

24th April, 1998

MINUTES OF CONVOCATION

Friday, 24th April, 1998
8:30 a.m.

PRESENT:

The Treasurer (Harvey T. Strosberg, Q.C.), Adams, Angeles, Armstrong, Arnup, Backhouse, Banack, Bobesich, Carey, Carpenter-Gunn, R. Cass, Chahbar, Cole, Copeland, Crowe, DelZotto, Eberts, Epstein, Farquharson, Feinstein, Finkelstein, Gottlieb, Harvey, Jarvis, Krishna, Lamont, Lawrence, O'Brien, MacKenzie, Manes, Marrocco, R. Martin, Millar, Murray, Ortved, Puccini, Ross, Ruby, Sachs, Scott, Stomp, Swaye and Topp.

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MOTION - REPORTS TAKEN AS READ

It was moved by Mr. Crowe, seconded by Ms. Ross that the Draft Minutes of Convocation for March 26th and 27th, 1998 and the Report of the Executive Director of Education and Addendum be adopted.

Carried

Draft Minutes of Convocation for March 26th and 27th, 1998

(see Draft Minutes in Convocation file)

THE DRAFT MINUTES WERE ADOPTED

Report of the Executive Director of Education and Addendum

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Executive Director of Education asks leave to report:

B.
ADMINISTRATION

B.1. CALL TO THE BAR AND CERTIFICATE OF FITNESS

B.1.1. (a) Bar Admission Course

B.1.2. The following candidates have completed successfully the Bar Admission Course, filed the necessary documents, paid the required fee, and now apply to be called to the Bar and to be granted a Certificate of Fitness at Convocation on Friday, April 24th, 1998:

Devendra Kumar Agrawal	38th Bar Admission Course
Patricia Marie Edith Allard	39th Bar Admission Course
Gary Shamie Batasar	39th Bar Admission Course
Raymond Earl Boggs	39th Bar Admission Course
Ward Glen Brownell	39th Bar Admission Course
Brian Shoham Budman	38th Bar Admission Course
Theresa A. Corrales	37th Bar Admission Course
Francesco Natale Del Giudice	39th Bar Admission Course
Glenn Stuart Harvey-McKean	39th Bar Admission Course
Caroline Anne Alice King	39th Bar Admission Course
Julie Marie Chantal Lafreniere	39th Bar Admission Course
Marcel Joseph Roger Larouche	39th Bar Admission Course
Toni Lynn Nahdee	38th Bar Admission Course
Mike Passeri	39th Bar Admission Course
Johannes Benjamin Ratelband	39th Bar Admission Course
Nicki Sharon Segal	38th Bar Admission Course
Blair Earl Walker	34th Bar Admission Course
Patrick Allan Westaway	39th Bar Admission Course

B.1.3. Transfer from another Province - Section 4

B.1.4. The following candidates have completed successfully the Transfer Examination or Phase Three of the Bar Admission Course, filed the necessary documents, paid the required fee, and now apply to be called to the Bar and to be granted a certificate of Fitness at Convocation on Friday, April 24th, 1998:

Aurelia Iva Mauro	Province of Quebec
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B.2. READMISSION FOLLOWING RESIGNATION AT OWN REQUEST

B.2.1. The following former member applies for readmission and has met all the requirements in that regard:

Ernest Stewart John Schmidt

Called:

March 28th, 1990

Resigned:

September 29th, 1995

B.3. MEMBERSHIP UNDER RULE 50

B.3.1. (a) Retired Members

B.3.2. The following members are at least sixty-five years of age and fully retired from the practise of law, and request permission, under Rule 50 made under the Law Society Act, to continue their memberships in the Society without payment of annual fees.

James Allan Devenny

Ottawa

Robert Charles Hays

Kitchener

Charles Michael McKeown

Toronto

B.4. RESIGNATION - SECTION 12 OF REGULATION 708 MADE UNDER THE LAW SOCIETY ACT

B.4.1. The following members apply for permission to resign their memberships in the Society and have submitted Declarations/Affidavits in support. In all cases the annual filings are up to date. In cases where the member was engaged in the practice of Ontario law for any amount of time, the member has declared that all trust funds and clients' property for which they were responsible have been accounted for and paid over to the appropriate persons. They have further declared that all clients' matters have been completed and disposed of, or arrangements made to the clients' satisfaction to have their papers returned to them, or have been turned over to another lawyer. The Complaints, Audit and Staff Trustees departments all report that there are no outstanding matters with these members that should prevent them from resigning. These members have requested that they be relieved of publication in the Ontario Reports:

1. Larry Thomas Beare of Toronto, was called to the Bar on March 26, 1971 and practised law from March 1971 to September 1985.
2. Deborah Ann Lavigne of Orleans, was called to the Bar on April 14, 1982, and practised law from call date to 1995.
3. Carol Angela Leneveu of Toronto, was called to the Bar on February 8, 1994 and practised law from February 1994 to December 20, 1996.
4. Jacqueline Grace McQueen of Vancouver, British Columbia, was called to the Bar on February 16, 1995 and practised law until June 17, 1996.
5. Leigh Anne Taylor of Vancouver, British Columbia was called to the Bar on April 15, 1988 and practised law from April 15, 1988 to February 3, 1995.
6. Russell Yurkow of Etobicoke, was called to the Bar on April 19, 1963 and practised law until October 1997.

C.
INFORMATION

C.1. ROLLS AND RECORDS

C.1.1. (b) Deaths

C.1.2. The following members have died:

Edward Gordon Sheasby Calgary, Alberta	Called: June 20, 1969 Died: January 10, 1997
Arthur Otto Klein Willowdale	Called: September 21, 1933 Died: October 29, 1997
John Ross Hetherington Toronto	Called: November 19, 1925 Died: December 24, 1997
James Arthur Wright Montreal, PQ	Called: June 18, 1931 Died: January 19, 1998
Ilvio Anthony Vannini Sault Ste. Marie	Called: September 16, 1943 Died: February 1, 1998
James Wild Eayrs Toronto	Called: April 9, 1984 Died: February 6, 1998
Thomas Henry Van Sickler Agincourt	Called: June 23, 1955 Died: February 18, 1998
Gerald Ernest Vickers Simcoe	Called: September 16, 1954 Died: March 1, 1998
Ian Michael Blandford Jameson Toronto	Called: June 23, 1955 Died: March 28, 1998

C.1.5. (b) Permission to Resign

C.1.6. The following members were permitted to resign their memberships in the Society and their names have been removed from the rolls and records of the Society:

Gordon Nicholas Lewchuk Charlotte, NC	Called: April 14, 1978 Resigned: March 26, 1998
John Calvin Bracewell Sarnia	Called: March 28, 1989 Resigned: March 26, 1998

24th April, 1998

C.1.7. (c) Disbarments

C.1.8. The following members were disbarred and their names removed from the rolls and records of the Society:

Bruno Mario Toneguzzi
Nepean

Called: March 25, 1977
Disbarred: March 26, 1998

C.1.9. (d) Membership in Abeyance

C.1.10. 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:

Paul Urbain Rivard
Toronto

Called: March 22, 1974
Appointed to the Ontario
Court (General Division)
November 18, 1997

Alphonse Thomas Lacavera
Fonthill

Called: March 22, 1968
Appointed to the Ontario
Court (Provincial Division)
March 2, 1998

C.2. CORRECTION TO MARCH 27TH REPORT OF EXECUTIVE DIRECTOR OF EDUCATION

C.2.1. Item B.2. on page two of the report ought not to have included Lawrence Charissios Ducas as a former member seeking readmission following resignation at own request.

ALL OF WHICH is respectfully submitted

DATED this the 24th day of April, 1998

REPORT OF THE EXECUTIVE DIRECTOR OF EDUCATION

24TH APRIL 1998

ADDENDUM

B.
ADMINISTRATION

B.1. CALL TO THE BAR AND CERTIFICATE OF FITNESS

B.1.1. (a) Bar Admission Course

B.1.2. The following candidates have completed successfully the Bar Admission Course, filed the necessary documents, paid the required fee, and now apply to be called to the Bar and to be granted a Certificate of Fitness at Convocation on Friday, April 24th, 1998:

Joseph Henri Paul George Jr. Fournier	39th Bar Admission Course
Ritu Gupta	39th Bar Admission Course
Carlene Denise Harris	37th Bar Admission Course
Albert Chukwuemeka Nwoko	39th Bar Admission Course
Margaret Agnes Parsons	36th Bar Admission Course
Bhupinder Singh Somal	39th Bar Admission Course
Yuni Monica Song	38th Bar Admission Course
Anthony Trung Long Tran	39th Bar Admission Course

THE REPORT AND ADDENDUM WERE ADOPTED

CALL TO THE BAR (Convocation Hall)

The following candidates listed in the Report of the Executive Director of Education and Addendum 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. They were then presented by Mr. Lamont to Mr. Justice Gerald F. Day to sign the Rolls and take the necessary oaths.

Devendra Kumar Agrawal	38th Bar Admission Course
Marie Patricia Edith Allard	39th Bar Admission Course
Gary Shamie Batasar	39th Bar Admission Course
Raymond Earl Boggs	39th Bar Admission Course
Ward Glen Brownell	39th Bar Admission Course
Brian Shoham Budman	38th Bar Admission Course
Theresa A. Corrales	37th Bar Admission Course
Francesco Natale Del Giudice	39th Bar Admission Course
Joseph Henri Paul George Jr. Fournier	39th Bar Admission Course
Ritu Gupta	39th Bar Admission Course
Carlene Denise Harris	37th Bar Admission Course
Glenn Stuart Harvey-McKean	39th Bar Admission Course
Caroline Anne Alice King	39th Bar Admission Course
Julie Marie Chantal Lafreniere	39th Bar Admission Course
Marcel Joseph Roger Larouche	39th Bar Admission Course
Toni Lynn Nahdee	38th Bar Admission Course
Albert Chukwuemeka Nwoko	39th Bar Admission Course
Margaret Agnes Parsons	36th Bar Admission Course
Mike Passeri	39th Bar Admission Course
Johannes Benjamin Ratelband	39th Bar Admission Course
Bhupinder Singh Somal	39th Bar Admission Course
Yumi Monica Song	38th Bar Admission Course
Anthony Trung Long Tran	39th Bar Admission Course
Blair Earl Walker	34th Bar Admission Course
Patrick Allan Westaway	39th Bar Admission Course

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24th April, 1998

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Report of the Professional Regulation Committee

Re: Settling of Orders of Convocation

Mr. Ortved presented that item of the Report respecting the settling of Orders for Convocation's approval.

