minor complaints being resolved by informal telephone mediation. The Committee believes however that the majority of complaints will still be handled by an exchange of correspondence that will lead staff to one of the following conclusions:

1. that the complaint lacks merit and no action by the Society is warranted,
2. that the complaint discloses serious misconduct by a lawyer and should be referred to the Discipline process,
3. that the nature of the complaint warrants referral to the Audit Department,
4. that the complaint is justified but the lawyer's conduct does not warrant a referral into the discipline process.

The recommendations set out below discuss how an improved process would deal with complaints falling into the fourth category.

2. Recommendation

That the Law Society of Upper Canada describe a lesser category of misconduct as "Unsatisfactory Professional Practice."

Explanation

The Special Committee examined the language in other jurisdictions. The Law Society in England calls informally "shoddy work" and more formally "Inadequate Professional Services." In New South Wales it is known as "Unsatisfactory Professional Conduct." Both are commendably mild in tone but the Special Committee tended to prefer Unsatisfactory Professional Practice as striking the appropriate tone of gentle reproof.

3. Recommendation

That Rule 2 in the Society's Professional Conduct Handbook be amended to incorporate, where necessary, the appropriate references to Unsatisfactory Professional Practice. The following revisions are proposed:

- a) Amending Rule 2(b) to read as follows:

"The lawyer should serve the client in a conscientious, diligent and efficient manner and should avoid Unsatisfactory Professional Practice."

- b) The title for Rule 2, Commentary 8 be changed to read:

"Unsatisfactory Professional Practice"

- c) The introductory paragraph of Rule 2, Commentary 8 be changed to read:

"Numerous examples could be given of Unsatisfactory Professional Practice which do not meet the standard of practice required by the Rule. The list which follows is illustrative, but not by any means exhaustive."

- d) The text of Commentary 9 be changed to read as follows:

"It will be noted that the Rule does not require a standard of perfection. A mistake, even though it might be actionable for damages in negligence, would not necessarily constitute a failure to maintain the standard set by the Rule, but evidence of gross neglect, or Unsatisfactory Professional Practice or a pattern of neglect or mistakes in different matters may be evidence of such a failure regardless of tort liability. While damages may be awarded for negligence, incompetence or Unsatisfactory Professional Practice can give rise to the additional sanction of disciplinary action."

4. Recommendation

That the Complaints Department have the authority to suggest a range of remedies to lawyers who are judged by the staff to have violated Rule 2 covering Unsatisfactory Professional Practice or engaged in some other form of minor misconduct. This proposal will take effect when the following conditions are met:

- a) the necessary staff have been assembled and trained to negotiate and process such complaints,
b) the cost of the new process have been estimated and approved.

Explanation

It is anticipated that this innovation will permit the Law Society to effectively resolve a much larger number of complaints than the existing process permits. Lawyers will be asked to comply voluntarily with remedies suggested by staff. These remedies would include a letter of apology, returning a modest part of a fee, the release of client files, the completion of legal work at reduced or no cost, rectification, a caution letter, the payment of financial obligations incurred in connection with the practice of law, participation in the Law Society/Ontario Medical Association mediation procedure.

If the lawyer has been the subject of repeated complaints of the same character, the matter will be referred to the Professional Standards Committee. It is proposed that referrals be made after a fixed number of complaints with some variance permitted based on the area of law in which the lawyer is engaged.

This "stream" will be marked by a tone of conciliation and helpfulness. It is recognized that an adversarial approach is inappropriate for complaints of this mild nature and would only impede resolution and exacerbate the situation.

5. Recommendation

The Law Society of Upper Canada will create the office of Complaints Resolution Commissioner, who will independently review cases where lawyers refuse to comply with staff suggestions to remedy isolated cases of Unsatisfactory Professional Practice. The decisions of the Complaints Resolution Commissioner will be binding on members. This proposal will take effect simultaneously with Recommendation 4.

Explanation

When lawyers are not willing to comply with the remedies suggested by Law Society staff, a review and appeal procedure will be required. The Special Committee considered many models. New South Wales, for example, has a three-person panel consisting of one lay person and two Benchers. The Committee decided on a simpler model, a Complaints Resolution Commissioner, with the duties set out in the recommendation. The Commissioner could be a retired judge, a lawyer, or a lay person well versed in the law. Such a Commissioner, appointed for a fixed period, would review the decision of the staff and come to a decision that would be binding on the lawyer in question. The Commissioner will have discretion to consult the complainant, the lawyer, or others as appropriate. The Commissioner will be paid by the Law Society but on a per diem basis. This person will not be an employee of the Law Society. The issue of who will appoint the Commissioner was left undecided but possibilities are a panel of Benchers including lay Benchers or the Attorney General.

Failure to comply with the decision of the Complaints Resolution Commissioner will result in a referral to the Discipline process on the basis of the member's failure to cooperate with the Law Society.

6. Recommendation

That the Complaints Resolution Commissioner not be located within the present Law Society of Upper Canada premises.

Explanation

The public perception of the Complaints Resolution Commissioner would be enhanced if the adjudicative branch of the Law Society were separated from the surrounds of Convocation. In the interests of the appearance as well as the practice of autonomy, it is necessary that distinct quarters be found a distance apart.

7. Recommendation

That the Complaints process and the activities of the Standards Committee be kept separate.

Explanation

This decision was reached after discussions were held with representatives of the Standards Committee. It was concluded that the objectives of Complaints and Standards were quite different and that any procedure that attempted to encompass both could produce undesirable results and perceptions. The Special Committee has set as its major objective the creation of a complaints process that is accessible, resolution oriented, avoids undue delay, and is perceived to be fair by both complainants and lawyers. It is submitted that programmes administered by Standards such as the Practice Review Programme and LINK are not and should not be geared toward meeting these objectives. The Committee believes that the underlying purpose of all Standards programmes is to identify and address problems of competency. The remedies proposed for lawyers in these programmes will usually have nothing to do with an individual complainant and will often involve a lawyer in a lengthy process of rehabilitation. While it is true that an overlap will often arise between Complaints and Standards when a complainant alleges shoddy work, the Committee is of the view that the problems exhibited in the complaint can be better addressed if each process deals with it from its own distinct perspective. At the same time, it is recommended that there should be no barriers impeding the flow of information between staff in the Complaints and Standards Departments.

8. Recommendation

That the existing function of Lay Benchers as Complaints Review Commissioners be continued and that Reviews occasionally be held in regional centres.

Explanation

It is recognized that staff will continue to take the position in a large number of cases that no action by the Society is warranted. The Committee believes that complainants met with this position should continue to have the right to "appeal" decisions of the complaints staff. It is proposed however that the lay Bencher should have the option of referring a matter to the Complaints Resolution Commissioner or to discipline authorities with a recommended disposition in the appropriate circumstances. It is anticipated, however, that many kinds of complaints which now find their way to the Complaints Review will be satisfied in future by the introduction of innovations such as Telephone Complaints Resolution and the new "stream" aimed at resolving minor justified complaints.

The purpose of occasionally holding Reviews in regional centres is to make this procedure more accessible to complainants throughout the Province.

All of which is respectfully submitted

"J. Callwood"
Chair

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It was moved by Mr. Topp, seconded by Mr. Hickey that given the time of day and the number of Benchers present in Convocation that the remainder of the Report on the Special Committee on Complaints Procedures be deferred to the June Convocation.

Carried

SECTION A - RECOMMENDATION NUMBER 3 WAS ADOPTED

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25th May, 1990

ORDERS

Mr. Lamek filed with Convocation four discipline Orders arising out of Convocation held on the 26th of April, 1990.

Re: HOWARD NORMAN GASOI, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Howard Norman Gasoi, 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 4th day of April, 1990, in the presence of Counsel for the Society 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 Howard Norman Gasoi 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 26th day of April, 1990

"L. Ferrier"
Treasurer

(SEAL - Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

Re: EUGENE IGNATIUS NOWAK, Kitchener

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF Eugene Ignatius Nowak, of the City of Kitchener, 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 5th day of March, 1990, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

25th May, 1990

CONVOCATION HEREBY ORDERS that the said Eugene Ignatius Nowak 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 26th day of April, 1990

"L. Ferrier"
Treasurer

(SEAL - Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

Re: MEYER FELDMAN, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

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

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 9th day of January, 1990, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the rights and privileges of the said Meyer Feldman be suspended for a period of eighteen months, such suspension to commence on the 15th day of May, 1990.

