

MINUTES OF REGULAR CONVOCATION

27th October, 1989  
9:15 a.m.

PRESENT:

The Treasurer, Mr. L. K. Ferrier, Messrs. Bastedo and Bragagnolo, Ms. Bellamy, Ms. Callwood, Messrs. Carey, Cass, Epstein, Farquharson, Ferguson, and Furlong, Mrs. Graham, Mr. Ground, Ms. Harvey, Messrs. Hickey and Howie, Ms. Kiteley, Messrs. Lamek, Lamont, Lawrence, Levy and Manes, Mrs. Legge, Messrs. Noble, O'Brien, O'Connor, Shaffer, Somerville, Spence, Strosberg, Thom, Topp and Wardlaw.

.....

"IN CAMERA"

.....

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

.....  
"IN PUBLIC"  
.....

ADMISSIONS COMMITTEE

Ms. P. Peters, Chair, presented that portion of the Admissions Committee Report of Thursday, the 12th October, 1989 dealing with the Call to the Bar.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of October, 1989 at 9:30 a.m., the following members being present: Ms. Peters (Chair) and Messrs. Ground, Lamont, and Strosberg.

B.

ADMINISTRATION

2. CALL TO THE BAR AND CERTIFICATE OF FITNESS

Transfer from another Province - Regulation 4(1)

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

Bernard William Crotty

Province of Alberta

The following candidate, having successfully completed the '88/'89 teaching term of the Bar Admission Course, filed the necessary documents and paid the required fee, now applies for call to the Bar and to be granted a Certificate of Fitness:

Robert Gerald Gateman

Province of Alberta

Approved

Full-Time Members of Faculties of Approved Law Schools

The following candidates, having filed the necessary documents and complied with the requirements of the Society in their particular cases, are now entitled to be called to the Bar of Ontario and to be granted a Certificate of Fitness:

Marc Cousineau

Faculty of Law, The University  
of Ottawa, Common Law Section

Fee: \$200.00

27 October 1989

Kathleen Ann Lahey

Faculty of Law, Queen's University

Fee: \$200.00

Pierre Legrand

Faculty of Law, The University  
of Ottawa, Common Law Section

Fee: \$200.00

Approved

Bar Admission Course

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

Mark Anthony Ciarallo  
Antonio Loparco

Approved

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 1989

"Patricia Peters"  
Chair

THE REPORT WAS ADOPTED

.....

CALL TO THE BAR

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

Mark Anthony Ciarallo	- 30th Bar Admission Course
Bernard William Crotty	- Transfer, Province of Alberta
Robert Gerald Gateman	- Transfer, Province of Alberta
Marc Cousineau	- Faculty of Law Full-time Member
Kathleen Ann Lahey	- Faculty of Law Full-time Member
Pierre Legrand	- Faculty of Law Full-time Member

.....

RESUMPTION OF P HEARING

Counsel were asked as to the length of time it would take to make submissions. After some discussion Convocation adjourned at 10:40 a.m. to allow counsel to discuss the issue.

.....

Convocation resumed at 11:05 a.m.

.....

PRESENT:

The Treasurer, Mr. L. K. Ferrier, Mr. Bastedo, Ms. Bellamy, Ms. Callwood, Messrs. Carey, Cass, Epstein, Farquharson, Ferguson, and Furlong, Mrs. Graham, Mr. Ground, Ms. Harvey, Mr. Howie, Ms. Kiteley, Messrs. Lamek, Lamont, and Lawrence, Mrs. Legge, Messrs. Noble, O'Brien, O'Connor, Shaffer, Somerville, Spence, Strosberg, Thom, Topp and Wardlaw.

.....

27 October 1989

RESUMPTION OF P HEARING

Mr. Lockwood informed Convocation that counsel were unable to agree on the scope of submissions to be made by Mr. MacKenzie and therefore an adjournment was being requested to the November Convocation. It was agreed among counsel that there was not a seised Convocation.

The matter was then adjourned to the November Convocation with all parties to file factums prior to the November Convocation.

.....

Convocation reconvened in Convocation Room.

.....

ELECTION OF BENCHER

It was moved by Mr. Strosberg, seconded by Mr. Cass, That John Douglas Thoman of Hamilton be elected a Bencher to fill the vacancy in Convocation caused by the elevation of Her Honour Judge Helen K. MacLeod to the District Court (Eastern circuit), in accordance with the provisions of Section 21(2) of The Law Society Act.

.....

"IN PUBLIC"

.....

FINANCE COMMITTEE

Mr. J. D. Ground, Chair, presented the Report of the Finance Committee of its meeting on Thursday, the 12th October, 1989.

Mr. Ground advised that B-Item 4 Suspension of Members - Late Filing Fee was to be deleted.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th day of October 1989 at three o'clock in the afternoon, the following members being present: Messrs. Ground (Chair), Howie (Vice-Chair), Furlong, Lamek, Lamont, Lerner, Noble, Outerbridge, Pepper and Topp.

B.

ADMINISTRATION

1. FINANCIAL REPORT

The Director presented the highlights memorandum for the three Law Society Funds together with supporting financial statements for the three months ended September 30th 1989.

Approved

2. LAW SOCIETY OMNIBUS APPLICATION TO THE LAW FOUNDATION OF ONTARIO

Five Committees have approved grant requests to The Law Foundation of Ontario. These requests are outlined below together with the amounts which were approved by the Law Foundation in 1988. Further detail is in a memorandum from the Director of Finance. The total of the grant application this year will be \$2,582,397 compared to the approved amount of \$1,712,500 in 1988:

27 October 1989

	<u>1989</u>	<u>1988</u> (actual)
Legal Education:		
Regular Bar Admission Course Funding (*actual amount drawn \$534,196)	\$650,000	*\$650,000
Bar Admission Course Reform (additional application)	265,397	
Libraries and Reporting:		
County Law Libraries		
Operating Grant	740,000	675,000
Capital Grant	150,000	100,000
Great Library Book Collection	37,500	37,500
Public Information (contribution towards costs of advertising and promotion of Dial-a-Law service and defray increased Inwats charges resulting from outside Toronto service. Translation of current tapes to other languages.)	250,000	150,000
Muniments and Memorabilia		
Research Archival programme	95,000	70,000
Law Society Gazette		
Publication of fourth issue of Gazette for 1989/90	30,000	30,000
French Language Services (in conjunction with Legal Education Committee)		
Provision of Bar Admission Course Lecture Materials in French	200,000	-
(in conjunction with Libraries Committee)		
Addition of French Language materials in specific County Libraries	<u>50,000</u>	<u>-</u>
The total Omnibus Application is	<u>\$2,582,397</u>	<u>\$1,712,500</u>

The Committee was asked to approve the omnibus application and its submission to The Law Foundation of Ontario, subject to the approval by Convocation of the five Committee reports in question.