Professional Regulation Committee
April 9, 1998

Report to Convocation

Purpose of Report: Decision-Making and Information

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TERMS OF REFERENCE/COMMITTEE PROCESS

1. The Professional Regulation Committee ("the Committee") met on April 9, 1998. In attendance were:

Eleanore Cronk (Chair)

Gavin MacKenzie (Vice-Chairs)
Niels Ortved

Paul Copeland
Marshall Crowe
Gary Gottlieb
Ross Murray
Hope Sealy

Staff: Lesley Cameron, Jonathan Fedder, Scott Kerr, Felecia Smith, Richard Tinsley, Jim Varro, Jim Yakimovich

2. This report contains:

- ♦ the Committee's policy proposals for settling orders of Convocation;
- ♦ the Committee's information reports on:
 - guidelines for retention and oversight of outside counsel engaged by the Law Society for professional regulation matters;
 - a new working group reviewing issues relating to the flow of information from the Law Society to law enforcement agencies; and
 - the "round table" discussion meeting involving regulatory staff and counsel appearing for or at the Law Society on regulatory matters, held on April 7, 1998.

SETTLING OF ORDERS OF CONVOCATION

A. NATURE AND SCOPE OF THE ISSUE

3. On March 27, 1998, Convocation adopted the Committee's proposal to revise the process by which orders of Discipline Convocation are distributed to interested parties.
4. On an issue related to this matter, the Committee considered procedures by which orders of Discipline Convocation, where the circumstances arise, could be settled.
5. The Committee reviewed various options and is proposing one of them for Convocation's approval.

B. BACKGROUND

6. To the recollection of discipline staff and the Secretary, there has been only one case in which any controversy or concern arose about an order of Convocation. That case was decided in June 1997, and Convocation eventually settled the terms of the order in November 1997.
7. At that time, Convocation heard representations on the issues of concern to the member from the member's counsel and heard from the Society's discipline counsel, and decided on the language of the order.

Current Practice

8. At the conclusion of Discipline Convocation's sitting, after the matter has been decided and the penalty determined, the Secretary to Convocation, Richard Tinsley, and his staff prepare the order based on Convocation's disposition as articulated through the Treasurer in Convocation and recorded by the Secretary in the minutes of Convocation.
9. There is no procedure whereby the parties to the proceeding before Convocation, being the Law Society through its discipline counsel and the member or the member through his or her counsel, review the language or the substance of the order before it is finalized through Mr. Tinsley's office.
10. The orders are then sent to the members who were the subject of the proceedings and notice concerning the orders is forwarded to the five current recipients of information on Convocation's dispositions, in accordance with the policy of Convocation of March 27, 1998, noted above.

C. POLICY ANALYSIS

Discussion

11. The Committee considered the merits of establishing a procedure for settling orders.
12. As noted above, the incidence of cases where the need for a review and decision on the contents of an order is extremely small. In the case where the issue arose, Convocation addressed it in a timely manner and the matter was resolved to the satisfaction of the member and the member's counsel.
13. While it is arguable that Convocation's procedural response in that case could be applied on a case by case basis as the need arises, in the view of the Committee, there is merit to establishing a consistent, articulated approach, notwithstanding the infrequency of the circumstances which may warrant the settling of an order.
14. In the Committee's view, the fact that these circumstances *can* arise is sufficient justification for Convocation to establish a procedure which is known to the parties and which provides for some certainty respecting the *process* for resolving any disputes about the language of an order.

The Options

15. The Committee considered when the opportunity to address issues about an order should arise. The following options were discussed:

- a. Parties to Convocation could be notified that an order may be settled on the day the matter is scheduled before Convocation, so that the parties come prepared to address any issues which may arise from the proceeding and the ultimate decision of Convocation. A draft order could be prepared as a result of discussions between counsel for the parties prior to Convocation, with options based on the anticipated dispositions Convocation could make.

The Committee felt that the requirement of a draft order would, firstly, not be workable in some cases. Further, the process could be cumbersome. The parties will often not have an order which matches Convocation's disposition, and that translates to an inefficient use of the already stretched resources of discipline counsel and Secretariat staff.

- b. The parties could be allowed a certain number of days after Discipline Convocation to settle the order, where there is an issue that cannot be resolved immediately. Such a procedure could include an acknowledgement that the order disposing of the matter has been made at Convocation and that the form or language of the order is to be settled by the parties within a specified time period.

While the Committee saw how this procedure may be of use in those cases where more complicated dispositions were made by Convocation, it felt that similar disadvantages as described above could be experienced in this procedure. There is no certainty that timely responses would be received from the parties, which would only result in a delay in finalizing the matter.

- c. As a variation of a. above, the Treasurer in announcing the disposition of any given matter could simply "dictate" the order, i.e. "Convocation's order is that....". The parties can then make submissions immediately if there is any difficulty with the order.

The Committee felt that this would be the simplest and most direct way of confirming the language of the order and ensuring that the order itself meets with the approval of discipline counsel and the member or his or her counsel. There would be no need to add further steps (for example, circulating a draft order to the parties after Convocation) given that the Treasurer would clearly state at the relevant point in the proceeding that the order is now being articulated, based on the substance of the motion for disposition of the matter made and carried by Convocation, with the intention that the order, if necessary, be discussed and settled before Convocation concludes.

The Committee's Proposal

16. The Committee agreed that option c. above is a fair and workable procedure. In summary, it provides that:

- orders are to be settled on the day on which the matter proceeds before Discipline Convocation;
- after the disposition has been decided, the Treasurer in public provides clear notice that the order of Convocation is being articulated based on the motion as recorded by the Secretary to Convocation, and then articulates the order;
- the parties are then invited to make submissions on the order as stated by the Treasurer for the purpose of settling the language of the order;
- after submissions are made, or in the absence of any submissions, the language of the order is confirmed.

17. The Committee presents all options discussed for Convocation's consideration.

Decision for Convocation

18. Convocation must decide whether:
- a. to accept the Committee's proposal as set out in paragraph 16 above;
 - b. to accept the Committee's proposal with amendments Convocation deems appropriate;
 - c. to decide upon other options either discussed above or to be articulated by Convocation.

GUIDELINES FOR RETENTION AND OVERSIGHT OF OUTSIDE COUNSEL INVOLVED IN PROFESSIONAL REGULATION MATTERS FOR THE LAW SOCIETY

NATURE OF THE ISSUE

19. In the fall of 1997, Convocation approved the creation of the Litigation Committee, the proposed mandate of which was, *inter alia*, to establish an oversight process for outside counsel engaged by the Law Society, as required, for various matters of litigation involving the Law Society.
20. It was determined that because of the possibility of an appearance of or actual conflict in benchers overseeing the retention and activities of outside counsel in matters connected with the regulatory process that may come before Discipline Convocation, an oversight role should be specifically designated through guidelines for staff, within the office of the Law Society's Secretary, with the involvement, where necessary, of the Chair of Discipline.¹
21. This cross-over between the Litigation and Professional Regulation Committees as a result of matters within the regulatory process for which outside counsel are engaged prompted the Professional Regulation Committee to initiate the drafting of guidelines specifically for the retention and oversight of counsel involved in such matters.
22. These draft guidelines will serve as the "template" for the general guidelines which are currently being drafted by the Litigation Committee for presentation to Convocation in the near future. The guidelines which follow in this report will be presented to Convocation for approval with the Litigation Committee's general guidelines.
23. In the interim, the guidelines are provided for the information of Convocation.

The Committee's Draft

24. The draft guidelines proposed by the Committee² which follow on page 9 include an introductory section which explains the purpose and scope of the guidelines. In large part, the guidelines, as stated in the Introduction, respond to the need to "communicate to [the Law Society's] outside counsel uniform guidelines setting forth its expectation for the effective and cost-efficient handling of regulatory matters, including litigation, on its behalf."
25. The guidelines cover the following areas:
- circumstances in which outside counsel must/may be retained;
 - who exercises the authority to retain outside counsel;
 - the conditions of the retainer;

¹The Chair and Vice-Chairs of Discipline, who also constitute the Discipline Authorization Committee (and who, with one exception, are also the Chair and Vice-Chairs of the Professional Regulation Committee), do not sit in Discipline Convocation on the matters which they authorized for disciplinary action.

²The Chair wishes to thank Richard Tinsley who provided considerable assistance in the drafting of the proposed guidelines.

- a mechanism for approval of accounts of outside counsel;
 - co-ordination of activities of outside counsel, which essentially outlines the monitoring function of the Law Society;
 - fees and billing arrangements; and
 - what constitutes acceptance of the guidelines by outside counsel.
26. A draft "Agreement for Performance of Legal Services" to be executed by all outside counsel retained for regulatory matters is appended to the draft guidelines.
27. The following are the Committee's draft guidelines:

GUIDELINES FOR RETENTION AND OVERSIGHT OF OUTSIDE COUNSEL REPRESENTING THE LAW
SOCIETY OF UPPER CANADA IN PROFESSIONAL REGULATION MATTERS

I. INTRODUCTION

In recognition of the mandate of the Law Society of Upper Canada (the "LSUC") to govern the legal profession in Ontario in the public interest, and in response to the ever-increasing cost of professional regulation matters including litigation, it is incumbent on the LSUC to communicate to its outside counsel uniform guidelines setting forth its expectations for the effective and cost-efficient handling of regulatory matters, including litigation, on its behalf. The LSUC's primary goal, of course, is to ensure that the LSUC continues to receive excellent legal representation, but it must also request that outside counsel retained on its behalf assist the LSUC in ensuring timely and accountable provision of legal services and in avoiding duplicative or unnecessary expenses.