DATED this 26th day of April, 1990

"L. Ferrier"
Treasurer

(SEAL - Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

Re: JAMES DOUGLAS LEITH ROSS, Toronto

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF THE Law Society Act;

AND IN THE MATTER OF James Douglas Leith Ross, 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 13th day of February, 1990, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor being in attendance, wherein the Solicitor was found guilty of professional misconduct and having heard Counsel aforesaid;

CONVOCATION HEREBY ORDERS that the rights and privileges of the said James Douglas Leith Ross be suspended for a period of one month, such suspension to commence on May 1, 1990 and that the said Solicitor:

1. Consult and co-operate with the Practice Advisory Service;
2. Consult with the LINK programme; and
3. Undertake to co-operate with the Professional Standards Programme.

DATED this 26 day of April, 1990

"L. Ferrier"
Treasurer

(SEAL - Law Society of Upper Canada)

"R. Tinsley"
Secretary

Filed

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PUBLIC INFORMATION COMMITTEE

Mr. McKinnon presented the Reports of the Public Information Committee of its meetings on April 12th and May 10th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PUBLIC INFORMATION COMMITTEE begs leave to Report.

Your Committee met on Thursday, the 12th of April, 1990, the following members were present: Mr. Lyons (Chair), Ms. Callwood, Messrs. Guthrie, McKinnon, Thom, and Yachetti. Also in attendance were Ms. Angevine, Ms. Starkes, and Messrs. Daniher and Feher.

A.
POLICY

1. PRACTICE REVIEW PROGRAM AND LAWYER REFERRAL

When lawyers are invited to participate in the Practice Review

Program (Professional Standards Committee), they are automatically removed from the Lawyer Referral Service. The Public Information Committee reviewed this procedure and decided that it was more appropriate to wait for the Report and recommendations of the Practice Reviewer before removing lawyers from the Service. Convocation is asked to adopt this policy.

B.

ADMINISTRATION

1. PUBLIC INFORMATION BUDGET

The final budget for the Public Information Department has been approved by the Public Information Committee and sent to the Finance Committee.

2. DIRECTOR, PUBLIC INFORMATION

The Committee strongly urges Convocation to appoint a Director of Public Information immediately. The Chair was advised to meet with the Treasurer and Michael Daniher of Advance to discuss a hiring procedure.

3. GEORGE GAMESTER COLUMN - TORONTO STAR

George Gamester of the Toronto Star would like to feature the Lawyer Referral Service in one of his up-coming columns. The column would briefly outline the service and provide examples of humorous calls handled by the LRS operators. The Committee evaluated the appropriateness of participating in this column. The Committee decided it would be appropriate for the Lawyer Referral Service to participate.

C.

INFORMATION

1. DIAL-A-LAW FRENCH LANGUAGE SERVICE/OTTAWA SATELLITE SYSTEM

The launching of the new service is scheduled for Wednesday, April 25th at 11 a.m. in the Ottawa Bar Admission office.

The Treasurer will attend the launching of the French language Dial-A-Law program and offer brief comments to mark the occasion. There will be an opportunity for media inquiries after the Treasurer's address.

Dominique Paquet, the Society's French Language Services Coordinator will approve all French news items and attend the launching to handle French media inquiries.

Colin McKinnon will attend the opening to assist with the English media inquiries.

Michael Daniher and his colleagues are preparing press releases and promotional material for the new service.

2. ON-GOING COMMUNICATIONS ACTIVITIES

Changes are being made to the complaints process. In order to alert the public and profession to these changes, the Committee will:

- create a pamphlet detailing the new complaints process,
- add a Dial-A-Law tape dealing with negligence and the new complaints procedure,

- advertise the new process in the appropriate medium.

The capacity of the Lawyer Referral Service to deal with negligence matters must be increased when the new complaints process is implemented. Advertisements in the Ontario Reports will ask lawyers in this category of law to join the service.

3. CALL USAGE STATISTICS

Up-dated call usage statistics for the Lawyer Referral Service and Dial-A-Law programs are attached (A-1).

ALL OF WHICH is respectfully submitted

DATED this 26th day of April, 1990

"C. McKinnon"
Chair

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

C-Item 3 - Call Usage statistics for the Lawyer Referral Service and Dial-A-Law programs to March 31, 1990.

(Marked A-1)

THE REPORT WAS ADOPTED

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TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PUBLIC INFORMATION COMMITTEE begs leave to Report.

Your Committee met on Thursday, the 10th of May, 1990, the following members were present: Mr. McKinnon (Acting Chair), Messrs. Guthrie, Shaffer, Thom, and Yachetti. Also in attendance were Ms. Angevine, Ms. Starkes and Mr. Daniher.

C.
INFORMATION

1. DIAL-A-LAW FRENCH LANGUAGE SERVICE LAUNCHING

The Committee reviewed the success of the event held in Ottawa on April 25th. A summary of the media interest generated for the launch and the interviews resulting therefrom is attached, as are copies of the print advertisements for the current Dial-A-Law promotion campaign (A-1).

The Acting Chair requested that the minutes reflect the Committee's appreciation to Dominique Paquet (French Language Services Coordinator), Theresa Starkes (Manager, Public Information) and Michael Daniher (Advance Planning) for their efforts in this matter.

Mr. Daniher's office is meeting with Ms. Paquet on May 14th to determine how to profile her activities with the profession and the public.

2. DIAL-A-LAW ADVERTISING

The Committee reviewed the print and radio campaign that began on April 23rd. The Committee also reviewed the Dial-A-Law statistics since the launch on April 23rd and noted the significant increase in calls since that date.

3. DEWAR REPORT

The Committee reviewed the media relations activity surrounding the release of this Report. A copy of the news release issued by the Society, together with a sample of the initial media reaction is attached (A-2).

The Committee also discussed means of communicating the Report's findings to the profession. A draft letter to the profession was prepared in April and Ms. Angevine has agreed to inquire as to the status of this letter. The Committee also urged that the full text be reproduced as quickly as possible for distribution to the profession. The Secretariat staff will investigate reproduction and distribution costs to determine the feasibility of this venture.

4. TELEPHONE LINES

The Committee expressed concern for the difficulties encountered by members of the public and the profession in endeavoring to get an open line to the Society offices. The Committee hopes the Society will address this matter as quickly as possible in the interest of providing sufficient opportunities to the public and profession to communicate with the Society.

6. LAW SOCIETY BOOKLET

The Committee reviewed a final edition of the booklet and instructed Mr. Daniher and Ms. Starkes to proceed to the design, layout and other production activities.

7. DIRECTOR, PUBLIC INFORMATION

The Committee heard that Mr. Daniher had developed a draft job description. This document has been distributed and Ms. Angevine undertook to see where this matter stood with the Secretariat.

8. CALL USAGE STATISTICS

Up-dated call usage statistics for the Lawyer Referral Service and Dial-A-Law programs are attached (A-3). A daily breakdown of the Dial-A-Law calls in April is also attached (A-4).

ALL OF WHICH is respectfully submitted

DATED this 25th day of May, 1990

"C. McKinnon"
Chair

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

C-Item 1 - Summary re: Media Interest Surrounding the April 25
Announcement re: French Language Dial-A-Law Service.
(Marked A-1, Pages 1 - 3)

C-Item 3 - Copy of the News Release issued by the Law Society re: The
Dewar Report together with samples of the initial media
reaction.
(Marked A-2, Pages 1 - 6)

C-Item 8 - Statistics Update - Call Usage for Dial-A-Law and Lawyer Referral Service to April 30, 1990. (Marked A-3)

C-Item 8 - Breakdown of Cumulative Monthly Day-By-Day Call-Count of Dial-A-Law program for April 1990. (Marked A-4)

THE REPORT WAS ADOPTED

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UNAUTHORIZED PRACTICE COMMITTEE

Mr. McKinnon presented the Report of the Unauthorized Practice Committee of its meeting on May 10th, 1990.

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 May, 1990 at 10:30 a.m., the following members being present: Messrs. Ruby (Chair), McKinnon (Vice-Chair) Ms. Callwood, Messrs. Cass, Farquharson, Ms. Graham, Ms. Harvey, Messrs. Hickey and Lawrence, Ms. Weaver and Mr. Shaffer. Also in attendance was: Mr. Ballantyne (Secretary).

B.

ADMINISTRATION

1. ACCOUNTS

Accounts of investigators were approved in the total amount of \$1,811.84.

2. INVESTIGATIONS

The Society does not have sufficient evidence in some cases to commence a prosecution. The Committee authorized a request to the Treasurer for the use of an investigator who will not disclose that he/she is from the Law Society and to authorize the commencement of prosecutions if the necessary evidence is obtained.

C.