Approved

3. APPOINTMENT OF SPECIAL COMMITTEE ON DEFERRAL OF FEES AND LEVIES

The Chair appointed Messrs. Topp and Guthrie to the Special Committee on Deferral of Fees and Levies.

4. SUSPENSION OF MEMBERS - LATE FILING FEES

There are 2 members who have not complied with the requirements respecting annual filing and who have not paid the late filing fee.

In all 2 cases all or part of the late filing fee has been outstanding four months or more. The 2 members owe \$1,200.00 of which \$320.00 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of the 2 members be suspended on October 27th 1989 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

Note: This Item deleted; see page 168

5. MEMBERSHIP UNDER RULE 50

(a) Retired Members

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

Ronald Percival Leitch	Markham
Benjamin Bernard Shekter	Hamilton

(b) Incapacitated

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

George Charles Conn	Toronto
George Allan Leigh	Toronto

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

Approved

6. RESIGNATION - REGULATION 12

Gerald Leslie Morris of Toronto, Ontario has applied for permission to resign his membership in the Society and has submitted a Form 2 Report in lieu of the usual declaration under Regulation 12. Mr. Morris was called to the Bar on the 20th of September 1957 and was a Professor of Law until 1986 when he had to retire because of ill health. His rights and privileges as a member of Society were suspended on the 26th of February 1988 for his failure to pay the 1987-88 fees. Arrears of fees now total \$1,163.00. Mr. Morris has submitted a special request to be relieved of publication in the Ontario Reports giving for reasons the very limited legal work he performed in the past and the expense of publication.

Mr. Morris' declaration is in order and the Committee was asked to approve it without payment of the arrears of fees and without publication in the Ontario Reports.

Approved

C.  
INFORMATION

1. ROLLS AND RECORDS

(a) LIFE MEMBERS

Pursuant to Rule 49, the following are eligible to become Life Members of the Society with an effective date of October 19, 1989:

Maurice Francis Coughlin	Windsor
John Albert Deacon	Brockville

Noted

(b) CHANGES OF NAME

(i) Members

<u>From</u>	<u>To</u>
Elizabeth Ann Strosberg	Elizabeth Ann <u>McGuinness</u> (Married Name)
Jill Diana Kelsall Oliver	Jill Diana <u>Kelsall</u> (Name Change Certificate)

27 October 1989

Mary Anne Ross	Mary Anne Ross <u>Hendriks</u> (Married Name)
Patricia Lee Sproule	Patricia Lee Sproule <u>Ward</u> (Married Name)
Lisa Kerr	Lisa <u>Marie</u> Kerr (Corrected Birth Certificate)
Catharine Mary White	Catharine Mary <u>Finley</u> (Married Name)

(ii) Student Members

<u>From</u>	<u>To</u>
Tsufit Fixman	Tsufit Fixman <u>Lev Aviv</u> (Name Change Certificate)
Tracy Jo Middleton	Tracy Jo Middleton <u>Collini</u> (Married Name)

Noted

(c) DEATHS

The following members have died:

David Moffatt Thomson Bobcaygeon	Called September 16th 1948 Died November 8th 1988
William Mossman Dubrule Prescott (Life Member)	Called June 19th 1930 Died May 5th 1989
Joseph Patrick Kelly Whitby	Called September 24th 1952 Died June 16th 1989
Gordon Burgess Jackson Mississauga (Life Member)	Called June 30th 1915 Died July 15th 1989
Kauko Elias Maki Sudbury	Called September 19th 1940 Died July 16th 1989
Jocelyn Sue Clare Toronto	Called April 15th 1988 Died July 28th 1989
Shirley Armstrong King Logan Sarnia (Life Member)	Called October 21st 1937 Died August 3rd 1989
William Houghton Adams Toronto	Called June 20th 1946 Died August 17th 1989
Robert Lawrence Deshield Windsor	Called April 14th 1978 August 26th 1989
Charles Campbell McGibbon Oshawa (Life Member)	Called September 21st 1933 Died September 4th 1989
Robert Muir Scarborough (Life Member)	Called June 17th 1937 Died September 14th 1989
Mary Joanne Murphy Burlington	Called April 10th 1989 Died September 22nd 1989
Hugh William Rowan Toronto	Called June 28th 1956 Died September 23rd 1989

Noted

27 October 1989

2. LEGAL MEETINGS AND ENTERTAINMENT

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

October 13th, 1989	Chief Judges Dinner Convocation Hall
November 20th, 1989	Ontario Association of Family Mediation Small Dining Room
December 8th, 1989	Canadian Ethnocultural Council Convocation Hall
January 16th, 1990	York Law Association Barristers' Lounge/Convocation Hall
February 8th, 1990	York Law Association Barristers' Lounge/Convocation Hall
March 3rd, 1990	CBAO - Gale Cup Dinner Convocation Hall
March 17th, 1990	Phi Delta Phi Barristers' Lounge/Convocation Hall
April 17th, 1990	CBAO - Law Day Dinner Convocation Hall

Noted

ALL OF WHICH is respectfully submitted

DATED this 27th day of October 1989

"John D. Ground"  
Chair

Attached to original Report in Convocation File, copy of:

B-Item 1 - Memorandum dated October 12th, 1989 from David Crack to  
Chair and Members of Finance Committee, Re: Financial  
Statements - Highlights as at September 30th, 1989

(Marked B1)

B-Item 2 - Memorandum dated October 12th, 1989 from David Crack to  
Chair and Member of Finance Committee, Re: Law Society  
Omnibus Application to the Law Foundation of Ontario.

(Marked B2)

THE REPORT WAS ADOPTED WITH THE EXCEPTION OF ITEM B-4

.....

DISCIPLINE COMMITTEE

Mr. P. Lamek presented the Report of the Discipline Committee together with the Recommendation as to Penalty in the matter of Stanley Francis Dudzic.