These Guidelines, therefore, provide guidance as to the LSUC's requirements of outside counsel retained on its behalf on professional regulation matters. These Guidelines apply to all retainers of outside counsel by the LSUC in respect of professional regulation matters and are supplementary to and form part of the attached Agreement for Performance of Legal Services to be entered into by the LSUC and outside counsel retained by it.

II. APPLICATION

Without limiting the generality of the foregoing, these Guidelines apply to counsel retained by the LSUC to provide advice, opinions or assistance on, investigate or prosecute matters or act on or respond to judicial review applications and appeals coming within the jurisdiction of the Professional Regulation Committee of the LSUC (the "PRC").

III. CIRCUMSTANCES IN WHICH OUTSIDE COUNSEL SHALL BE RETAINED

Outside counsel shall be retained pursuant to these Guidelines:

- (a) to investigate complaints made against Benchers or members of the LSUC staff save and except where, with the prior written approval of the Chair of the PRC, LSUC staff are authorized to deal with the matter; and
- (b) to prosecute complaints of professional misconduct or conduct unbecoming authorized against a Bencher or member of staff of the Law Society.

IV. CIRCUMSTANCES IN WHICH OUTSIDE COUNSEL MAY BE RETAINED

Outside Counsel may be retained pursuant to these Guidelines:

- (a) to act on or respond to applications for judicial review or appeals in relation to professional discipline proceedings before the LSUC; or
- (b) in such other circumstances as the Chair of the PRC directs.

V. AUTHORITY TO RETAIN OUTSIDE COUNSEL

All outside counsel retained by the LSUC pursuant to these Guidelines will be retained by the Secretary of the LSUC in consultation with the Chair of the PRC.

In selecting outside counsel to be retained on behalf of the LSUC, regard will be had to the following:

- (a) the qualifications and expertise of outside counsel candidates for the matter at issue, including the experience of outside counsel candidates in matters of a similar nature;
- (b) the willingness of outside counsel candidates to adhere to these Guidelines and the terms of the attached Agreement for Performance of Legal Services;
- (c) equity and diversity hiring practices and policies of the LSUC as embodied in the LSUC's contract compliance policy from time to time;
- (d) the availability of outside counsel candidates within the time frame required by the LSUC; and
- (e) the experience of outside counsel candidates with alternative dispute resolution techniques and the willingness of outside counsel candidates to consider and engage in appropriate cases in alternative methods of dispute resolution.

VI. CONDITIONS OF RETAINER

All outside counsel retained by the LSUC pursuant to these Guidelines shall adhere to the provisions of these Guidelines and the terms of the attached Agreement for Performance of Legal Services unless otherwise agreed in writing by the Secretary of the LSUC or the Chair of the PRC. Without limiting the generality of the foregoing, all outside counsel retained by the LSUC pursuant to these Guidelines:

- (a) shall be in compliance with the LSUC's contract compliance policy as in force from time to time;
- (b) except where alternate fee arrangements are agreed upon in writing by the Secretary of the LSUC and approved by the Chair of the PRC, shall be paid a maximum hourly rate in accordance with the hourly rates provisions of the attached Agreement for Performance of Legal Services; and
- (c) shall be retained pursuant to the attached Agreement for Performance of Legal Services and shall report to and take instructions from the Secretary of the LSUC or the Chair of the PRC as set out in the said Agreement for Performance of Legal Services.

VII. APPROVAL OF ACCOUNTS

All accounts submitted to the LSUC by outside counsel retained pursuant to these Guidelines shall be approved by the Secretary of the LSUC or the Chair of the PRC. From time to time, the PRC, in consultation with the Litigation Committee of the LSUC, shall undertake or cause to be undertaken audits of accounts submitted to the LSUC by outside counsel retained on its behalf pursuant to these Guidelines. Outside counsel retained by the LSUC pursuant to these Guidelines shall cooperate fully with the LSUC in respect of all such audits.

VIII. COORDINATION OF ACTIVITIES

It is expected that outside counsel retained by the LSUC pursuant to these Guidelines will work with the LSUC in developing an overall case strategy and will keep the LSUC, through the Secretary of the LSUC, promptly informed of important developments and deadlines in all matters being handled by outside counsel. Outside counsel retained by the LSUC pursuant to these Guidelines must obtain the prior consent of the Secretary of the LSUC or the Chair of the PRC before undertaking major expenditures such as investigations, examinations, employment or retainer of experts, filing of motions (except routine matters such as extensions of time), and significant research or preparation of legal memoranda. With respect to particular items:

- (a) Legal Research and Memoranda: All significant legal research conducted by or on behalf of outside counsel retained by the LSUC pursuant to these Guidelines must be authorized in advance by the Secretary of the LSUC. Outside counsel should be aware that, with some exceptions, the LSUC is primarily concerned with their legal conclusions. Thus, the preparation of legal memoranda should generally be avoided except for brief summary reports. Moreover, the LSUC should not be charged when such memoranda are edited or re-worked for the purposes of improving an associate's research or writing skills. Outside counsel should also be aware that on professional regulatory matters the LSUC has considerable in-house expertise. Accordingly, no significant legal research matters should be undertaken by outside counsel without the prior authority of the Secretary of the LSUC in order to ensure that duplicative or unnecessary legal research is not undertaken. Finally, if the legal research to be undertaken is also applicable to other cases being handled by outside counsel for other clients, the LSUC should be charged only for its proportionate share of the costs incurred with respect to such research;
- (b) Provision of Copies of Documents: In order to assist the LSUC in planning case strategy and setting financial reserves, outside counsel should send the Secretary of the LSUC copies of all pleadings, discovery and examination documents in the form in which they were filed/served, as well as any other significant external or internal writings (including correspondence to or from counsel for other parties). Documents should be delivered or faxed, at the cost of the LSUC, only when time deadlines so require.
- (c) Settlement or Negotiated Resolutions: The attached Agreement for Performance of Legal Services requires that outside counsel retained by the LSUC pursuant to these Guidelines provide an initial case analysis, upon assignment of a file, within 30 days of being retained save in urgent circumstances. In initially evaluating the matter, outside counsel should consider such issues as the advisability of exploring early settlement or alternative methods of dispute resolution, the need for and identification of potential expert witnesses and whether any special investigative efforts are needed and whether these can be done by the LSUC in-house.

The LSUC has at times obtained excellent results by exploring settlement at an early stage in professional regulation proceedings including litigation and, in some instances, prior to the initiation of such proceedings. Thus, the LSUC may wish to discuss with outside counsel the advisability of entering into early settlement or other resolution discussions at the outset of a case or proceeding. Outside counsel should not undertake any such discussions with opposing counsel without first obtaining the approval of the Secretary of the LSUC.

- (d) Media Inquiries or Coverage: In order to ensure consistency and uniformity in setting forth the LSUC's position on professional regulation matters, outside counsel retained by the LSUC pursuant to these Guidelines should not respond to any media inquiries, or initiate same, without first consulting with the Secretary of the LSUC or, in urgent situations and in the absence of the Secretary, with the Chair of the PRC.

IX. FEES AND BILLING ARRANGEMENTS

As noted above, the fees and billing arrangements applicable to outside counsel retained by the LSUC pursuant to these Guidelines are set out in the attached Agreement for Performance of Legal Services.

Generally, for each matter handled on behalf of the LSUC by outside counsel, the LSUC requests the proposals and suggestions of outside counsel for reducing the costs of the proceeding, including billing methods other than hourly rate billing and alternative dispute resolution opportunities, etc. The LSUC wants the suggestions of its outside counsel in developing a plan, specific to the facts of each case, to contain costs.

No change in hourly rates or other significant expenses during a retainer may be implemented without the prior approval of the Secretary of the LSUC in consultation with the Chair of the PRC.

X. ACCEPTANCE OF THESE GUIDELINES

The LSUC will consider outside counsel's submission of accounts to the LSUC, after outside counsel's receipt of these Guidelines, as acceptance by outside counsel of these Guidelines and the attached Agreement for Performance of Legal Services.

AGREEMENT FOR PERFORMANCE OF LEGAL SERVICES

I. INTRODUCTION

This Agreement is subject to the attached Guidelines for Retention and Oversight of Outside Counsel Representing the Law Society of Upper Canada in Professional Regulation Matters. The purpose of this Agreement is to establish fees and rules for the provision of all legal services rendered by appointed counsel ("Counsel") to the Law Society of Upper Canada (the "LSUC") in matters coming within the jurisdiction of the Professional Regulation Committee (the "PRC") of the LSUC. This Agreement may be cancelled or amended by thirty (30) days written notice delivered by either party hereto (in the case of cancellation) and signed by both parties hereto (in the case of amendment).

II. FEES AND BILLING PROCEDURES

The maximum hourly rate to be charged by counsel is as follows:

Senior Counsel 12 years since call	-	\$250.00
Counsel 6 to 12 years since call	-	175.00
Counsel 3 to 6 years since call	-	120.00
Counsel at Bar less than 3 years	-	90.00
Law Clerks/Students	-	50.00

Hourly rates charged should include all general overhead and support staff expenses. Time spent by Counsel or his/her law firm with respect to the opening and closing of files, secretarial work, internal messenger services, use of internal data banks and other internal costs are deemed to be included in the hourly rate of Counsel. The LSUC does not expect to be billed by Counsel for routine secretarial work, messenger services, office supplies, or administrative fees for opening a file or billing a file as such expenditures are considered to be part of the normal overhead expenses of Counsel.

Disbursements for overtime and meals should not be charged to the LSUC nor should the LSUC be charged for word processing services; postage; taxi fares for staff who work late; photocopy expenses at more than cost to Counsel; and computer time other than reasonable and authorized computer legal research, and then only at cost.