INFORMATION

3. TASK FORCE ON PARALEGALS

It is the understanding of your Secretary that the translation of the above-noted Task Force Report is near completion and it is expected that this report will be released within the next several weeks.

Approved

ALL OF WHICH is respectfully submitted

DATED this 25th day of May, 1990

"C. McKinnon"
Chair

Prosecutions

Next Court Date

Richard J. Gordon (Paralegal Associates) (Burlington)	April 30, 1980 at 9:00 a.m. Courtroom 2 To set a date
Dale Hoskin (Timmins)	May 1, 1990 at 9:30 a.m. Courtroom To be spoken to
Susan Merchant (Paralegal Associates) (Ottawa South)	May 3, 1990 at 1:30 p.m. Courtroom 3 To set a date
Natalie MacPhee (Paralegal Consultants) (Ottawa)	May 4, 1990 at 10:00 a.m. Courtroom 7 To set a date
Paralegal Consultants (Ottawa)	May 4, 1990 at 10:00 a.m. Courtroom 7 To set a date
Natalie MacPhee (Paralegal Consultants Inc.) (Ottawa)	May 7, 1990 at 9:00 a.m. Courtroom 5 Sault Ste. Marie To set a date
John Galbreath (Ottawa)	May 7, 1990 at 9:00 a.m. Courtroom 5 Sault Ste. Marie To set a date
Julian T. Shumka (Paralegal Associates) (Kitchener)	May 9, 1990 at 9:00 a.m. Courtroom 5 To be spoken to
834259 Ontario Inc. (Paralegal Associates) (Kitchener)	May 9, 1990 at 9:00 a.m. Courtroom 5 To be spoken to
Shelley Hisey (Paralegal Associates) (Orillia)	May 14, 1990 at 10:00 a.m. Courtroom To set a date
Fred C. May (Pennywise Paralegal) (Pickering)	May 18, 1990 at 9:30 a.m. Courtroom 3 To be spoken to
Dorothy Thiry Divorce Aid (London)	May 28, 1990 at 10:00 a.m. Courtroom 3 Trial
Susan Merchant (Paralegal Associates) (Ottawa)	June 7 & 8, 1990 at 9:00 a.m. Courtroom 3 Trial
Paralegal Associates Inc. c.o.b. "Paralegal Associates" (Mississauga)	June 13, 1990 at 9:00 a.m. Courtroom 2 - St. Catharines To confirm date
Randy Mitter (Paralegal Associates Inc. c.o.b. "Paralegal Associates") (Mississauga)	June 13, 1990 at 9:00 a.m. Courtroom 2 - St. Catharines To confirm date
Heather Daer (Paralegal Associates Inc. c.o.b. "Paralegal Associates") (Mississauga)	June 13, 1990 at 9:00 a.m. Courtroom 2 - St. Catharines To confirm date

Jane Baker Ontario Paralegal (Chatham)	June 14, 1990 at 10:00 a.m. Courtroom 3 Plea & Trial
Peggy Wilson Divorce Easy (London)	June 18, 1990 at 10:00 a.m. Courtroom 2 Trial
Norine Earl (Toronto Divorce Services) (Toronto)	June 25,26,27, 1990 at 9:00 a.m. Old City Hall Courtroom 111 Trial
Fred May (Paralegal Associates) (Downsview)	June 28 & 29, 1990 at 10:00 a.m. Courtroom 306 Trial
Personal Paralegal (Toronto)	July 3, 1990 at 10:00 a.m. Courtroom 140 Trial
Christian Vadum (Personal Paralegal) (Toronto)	July 3, 1990 at 10:00 a.m. Courtroom 140 Trial
David Nancoff (Ontario Paralegal) (Toronto)	July 30-August 4, 1990 at 10:00 a.m. Ottawa Prov. Court Trial Continuation
Ontario Paralegal Ltd. (Toronto)	July 30-August 4, 1990 at 10:00 a.m. Ottawa Provincial Court Trial Continuation
696631 Ontario Ltd. (Stephen Kuz) (Etobicoke)	August 8, 1990 at 10:00 a.m. Courtroom 203 Trial
Natalie MacPhee (Ottawa)	Sept. 17, 1990 at 10:00 a.m. Courtroom 140 Old City Hall To be spoken to
John Galbreath (Ottawa)	Sept. 17, 1990 at 10:00 a.m. Courtroom 140 Old City Hall To be spoken to
Frank Sysel (Paralegal Associates) (Chatham)	October 12, 1990 at 10:00 a.m. Courtroom 2 Trial
Richard Perry (Regional Paralegal) (Hamilton)	October 24, 1990 at 10:00 a.m. 140 Hunter St. Hamilton To set a date
Marc Monson (Action Paralegal) (Downsview)	November 27, 1990 at 10:00 a.m. Courtroom 305 Trial
786301 Ontario Ltd. (Action Paralegal) (Downsview)	November 27, 1990 at 10:00 a.m. Courtroom 305 Trial

Paralegal Associates Inc. c.o.b. "Paralegal Associates" (Mississauga)	Jan. 7,8,9, 1991 at 9:00 a.m. Courtroom 2 (St. Catharines) Trial
Randy Mitter (Paralegal Associates Inc.) (Mississauga)	Jan. 7,8,9, 1991 at 9:00 a.m. Courtroom 2 (St. Catharines) Trial
Heather Daer (Paralegal Associates Inc.) (Mississauga)	Jan. 7,8,9, 1991 at 9:00 a.m. Courtroom 2 (St. Catharines) Trial
Andrew Czornyj (Jacobi & Myers) (Toronto)	May 20, 1991 at 10:30 a.m. Courtroom 1-Brampton Prov. Court To set a date
Douglas Traill (Jacobi & Myers) (Toronto)	May 20, 1991 at 10:30 a.m. Courtroom 1-Brampton Prov. Court To set a date
Jacobi & Myers (Toronto)	May 20, 1991 at 10:30 a.m. Courtroom 1-Brampton Prov. Court To set a date

THE REPORT WAS ADOPTED

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FRENCH LANGUAGE SERVICES COMMITTEE

As there was no quorum of Benchers on May 9th, 1990 when the Committee met Convocation convened as a Committee of the whole and approved the Report.

Mr. McKinnon then presented the Report to Convocation and the Report was adopted.

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 Wednesday, the 9th of May, 1990 at 4 p.m. The following Benchers were present: C.D. McKinnon (Chair) and J.D. Ground. The following Law Society staff were present: D. Crosbie, M. Angevine, A. Treleaven, S. Traviss and D. Paquet (Secretary). Special guests and observers: J. White, research student.

A.

POLICY

1. French Language Services Implementation Plan

The Chair confirmed the approval by Convocation in March of the French Language Services Implementation Plan. He commented on the positive response the plan received from the media, and more specifically in the Law Times. He emphasized the symbolic importance of applying the policy and recommendations made in the plan.

2. Progress report - Implementation of French Language Services

The Committee was advised that the follow-up process on Phase 1 of the implementation plan was slowed down by staff preoccupation with budget activities. Outstanding translation assignments were identified and department heads advised of the urgency to have these completed before the end of this fiscal year.

The March issue of the Proceedings of Convocation was not translated as planned. The Chair advised committee members of the commitments he had made to have the buff pages printed in French and requested that the current issue be translated without delay.

It was agreed that the 1990-91 issue of the Annual Report would be the first to be translated.

3. French/Bilingual Stationery

To support the French written communications process, it was recommended that the Law Society print a generic bilingual letterhead to be used in replying to French language enquiries until individual departments have exhausted their current stocks of stationery and wish to order bilingual stationery. Because of design considerations, the production of bilingual or unilingual French envelopes and business cards needs to be discussed further.

4. Policy on French communications - Staff

The Chair suggested that this agenda item be addressed at the next meeting and that committee members be given a chance to review internal memoranda on this matter.

5. Translation of Professional Conduct Handbook

Some concerns have been expressed regarding the present french translation of the Rules of Professional Conduct. Accordingly, it was recommended that the translation be sent to M. Normand Belair (who is a senior legal translator and legislative drafter) for his review and editing.

B.

ADMINISTRATION

1. French Language Services Request procedure

A French Language Services Request procedure was instituted on April 9 to help review requirements and monitor expenditures.

2. Grant applications to Federal and Provincial governments

Grant applications to the Secretary of State and the Government of Ontario, Ministry of the Attorney General, have been made. The Secretary of State is processing our application for a \$30,000 contribution for 1990-91. The Ministry of the Attorney General is reviewing our application for \$175,000 payable over our next two fiscal years. The Law Society attended a meeting with the Ministry's representatives and their response was encouraging. In each case, approved applications for this fiscal year must be renewed next year.