Convocation, on August 11th, 1989 adopted the Report of the Discipline Committee. At that time it was agreed that Convocation not reconstitute the same quorum as in August to hear the issue as to penalty.



27 October 1989

Mr. Watson appeared for the Society and Mr. B. Greenspan appeared for the Solicitor who was present.

Both Counsel made submissions as to penalty and then retired.

It was moved by Mr. Lamek, seconded by Mr. O'Connor, That the Recommendation as to Penalty contained in the Report that the solicitor be disbarred be adopted.

Lost

It was moved by Mr. Strosberg, seconded by Mr. Bastedo, That the solicitor be suspended for 18 months.

Not Put

It was moved by Mr. Manes, seconded by Mr. Levy, That the Solicitor be permitted to resign otherwise he would be disbarred.

Carried

The Solicitor and Counsel were recalled and informed of the decision of Convocation that the Solicitor would be permitted to resign but if his resignation is not submitted by the end of the day, he would be disbarred.

The Solicitor's resignation was filed with Convocation later in the day.

.....

CONVOCATION ROSE AT 12:35 P.M.

.....

The Treasurer and Benchers has as their guests for luncheon in the Benchers Dining Room Chief Justice Callaghan, Mr. Robert Carmen and Mr. Thomas Heintzman.

.....

Convocation reconvened at 2:30 p.m. the following being present:

The Treasurer, Mr. L. K. Ferrier, Ms. Bellamy, Ms. Callwood, Messrs. Carey, Cass, Cullity, Farquharson, Ferguson, and Furlong, Mrs. Graham, Messrs. Ground, Hickey, and Howie, Ms. Kiteley, Messrs. Lamek, Lamont, Lawrence, and Manes, Ms. Peters, Messrs. Rock, Shaffer, Somerville, Spence, Strosberg, Thom, Thoman, and Toppp, and Mrs. Weaver.

.....

"IN CAMERA"

.....

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

.....

"IN PUBLIC"

.....

PROFESSIONAL CONDUCT COMMITTEE

Mr. H. Strosberg, Vice-Chair, presented the Report of the Professional Conduct Committee of its meetings on Thursday, the 14th September, 1989 and Thursday, the 12th October, 1989.

27 October 1989

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAATION ASSEMBLED

The PROFESSIONAL CONDUCT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of September, 1989 at three o'clock in the afternoon, the following members being present: Messrs. Carter (Vice-Chair in the Chair), Strosberg (Vice-Chair), Carey, Hickey and Somerville.

A.

POLICY

1. PREPAID LEGAL SERVICES - THE NEED  
TO ADD TO THE EXISTING GUIDELINES

The Professional Conduct Committee approved and Convocation adopted a set of guidelines for Prepaid Legal Services earlier this year. Attached is a set of guidelines (numbered 1 and 2).

The Society's attention has been drawn to the fact that some lawyers may become involved in prepaid legal services plans as either directors or owners. For example, a plan may be actively marketed by a lawyer and the lawyer's firm will be providing the legal services. Disclosure should be made to any potential subscriber of the link between the prepaid legal services company and the law firm providing the legal services.

The Committee concluded that the following paragraph be added to the guidelines as the penultimate paragraph under Professional Independence.

Where a lawyer or law firm rendering legal services as part of a legal services plan has an interest directly or indirectly in that plan in terms of ownership, the client shall be advised of the exact nature of the interest and the lawyer shall obtain the written acknowledgement of that interest by the client and the client's consent to act.

The Committee recommends to Convocation that the guidelines be amended as above.

2. ADVERTISING QUESTION

The following item was discussed at the June meeting of the Committee:

A Toronto lawyer has asked if his firm could place an advertisement in a Toronto newspaper informing the public that certain lawyers would be available for telephone consultations on a without charge basis during certain designated hours.

Set out below is his letter containing the proposal:

As discussed with you, our firm is considering placing a public notice in a Toronto newspaper on a monthly basis, wherein, we would offer the public an opportunity to telephone, on a without charge basis, certain designated lawyers at our firm for telephone consultation. We intend to provide this public service once a month during designated hours.

As a recent participant of the phone-in service on Law Day, I was quite encouraged by the enthusiasm people had for the program and I believe it would be worthwhile for our firm to continue this service to the public on a regular basis. We believe it would compliment the existing Lawyer Referral Service provided by the Law Society. However, as discussed with you, we would be very interested to know the Law Society's views of this proposal before proceeding.

27 October 1989

It has been suggested that the advertisement would run afoul of that provision in Rule 12 which prohibits promotional advertising. Paragraph 4 of the Commentary under Rule 12 reads as follows:

The means by which it is sought to make legal services more readily available to the public must be consistent with the public interest, and must not be such as would primarily advance the economic interests of any individual lawyer or law firm, or detract from the integrity, independence or effectiveness of the legal profession. Promotional advertising is not in the interests of the public or the profession.

As a result of concerns expressed, the Committee's Secretary wrote to the lawyer.

This letter is further to our conversation last month. The proposal was discussed at some length. An issue that dominated this discussion concerned the liability which would flow from the giving of advice. Would you keep a specific record of each conversation and the name of the person making the inquiry together with the advice given? If the person making the enquiry did need legal services, would they be referred to a lawyer or law firm outside your firm or, would they be referred to a lawyer or lawyers in your law firm? If your proposal is a little more flushed out at this stage and you give me the answers to the above I can resubmit it to the Professional Conduct Committee.

The following reply was received.

Thank you for your letter of July 21, 1989. In reference to your questions therein our firm will keep a specific record of each conversation as well as the name of the person making inquiry together with a summary of the advice given, to the extent such is necessary for the Law Society's purposes. In essence, the person calling would receive the same service as anyone who contacted this firm for legal advice.

As to the referral of the person calling, in the event our firm has the expertise in the area in which advice is sought, we would refer the person to a lawyer in our firm. However, if the expertise for the advice sought would more properly be dealt with by another firm, the matter would be referred out. However, it should be stressed, that it is not our intent to charge for the advice given during the telephone consultation and accordingly, we believe that the proposal will provide a public service to the community.

The Committee concluded that the firm could do what it was proposing provided that the following steps were taken:

1. a record was kept of the client's name and address;
2. a detailed record was kept of the questions asked by the client and the answers given by the lawyer;
3. and a check was made of a client registry to make sure that there were no conflicts.