In addition, unless prior written authorization therefore is obtained from the Secretary of the LSUC, the LSUC will not pay for:

- (a) More than ten (10) docketed hours per day, including per hearing or trial day;
- (b) Delivery/filing charges by firm personnel;
- (c) As noted above, time spent in preparing or processing accounts to the LSUC or budgets;
- (d) Secretarial or clerical tasks performed by any timekeeper including such matters as date stamping, conflict checks, collating, binding, copying, faxing, scanning, calendaring, scheduling, making travel arrangements, opening or closing matters, and managing clerical work;
- (e) Organization of Counsel's file or documents;
- (f) Significant legal research or the preparation of significant legal memoranda;
- (g) Diary maintenance or internal status reviews;
- (h) The use of expedited delivery services or messenger services, save in the case of urgency having regard to time deadlines;
- (i) Meal expenses within Counsel's local jurisdiction;
- (j) Other overhead items including, but not limited to, the use of firm conference rooms, equipment rentals, the use of books or periodicals, attendance at or conduct of seminars, staff overtime and related expenses, secretarial services and word processing;
- (k) Fax transmissions. Faxes received may be charged at the rate of \$0.15 per page. Long distance connection fees for fax transmissions may be charged;
- (l) Time spent in transit by Counsel, in excess of one-half the applicable hourly rate for the involved Counsel. No fees may be charged for time spent in transit unless such travel is necessitated by the demands of the matter being handled for the LSUC. In appropriate circumstances, Counsel should consider the possibility of conducting long distance discussions by conference call instead of travelling. If transit time is spent working for one or more clients in addition to the LSUC, the LSUC should be billed only for its proportionate share of such time spent.

Disbursements incurred by Counsel in relation to travelling on LSUC business shall be approved by the Secretary of the LSUC. While travelling on LSUC business, Counsel are entitled to stay at comfortable hotels and eat nourishing meals. However, the LSUC should not be billed for first-class or business class airline tickets or hotel accommodations or meals and entertainment not approved by the Secretary of the LSUC.

III. ACCOUNTS

Accounts will be rendered monthly to the Secretary of the LSUC and will include, at a minimum, the following information:

- Date of each service rendered;
- Time period covered by account;
- Detailed description of the services rendered;
- Amount of time involved for services rendered;
- Identity of person providing service;
- Hourly rate of person providing service; and
- Number of hours spent by each person providing service.

Computer records in support of accounts will be provided to the Secretary of the LSUC upon reasonable request therefor.

24th April, 1998

IV. REPORTING REQUIREMENTS

Upon assignment of a file, except in urgent circumstances, Counsel will report in writing to the Secretary of the LSUC within 30 days of being retained with an initial assessment of the matter and setting out a proposed course of action:

1. Regarding additional investigation or expert opinions or advice which may be required, together with supporting reasons therefor and an estimate of the projected costs thereof, including fees and disbursements;
2. Including an assessment of the potential for employing alternative dispute resolution techniques in the matter and the suggested nature and timing of same where applicable;
3. Including, in discipline hearings where Counsel is retained as prosecuting counsel, a recommendation as to the penalty that is to be sought at the hearing.

Subsequent written status reports are to be delivered to the Secretary of the LSUC on a quarterly basis, unless otherwise agreed to by the Secretary of the LSUC in writing, and more frequently as circumstances require.

V. DELEGATION

- (1) Counsel will have carriage of the file and may assign specific portions of the work to associate counsel, other counsel or law clerks within the Counsel's firm only with the prior agreement of the Secretary of the LSUC.
- (2) Only one lawyer may attend a hearing or meeting at the cost of the LSUC unless the prior written consent of the Secretary of the LSUC is first obtained.

VI. INSTRUCTIONS

Counsel will report to and take instructions from the Secretary of the LSUC and, as occasion requires, in matters concerning complaints, audits, investigations and discipline, the Chair of the PRC.

VII. CONFLICT OF INTEREST

Counsel hereby agrees not to act on behalf of any client in connection with any action or proceeding against the LSUC during the currency of her/his retainer by the LSUC.

DATED at the City of _____, in the Province of Ontario,
this _____ day of _____, 19 ____.

THE LAW SOCIETY OF UPPER CANADA

Per:

Counsel Retained by LSUC

(Name of Counsel retained on behalf of the
LSUC, from the Firm of
.....)

FLOW OF LAW SOCIETY INFORMATION TO LAW ENFORCEMENT AGENCIES

28. The Committee reviewed correspondence from Paul Copeland respecting the flow of information from the Law Society to the police or law enforcement authorities, in particular about lawyers who have been suspended or disbarred for misappropriation of trust funds.
29. The issues raised by Mr. Copeland relate to the policy of Convocation adopted in 1993 respecting the disclosure of information generally to the police about members under investigation by the Law Society, and whether that policy should be revisited to consider what information should automatically flow to the police at the initiation of the Law Society, after findings of misconduct in those cases where there may be a presumption of criminal activity.
30. The Committee determined that the companion question in the discussion of the above policy is whether the Law Society should examine what is disclosed, or should be disclosed, to the police at the pre-authorization stage of investigations.
31. Given the potential scope of the review, a working group of the Committee, comprised of Mr. Copeland and Hope Sealy, together with appropriate staff, has been struck to review these issues, in the context of the current policy, and the policy considerations related to any change which may expand the breadth or substance of the information disclosed about members to law enforcement agencies.
32. The working group will suggest to the Committee a time line for its report to Committee once an initial meeting has been held.

"ROUND TABLE" DISCUSSION MEETING

33. On April 7, 1998, the Chair of the Committee hosted a meeting in the format of a round table discussion focusing on the policies, procedures and process related to regulatory audits, complaints, investigations and prosecutions.
34. Approximately 40 people, including regulatory staff at the Law Society, the Vice-Chairs of the Committee and a number of counsel who appear for the Society or members of the Society in disciplinary or regulatory matters, attended the meeting.
35. The purpose of the meeting was to encourage in an informal setting an open exchange of views about the regulatory process on a non-case-specific basis, with an opportunity for the Society to respond to issues or concerns raised, where appropriate, through the Chair or Vice-Chairs or senior staff in the regulatory departments.
36. A number of issues were raised, relating to such matters as disclosure in the context of disciplinary proceedings, issues of privilege, delay in investigations and access to and understanding of Convocation's policies adopted from time to time on discipline, audit and complaints matters.
37. The Chair's report to the Committee on the round table discussion included notice that she and the Vice-Chairs, together with the Secretary, intend to review the issues arising from the meeting and determine how those requiring a further response from the Law Society should be dealt with.

.....

It was moved by Mr. Ortved, seconded by Mr. Gottlieb that the proposal set out in paragraph 16 on page 5 of the Report be adopted.

Proposal

- orders are to be settled on the day on which the matter proceeds before Discipline Convocation;
- after the disposition has been decided, the Treasurer in public provides clear notice that the order of Convocation is being articulated based on the motion as recorded by the Secretary to Convocation, and then articulates the order;
- the parties are then invited to make submissions on the order as stated by the Treasurer for the purpose of settling the language of the order;
- after submissions are made, or in the absence of any submission, the language of the order is confirmed.

Carried

MOTION - APPOINTMENT

It was moved by Mr. Carey, seconded by Mr. Armstrong that the following Benchers be appointed to the Law Society Medal Committee: Nancy Backhouse, William Carter, Gary Gottlieb and Heather Ross.

Carried

The Treasurer withdrew from Convocation and Mr. Krishna took the Chair as Acting Treasurer.

Report of the Governance Restructuring Implementation Task Force

Mr. Feinstein reported on the outcome of the meeting held on January 24th, 1998 of the Governance Restructuring Implementation Task Force the purpose of which was to develop criteria to assist Convocation in setting priorities.

Mr. Feinstein received Convocation's direction to continue with the work of the Task Force.

Governance Restructuring Implementation Task Force
April 24, 1998

Report to Convocation

Purpose of Report: Decision Making

SETTING CONVOCATION'S PRIORITIES

Issue for Convocation's Consideration

1. To begin the process of setting priorities for Convocation, a group of benchers has developed criteria to apply to projects and issues Convocation is interested in pursuing to determine which of those projects and issues are of sufficiently high priority to warrant the allocation of resources - both human and financial. This process is closely aligned with the annual planning cycle contemplated by the Policy Governance Model that is to precede the annual budget preparation.

2. The criteria are set out at page 9 of this report. Convocation is requested to address the following questions.
 - 1) Does Convocation agree that the criteria developed are the appropriate ones to govern its priority setting?
 - 2) If not, what criteria are appropriate to govern Convocation's priority setting?

Why Setting Priorities is Necessary

3. Convocation has not set an agenda for its deliberations and policy development for the upcoming year. As a result, the number of projects and issues being developed, both within and outside of committees, has proliferated. Convocation has, within the past year, approved more than 60 issues for study. A list of the approved issues is set out at page 11.
4. Although Convocation has approved issues lists for each of the committees, and the committees have assigned priorities to their issues, Convocation has not assigned any overall priority to issues. The result is that committees are setting the priorities, thereby setting the agenda for Convocation, which is not what was contemplated by Policy Governance.
5. Furthermore, without an annual agenda or priorities, the budget drives the programs, rather than being driven by the programs.
6. The Law Society does not have the resources - human or financial - to develop and/or implement policy with respect to 60 different matters. Until Convocation sets its priorities, the CEO is left to merely guess about where the limited resources ought to be allocated.

The Committee Process

7. On January 24, 1998, the Governance Restructuring Implementation Task Force hosted a meeting to begin the process of setting priorities. The Chairs of all the committees or their designates were invited to participate. The meeting was facilitated by Carl Aspler, a professional facilitator with experience assisting organizations to develop strategic plans and set priorities.
8. In attendance at the meeting were Abe Feinstein (Chair), Ron Manes (Vice-Chair), Bob Aaron, Elvio DelZotto, Susan Elliott, Phil Epstein, Jane Harvey, Vern Krishna, Heather Ross, Harriet Sachs, Harvey Strosberg, and Rich Wilson. Staff members John Saso, Richard Tinsley, Katherine Corrick, Sophia Sperdakos and Jim Varro attended the meeting to provide background information and assist in the facilitation.

Purpose of Report

9. The purpose of this report is to summarize what occurred at the meeting. The report includes the meeting's agenda, the operating rules for the meeting, and the results of the deliberations.