C.
INFORMATION

1. AJEFO, CBAO and Law Society task force - Legal education

The recommendation to create a task force with the Association des juristes d'expression française (AJEFO) and the Canadian Bar Association - Ontario (CBAO) on Continuing Legal Education seminars was received positively by the AJEFO and CBAO representatives. The Law Society is to meet with her Legal Education colleagues and then schedule a meeting with designated representatives from the three aforementioned groups.

2. Legal Aid collaboration

The Law Society met with her Legal Aid colleagues regarding a potential collaboration in the exchange of ideas and resources and the creation of a common (terminology) database.

3. Dial-A-Law launch in Ottawa

The Chair reported that the Dial-A-Law launch in Ottawa was well received by Law Society members in Eastern Ontario and the French media. Five radio and TV stations were represented at the launch.

The meeting was adjourned at 5:45 p.m.

ALL OF WHICH is respectfully submitted

DATED this 16th day of May, 1990

"C. McKinnon"
Chair

THE REPORT WAS ADOPTED

.....

INSURANCE COMMITTEE

Mr. Furlong presented the Report of the Insurance Committee of its meeting on May 10th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of May, 1990 at one-thirty in the afternoon, the following members being present: Messrs. Furlong (Chair), Lamont, Howie, Hickey, Wardlaw, and Ms. Callwood.

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

ITEM

1. DIRECTOR'S MONTHLY REPORT

The Director's Monthly Report is attached as Appendix "A".

2. SPECIAL COMMITTEE ON THE COMPLAINTS PROCESS

In addressing the question of minor negligence, the Special Committee sought input from the E & O Department, and also established a Sub-Committee chaired by Mr. Phil Epstein, to devise a Summary Procedure for handling minor claims. The Sub-Committee reported to the Special Committee with the understanding that all proposals would be subject to review and acceptance by the Insurance Committee. The Director presented your Committee with the details of the proposed Summary Procedure suggesting several amendments be considered. Due to the need for additional dialogue on this subject, the Director will attend the next scheduled meeting of the Special Committee to consider this matter further. See Appendix "B".

3. MEMBER'S REQUEST FOR EXEMPTION FROM E & O LEVY

A member planning to represent an individual on an Appeal arising out of a conviction under Section 61 of the Ontario Highway Traffic Act requested that his exemption from coverage continue notwithstanding the fact that he will represent this individual. Since there is no provision in the Errors and Omissions levy form allowing an exemption under these circumstances, the Director sought your Committee's advice on the appropriateness of a continued exemption in this case. Your Committee recommends denying the member's request in light of long standing practice.

4. APPOINTMENT OF DEFENCE COUNSEL

Following notification of a claim, a member reported the matter as prescribed by the Society's Professional Liability Insurance Program. The Errors and Omissions Department referred the claim to Defence Counsel for investigation. Several months later, a Statement of Claim materialized, and the insured made known his desire to retain his own Counsel to defend the Action. The Director advised that while the member was free to retain whomever he wished, as his own Counsel, the selection of Counsel with respect to the Insurer's contractual Duty to Defend rests with the Insurer, represented in this case by the Director of Insurance. Faced with an objection to this position, the Chairman sought advice from your Committee which is of the view that the Director has the authority to determine who will act as Defence Counsel where the Insurance Program is involved, and recommends that no change be made in this current long-standing practice.

Note: Deferred, see page 69.

5. THE LAW SOCIETY OF THE NORTHWEST TERRITORIES

Pursuant to correspondence from the Deputy Secretary-Treasurer of The Law Society of the Northwest Territories, dated November 17, 1989, the Director is in receipt of confirmation that the LSNWT will cease its participation in The Law Society of Upper Canada's Errors and Omissions Insurance Program effective the expiry date of the current policy. Measures are underway to omit reference to the LSNWT and its members from the 1990/91 policy. Pertinent correspondence regarding this matter is attached as Appendix "C".

6. 1990/91 ERRORS AND OMISSIONS LEVY

The Director orally presented your Committee with his Preliminary Report on the 1990/91 Errors and Omissions levy. The final report will be tabled at a Special Meeting of the Insurance Committee scheduled for May 23, 1990.

7. REINSURANCE RENEWAL

Pursuant to renewal negotiations the Law Society has received a proposal from the lead underwriter, the details of which are contained in Mr. Chippindale's correspondence dated April 30, 1990. It is expected the remaining underwriters will respond positively to the

proposal made by the lead. Due to time constraints, final consideration of the renewal terms has been delayed until the Special Meeting of your Committee noted above. See Appendix "D".

8. OUTSTANDING ITEMS

(a) Sub-Committee on Women in the Legal Profession - This Sub-Committee is seeking input in identifying and responding to concerns resulting from the increase in the number of women lawyers. The Chair corresponded with Frances Kiteley with respect to identifying particular concerns that could be reviewed in the context of the Society's Professional Liability Insurance Program. Mr. A. Brockett responded on behalf of Ms. Kiteley suggesting the Insurance Committee investigate the possibility of establishing reduced Errors and Omissions levies for members engaged in the private practice of law on a part-time basis. The Sub-Committee also initiated a review of the Errors and Omissions claims experience to discern whether or not the frequency of claims varies depending on one's gender. Further consideration of Mr. Brockett's response has been postponed until the next regularly scheduled meeting of your Committee. See Appendix "E".

(b) Research Bank - Pursuant to the Committee's concern that the briefs available through the Legal Aid Research Department satisfy the needs of the Errors and Omissions defence counsel, the Director is attending to an analysis of the benefits and costs of this program and will report on this subject during the June 14, 1990 Committee Meeting.

(c) Compensation Fund - Errors and Omissions Insurance Fund - The current Compensation Fund Policy dictates that claimants must pursue the Errors and Omissions Insurance Fund to claim against innocent partners. The Committee has asked the Director to review and contrast the pros and cons of this practice with an alternate method which would see the Compensation Fund bear the obligation to pay claimants' losses. Recovery of losses or expenses in excess of the Compensation Fund limit would be available through the Errors and Omissions Fund. The Chair has also asked the Director to address the feasibility and cost effectiveness of providing insurance to protect the Society from catastrophic claims against the Compensation Fund. The Director will attend to these matters, and report to the Committee during the June 14, 1990 Committee Meeting.

(d) Undertaking - Agreement of Purchase and Sale - Following the Committee's review of a report on lawyers' undertakings and mortgage discharge provisions, a Sub-Committee was appointed to address the problems associated with these undertakings. The Chair, Mr Wardlaw, wrote to the Treasurer advising that a Statutory Amendment was the only viable solution and he further suggested that Ian Scott be contacted to appoint a group from his Ministry or from Consumer and Commercial Relations to consider this subject with the Sub-Committee. The Treasurer elected to postpone contact with Mr. Scott until an analysis of The Law Society's claims experience could be made available. The claims statistics available at the time of the Treasurer's decision could not be compiled to specify the losses and expenses relating to these undertakings. Efforts are underway to obtain statistics on claim frequency and severity that should permit a more accurate analysis of the claims experience relating to this subject. The Director will report to the Committee during the June 14, 1990 Committee Meeting.

(e) Errors and Omissions In-House Legal Advisor - The Committee requested the Director provide a detailed report of how the legal advisor would serve the Professional Liability Insurance Program, of how much time would be required to complete the advisor's duties, and what costs would be incurred by The Law Society in providing such a service.

When the details of this position are formalized, greater consideration can be given to identifying the most suitable candidate for this role. The Director is pursuing his inquiries in this regard, and will report to the Committee during the June 14, 1990 Committee Meeting.

ALL OF WHICH is respectfully submitted

DATED this 11th day of May, 1990

"P. Furlong"
Chair

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

- Item 1 - Director's Monthly Report for March 1990. (Appendix "A")
- Item 2 - Memorandum to Chair, The Insurance Committee from the Director of Insurance re: Special Committee on the Complaints Process. Memorandum to Mr. Lin Whitman dated April 17, 1990 from Mr. G. Kevin O'Toole re: Sub-Committee on the Complaints Process. (Appendix "B")
- Item 5 - Letter from Mr. Clarence Hudson, President, Law Society of the Northwest Territories dated April 11, 1990 to Mr. Victor Smith re: Mandatory Insurance Program for Members of the Law Society of the Northwest Territories. (Appendix "C")
- Item 7 - Letter from Mr. John Chippindale, Senior Vice President, Marsh & McLennan dated April 30, 1990 to Mr. Lin Whitman re: Mandatory Program - July 1, 1990 Renewal Terms. (Appendix "D")
- Item 8 - Letter from Mr. Andrew Brockett, Research Director dated April 18, 1990 to Mr. Patrick Furlong re: Insurance Committee. (Appendix "E")

Item 4 of the Report was deferred to the June Convocation.