In giving this advice the Committee was concerned that without the above steps being taken the firm would be exposing itself to both claims based on negligence and allegations of professional misconduct.

The Committee requests Convocation to adopt this advice.

C.  
INFORMATION

---

1. A LAWYER HAVING AS A PARTNER A NON-LAWYER  
(AND A LAWYER OFFERING INCENTIVES FOR  
PROFIT SHARING TO NON-LAWYER EMPLOYEES)

This Sub-committee has held four meetings.

Material has been received from the American Bar Association and the English Law Society. It is clear that several more meetings will be required.

The profession will once again be invited to make submissions. The first round of advertisements produced only four responses. As well, the governing bodies of a number of professions and other groups whose members might be interested in the subject will be approached for their thoughts.

Members: Messrs. Somerville (Chair), Lyons, O'Connor and Spence.

2. SUB-COMMITTEE ON RULE 23  
(LAWYERS IN MORTGAGE TRANSACTIONS)

The Sub-committee made an interim report in October 1988. It was decided then that no changes to our Rules of Professional Conduct should be made until the Sub-committee has had an opportunity to examine the draft Mortgage Brokers Act. The Law Society has been told by the Ministry of Financial Institutions that we would be given a copy of a draft when it is available.

The Deputy Registrar under the Mortgage Brokers Act has indicated that the Ministry has put the draft legislation on the back burner for at least six months. The Law Society has been assured that a copy of the draft legislation will be sent to it when the issue has been revived.

Members: Messrs. Somerville (Chair), Wardlaw and Mrs. Legge.

3. SUB-COMMITTEE ON RULE 26  
(MEDICAL-LEGAL REPORTS)

The Committee decided that Rule 26 (Medical-legal Reports) ought to be reviewed and has directed that a Sub-committee composed of Messrs. Strosberg (Chair), Carey and Cooper look into the adequacy of the Rule.

A very brief meeting of the Sub-committee was held on February 17th. The Chair will be sending out some material together with an outline of the relevant issues.

4. SPECIAL COMMITTEE ON CONTINGENCY FEES

The Special Committee, which reported to Convocation last May on the basic question of whether or not contingency fees would be of value to litigants in Ontario, is preparing its second report. This report will put forward for consideration by Convocation and by the Attorney General a nuts and bolts scheme as to how contingency fees could be implemented in Ontario.

A very productive meeting was held on February 27th with members of The Advocates' Society's Committee on Contingency Fees.

A report will hopefully be sent to the October Convocation.

Members: Messrs. Outerbridge (Chair), Carter, Furlong and Howie.

27 October 1989

ALL OF WHICH is respectfully submitted

DATED this 29th day of September, 1989

"Harvey T. Strosberg"  
Vice-Chair for the  
Chair

Attached to original Report in Convocation File, copy of:

A-Item 1 - Guidelines for Prepaid Legal Services

(marked 1 & 2)

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL CONDUCT COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th day October, 1989 at three o'clock in the afternoon, the following members being present: Messrs. Strosberg (Vice-Chair in the Chair), Carey, Cooper, Hickey, O'Connor, Somerville and Mrs. Graham.

B.

ADMINISTRATION

1. NEED TO REMIND LAWYERS AT INQUESTS  
REPRESENTING MULTIPLE CLIENTS OF  
THEIR DUTY UNDER RULE 5

An Ontario coroner has sent the following letter to the Treasurer:

Issues concerning the appropriateness, both ethical and procedural, of a single Counsel (member of the Law Society of Upper Canada) representing more than one client (in a Solicitor/Client relationship) while appearing in a Coroner's inquest in Ontario have arisen in the Pendock inquest and previous inquests. May I at this time make an inquiry, and not a formal complaint, to elicit from the Law Society of Upper Canada a proper view of the propriety and standards for members of the Ontario Bar.

As you know, Coroner's inquests in Ontario are by nature inquiry and not adversary. No issue of law is decided and the jury is not to make any finding of legal liability. Jury returns are matters of public record. Nevertheless, there are controversies about issues and the proper scope of inquests, as well as procedural and tactical matters which arise. Frequently, members of the Law Society of Upper Canada appear representing their clients who are known as "persons granted standing." The Coroners Act sets out the scope of involvement within the inquest.

Potential conflicts can be perceived in a number of situations where a single Counsel represents more than one client. On occasion those potential conflicts do, in fact, become realized.

Examples of potential conflict situations are as follows:

- I. A single Counsel may represent several physicians whose care of the deceased may or may not have overlapped.
- II. Counsel representing a corporate body may also represent corporate officers or employees of the corporation.



27 October 1989

III. Counsel for the head of an unincorporated organization (such as the Chief of the Police Force) may also purport to represent subordinates (such as an officer whose conduct may be criticized and who stands possibly subject to disciplinary action).

IV. Counsel employed by a municipality may represent departments of that municipality or individuals employed thereby.

May I ask for a statement of standards which would assist me and members of the Law Society in deciding the propriety of representing multiple clients before a single Coroner's inquest.

The Committee's Secretary met with the coroner in question. At that meeting the Secretary expressed the opinion that our existing Rule 5 was adequate enough and explained that a lawyer was under a duty to clarify his position with multiple clients and had to advise them that he might have to withdraw were certain things to occur such as the development of a conflict.

What was really bothering the coroner was the situation that would arise where a person represented by a counsel, who is appearing for a number of persons, should really have his own counsel. Two examples were given. The first involves a counsel who appears for a hospital and certain employees (nurses, nursing assistants) of that hospital who are subpoenaed to the inquest. It may be that one of these employees ought to have had their own separate counsel. Another fact situation concerned the lawyer, who is an employed solicitor with Metro, turning up and announcing that she represents the Metropolitan Corporation, the Chief of Police and one specific police officer at an inquest. The police officer shortly after the inquest began realized that he should really have his own lawyer and therefore got separate counsel.

The Secretary suggested that the following steps might be taken.

- (1) The Law Society might consider putting a reminder in one of its publications (either the Proceedings of Convocation or the Adviser) that members should be aware of their obligations under Rule 5 and be careful not to undertake the representation of multiple parties at inquests without thoroughly examining the matter so as to potential conflicts.
- (2) The coroner should use the forum of the Coroners Association to educate the 300 or so coroners in this province as to how conflicts can and do arise and how they should be resolved.
- (3) The coroner should see that this question be put on the agenda of a future Medico-Legal Society meeting.