The Meeting

10. The object of the meeting was to develop criteria that will help Convocation set its priorities among the 65 issues it has identified. The agenda of the meeting was as follows:
 - ◆ Welcome, Introduction and Expectations
 - Facilitator's role
 - Rules for the meeting
 - ◆ Issues with the Current Process of Priority Setting
 - ◆ How Other Organizations Make Decisions
 - ◆ Developing Criteria - First Pass
 - ◆ Consolidation and Clarification of Criteria

- ◆ Ranking of Criteria
 - ◆ Application of Criteria
 - ◆ Planning Next Steps
11. To remain focused on the task, the group agreed that the only topic to be discussed was the criteria for setting priorities. The following issues were not matters for discussion at the meeting:
- ◆ The process for identifying issues
 - ◆ How the committee structure is working
 - ◆ Who should be dealing with the issues - benchers or staff
 - ◆ Whether criteria are required at all
 - ◆ General governance issues
 - ◆ The Role Statement
12. The discussion began by benchers identifying the process currently used by the Law Society to set priorities. A number of means were identified - whether something is within budget, whether the person proposing the issue has the loudest voice or is the "squeakiest wheel", priorities historically determined by committees who are given no guidance on the criteria to apply. It was agreed that the current process was in fact not a process at all and required some definition.
13. Carl Aspler explained some of the advantages of articulating the criteria used to set priorities. It will make Convocation's decision-making process more open. It will create a common set of standards for all benchers and committees to apply to issues. It will result in more consistency among the decisions made. Overall, it will produce a more objective decision-making process.
14. Carl described the criteria other organizations use to set priorities amongst competing projects. They can be related to the values of the organization (e.g. speed, simplicity, self-confidence), the organization's strategic direction (e.g. to take first or second market share), the organization's constituent's satisfaction (e.g. public confidence, access to professional development), service quality measures (e.g. continuity of patient care), or financial performance measures (e.g. impact of productivity, growth potential).
15. To select among competing projects, an organization might use the following criteria:
- ◆ the project must affect more than one department
 - ◆ the project must have a clear process owner
 - ◆ implementation must not require an increase in staff
 - ◆ the results must be visible within six months
 - ◆ the project must use existing technology
16. Following this brief introduction, the group was divided into two small groups to generate a list of potential criteria. The small groups were asked to address the following:
- "We have many issues that need resolving. We cannot manage all of them. We need to know what makes an issue important. What is important to you? What will help you in deciding whether one issue is more important than another?"
17. Group One's List of Possible Criteria
- 1) Equity
- ◆ How will this impact on the disadvantaged?
 - ◆ Does this promote equity and diversity?
- 2) Constituent, media, public perception and actual impact on public
- ◆ How will the resolution of this issue be perceived by the media and the public, in the long term and short term?

- ◆ What will be the short and long term impact on the public and the profession?
- ◆ Will the resolution of this issue elevate the profession's prestige?
- ◆ Will the resolution of this issue elevate the Law Society's prestige?
- 3) How will this affect our relations with the government?
- 4. Is this achievable?
- 5) Will this enhance the competence of our members?
- 6) Is this issue creative and innovative? Will the implementation of this issue stifle creativity and innovation?
- 7) Cost
 - ◆ What will it cost?
 - ◆ How will it impact on fees?
 - ◆ What will be the benefit?
- 8) Statutory Obligation
 - ◆ Must this be done because of statute?
- 9) Timeliness
 - ◆ Will the situation get worse or deteriorate if not done immediately? Can it wait?
- 10) How will this impact on our remaining a self-governing profession?
- 11) Will this improve the capacity of the profession to do business?
- 12) Will this improve the capacity of the Law Society to do business?
- 13) Is this an issue related to governing the profession?
- 14) Public Interest
 - ◆ Is this in the public interest?
 - ◆ Will this have a positive impact on the justice system?
 - ◆ How will this impact on the disadvantaged?
- 15) Will this enhance ethical behaviour?
- 16) Will this increase collegiality among benchers?
- 17) Will this impact on communication within the profession?
- 18) Is this a hot topic?
- 19) Is the Law Society acting as a good corporate citizen?
- 18. Group Two's List of Possible Criteria
 - 1) Social, political, personal cost
 - ◆ Consequence of acting vs. not acting
 - ◆ Risk of failure vs. prospect of success
 - ◆ Political
 - ◆ Social
 - ◆ Reputation
 - ◆ Personal (remain/become respected as governors)
 - 2) Who is sponsoring this and why
 - ◆ External and internal influences
 - ◆ Social, political cost
 - ◆ Status of the "who"

- 3) Positive or negative effect on the public
 - ◆ prevention of harm
 - ◆ public confidence
 - ◆ access to legal services
- 4) Is it complete enough to understand and decide?
 - ◆ financial impact test
- 5) Remedial, Preventive or Punitive
 - ◆ proactive vs. reactive - systems to help as opposed to punish
- 6) Improved ability/delivery of legal services to public
 - ◆ competence
 - ◆ reduces/prevents misconduct/incompetence
 - ◆ creation of new systems (e.g. technology) for provision of services
 - ◆ education of public as consumers of legal services
 - ◆ assist disadvantaged groups/access to legal services
 - ◆ cost
- 7) Timing
 - ◆ political
 - ◆ achievable
- 8) Urgency/Necessity
 - ◆ external/internal factors
- 9) Personal Moral/Ethical/Philosophical Code
- 10) Positive or Negative Effect on Profession
 - ◆ reduce cost; increase revenue
 - ◆ improve image
 - ◆ facilitate ability to practise -business and knowledge
 - ◆ increase services to public; introduce new services
 - ◆ unnecessary regulation - effect on monopoly and competition
- 11) Compliance with Policy Governance - is it a board issue?
- 12) Is it legal? - e.g. tariffs
- 13) Inspirational
 - ◆ proactive leadership
- 14) Nationalism
 - ◆ promotion of policies that assist Canadian legal profession, e.g. uniform legislation; one big Law Society
- 15) Excessive Regulation/Over-Governing
- 16) Financial Cost
 - ◆ Will this result in reduction of fees?
 - ◆ What are other/new ways to increase revenue?
 - ◆ What impact on time, resources, money?
- 17) Statutory Obligation

- 18) Compliance with Role Statement
- 19) Maintaining Independence of Bar
 - ◆ Will it maintain/threaten self-governance?
 - ◆ What is impact on protecting independence from government/business?
 - ◆ Will it maintain rule of law?
 - ◆ Will it facilitate the administration of justice?
 - ◆ Will it contribute to financial viability? - collectively/individually
- 20) Implications for Legacy/Heritage
 - ◆ What is the implication for historical/physical integrity of information/assets?
 - ◆ What is the implication for the Law Society's reputation?
- 21) Will resolution of this issue assist Law Society to maintain respect as governors?
- 22) Is another organization more appropriate to handle the issue?
 - ◆ Is it part of our mandate?
 - ◆ Should we do it?

Consolidating the Lists

19. Once the discussion in the small groups was concluded, the group reconvened to compare the lists, consolidate them, and begin the ranking process. The similarity of the lists was noted.
20. It was agreed that the following possible criteria were so critical that they had to be considered in every case, and it was therefore not necessary to rank them.
 - 1) Must it be done because of statute?
 - 2) Is it legal?
21. It was further agreed that the following two questions should not be ranked because they were more process issues than criteria.
 - 1) Is it complete enough to understand and decide?
 - 2) Is it achievable?
22. It was also agreed that the following possible criteria represent internal constraints imposed on Convocation by Convocation, and it was not necessary to rank them because they could be changed by Convocation.
 - 1) Does it comply with Policy Governance?
 - 2) Does it comply with the Role Statement?
23. The group consolidated the two lists, and a single list of possible criteria, expressed in the form of questions to be addressed in the process of evaluating competing priorities, was created. The consolidated list was posted on the wall.
24. Benchers then used the following process to rank the possible criteria. Benchers were each given 11 dots. They were instructed to apply five dots beside the criterion that they felt was the most important, three dots beside their second most important criterion, two dots beside their third most important, and one dot beside their fourth most important criterion.
25. The "dotmocracy" technique compels individuals in the group to identify their highest priorities among a large number of possible choices. Its use in this instance illustrated the generally high degree of agreement in the group about what the most important criteria are.

Next Steps

THE CRITERIA

- 1) Non-Financial Implications ●●●●●●●●●●●●●●●●●●●●●●(27)

 - ◆ Will this have a positive impact on the justice system?
 - ◆ How will it impact on our remaining a self-governing profession?
 - ◆ What will the long and short term impact be on the public and profession?
- 2) Financial Implications to the Law Society ●●●●●●●●●●●●●●●●●●●●●●(22)

 - ◆ What will the financial impact on the Law Society be?
 - ◆ Will it result in a reduction of members' fees?
 - ◆ Do its benefits outweigh its financial costs?
 - ◆ Will it increase revenues to the Law Society?
 - ◆ Will it provide a new source of revenue for the Law Society?
- 3) Will it maintain the independence of the bar? ●●●●●●●●●●●●●●●●●●●●●●(21)
- 4) Business Promotion ●●●●●●●●●●●●●●●●●●●●●●(19)

 - ◆ Will this facilitate the ability of the members to practise; both from a business and competence perspective?
 - ◆ Will this improve the capacity of the profession to do business?
- 5) Should the Law Society do this, or should some other organization? ●●●●●●●●●●●●●●●●●●●●●(15)
- 6) Equity ●●●●●●●●(7)

 - ◆ How will this impact on the disadvantaged?
 - ◆ Does this promote equity and diversity in the profession?
- 7) How will this be perceived by a) the public, b) the media, and c) our constituency in the i) long term and ii) short term? ●●●●(3)
- 8) How will this impact on the profession's image? ●●●●(2)
- 9) What is the implication for legacy/heritage? ●●●●(2)
- 10) Leadership ●●●●(2)

 - ◆ Will it provide leadership, inspiration?
 - ◆ Is this issue creative and innovative?
- 11) How will this impact on the Law Society's image?
- 12) Will the resolution of this issue increase collegiality among benchers?
- 13) Is the Law Society acting as a good corporate citizen?

- 14) Who is sponsoring this and why?
 - ◆ external/internal influences
 - ◆ social/political cost
 - ◆ status of the "who"
- 15) Timing
 - ◆ Will the situation get worse if not done?
 - ◆ What would be the consequences of acting/not acting?
 - ◆ When do we act?
 - ◆ How long will it take to resolve?