THE REPORT WITH THE EXCEPTION OF ITEM 4 WAS ADOPTED
.....

ADMISSIONS COMMITTEE

Ms. Peters presented the balance of the Report of the Admissions Committee of its meeting on May 10th, 1990.

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 May, 1990 at 9:30 a.m., the following members being present: Ms. Peters (Chair), Mrs. Weaver (Vice-Chair) and Messrs. Lamont, Levy and Strosberg.

A.
POLICY

1. OCCASIONAL APPEARANCES

Our regulation at present does not require a lawyer, obtaining an Occasional Appearance in Ontario, to have an agent for service in Ontario. It is recommended that an amendment to Regulation 6 be sought to provide that applications for an Occasional Appearance shall provide the name of the member of the Law Society of Upper Canada, in good standing and resident in Ontario, who will serve as the applicant's agent for service in Ontario.

B.
ADMINISTRATION

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

A member of another provincial law society applied for permission to write the transfer examinations. He was called to the Bar in the other common law jurisdiction in 1978 and from 1978 to the beginning of 1987 he held the position of corporate counsel with a series of corporations. In 1987 he was transferred by his employer to Toronto. Prior to his move to Ontario, he spoke with "a representative of the Ontario Law Society" and was informed that it would not be necessary for him to be admitted as a member of the Ontario Bar to continue his duties with that corporation although situated in Toronto.

In December 1989 the solicitor applied for and was offered a position as General Counsel of another corporation in Ontario. At that time, it was suggested that he consult the Law Society of Upper Canada to see whether it would be necessary to be called to the Ontario Bar if working in that position. The applicant spoke with the Secretary on the 10th of April, 1990, and was informed that as General Counsel of that particular corporation and given the description of the services he would be providing to that corporation he would have to become a member of the Law Society of Upper Canada.

If the applicant were to enter into the transfer process he would have to apply through the Legal Education Committee as he does not have, at this time, the three years of practice behind him within the last five years which would enable him to transfer through the Admissions Committee. When he made enquiries in 1987, before his move to Ontario, he had the necessary three years of practice. His difficulty now is that not only does he not have the necessary three years but neither does he have an approved LL.B. degree which would gain him entry into the Bar Admission Course for the purposes of articling and then attending the teaching term.

The Committee was asked whether any special exceptions may be made in this situation given the unusual circumstances.

Both the applicant and his future employer are eager to have him begin his new duties and are anxious to have this matter resolved as soon as possible.

His letter of the 23rd April, 1990, was before the Committee for consideration.

The Committee was of the view that in light of the earlier statement made to the applicant before he moved to Ontario and on which he relied, that he be permitted to write the transfer examinations.

DIRECT TRANSFERS - QUEBEC - REGULATION 4(2)

Marc Duguay (B.A. 1976 and Honours B.A. 1977 both from Glendon College, York University; B.C.L. 1980 and LL.B. [June] 1982 both from McGill University) was called to the Bar of the Province of Quebec on the 28th day of December, 1982 and has practised continuously in that province from the 28th December 1982 to the present. Mr. Duguay presents a Certificate of Good Standing, seeks to proceed under Regulation 4(2) and asks permission to be excused from writing the Common Law examination according to the interpretation of Regulation 4(2) as set out in the Memorandum to the Admissions Committee of September, 1983 which states: "Candidates qualified to proceed under Regulation 4(2) and who have obtained an approved LL.B. degree within the eight years preceding their application may be taken to have satisfied the requirements of subparagraph (d) which reads - passes a comprehensive examination on the common law in Ontario." There is nothing unusual about his application.

Approved

Note: Deferred, see page 77.

2. 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)
31st B.A.C. (Entering Articles 1988)

1180.	Ashman, Ronald Leroy	Joint Committee on Accreditation/90
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Approved

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

332.	Bachinski, Samuel Raymond	B.Comm. Lakehead/87; LL.B. Victoria/89
333.	Bain, Paul Edward	B.A. Toronto/86; LL.B. York/89
334.	Baker, Stanley	Joint Committee on Foreign Accreditation/89
335.	Ballagh, Margot Mary Douglas	B.Sc. Western/86; LL.B. Western/89
336.	Banks, Kevin	B.A. Toronto/86; LL.B. Toronto/89
337.	Barclay, Clare Ann	B.F.A. Windsor/77; LL.B. York/89
338.	Bateman, Loretta Helen	B.A. York/86; LL.B. York/89
339.	Bateman, Paula Lynn	B.S.W. Western/85; M.S.W. Toronto/86; LL.B. York/89

340.	Battersby, Julie Annette	B.Sc. Toronto/86; LL.B. York/89
341.	Bayne, Robert Basil	B.Comm. Dalhousie/85; LL.B. Dalhousie/89
342.	Beallor, Kenneth Andrew	2 yrs. Arts, York; LL.B. York/89
343.	Beatty, Lisa Jane	B.Comm. Laurentian/85; LL.B. York/89
344.	Becotte, Barry Paul	B.A. Lakehead/86; LL.B. Queen's/89
345.	Bederka, Peter	B.A. Carleton/85; LL.B. Toronto/88
346.	Beitner, Terry Morris	B.Sc. Montreal/84; LL.B. Ottawa/89
347.	Belmont, Brian Dov	2 yrs. Arts, Toronto; LL.B. York/89
348.	Benak, George	B.A. Toronto/86; LL.B. Windsor/89
349.	Bennett, Anita Marie	3 yrs. Public Administration, Windsor; LL.B Windsor/89
350.	Berger, Michael Matthew	B.A. McGill/86; LL.B. York/89
351.	Besunder, Robert Alexander	B.A. Toronto/86; LL.B. McGill/89
352.	Biggar, Mary Louise	B.A. Queen's/84; LL.B. York/89
353.	Binder, Joel Evan	2 yrs. Economics, York; LL.B. Toronto/89
354.	Bocska, Rose Maria	B.A. Windsor/86; LL.B. Windsor/89
355.	Bodkin, Donald Eardley McEwen	B.A. McMaster/83; LL.B. Windsor/89
356.	Boland, Irene Teresa	B.A. Carleton/86; LL.B. Ottawa/89
357.	Bome, Andrew Claudio	3 yrs. Arts, Toronto; LL.B. Toronto/89
358.	Bowden, Gregory Winston	2 yrs. English, McMaster; LL.B. York/89
359.	Braden, Michael Alan	B.Comm. Queen's/84; LL.B. Dalhousie/89
360.	Brant, Randy Scott	B.A. Toronto/86; LL.B. British Columbia/89
361.	Brewer, Peter Allan	B.Comm. Mount Allison/80; B.A. Mount Allison/81; LL.B. New Brunswick/89
362.	Brooks, Nan Ellen	2 yrs. Commerce, Queen's; M.H.S.A. Dalhousie/88; LL.B. Dalhousie/85

363.	Brown, Stephanie Anne	B.A. Western/86; LL.B. Ottawa/89
364.	Burke, Pamela Susan	B.A. Concordia/84; LL.B. York/89
365.	Burton, Kristine Fredrica	Mature Student; LL.B. Ottawa/89
366.	Butcher, Alan James	B.Mus. McGill/86; LL.B. York/89
367.	Campbell, Andrew Neil	B.A. Western/82; M.B.A. York/89; LL.B. York/89
368.	Capelle, Philippe Maurice	B.A. Carleton/81; LL.B. Windsor/89
369.	Capern, Gordon Dewar	2 yrs. Chemistry, Western; LL.B. York/89
370.	Carson, Georgina Lee	B.A. Queen's/86; LL.B. Toronto/89
371.	Cecchetto, Renza	B.A. Guelph/72; M.S.W. Wilfrid Laurier/77; LL.B. York/89
372.	Charles, Timothy William	B.A. Dalhousie/82; B.Ed. Dalhousie/83; LL.B. Dalhousie/89
373.	Clark, Scott William	B.Comm. Queen's/85; LL.B. Western/88
374.	Cloutier, Steven Garfield	B.A. McGill/85; LL.B. Victoria/89
375.	Cluney, Bruce Robert	B.Comm. Dalhousie/86; LL.B. Western/89
376.	Cohen, Rhonda	B.A. Toronto/86; LL.B. York/89
377.	Cole, Steven Michael	B.A. British Columbia/86; LL.B. York/89
378.	Comber, Irene	B.A. Lakehead/86; LL.B. York/89
379.	Cooligan, Katherine Anne	B.A. Carleton/86; LL.B. Ottawa/89
380.	Cooper, Richard Anthony	2 yrs. Arts, York; LL.B. York/89
381.	Corbold, Marnie Susan	B.A. Western/86; LL.B. Windsor/89
382.	Corley, Richard Ferrand Donald	2 yrs. Science, York; LL.B. York/89
383.	Corrigan, Jacqueline Francoise	B.A. Ottawa/86; LL.B. Ottawa/89
384.	Cote, Suzanne Yvonne	B.Journ. Carleton/86; LL.B. Ottawa/89