The Committee considered having a reminder published in either the Proceedings of Convocation or the Adviser of the lawyer's obligation and decided that the next issue of the Adviser would be a suitable place for such a reminder.

## 2. USE OF TITLE "SENIOR INSURANCE LITIGATION ANALYST"

A lawyer has questioned the propriety of a paralegal in a law firm using the title "Senior Insurance Litigation Analyst" in correspondence with other law firms. The questioning lawyer suggests that this title is misleading and could cause a member of the public to believe that this individual was a duly qualified lawyer.

Paragraph 3 of the Commentary under Rule 16 reads in part:

The lawyer may not permit a non-lawyer to:

27 October 1989

(f) be held out as a lawyer. (The Lawyer should insure that the non-lawyer is identified as such when communicating orally or in writing with clients, lawyers, public officials or with the public generally whether within or outside the offices of the law firm of employment);

(1) sign correspondence containing a legal opinion, but the non-lawyer who has been specifically directed to do so by a supervising lawyer may sign correspondence of a routine administrative nature, provided that the fact such person is a non-lawyer is disclosed, and the capacity in which such person signs the correspondence is indicated;

The Committee was of the opinion that the title was meaningless and some members of the public might be confused. Accordingly, the Committee decided that the law firm should be advised that this title should be replaced by that of law clerk.

3. REQUEST FOR ADVICE RESPECTING THE  
DESIGNATION OF PERSONS NOT QUALIFIED  
IN ONTARIO BUT IN OTHER JURISDICTIONS

The Committee considered two inquiries.

(a) One is from a lawyer who wishes to employ a retired justice of the High Court of Appeal of Guyana as a "consultant" to his law office. He would like to show him on his letterhead although he has been told that this would not be possible. His second inquiry concerns what sort of business card this retired justice could have as an employee of his law firm. He would like to have a card that would read:

R. H. Luckhoo - Consultant  
(Retired Justice of the High Court of Appeal of Guyana)

The Committee concluded that the use of the term consultant might be confusing to members of the public. Since Mr. Luckhoo could only function in a paralegal capacity, he should be described as either a paralegal or a law clerk.

(b) The second inquiry is from a Mr. Brian Behrman, a South African attorney who wants to have a business card which would make reference to the fact he is a lawyer in South Africa. He has put forward four alternatives:

Solicitor - South Africa

Admitted to Practice Law in South Africa

South African Solicitor

Attorney S.A.

Mr. Behrman's inquiry has been considered by Mr. Stanley Jenkins of the Discipline Department who has prepared a helpful two page memorandum, a copy of which is attached (numbered 1 & 2).

The Committee noted that it had no jurisdiction over Mr. Behrman and concluded that he should be advised that he cannot distribute a business card which would give rise to the inference he was entitled to practise law in Ontario.

4. REQUEST FOR ADVICE

A law firm wishes to put a notation at the bottom of its accounts to its clients that it will discount its fee by 2% if the clients pay within 10 days.

There is nothing in the Rules of Professional Conduct that would prohibit it. It is more a question of taste.

The Committee concluded that such a discount was not prohibited by the Rules of Professional Conduct provided that there really was a genuine discount. The law firm should be asked to review the requirements for legitimate discounts as set out in the Competition Act.

C.  
INFORMATION

---

1. A LAWYER HAVING AS A PARTNER A NON-LAWYER  
(AND A LAWYER OFFERING INCENTIVES FOR  
PROFIT SHARING TO NON-LAWYER EMPLOYEES)

This Sub-committee has held three meetings.

Material has been received from the American Bar Association and the English Law Society. It is clear that several more meetings will be required.

The profession will once again be invited to make submissions. The first round of advertisements produced only four responses. As well, the governing bodies of a number of professions and other groups whose members might be interested in the subject will be approached for their thoughts.

Members: Messrs. Somerville (Chair), Lyons, O'Connor and Spence.

2. SUB-COMMITTEE ON RULE 23  
(LAWYERS IN MORTGAGE TRANSACTIONS)

The Sub-committee made an interim report in October 1988. It was decided then that no changes to our Rules of Professional Conduct should be made until the Sub-committee has had an opportunity to examine the draft Mortgage Brokers Act. The Law Society has been told by the Ministry of Financial Institutions that we would be given a copy of a draft when it is available.

The Deputy Registrar under the Mortgage Brokers Act has indicated that the Ministry has put the draft legislation on the back burner for at least six months. The Law Society has been assured that a copy of the draft legislation will be sent to it when the issue has been revived.

Members: Messrs. Somerville (Chair), Wardlaw and Mrs. Legge.

3. SUB-COMMITTEE ON RULE 26  
(MEDICAL-LEGAL REPORTS)

The Committee decided that Rule 26 (Medical-legal Reports) ought to be reviewed and has directed that a Sub-committee composed of Messrs. Strosberg (Chair), Carey and Cooper look into the adequacy of the Rule.

A very brief meeting of the Sub-committee was held on February 17th. The Chair will be sending out some material together with an outline of the relevant issues.

4. SPECIAL COMMITTEE ON CONTINGENCY FEES

The Special Committee, which reported to Convocation last May on the basic question of whether or not contingency fees would be of value to litigants in Ontario, is preparing its second report. This report will put forward for consideration by Convocation and by the Attorney General a nuts and bolts scheme as to how contingency fees could be implemented in Ontario.

A very productive meeting was held on February 27th with members of The Advocates' Society's Committee on Contingency Fees.

27 October 1989

A report will be sent to the November Convocation.

Messrs. Messrs. Outerbridge (Chair), Carter, Furlong and Howie.

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 1989

"Harvey T. Strosberg"  
Vice-Chair for the  
Chair

Attached to original Report in Convocation File, copy of:

B-Item 3 - Memorandum dated June 22, 1989 from Stan Jenkins to Stephen  
Travis, Re: Inquiry from South African Attorney

(marked Page 1 & 2)

THE REPORTS WERE ADOPTED

.....

#### SPECIAL COMMITTEES

The Treasurer announced the formation of three Special Committees, one to inquire into the complaints process, one to inquire into Discipline procedures and one to look into the issue of minority groups assistance programs.