ISSUES LIST

- 1) Demographic study
- 2) Multi-Disciplinary Practices
- 3) Benchers Pay
- 4) Referendum on Benchers Pay
- 5) Bar Admission Course Review
- 6) Task Force on Performance of Aboriginal and Visible Minority Students on Bar Admission Course Examinations
- 7) Review of the French Language Bar Admission Course
- 8) Evaluation and policy development concerning the articling phase of the Bar Admission Course
- 9) Implication of the reduction of the Law Foundation grant to the Bar Admission Course
- 10) Status of Bar Admission Course Students to appear as agents
- 11) Implementation of the 16 recommendations approved in the Bicentennial Equity Report
- 12) Review of Membership Fees and Categories
- 13) Re-examination of Rules of Professional Conduct
- 14) Reduce all unnecessary regulation
- 15) Membership Issues - rule 50; suspended members seeking reinstatement
- 16) Review of conflict of interest rules
- 17) Review of rule 13 (solicitors' financial obligations)
- 18) Revision of rules 7 and 23 (borrowing from clients and role of lawyers in mortgage transactions)
- 19) Review of issues surrounding rule 20 (employment of disbarred and suspended lawyers)
- 20) County Libraries - Long-term planning
- 21) Civil Justice Reform- Mandatory Mediation
- 22) Civil Justice Reform - other than mandatory mediation
- 23) Design and implementation of requalification policy
- 24) Post-call education (including MCLE) and enhanced continuing legal education
- 25) Competence Education Proposal
- 26) Review of Specialist Certification Program
- 27) Developing a profile and dealing with members who are repeatedly the subject of complaints, discipline and LPIC claims
- 28) Liaison with LPIC on issues relating to competence, professional standards, quality assurance and post-call education
- 29) Development of Standards for Lawyers in Lawyer Referral Service
- 30) Quality assurance programs and ISO 9000 for the profession
- 31) Development of policy respecting lawyers' sexual relationships with clients
- 32) Review of Law Society's authority to apply for judicial review of itself
- 33) Review of the length of time members' discipline records should exist
- 34) Development of guidelines for use of in camera material filed at discipline hearings
- 35) Review of the use of restitution in the discipline process
- 36) Review of the processes concerning the delivery of reprimands in the discipline process
- 37) Guidelines for *pro bono* duty counsel at Convocation
- 38) Investigation of the use of conditional authorizations when a member has failed to pay a debt

- 39) Development of guidelines for sentencing at discipline hearings and the commencement date for suspensions
- 40) Review of whether staff can authorize payments from the Compensation Fund
- 41) Numbers in the profession
- 42) Insurance fees
- 43) Methods of reflecting honour of the profession to the public and the profession itself
- 44) Impact on profession and public of growing number of unrepresented litigants
- 45) More effective involvement of members in issues of regulation - more outreach
- 46) TitlePlus - advertising - fee guidelines
- 47) CBAO/CDLPA merger
- 48) Balancing competing life interests
- 49) Professionalism, reputation and ethics
- 50) Sole practitioner and small firm practice issues
- 51) Means of raising member involvement in bench elections
- 52) Examination of cost to profession of its regulation - cost/benefit analysis
- 53) Law, life and other things that matter
- 54) Methods to convey to public how we act in public interest
- 55) Raising image of profession
- 56) Technology
- 57) Paralegals
- 58) Granting of honorary degrees
- 59) Appointment of honorary benchers
- 60) Determination of what business the Law Society should be in.
- 61) Legal Aid
- 62) Legislative Package
- 63) Review of mediation rule (Rule 25) and the role of mediation in the Law Society's regulatory process
- 64) Policy issues arising from the redesign of the Law Society's regulatory departments through Project 200
- 65) Review of issues surrounding disciplinary action for failure to comply with LPIC requirements

Report of the Finance and Audit Committee

Mr. DelZotto presented the Report of the Finance and Audit Committee for Convocation's approval.

Finance and Audit Committee
April 9, 1998

Report to Convocation

Purpose of Report: Decision Making

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TERMS OF REFERENCE/COMMITTEE PROCESS

The Finance and Audit Committee ("the Committee") met on April 9th, 1998. In attendance were V. Krishna (Chair), A. Chahbar, T. Cole, E. DelZotto, A. Feinstein, P. Furlong, D. Lamont, D. Murphy, C. Ruby, T. Stomp, G. Swaye, R. Wilson and B. Wright. Staff members in attendance were J. Saso, W. Tysall, D. Carey, R. White and K. Corrick. Also in attendance were H. Willer, J. Penhale and S. Bird of Arthur Andersen & Co., the Society's Auditor, and, R. Holden and D. Porter of the Ontario Legal Aid Plan

1. The Committee has five matters that require Convocation's approval:
 - Draft General Fund and Draft Lawyers Fund for Client Compensation December 31, 1997 Audited Financial Statements,
 - Draft Combined Errors and Omissions Insurance Fund December 31, 1997 Audited Financial Statements,
 - 1998/99 Legal Aid Budget,
 - request to approve the expenditure of funds on 150 initial spot audits, and
 - closing Law'n More
2. The General Fund and the Lawyers Fund for Client Compensation December 31, 1997 draft Audited Financial Statements were presented to the Committee by the Society's Chief Financial Officer, W. Tysall, along with a financial highlights memorandum (pages 6 - 30) and Auditor's Management Letter for both funds.
3. The Finance and Audit Committee recommends the approval of the December 31, 1997 draft audited financial statements for the General Fund and the Lawyers Fund for Client Compensation.
4. M. Strom, LPIC's Chief Financial Officer, attended the March meeting of the Committee and presented the draft Audited Combined Errors and Omissions Insurance Fund financial statements for the year ended December 31, 1997. These statements are attached on pages 31 - 41.
5. The Finance and Audit Committee recommends the approval of the draft audited financial statements for the Combined Errors and Omissions Insurance Fund for the year ended December 31, 1997.
6. D. Porter, the Deputy Director, Finance, for the Ontario Legal Aid Plan attended the meeting to present the Plan's Budget for the year ended March 31, 1999 (enclosed on pages 42 - 50). This budget takes the Society to the end of the Memorandum of Understanding.
7. The Finance and Audit Committee recommends approval of Legal Aid's budget for the year ended March 31, 1999 subject to the capital expenditures being funded from the Legal Aid's surplus.

24th April, 1998

8. The Director of Audit & Investigations, J. Yakimovich, attended the meeting to respond to various questions that arose at the March Committee meeting and provide an update on the spot and focussed audit programs. Before the Committee was a request to recommend the approval of \$350,000 to retain public accounting firms to perform 250 spot audits in the period to June 30, 1998. A memorandum from Mr. Yakimovich is enclosed on pages 51 - 59.
9. The Committee felt that 250 spot audits as an initial test to determine whether more spot audits would be required was too many. Various alternatives were discussed, with the Committee deciding upon a compromise.
10. The Finance and Audit Committee recommends that 150 initial spot audits be performed, the areas to be determined at the discretion of the Director of Audit and Investigations. As well, the Director of Audit and Investigations is to report back to the Committee, by June 30th, the results of the initial round of spot audits.
11. The Committee was presented with information regarding the operation of Law'n More, the Society's gift shop. The gift shop has not been producing break-even results since its inception. Law'n More was originally set up to assist in the promotion of the Society's bicentennial celebrations.
12. The Finance and Audit Committee recommends that the Law'N More store be closed by June 30, 1998 and that the Chief Executive Officer take steps to ensure all merchandise is disposed of at minimum cost.

.....

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

- (1) Copy of the General Fund and the Lawyers Fund for Client Compensation December 31, 1997 draft Audited Financial Statements together with a memorandum from Ms. Wendy Tysall to the Chair and Members of the Finance and Audit Committee dated March 31, 1998. (pages 6 - 30)
- (2) Copy of the draft Audited Combined Errors and Omissions Insurance Fund financial statements for the year ended December 31, 1997. (pages 31 - 41)
- (3) Copy of the Ontario Legal Aid Plan 1998/99 Proposed Budget for the year ended March 31, 1999. (pages 42 - 50)
- (4) Copy of a memorandum from Mr. Jim Yakimovich to the Finance Committee dated March 31, 1998 re: Retaining Public Accounting Firms/Retired Accountants for Spot Audits. (pages 51 - 59)

Finance and Audit Committee
April 9, 1998

Report to Convocation

Purpose of Report: Information

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TERMS OF REFERENCE/COMMITTEE PROCESS

The Finance and Audit Committee ("the Committee") met on March 12, 1998. In attendance were V. Krishna (Chair), A. Chahbar, T. Cole, E. DelZotto, A. Feinstein, P. Furlong, D. Lamont, D. Murphy, C. Ruby, T. Stomp, G. Swaye, R. Wilson and B. Wright. Staff members in attendance were J. Saso, W. Tysall, D. Carey, R. White, K. Corrick and G. Zecchini.

1. The Committee is reporting on the following matter:
 - Program Reviews
 - i. Policy Secretariat
 - ii. Department of Education
2. K. Corrick attended the meeting to present to the Committee the program review with respect to the Policy Secretariat. The Committee was satisfied with the information provided and do not require further information at a future meeting. A copy of the Policy Secretariat program review is enclosed on pages 63 - 67.
3. The Department of Education program review was postponed until a future meeting.

.....

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

- (1) Copy of the Policy Secretariat Program Review. (pages 63 - 67)

Re: Draft Audited Financial Statements for the General Fund - December 31, 1997

It was moved by Mr. DelZotto, seconded by Mr. Cole that the December 31, 1997 Draft Audited Financial Statements for the General Fund be adopted.

Carried

Re: Draft Audited Financial Statements for Lawyers Fund for Client Compensation - December 31, 1997

It was moved by Mr. DelZotto, seconded by Mr. Ruby that the December 31, 1997 Draft Audited Financial Statements for the Lawyers Fund for Client Compensation be adopted.

Carried

24th April, 1998

Re: Draft Audited Financial Statements for the Combined Errors and Omissions Insurance Fund - December 31, 1997

It was moved by Mr. DelZotto, seconded by Ms. Ross that the December 31, 1997 Draft Audited Financial Statements for the Combined Errors and Omissions Insurance Fund be adopted.