385.	Craig, Barbara Jean	B.A. McMaster/82; LL.B. Ottawa/85
386.	Crooks, Darlene Yvonne Paula	B.A. Trent/86; LL.B. Windsor/89
387.	Crozier, Karen Lea	B.A. Toronto/86; B.A. York/86; LL.B. York/89
388.	Cuccia, Joanne Marie	B.A. Toronto/86; LL.B. York/89
389.	Cutler, Brenda Michele	B.Journ. Carleton/85; LL.B. York/89
390.	Da Roza, Gina Marie	B.Sc. Manitoba/86; LL.B. Manitoba/89
391.	D'Alimonte, Silvana Maria	B.A. Toronto/86; LL.B. York/89
392.	Darling, Lindsay McCallum	B.A. York/86; LL.B. Ottawa/89
393.	Daschko, Alexander	B.A. McMaster/85; LL.B. Windsor/89
394.	Davey, Simon Richard	B.A. Toronto/85; LL.B. York/89
395.	Davidson, Peter James	B.A. Carleton/85; LL.B. McGill/89
396.	Dawn, Julius	B.Sc. Winnipeg/85; LL.B. Ottawa/89
397.	Dawson, John Atwood Roy	B.A. Waterloo/85; LL.B. Toronto/89
398.	Del Mul, Susan Wendy	2 yrs. Arts, Toronto; LL.B. Western/89

Approved

3. EXAMINATION RESULTS - BAR ADMISSION COURSE TRANSFER EXAMINATIONS
- SUPPLEMENTAL EXAMINATIONS

The results of three supplemental examinations conducted in relation to the Bar Admission Course Transfer Examinations were before the Committee. Supplemental examinations for those who had failed the Estate Planning, Business Law and Real Estate examinations were offered during the week of April the 9th, 1990. Two transfer candidates and one requalification candidate sat supplemental examinations to ones failed at the February 1990 sitting of the examinations.

One candidate passed and two failed

Noted

4. CALL TO THE BAR AND CERTIFICATE OF FITNESS

Transfer from another province - Regulation 4(1)

The following candidate, having passed 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:

Joanna Jane Ringrose

Province of New Brunswick

Approved

The following candidate, having passed the Statutes and Procedure examination, filed the necessary documents and paid the required fee, now applies for call to the Bar and to be granted a Certificate of Fitness:

David Matthew Ehinger

Province of Manitoba

Approved

Transfer from another province - Regulation 4(2)

The following candidate, having passed the comprehensive examination on the common law and the Statutes and Procedure examination, filed the necessary documents and paid the required fee, now applies for call to the Bar and to be granted a Certificate of Fitness:

George Glezos

Province of Quebec

Approved

The following candidate, having satisfied the requirements under Regulation 4(2), filed the necessary documents and paid the required fee, now applies for call to the Bar and to be granted a Certificate of Fitness:

Mitchell Saul Greenberg

Province of Quebec

Approved

Bar Admission Course

The following candidates, having successfully completed the thirty-first Bar Admission Course, filed the necessary documents and paid the required fee of \$210.00 now apply for call to the Bar and to be granted Certificates of Fitness:

Ronald Leroy Ashman
Mary Catherine Chang
Gail Nadine Erlichman
Margaret Jane McClure
Karen Yin Ming Or

Approved

5. OTHER ITEMS

FAILURE OF B.A.C. TRANSFER EXAMINATIONS

The Committee considered requests from transfer and requalification candidates who had failed the Bar Admission Course Transfer Examinations and gave directions that the three candidates who failed one examination be given the chance to write a supplemental examination in June of this year.

One of the transfer candidates sitting the February 1990 Bar Admission Course Transfer Examinations failed three of the six examinations and is expected therefore to complete the teaching term of the Bar Admission Course. The candidate asked whether it would be possible that he be required to take only the courses and examinations covering the six subject areas covered by the Bar Admission Course Transfer Examinations rather than the whole Bar Admission Course Program.

The courses covered by the Bar Admission Course Transfer Examinations are:

- Civil Litigation
- Business Law
- Family Law
- Estate Planning
- Residential Real Estate
- Creditors' & Debtors' Rights

The courses from which the candidate would be exempted are:

- Public Law (with examination)
- Criminal Procedure (with examination)
- Multiple Options (no examination)
- Practice Skills (no examination)

The Committee was of the view that the candidate's failure of three of the six examinations indicates that there are academic deficiencies in his legal training and therefore that he should be required to take the entire Bar Admission Course Teaching Term Program and not be granted any exemptions.

READMISSION AFTER RESIGNATION THROUGH FINANCE - POSSIBLE EXEMPTION
FROM REQUALIFICATION EXAMINATIONS

A former member, called to the Ontario Bar in 1977, moved to Alberta in 1981 and resigned his membership with the Law Society of Upper Canada through normal circumstances at that same time. He was called to the Alberta Bar in 1981 and is currently a member in good standing in that province. In January 1990, the applicant moved back to Ontario and now seeks to be readmitted as a member of the Law Society in Ontario.

In his letter to the Secretary dated the 3rd of May, the applicant outlines the history of his legal work in Alberta. He asks whether the work he has performed in Alberta since his resignation from membership in Ontario may exempt him from any or all of the six examinations required to be sat by those who resigned five or more years ago.

The Committee was of the view that as the applicant has not practised in Ontario since 1981 and that as he is a member in good standing in another common law province that he be required to fulfill the same requirements as any member of the Alberta Bar, transferring to Ontario, is required to fulfill. Accordingly the Committee directed that he be required to complete the transfer examinations.

ALL OF WHICH is respectfully submitted

DATED this 25th day of May, 1990

"P. Peters"
Chair

Item 1 under section B was deferred.

THE REPORT WITH THE EXCEPTION OF B-ITEM 1 WAS ADOPTED

.....

LEGISLATION AND RULES COMMITTEE

Mr. Cullity presented the Report of the Legislation and Rules Committee of its meeting on May 10th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of May, 1990 at 11:15 a.m. the following members being present: Lerner (Vice-Chair in Chair), R. Cass, M. Cullity; D. Crosbie, P. Bell and A. Stone also attended.

A.

POLICY

No items

B.

ADMINISTRATION

1. AMENDMENTS OF RULES MADE UNDER THE LAW SOCIETY ACT

The Secretary reported that Rule 1(2) provides a special procedure for amendment of the Rules where the proposed amendment comes forward in a committee report. In place of the notice of motion otherwise required, Rule 1(2) allows the proposed amendment to be enacted provided that a motion specifying the proposal is made immediately after the adoption by Convocation of that part of the committee's report. Mr. Tinsley had suggested that Rule 1(2) be amended to provide that, where a committee report proposed an amendment to the Rules, the amendment would be enacted upon adoption of the report without need for a separate motion.

Mr. Arthur Stone, Counsel for the Society had drafted wording to implement this suggestion. The proposed wording allowed future amendments to be enacted upon adoption of a Committee report. It also provided that where Convocation had, in the past, adopted a committee report which proposed an amendment to the Rules but had not followed the procedure of Rule 1(2), the amendment would be deemed to be enacted.

RECOMMENDATION: After discussing the reasons for the proposed change, your Committee concluded that in many cases it was not possible to adopt the formal Rule immediately after adopting the Report and that the present Sub-Rule 1(2) allows time for the formal Rule to be drafted and brought forward without a notice of motion. It is therefore recommended that Sub-Rule 1(2) of the Rules not be amended.

2. AMENDMENT TO REGULATION 573 OF REVISED REGULATIONS OF ONTARIO, 1980, MADE UNDER THE LAW SOCIETY ACT

The Secretary reported that Convocation on March 22nd, 1990, approved of the recommendation of the Legislation and Rules Committee

adding subsection (5a) to Regulation 573, section 22. However, the amendment should have included a further amendment of subsection 22(6) of the Regulation by inserting after "(5)" in the third line "(5a)".