The terms of reference for the Special Committees are as follows:

##### Special Committee on Complaints Procedures:

The Committee shall examine the process by which complaints are received, evaluated and reviewed by the Law Society and make recommendations on how the process may be improved. While charged with the responsibility to examine all aspects of the complaints process, the Committee will specifically consider the following:

- (a) The intake process, to determine whether more assistance to complainants would result in a clearer statement of the complaint thereby facilitating an earlier disposition of the complaint and an earlier redirecting of matters that are not properly before the Law Society.
- (b) Decentralizing the complaint review process so that the cost and inconvenience to the complainant of attending in Toronto can be avoided or substantially reduced.
- (c) Limitations or weaknesses in the complaints process that result in the frustration of the complainants or which are counter-productive to the goals of public service and governance of the profession that are intended to be served by the complaints process.
- (d) Improved communications with the profession to make it more aware of the types of inadequate service that are giving rise to complaints.
- (e) Alternative complaint resolution procedures that can efficiently and effectively deal with complaints involving shoddy work or negligence where the amount of money involved does not warrant litigation to settle the matter.

As part of its report, the Committee is asked to develop a concise statement of goals and objectives of the complaints process that may be used to inform the public about their rights and the profession about their responsibilities.

The members of the Special Committee on Complaints Procedures are the following: June Callwood (Chair), Netty Graham, Roderic Ferguson, Thomas Carey and Colin McKinnon with Mr. Mark Orkin to serve as a special advisor.

#### Discipline Procedures:

The Committee shall review the Law Society Act and Regulations insofar as they relate to discipline procedures and shall make such recommendations as are necessary to improve the discipline procedure in those areas set out below and in other areas identified by the Committee as needing amendment so as to provide a complete code of discipline procedure.

For the purpose of this review, the discipline process will not include the intake, evaluation and disposition of complaints prior to the point where, pursuant to section 9 of regulation 573, the Secretary exercises his discretion in referring or declining to refer the matter to the Chair or Vice-Chair of the Discipline Committee. (A special Committee is being constituted to review the intake, evaluation and disposition of complaints, including complaints review processes, prior to such point.)

The Committee shall review and make recommendations for the improvement or clarification of the discipline procedure in the following areas:

1. In a matter that may require disciplinary action and that does not come through the complaints section, what process and which persons should be involved in the initiation of an investigation and the determination of whether the matter should be referred to another stage in the process. At present section 9 of regulation 573 would appear to make the Secretary the only person who can initiate an investigation and subsequently decide, in the Secretary's unfettered discretion, whether such a matter should be referred to another stage in the process. Should the Chair of Discipline or anyone else have the authority to have the Secretary's work reviewed?
2. The process by which a report from the Secretary on a matter that may require disciplinary action is evaluated and a decision made on whether or not a formal discipline complaint should be filed. The present language of section 9 of regulation 573 refers to "the committee", which means the Discipline Committee which in turn currently includes all of the benchers; "the chairman", which means the chair of the Discipline Committee but which in practice is the chair of the Discipline Committee (Policy); and "the vice-chairman", which means the vice-chair of the Discipline Committee but which in practice is one of the two vice-chairs of the Discipline Committee (Policy). Should Convocation or the Treasurer or anyone else have the authority to review a decision of the Chair or Vice-Chairs of Discipline?
3. The appropriate composition and designation of the panel that conducts the hearing of a formal discipline complaint. At present section 9(2) (c) refers to "the committee", which means the Discipline Committee etc., and section 9(3) permits a quorum.
4. The appropriate role of the hearing panel in determining the finding of facts, in making conclusions of law and in recommending or setting the penalty and conversely the appropriate role (if any) for the tribunal (if any) that hears the next stage of the process. At present there is some question about the right of Convocation (the Discipline Committee) to review and alter the findings of fact or conclusions of law made by the hearing panel. At present, if a three person panel decides that a formal discipline complaint has not been established it may dismiss the complaint. Alternatively, the panel may decide that the appropriate penalty is a reprimand before the panel. In either case the matter is not referred to Convocation. Is there a need for an appeal to Convocation or some other tribunal by counsel for the Law Society?

27 October 1989

5. How and when should a complaint filed against a lawyer be made public? Should it be at the time the complaint is formally filed by the Secretary or at the hearing by the panel or at the hearing before Convocation?
6. How and when should the decision and report of a discipline panel be made public. Should it be when the panel reaches its decision or when the decision is considered in Convocation?
7. What special procedures are required for in-camera hearings?
8. If Convocation remains the final tribunal within the Law Society, what rules should govern a quorum and should it be possible for two or more panels of Convocation to be sitting simultaneously? Bill 45 currently before the Legislature will reduce the quorum requirements in Convocation for all purposes to ten persons. If more than ten benchers hear the initial part of a discipline matter should there be any rule governing how many of the initial group hear the subsequent part, so long as there are at least ten present?
9. Section 44 of the Law Society Act grants a right of appeal to the Divisional Court to "Any person" dissatisfied with a decision of Convocation made under certain enumerated sections of the Law Society Act. Is this right of appeal too broadly stated?
10. The appropriate treatment of cases where a member may be incapable of carrying on a practice because of physical or mental health problems including addiction to drugs and alcohol. At present section 35 of the Act treats these cases as discipline cases. Should there be a distinct review process that is not set up as part of the discipline process? Should there be power to compel a member to undergo a medical examination by a doctor appointed by the Law Society?

The members of the Special Committee on Discipline Procedures are the following: Roger Yachetti, (Chair), Harvey Strosberg, (Vice-Chair), Messrs. Lamek, Bastedo, Martin, Thom, Somerville, O'Connor and Topp, Mrs. Graham and Ms. Kiteley. Mr. Arthur Stone is to serve as a special advisor on matters relating to legislative changes.

#### Minority Groups Assistance Program:

This Committee will carry out a preliminary study of existing information and recommend whether the Law Society by itself or in co-operation with other organizations should establish a program to encourage and assist persons from minority groups that are under-represented in the legal profession in Ontario to become lawyers. If the Committee recommends that such a program be initiated, its report will indicate the nature of the program, the target groups, estimated costs and the proposed sources of funding.

The members of the Special Committee on Minority Groups Assistance Program are the following: Harvey Strosberg (Chair), Messrs. Cullity, Rock and Pritchard.

Note: All three Special Committees, were formally constituted by Motions made later in the day.

.....

"IN CAMERA"

.....

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed



IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed



IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

IN CAMERA Content Has Been Removed

.....

"IN PUBLIC"

.....