Carried

It was noted that the Law'n More store would close June 30th, 1998.

LPIC Financial Statements

Mr. Murray and Mr. Heins provided information to Convocation on LPIC's operations over the past year and a newsletter was circulated to the Benchers.

Mr. Murray thanked Mr. Heins, Michelle Strom, the Directors and the staff of LPIC for the work they had done.

Re: 1998/99 Legal Aid Budget

Mr. Armstrong presented the Report of the Legal Aid Committee for Convocation's approval.

Legal Aid Committee
April 8, 1998

Report to Convocation

Nature of Report: Decision-making

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Appendix A - Duty Counsel Financial Eligibility Testing Report

Appendix B - Duty Counsel Clinics Report

Appendix C - 1998/99 Budget

Appendix D - Financial Reports - February 1998

The Legal Aid Committee met on April 8, 1998. In attendance were:

Committee members: Bob Armstrong (Chair), Heather Ross (Vice Chair), Tamara Stomp, Allan Lawrence, Gerry Swaye, Rich Wilson, Tom Carey, Jane Harvey, Abe Feinstein, Marshall Crowe, Derry Millar, Hope Sealy and Elvio DelZotto.

Senior Management of OLAP: Robert Holden, Provincial Director, and Deputy Directors George Biggar, Ruth Lawson and David Porter, Clinic Funding Manager, Joana Kuras.

Other OLAP Staff: Elaine Gamble, Communications Coordinator and Felice Mateljan, Executive Assistant.

The following items are for your approval:

1. Duty counsel financial eligibility testing report

The Committee approved a limited financial testing for duty counsel services, but only where duty counsel believe that the client is ineligible for services based on information received from the client. The full report and recommendations are attached as Appendix A.

2. Duty counsel clinic report

The Committee approved some changes and expansions to duty counsel clinics. A report with recommendations is attached as Appendix B.

3. Duty counsel duties

The Legal Aid Committee clarified the wording on when duty counsel may act on behalf of a privately retained lawyer on March 18, 1998.

Duty counsel may act at the request of private counsel, to adjourn, hold down or set dates, whether the accused has a legal aid certificate or not. There are three conditions:

- Duty counsel is not responsible for reporting back to the private lawyer about the outcome of setting dates or adjournments.
- Duty counsel will not act if the client is not in attendance, unless the private lawyer confirms that it is impossible for the client to attend court (illness for example).
- Duty counsel will not agree to act as an agent for a private lawyer to obtain disclosure.

4. Expansion of criminal legal aid coverage

The Committee approved expansion of criminal law coverage. The effective date is still to be determined.

The current test for eligibility in criminal matters is whether the accused is likely to be incarcerated upon conviction. While this test is relatively easy to administer, it may be too simplistic and does not take into account the special needs of some accused. For some members of society the simple fact of a criminal conviction may have an impact which is beyond the norm. It is recommended that if the following consequences would follow a conviction that a new service should be provided.

1. The immediate loss of employment. (For example, a taxi driver charged with impaired driving or an employee who must be bonded.)
2. The immediate loss of a planned educational opportunity.
3. A disproportionate impact on an already disadvantaged accused. (For example, the additional barrier to employment of a criminal record for someone whose prospects may already be limited by some disability.)
4. The possibility of deportation for permanent residents of Canada.

Once a person has been identified as having special circumstances, a limited certificate would be issued. The Plan would require an opinion from counsel that there is a viable defence and that a trial will be conducted. Upon receipt of this information, the Plan would authorize the full service. Otherwise, the certificate would be cancelled and the accused would be referred to duty counsel as there would be little value in the chosen counsel attending for a guilty plea.

The vast majority of these cases would involve minor offences and some would also be limited certificates. The cost would be low. It is estimated that the average case cost would not exceed \$500.

If the Plan were to issue 3,000 of these certificates, the annualized costs would be approximately \$1.5 million. The Plan would be able to isolate these certificates to ensure that a limited and agreed upon number would be issued.

5. Year 2000 Project

The Plan needs to begin working on the year 2000 conversions and has received one proposal for the work. Management will ask the one bidder to hold his bid and price for 30 days and seek out two other competing bids. David Porter is to report back to the Committee in May.

6. 1998/99 Budget

The proposed 1998/99 budget is attached as Appendix C. It has been approved by the Legal Aid Committee and the Finance and Audit Committee. Capital expenditures were approved but must be paid for out of the surplus.

7. Financial Reports - February 1998

The financial reports for February 1998 are attached as Appendix D.

8. Area Committee Appointments

The Committee approved three new appointments to area committees as recommended by the Provincial Director: David Balderston in Algoma, Mina Grossman-Ianni in Essex and Gilbert Labine in Thunder Bay.

.....

24th April, 1998

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

- (1) Copy of the Final Report to the Legal Aid Committee - Duty Counsel Financial Eligibility Testing February 11, 1998 by: George Biggar, Deputy Director, Legal. (Appendix A)
- (2) Copy of the Report to the Legal Aid Committee - Duty Counsel Clinics March 11, 1998 by: George Biggar, Deputy Director, Legal and Keith Wilkins, Client Services Coordinator. (Appendix B)
- (3) Copy of the Ontario Legal Aid Plan 1998/99 Proposed Budget April 24, 1998. (Appendix C)
- (4) Copy of the Ontario Legal Aid Plan Financial Reports February 1998. (Appendix D)

Mr. Porter presented the Legal Aid Budget and took questions from the Bench.

It was moved by Mr. Armstrong, seconded by Mr. Swaye that the Legal Aid Budget for the year ended March 31, 1999 with the qualifications made by the Finance Committee be adopted.

Carried

Convocation took a brief recess at 10:50 a.m. and resumed at 11:10 a.m.

Report of the Legal Aid Committee (cont'd)

Re: Expansion of Criminal Legal Aid Coverage

It was moved by Mr. Armstrong, seconded by Mr. Carey that the expansion of criminal legal aid coverage be approved as set out in paragraph 4 on page 2 of the Report.

Carried

Re: Duty Counsel Financial Eligibility Testing

It was moved by Mr. Armstrong, seconded by Mr. Carey that the recommendation on eligibility testing set out on page 5 of the Report at Appendix A be adopted.

Recommendation

Continue to test clients, but only when duty counsel believes that the client is ineligible for duty counsel services based on information received from the client. In the normal course of providing the services tested for, the client will provide the information necessary to decide if the test is appropriate.

Carried

Re: Duty Counsel Clinics

Mr. Scott moved that the recommendation in paragraph 4 on page 6 in Appendix B be amended by adding at the beginning the words "...after appropriate inquiries"....., so that the sentence would then read:

After appropriate inquiries apply a financial eligibility test only where duty counsel believe, based on the guidelines set out on the application form, that the client is ineligible for duty counsel services.

The amendment was accepted by the Chair.

24th April, 1998

It was moved by Mr. Armstrong, seconded by Mr. Carey that the recommendations set out on pages 5, 6 and 7 in Appendix B of the Report be adopted as amended.

Carried

It was moved by Ms. Puccini, seconded by Mr. Gottlieb that the drafting of documents in General Division be deleted in paragraph 5.

Lost

Mr. Armstrong reported on the transition and implementation of the Enhancements and advised that the office of the Attorney General was preparing the appropriate legislation.

THE REPORT AS AMENDED WAS ADOPTED

The Treasurer returned to Convocation.

Report of the Finance and Audit Committee (cont'd)

Spot Audits

Mr. Krishna presented the recommendation dealing with spot audits for Convocation's approval.

It was moved by Mr. Scott that an amendment be made to paragraph 10 on page 4 of the Report by adding the words at the beginning "In order to measure expeditiously the effectiveness".....

The amendment was accepted by the Chair.

It was moved by Ms. Puccini, seconded by Mr. DelZotto that 50 initial spot audits be approved.

Lost

ROLL-CALL VOTE

Adams	Against
Angeles	Against
Armstrong	Against
Arnup	Against
Banack	Against
Bobesich	For
Carpenter-Gunn	For
Chahbar	For
Cole	For
Crowe	For
DelZotto	For
Eberts	Against
Epstein	Against
Feinstein	For
Gottlieb	For
Harvey	For

24th April, 1998

Krishna	For
MacKenzie	Against
Manes	Against
Marrocco	Against
Martin	Against
O'Brien	For
Puccini	For
Ross	Against
Ruby	Against
Sachs	Against
Scott	Against
Stomp	Against
Swaye	For
Wright	For

Vote 16 - 14

It was moved by Mr. Krishna, seconded by Mr. Cole that the recommendation set out in paragraph 10 on page 4 of the Report as amended to conduct 150 initial spot audits be approved and that the Director of Audit and Investigations report back to the Committee with the results by June 30th.

The motion was voted on and adopted.

All benchers present with the exception of Mr. Gottlieb voted in favour of the motion to conduct 150 spot audits by June 30th.

THE REPORT AS AMENDED WAS ADOPTED

Bencher Retreat on the Subject of Competence

Ms. Eberts announced that the next meeting scheduled to deal with the topic of Competence was to be held on May 12th and 13th.

REPORTS FOR INFORMATION ONLY

The Reports of the Professional Development & Competence Committee and Admissions and Equity Committee were presented for information only.

Professional Development and Competence Committee
April 9, 1998

Report to Convocation

Nature of Report: Information

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3.	Specialist Certification New Applications and Recertifications Approved in Committee on March 12, 1998	6

I.	TERMS OF REFERENCE/COMMITTEE PROCESS
1.	The Professional Development and Competence Committee ("the Committee") met on 9 April, 1998. In attendance were Mary Eberts (Chair), Michael Adams, Larry Banack (Vice-Chair), Kim Carpenter-Gunn, Ron Cass and David Scott. Staff members present were Janine Miller, Paul Truster, Sue McCaffrey, Carol Austin, Diane Moreira, Felecia Smith and Susan Binnie.

2.	The Committee is reporting on four information matters. The information matters are:
	<ul style="list-style-type: none"> A report on the Committee's monitoring of staff measures concerning specialist certification program fees; Three other matters being monitored by the Committee; <ul style="list-style-type: none"> An ongoing review by a Committee working group of the future delivery of County and District library services A report on the costs of implementing the Law Society's requalification policy in 1999 for application from July 1, 1999, onwards; A report on new applications and recertifications as certified specialists, approved in Committee on 12 March, 1998.