Alan Treleaven, Director of Education, has asked that Subsection 22(6) of Regulation 573 be further amended by inserting after "(5)" in the third line "(5a)." By including (5a) after (5) it was thought that the Legal Education Committee would have some discretion concerning the three year Refresher Bar Admission Course. However, after consideration, the Committee felt that paragraph 22 (5a) gives Convocation the authority to impose any conditions on a person taking the three year Refresher Bar Admission Course. It was therefore felt that the addition of (5a) to Subsection 22 (6) of the Regulation was not needed.

RECOMMENDATION: Your Committee recommends that 22 (6) of Regulation 573 not be amended.

2. AMENDMENT OF QUORUM OF MEMBERS AT SOCIETY'S ANNUAL MEETING

The Secretary reported that Convocation on April 28th, 1989, approved a resolution changing the quorum of members at an annual meeting of the Society from 100 to 50. This item, in the January 26th, 1990 Report to Convocation of the Legislation and Rules Committee, was deferred.

RECOMMENDATION: It is recommended that Rule 52(3) be amended by deleting one hundred and substituting fifty so that Rule 52(3) will now read:

52(3) Fifty members in good standing of the Society constitutes a quorum at an annual meeting.

C.
INFORMATION

1. BAR ADMISSION REFORM

The Secretary reported that Regulation 22(4), approved by Convocation on March 23rd, 1990, concerning Bar Admission Reform, was filed in the Regulations office on April 27th, 1990 as O.R. 219.

AFFIRMATIONS INSTEAD OF OATHS

The Secretary reported that Section 17(1) of the Ontario Evidence Act provides that a person may, in lieu of taking an oath, make an affirmation or declaration that is of the same force and effect as if he/she had taken an oath in the usual form. Arthur Stone, Counsel for the Society, is of the opinion that the above Section covers the three oaths taken by members or temporary members on being called to the bar.

3. BILLS INTRODUCED IN THE LEGISLATURE
AND GIVEN FIRST READING

The Secretary reported that the Bills to admit temporary members of the Society on the Attorney General's exchange program and

incorporating the Lawyers' Professional Indemnity Company have both been introduced in the Legislature, and given first reading.

ALL OF WHICH is respectfully submitted

DATED this 25th day of May, 1990

"M. Cullity"
Chair

THE REPORT WAS ADOPTED

.....

DISCIPLINE POLICY COMMITTEE

Mr. Lamek presented the Report of the Discipline Policy Committee of its meeting on May 10th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The DISCIPLINE COMMITTEE begs leave to report:

Your Committee met Thursday, the 10th of May, 1990 at one thirty in the afternoon, the following members being present: Mr. Lamek (Chair), The Honourable Allan Lawrence, Messrs. Carey, Cass, Cullity, Somerville and Ms. Graham and Ms. Peters. Mr. Yachetti and Ms. Callwood were also in attendance.

A.

POLICY

1A. Special Committee on Discipline Procedures

The Chair of the Special Committee on Discipline Procedures, Roger Yachetti was in attendance on May 10th, 1990 and provided a progress report on the work of this Committee.

2A. Special Committee on Complaints Procedures

The Chair of the Special Committee on Complaints, June Callwood, was in attendance on May 10th, 1990 and provided a progress report on the work of this Committee.

B.

ADMINISTRATION

1B. Report on the Discipline Policy Committee meeting, April 26/90

A special meeting of the Discipline Policy Committee was held on April 26th, 1990 at 4:30 p.m. Marc Somerville (Vice-Chair) was in attendance on May 10th and provided a report of the April 26th meeting.

2B. Senior Counsel, Discipline

The Secretary, Richard Tinsley was in attendance at the meeting on May 10th, 1990 and advised your Committee about plans for hiring Senior Counsel, Discipline.

C.
INFORMATION

1C. AUTHORIZATION OF DISCIPLINE CHARGES

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

The following table shows the number of requests made by Discipline and Complaints Staff for April, 1990.

	<u>Sought</u>	<u>Obtained</u>
Discipline	1	1
Complaints	8	6

Total # of charges for 1990

Jan	17	
Feb	47	(35 of these Authorizations were for failure to File Forms 2/3)
Mar	19	
Apr	7	
	--	
	90	

Approved

ALL OF WHICH is respectfully submitted

DATED this 24th day of May, 1990

"P. Lamek"
Chair

THE REPORT WAS ADOPTED
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PROFESSIONAL STANDARDS COMMITTEE

Mr. Furlong presented the Reports of the Professional Standards Committee of its meetings on April 12th and May 10th, 1990.

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

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of April, 1990 at eleven thirty in the morning the following members being present: Mr. Lyons (Chair), Mr. Ferguson, Mr. Guthrie, and Mrs. Weaver. Also present were Ms. Angevine, Ms. McCaffrey, Ms. Poworoznyk, and Messrs. Kerr, and Stephany.

A.

POLICY

1. PROFESSIONAL STANDARDS COMMITTEE - PRACTICE REVIEW PROGRAMME
AMENDMENTS TO THE LAW SOCIETY ACT

The Committee approved in principle significant revisions to the existing Practice Review Programme. Amendments to the Rules of Professional Conduct and the Law Society Act will be required before revised procedures can be implemented.

A discussion paper containing the proposed amendments has been circulated to various Committees and interested parties for their consideration.

B.

ADMINISTRATION

1. BUDGET FOR 1990 - 91 FISCAL YEAR

The Committee reconsidered the budgets proposals for the next fiscal year in connection with a recent request from the Finance Committee that all Standing and Special Committees reassess their respective budgets.

C.

INFORMATION

1. PRACTICE ADVISORY SERVICE
STATUS REPORT

Attached as C1 - C2 is a copy of the monthly report.

2. SUB-COMMITTEE ON CIVIL LITIGATION

The first meeting of the sub-committee is scheduled for April 24, 1990.

ALL OF WHICH is respectfully submitted

DATED this 27th day of April, 1990

"P. Furlong"
Chair

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

C-Item 1 - Report of the Practice Advisory Service dated April 12, 1990. (Marked C1 - C2)

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 May, 1990 at eleven thirty in the morning the following members being present: Mr. Lyons (Chair), Mr. Farquharson (Vice-Chair), Mr. Ferguson, Mr. Furlong, Mr. Guthrie, Ms. Harvey, Mr. Thoman and Mrs. Weaver. Also present were Ms. Angevine, Ms. Ashby, Ms. McCaffrey, Ms. Poworoznyk, and Mr. Kerr.

A.
POLICY

1. PRACTICE REVIEW PROGRAMME - COMPOSITION OF REVIEW PANELS

Under existing procedures, Review Panels are composed of 3 members of the Committee.

Recently, a number of matters coming up for review by panels has increased and, owing to the small number of Benchers to choose from, it is becoming increasingly difficult to form Panels whose members have the practice background necessary to properly evaluate the solicitor's practice.

The Committee recommended that Benchers who are not members of the Committee be approached to participate on Review Panels.

B.
ADMINISTRATION

1. UNCLAIMED INTANGIBLE PROPERTY ACT

Attached as B1 - B23 is a memorandum to the Committee by Andrew Brockett together with a copy of the above referenced legislation.

The Committee recommended that the Attorney General be approached with a request that proclamation of this legislation be deferred until the Law Society had an opportunity to study it and make representations.

2. PROFESSIONAL STANDARDS COMMITTEE - PRACTICE REVIEW PROGRAMME
SOLICITOR NUMBER 42

The solicitor's participation in the programme was authorized by the Chair in September, 1989. On January 29, 1990 the solicitor confirmed her participation in the programme.

Despite numerous attempts on the part of staff and the Reviewer to contact the solicitor with respect to initiating a practice review, no response has been received.

The Committee recommended that this file be closed and the matter referred to Discipline Counsel.

C.
INFORMATION

1. PROFESSIONAL STANDARDS COMMITTEE - PRACTICE REVIEW PROGRAMME
AMENDMENTS TO THE LAW SOCIETY ACT

A discussion paper has been circulated to various Committees and interested Benchers for their consideration.

All responses received will be discussed at the June Committee meeting.

2. PRACTICE ADVISORY SERVICE
STATUS REPORT

Attached as C1 - C2 is a copy of the monthly report.

3. LINK INC.

Ms. Ashby provided the Committee with a status report on developments in the programme. A full, written report will be made to the Committee and Convocation in June.

4. SUB-COMMITTEE ON CIVIL LITIGATION

Mr. Thoman reported to the Committee on developments with the sub-committee.

5. SUB-COMMITTEE ON WILLS AND TRUSTS

Mrs. Weaver reported to the Committee on developments with the sub-committee.