REQUEST TO APPEAR AS COUNSEL

Ms. Janet Brooks, a solicitor with Mr. Frank Marrocco appeared on behalf of Mr. Marrocco to seek Convocation's approval to Mr. Marrocco continuing to act for the Law Society in regard to the Complaint against Mr. Kopyto in Complaint Number D13/88 and against Ms. Angelina Codina in Complaint number D57/87.

Mr. Marrocco was seeking Convocation's authorization because as of November 1st, he will be a partner in the firm of Smith, Lyons of which Ms. Kiteley is also a member.

It was made clear that Mr. Marrocco would make Application in regard to the Legal Aid Complaint to the Convocation that is already seised of that matter.

It was moved by Mr. Rock, seconded by Mr. Farquharson, That the exemption requested be granted without prejudice to the right of the individual Committees hearing the matters to make rulings based on the facts in the particular cases before them.

Carried

MOTIONS

It was moved by Mr. Lamont, seconded by Ms. Peters, That Mr. Earl Levy be appointed as Vice-Chair of the Clinic Funding Committee to replace Mrs. Helen MacLeod.

Carried

It was moved by Ms. Callwood, seconded by Mr. Cass, That Mr. Jack Ground be added as a member of the French Language Services Committee.

Carried

It was moved by Mr. Lamek, seconded by Mr. Cullity, That Mr. Donald H.L. Lamont continue as Canadian National Exhibition representative.

Carried

27 October 1989

It was moved by Mr. Carey, seconded by Mr. Lamont, That Mr. Harvey Strosberg be appointed as Vice-Chair of the Compensation Fund Committee to replace Mrs. Helen MacLeod.

Carried

It was moved by Mr. Thom, seconded by Mr. Shaffer, That Mr. R. W. Lalonde be appointed as a non Benchers member of the Legal Aid Committee.

Carried

It was moved by Mr. Strosberg, seconded by Mr. Cass, That Mr. John Douglas Thoman be appointed as a member of the following Committees: Libraries & Reporting, Professional Standards, Professional Conduct and County & District Liaison.

Carried

It was moved by Mr. Rock, seconded by Mr. Epstein, That a Special Committee on Complaints be established with the appointment of the following members: June Callwood (Chair), Netty Graham, Roderic Ferguson, Thomas Carey and Frances Kiteley. Mark Orkin has agreed to serve as Special Advisor.

Carried

It was moved by Mr. Lamek, seconded by Mrs. Graham, That a Special Committee on Discipline Procedures be established with the appointment of the following members: Roger Yachetti (Chair), Harvey Strosberg (Vice-Chair), Messrs. Lamek, Bastedo, Martin, Thom, Somerville, O'Connor and Topp, Mrs. Graham and Ms. Kiteley. Mr. Arthur Stone is to serve as a special advisor on matters relating to legislative changes.

Carried

It was moved by Mr. Lamek, seconded by Mrs. Graham, That a Special Committee on Minority Groups Assistance Program be established with the appointment of the following members: Harvey Strosberg (Chair), Messrs. Cullity, Rock and Pritchard.

Carried

.....

#### LEGAL EDUCATION COMMITTEE

Mr. A. Rock, Chair, presented the Report of the Legal Education Committee of its meeting on Thursday, the 12th October, 1989.

#### TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

#### IN CONVOCATION ASSEMBLED

The LEGAL EDUCATION COMMITTEE begs leave to report:

Your Committee met on Thursday, October 12th, 1989. The following members were present: A. Rock (Chair), M.C. Cullity (Vice-Chair), R.G. Ferguson, L.L. Legge, R.D. Manes, P. Peters, J.M. Spence, S.D. Thom,, R.D. Yachetti, J. MacPherson, J. Whyte, C. Tari.

A.

#### POLICY

#### 1. CO-OPERATIVE LEGAL EDUCATION PROGRAM, QUEEN'S UNIVERSITY

Queen's University Faculty of Law is developing a pilot project in co-operative Legal Education. Development of the proposal follows extensive and ongoing consultation with the Legal Education Committee, the Canadian Bar Association of Ontario, all of the Ontario Law Schools, and the former and current Director of Education. The proposed pilot project represents a positive experiment in co-operation in Legal Education between the Law Schools and the Profession.

27 October 1989

Dean John Whyte of Queen's University Faculty of Law requests that the approval granted by Convocation on June 30th 1989 to the experimental Queen's Co-operative Legal Education Program be for each of three successive admission years: 1991, 1992, and 1993 instead of for one year only.

The supporting documentation considered by Convocation at its June 30th, 1989 meeting is attached, and is as follows:

(Pages 1 - 19)

- a) A letter to Philip Epstein, Q.C., together with two pages of information, for consideration by the Articling Reform Sub-committee.
- b) A letter from Philip Epstein, Q.C., on behalf of the Articling Reform Sub-committee approving, in principle, exemption from the articling requirement.
- c) A letter to James Spence, Q.C., together with three supporting pages, seeking exemption from the one-month teaching term, for consideration by the Bar Admission Reform Sub-committee.
- d) A letter from James Spence, Q.C., on behalf of the Bar Admission Reform Sub-committee approving, in principle, exemption from the one-month teaching term of the Bar Admission Course.
- e) A letter from Dean John Whyte to James Spence, Q.C., acknowledging the approval in principle by the Bar Admission Reform Sub-committee of exemption from the one-month teaching term of the Bar Admission Course for those students who successfully complete the Co-operative Legal Education Program of Queen's University.

On June 30, 1989, Convocation approved in principle the original proposal. The normal time required to obtain an LL.B. would be extended by a summer term at the end of the first, second, and third years, and by a fall and spring term in the fourth year. The approval in principle specifically included two elements of the proposal:

- a) Exemption from articling: The articling requirement will be satisfied by the five placement terms of approximately four months each. Students will be in four different placements for the five placement terms, with two consecutive terms spent in one placement. The five placements will include two consecutive four month terms in a setting that would qualify as an articling position, with each student being assigned to a lawyer serving as the student's Principal.
- b) Exemption from one month teaching term: Students will be exempted from the one month pre-articling teaching term of the Bar Admission Course, on the basis that the requirement will be satisfied by the Introduction to Co-op and Skills courses taken within the program. The content of the curriculum will cover the elements taught in the Bar Admission Course one month teaching term.

Students graduating from the Queen's Co-operative Legal Education Program will be entitled to Call to the Bar on completion of the three month teaching term of the Bar Admission Course (not having been required to complete the one month teaching term and the articling requirement).