II.	A report on the Committee's monitoring of staff measures concerning specialist certification program fees
3.	By Convocation's policy decision of 27 March, 1986, the Law Society's specialist certification program is required to operate on a break-even basis. Convocation adopted a report of a Special Committee on the Implementation of the Specialization Report on 27 March, 1986 which stated that the Committee felt that the certification program should be self-funding. As certification is a non-mandatory Law Society program charged with being self-funding, staff are responsible under policy governance for setting fees for certification in an amount necessary to defray the costs of administering the program. The fees should therefore be expected to vary over time to reflect costs.

4.	Current program fees have not been raised since 1991. The current fees are:
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Application fee:	\$150 (+GST)
Administrative fee (upon successful application):	\$250 (+GST)
Annual fee:	\$100 (+GST)

Total fees over five-year certification period:	\$900 (+GST)
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5. Staff reported to the Committee that the specialist certification program will be required to meet an increase in costs of about \$25,000 in 1998 due to Law Society recharges, i.e. as a result of a distribution of general overheads among all Law Society departments. The program made a small profit in 1997 of \$1,182 on a total budget of \$91,638. An increase in costs of \$25,000 will have a major impact on a small department. In addition, senior staff have confirmed that the program has staffing needs that cannot be met by the two staff members now operating the program; current staffing is recognized as insufficient to administer a program for over 600 specialists as well as new applicants.
6. The Committee is satisfied that this fee increase reflects changes in underlying costs, including staffing, for the current program. Any fee increases attributable to future changes in program policies will be identified by the Committee as policy matters that should be brought to Convocation for approval.
7. Staff reported a plan to Committee on 9 April to increase fees effective July 1, 1998 as follows:

Combined Application fee and Administrative fee:	\$300 (+GST)
Annual fee:	\$200 (+GST)
Total fees over five-year certification period:	\$1,300 (+GST)

In effect, the fee schedule has been restructured and the result is an overall increase in fees over a five-year certification period of \$400.

III.1. Review by a Committee working group of the future delivery of County and District library services

8. A working group on the future delivery of County and District library services, chaired by Susan Elliott, reported that the working group has gathered and analysed information on a number of options for future delivery, as set out in the Committee's report to Convocation of 8 January, 1998.
9. The working group has held four full-day meetings and plans a fifth meeting in April. The working group includes representatives of the Canadian Bar Association and the County and District Law Presidents' Association as well as professional librarians working in the County and District library system, benchers and Law Society staff.
10. The working group plans to present policy issues and options for future library services to Committee for discussion in May, 1998 as the first stage of a review of future possibilities.

III.2. Financial Report on Costs of Implementation of Law Society's Requalification Program in 1998 and 1999

11. A report from a joint working group on Implementation of the Law Society's Requalification Policy (a working group consisting of members of the Admissions and Equity Committee and the Professional Development and Competence Committee) was brought to the Committee in January 1998. The report dealt with the implementation of the Law Society's Requalification policy, a policy approved four years previously by Convocation, in March 1994, which will require members to requalify effective 1 July, 1999.
12. The Committee approved the implementation process for the Requalification policy and the report was sent to the Admissions and Equity Committee and to the Treasurer's Equity Advisory Group for comment. Members of the Admissions and Equity Committee were satisfied with the report while the Treasurer's Equity Advisory Group made one comment, that particular attention should be paid to ensuring that financial barriers not interfere with people's ability to return to private practice.
13. The Committee has noted this point in its discussions. The Committee had commented in its initial report to Convocation on the matter of requalification policy, on 26 September, 1997, that "the Law Society should continue to develop a process that is fair and equitable to all members of the profession," citing the Bicentennial Report and Recommendations on Equity Issues adopted by Convocation in May, 1997.

14. Detailed budgets for implementation of the Requalification policy for the period leading up to July, 1999 were brought to Committee on 9 April by staff members Sue McCaffrey, Director of Professional Standards, and Paul Truster, Director of Continuing Legal Education.
15. The Committee reviewed the budgets and, while approving the approach adopted, asked for a number of changes in the format of the budget documents as well as the inclusion of certain items. The Committee will review the revised budgets and, once the budget has received Committee approval, the report and budget will be forwarded to the Finance Committee for review, probably for its meeting in May, 1998.
- IV. Information on Specialist Certification New Applications and Recertifications Approved in Committee on March 12, 1998
16. The Professional Development and Competence Committee is pleased to report the Committee's approval of the following lawyers for certification:

<u>Bankruptcy & Insolvency:</u>	Aubrey Kauffman (of Toronto) Antonio Reyes (of Toronto)
<u>Criminal Law:</u>	Peter Hambly (of Kitchener) Peter Mrowiec (of Thunder Bay) Robert Selkirk (of Ottawa)
<u>Intellectual Property:</u>	David Aylen (of Toronto)

17. The Professional Development and Competence Committee is pleased to report the Committee's approval of the following lawyers for recertification for an additional five years:

<u>Civil Litigation:</u>	Lawrence Greenspon (of Ottawa) Michael O'Neill (of Sault Ste. Marie)
<u>Criminal Law:</u>	Lawrence Greenspon (of Ottawa)
<u>Family Law:</u>	Douglas Cousins (of Mississauga) Susan Hodgson (of Ottawa) Stanley Jaskot (of Hamilton) Francine Van Melle (of Oakville)
<u>Immigration Law:</u>	Joel Guberman (of Toronto) Gary Segal (of Toronto)

Admissions & Equity Committee
April 24, 1998

Report to Convocation

Purpose of Report: Information

TERMS OF REFERENCE/COMMITTEE PROCESS

1. The Admissions & Equity Committee ("the Committee") met on April 9, 1998. Committee members in attendance were Philip Epstein (Chair), Nancy Backhouse (Vice-Chair), William Carter (Vice-Chair), Nora Angeles, Tom Carey, Dean Marilyn Pilkington, and Robert Martin. Staff in attendance were Mimi Hart, Wendy Johnson-Martin, Kimberley Saikkonen, Sophia Sperdakos, Alan Treleaven, and Roman Woloszczuk.
2. The Committee is reporting on the following matter:

Information Item - Update on the Working Group to Review Procedures Governing Recruitment of Summer and Articling Students

Information Item

WORKING GROUP TO REVIEW PROCEDURES GOVERNING RECRUITMENT OF SUMMER AND ARTICLING STUDENTS

1. The Admissions & Equity Committee's *Procedures Working Group* met for the first time on April 2, 1997. Present at the meeting were: Working Group Chair, J. Jay Rudolph and members: Gina Alexandras (Career Development Officer, Osgoode Hall Law School); Monica Biringer (Student Recruitment, Osler, Hoskin & Harcourt); Marilyn Bode (Director of Student Programs, McCarthy, Tetrault), Paul Schabas (Student Recruitment, Blake, Cassels & Graydon); Steve Leckie (BAC Student Representative and graduate of Dalhousie law school); Julie Darbrusin (BAC Student Representative and graduate of the University of Toronto law school); and Mimi Hart (Acting Articling Director and Placement Director for the Law Society).
2. The group was presented with a binder of background material prepared by staff, including an outline of issues for discussion prepared by the Policy Secretariat. In particular the group reviewed the following questions they are to address:

Summer Recruitment

- a) Why did the Law Society become involved in recruitment for summer students?
- b) How many students are involved in the process overall?
- c) Set out the recruitment rules for the Committee with a time line of when recruitment takes place for summer jobs.
- d) What would be the possible impact of the Law Society ceasing to be involved in the summer recruitment process?
- e) What would be the possible impact of the Law Society altering its recruitment rules to accommodate concerns about the "outside" recruiters?
- f) How many students are recruited annually by outside recruiters?
- g) Can the purposes for which recruitment rules were created be reconciled with the desire to accommodate firms who wish to compete with outside recruiters? How?
- h) Are there equity related issues raised by changes to the summer recruitment process?

Articling Recruitment

- a) Why did the Law Society become involved in recruitment for articling students?
- b) How many students are involved in the process overall?
- c) Set out the recruitment rules for the Committee with a time line of when recruitment takes place for articling jobs.
- d) Are firms complying with the articling recruitment procedures?
- e) Does the Law Society need to make changes to the program to promote compliance?
- f) What would be the possible impact of the Law Society ceasing to be involved in the articling recruitment process?
- g) How would any changes to the summer student program affect the articling program?
- h) Are there equity related issues raised by changes to the articling recruitment process?
- i) Are there other pressures on the recruitment process whose possible impact on the articling program the Law Society should assess?

3. The impetus for the working group was discussed, after which the Chair led a discussion identifying the interested parties to the summer student recruitment issue and the perspectives of those parties. The group identified further information it requires, which will be prepared by staff for the next meeting.
4. The group discussed the requirement of a report by June regarding the summer student recruitment program. Although an ambitious time line, the group felt it could provide a report to the Admissions & Equity Committee by that time. The group regards the review of the articling recruitment program as a more complex undertaking that cannot be completed by June. As the next articling recruitment program that could be affected by a review is in the summer of 1999, the group felt that priority should be given to the summer student recruitment program. The group's report will discuss any implications on articling student recruitment of changes to the summer student recruitment program.
5. The group agreed to meet every other Thursday evening and otherwise as needed to June 1, 1998 when the summer student recruitment report should be finalized.

Admissions & Equity Committee

6. The Committee has directed the working group to consider the broad range of issues set out above as well as any other questions the working group may identify, so that there is a full and complete examination of the issue for the Committee's consideration in preparing its report to Convocation. In particular, the group is to focus not only on the impact of the current recruitment procedures on those students being recruited by outside firms, but also the impact any changes may have on students overall, and to consider the range of options available for dealing with the issue.

CONVOCATION ROSE AT 1:15 P.M.

The Treasurer and Benchers had as their guest for luncheon, The Honourable Charles A. Harnick, Q.C.

Confirmed in Convocation this 29 day of May, 1998.

Harvey T. Stursberg

Treasurer