ALL OF WHICH is respectfully submitted

DATED this 25th day of May, 1990

"P. Furlong"
Chair

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

B-Item 1 - Memorandum dated May 1, 1990 from Andrew Brockett to
the Professional Standards Committee re: Unclaimed
Intangible Property Act (copy of Bill 86 attached).
(Marked B1 to B23)

C-Item 2 - Monthly Report of Practice Advisory Service, Meeting May 10,
1990. (Marked C1 to C2)

THE REPORT WAS ADOPTED

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RESEARCH AND PLANNING COMMITTEE

Mr. Spence presented the Report of the Research and Planning Committee of its meeting on May 10th, 1990.

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 May 1990 at 8:00 a.m., the following members being present: Mr. Spence (Chair), Mr. Bastedo, Ms Birenbaum, Mr. Campbell, Mr. Furlong, Ms Kiteley, Mr. McKinnon, Mr. Smith.

Also present: Mr. T. Heintzman, Ms. Angevine, Mr. Brockett, Mr. Tinsley.

A.
POLICY

1. DISCLOSURE OF PREGNANCY BY ARTICLING STUDENTS

At the April meeting there was discussion as to whether a student, who knows at the commencement of articling that she is pregnant, should be expected to disclose the fact to her principal. The matter was referred to the Sub-committee on Women in the Legal Profession.

The Sub-committee has noted the issue. It is of the view that this is not a matter requiring a formal policy.

2. OPEN CONVOCATION

The Committee has been reviewing the first year's experience under the policy whereby the proceedings of Convocation are open to the profession and the public. A number of practical concerns have been brought to the Committee's attention.

The Committee will be preparing a set of proposals for consideration by Convocation.

3. ISSUES RELATED TO LAW FIRM SIZE

Mr. Thomas Heintzman, Q.C., President of the Canadian Bar Association of Ontario, attended by invitation. He reported his impression that lawyers outside Toronto perceived the Law Society to be favouring the interests of Toronto lawyers and the large firms.

The Committee discussed the increasing differences between practice in a large firm and practice in a small firm. There was a recognition of the technological advantages and economies of scale available to the large firm. The matter falls within the Law Society's mandate only to the extent that smaller firms might feel compelled to cut corners in order to compete.

It was agreed that the Law Society has a responsibility to provide continuing education programs dealing with the business of the practice of law. In particular, there is a need to focus upon small firm practice in an environment of advancing technology and specialization.

The perception that Convocation looks mainly to the interests of large Toronto firms was agreed to be false. Nevertheless the perception exists in some quarters. To address the problem, it is suggested that the County and District Liaison Committee might consider the idea of committees, and other groups of Benchers, holding meetings outside Toronto. This would provide an opportunity for discussions with representatives of the County and District Law Associations and with other members in various localities.

A more detailed report of the discussion is filed with the permanent record of Research and Planning Committee Reports.

B.

ADMINISTRATION

1. SECOND BENCHERS' RETREAT

A suggestion has been made that a Benchers' Retreat should be organized for November 1990 or February 1991.

Several members of the Committee are of the view that the proposed timing is inappropriate. They recommend that plans be laid by the current Bench for a retreat sometime after the 1991 Benchers' election.

There is no consensus among members of the Committee on this matter.

Note: Deferred, see below.

C.

INFORMATION

No items.

ALL OF WHICH is respectfully submitted

DATED this 25th day of May, 1990

"J. Spence"
Chair

Item 1 under section B was deferred.

THE REPORT WITH THE EXCEPTION OF B-ITEM 1 WAS ADOPTED

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BUILDING COMMITTEE

Mr. Lamont presented the Report of the Building Committee of its meeting on May 10th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The BUILDING COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th of May, 1990 at 8:30 in the morning, the following members being present: Messrs. Lamont (Chair), Ground, Guthrie, Somerville and the Under Treasurer, D. A. Crosbie.

A.
POLICY

1. HERITAGE EASEMENT

A memorandum dated April 26, 1990 relating to a request originating with the Historical Society that the Law Society enter into a Heritage Easement was circulated separately. At the preliminary stage of this process Mr. James of the Historical Board asked our counsel, Mr. George Rust-D'Eye of Weir Foulds, whether the Law Society would be prepared to give an undertaking to negotiate a Heritage Easement. Mr. Rust-D'Eye strongly recommends that we agree to do so not only as an indication of our good faith in negotiations with the City, but also because a commitment to a designation in the terms currently proposed by the Historical Board may very well be used to our advantage in negotiating with the City in respect of cash payments in lieu of parking spaces and in respect of the new parks levy that is being imposed.

It is recommended that the Under Treasurer be authorized to provide an undertaking on behalf of the Law Society in respect of the commitment to negotiate a Heritage Easement.

B.
ADMINISTRATION

1. Repairs to Roof of the Benchers' Quarters

An initial examination in the attic space above the Benchers' Quarters carried out by Mr. Norman McMurrich and Ray Quinlan indicates that water leaking into the attic is causing the deterioration of the rafters and sill beams of the roof.

To assess the extent of the damage and the scope of the repair required, will require an engineering examination of the structure of the roof. The preliminary estimate of the cost of carrying out this physical inventory of the condition of the roof has been estimated at \$14,000. It is pointed out that this study will only assess the problem, it will not provide any remedy. In the circumstances, I have directed Mr. Norman McMurrich to proceed with the investigation and a report is expected by the end of the month.

It is requested that the directions given to Mr. Norman McMurrich by the Under Treasurer be ratified.

2. Attached is a report from the building superintendent, Ray Quinlan, with respect to portable office air conditioners which should be acquired to provide reasonable working conditions over the summer months when our central air conditioning system will not be in operation.

It is recommended that approximately 15 to 20 of these air conditioners be purchased at a total cost of approximately \$20,000 to \$24,000. When these units are no longer required they could probably be sold.

3. NORR Partnership Ltd. have offered to install at its own expense a copy of the Law Society arms in the new entrance lobby at the east doors. A sketch of the proposal will be available at the meeting.

It is recommended that approval be given to NORR to proceed.

C.
INFORMATION

1. In the course of renovating the Bar Admission Wing, the existing ceiling tiles were removed. This operation disclosed that the electrical wiring system in much of the Bar Admission Course and particularly the wiring used in conjunction with our computers and word processors has been installed over a period of time in a manner that does not allow it to be properly routed in appropriate conduits. We are advised that in order to rectify the existing wiring system and to provide an appropriate system for further expansion of operations, that the wiring should be removed and reinstalled in proper conduits or raceways. In addition, other changes that were not contemplated to be done at this time can be most effectively done now.

Attached is a copy of a report prepared by Kevin Knight outlining this problem in more detail. The estimated cost of this work is approximately \$150,000 to \$170,000 not including the \$80,000 referred to in the attached report. This will be an increase in the costs of the construction contract.

2. Federal Sales Tax

We have been advised that much of the work on the new building, particularly that relating to the educational facilities, should be exempt of Federal Sales Tax. Since all pricing to date has been inclusive of Federal Sales Tax, there should be a reduction in price associated with the recovery of the sales tax. We have been advised that in other projects such as hospitals and schools formulae have been developed which are applied to total costs to determine the percentage of the total cost that represents Federal Sales Tax. These formulae have been accepted by the Federal Government and can be used to arrive at a sum for the rebate of sales tax in a most efficient manner. We are proceeding to explore the process for obtaining the rebate on work done to date and on any subsequent work that is subject to the recovery.

3. Easement at Corner of Osgoode and Chestnut Streets

In 1914, the Law Society granted to the City of Toronto an easement to permit the rounding of the corner of Chestnut and Osgoode Streets which is the north/east corner of the Law Society property. The amount of land involved was approximately 86 square feet. The term of the easement which is registered on title provides that in the event that Chestnut and Osgoode Streets cease to be used as public highways, the easement rights of the City will revert to the Law Society. Work is continuing to trace the history of this easement since in 1922 our records disclose that the City decided not to proceed with the work. However, current plans of the Law Society land shows that the land covered by the easement is shown as part of the City property. If in fact the rights under the easement still exist and have not been altered by subsequent dealings between the City and Law Society, this 86 square feet of land may become a valuable parcel to be used in respect of our obligations to provide additional parking spaces or to meet the park levy.

ALL OF WHICH is respectfully submitted

DATED this 25th day of May 1990

"D. Lamont"
Chair

THE REPORT WAS ADOPTED

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CONVOCATION ADJOURNED AT 4:45 P.M.
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Confirmed in Convocation this day of , 1990.

Treasurer