Convocation, for greater clarity emphasized that the approval in principle was granted for only one class of twenty five students.

Dean Whyte's letter requesting the variation to three years is attached.

(Pages 20 - 21)

The purpose of the experiment is to provide insights into co-operative education that will potentially benefit education throughout the province and Canada. Dean Whyte is reluctant to base the experiment on just one admission class.

It is expected that improvements will be made based on what is learned from the first year of the experiment, both in the content of the course and in placements.

The financing, staffing and administrative structuring of the program require the effort and momentum that would be obtained with a program consisting of three admission years.

It is recommended that Dean Whyte's request be granted, so that approval in principle of the experimental Queen's Co-operative Legal Education Program be for three successive admission years (1991, 1992, and 1993) of approximately twenty-five students each year.

## 2. PORTABILITY OF CANADIAN LAW DEGREES

At the August 17th, 1989 meeting of the Federation of Law Societies in Vancouver, B.C., the National Committee on Legal Education presented a report entitled "PORTABILITY OF CANADIAN LAW DEGREES". The Report is attached.

(Pages 22 - 45)

The Report discusses problems raised by individual Law Societies, rather than a central body, approving new Canadian law degrees, new part-time Canadian degree programs, new Canadian joint degree programs, and Civil Law-Common Law conversion courses.

The Report contains a number of recommendations, summarized as follows:

a) The National Committee on Legal Education, with appropriate representation from the Law Deans, be assigned the task of recommending the recognition of new Canadian law school degrees, new part-time Canadian degree programmes, and new Canadian joint degree programmes on behalf of Federation members.

b) The National Committee should apply standards for recognition based on the minimum standards for law school curriculum that now exist; likewise, the National Committee should apply standards on part-time degree and joint degree proposals based on established programmes.

c) The National Committee should act as a problem-solving body to handle complaints by law societies, law schools or other constituencies about:

(i) non-compliance by existing law schools with the "basic seven" courses and credit hour requirements established in 1968;

(ii) existing part-time and half-time LL.B. programmes;

(iii) steps contemplated or taken by law societies that would increase mandatory curriculum requirements and jeopardize portability.

d) Each law society or approving body should retain the right to scrutinize and approve submissions (e.g. on new degrees, part-time programmes) made to the National Committee; however, upon acceptance of this Report on Portability, each law society should agree to accept the recommendations of the National Committee as highly persuasive.

e) Further study of civil law - common law "conversion course" issues be undertaken by the National Committee on Legal Education; the issues require consultation with the interested law societies and law deans.

27 October 1989

At the August 17th, 1989 meeting of the Federation of Law Societies, representatives of the governing bodies of the ten provinces and two territories voted to table the Report until the February 16th, 1990 meeting of the Federation, with a view to having the Report scrutinized by the individual governing bodies before considering its adoption by the Federation.

It is recommended that the Chair appoint a Sub-committee to consider the Report and make recommendations to the Committee, such consideration to include consulting with other governing bodies, examining alternatives to the recommendations made in the Report, and determining the composition of the body which would approve law school degrees.

3. JOINT COMMITTEE APPLICANTS: ENTRY INTO THE BAR ADMISSION COURSE

Applicants for admission to the Bar Admission Course (teaching term and articling) who seek admission on the basis of a non-Canadian law degree or a Canadian civil law degree normally must possess a Certificate of Qualification issued by the Joint Committee on Accreditation.

Such applicants regularly request permission to begin the Bar Admission Course before the Certificate of Qualification has been granted, on the condition that the Certificate of Qualification will be obtained before the Bar Admission Course is completed. Such applicants normally plead that personal and financial hardship will be the result of their entry into the Bar Admission Course being delayed until they obtain a Certificate of Qualification.

Most applicants are refused permission to enter the Bar Admission Course before obtaining a Certificate of Qualification. In special circumstances, however, the Secretary of the Law Society and the Director of Education consult and permit exceptions to the general rule on the basis that individual applicants have very little more to do before obtaining a Certificate of Qualification. Common examples are where examinations have been written but results have not yet been provided, or where examinations must be written but will be written shortly after the commencement of the Bar Admission Course. The exceptions which have been granted have taken into account the personal and financial disadvantages suffered by applicants who would otherwise have their Call to the Bar delayed.

A proposed policy entitled "JOINT COMMITTEE APPLICANTS: ENTRY INTO THE BAR ADMISSION COURSE" is attached.

(Pages 46 - 47)

It is intended that the policy be applied when applicants request permission to enter the Bar Admission Course before having received the Certificate of Qualification. The policy is the product of both the Legal Education and Admissions Committees.

It is recommended that the policy be approved.

B.  
ADMINISTRATION

1. BAR ADMISSION COURSE REFORM-OMNIBUS APPLICATION FOR FUNDING TO THE LAW FOUNDATION OF ONTARIO

An explanatory memorandum was before the Committee outlining funding requirements for Bar Admission Course Reform for the period January 1, 1990 to July 1, 1990. Schedules attached to that memorandum provide detailed figures and indicate there will be a shortfall in financing of \$265,397. The Committee was asked to approve this proposal and forward it to the Finance Committee to be included in the Law Society's Omnibus Application to The Law Foundation of Ontario.

27 October 1989

An explanatory memorandum as revised by the Legal Education Committee is attached.

(Pages 48 - 51)

It is recommended that the Committee's approval of this proposal be adopted.

C.  
INFORMATION

1. SUB-COMMITTEE ON BAR ADMISSION COURSE REFORM

(Members: J. Spence (Chair), T. Bastedo, P. Epstein, D. Lamont, N. Gold, Director of Education)

a) A discussion meeting took place on September 14th, 1989. Discussion focused on a draft paper entitled "DESIGN OF THE NEW BAR ADMISSION COURSE", dated August 29th, 1989. Following the meeting, copies of the document were mailed to all members of the Legal Education Committee, Heads of Section of the Bar Admission Course and Senior Instructors, and other interested persons. In the covering letter, comments and suggestion, are solicited.

b) The Director will begin visiting Ontario Law Schools in October to conduct information sessions with law students. (All students now in law schools who propose to enter the Bar Admission Course (teaching terms and articling) will be subject to Bar Admission reform.)

c) Hamilton Bar Admission Course: On behalf of the Sub-committee, the Director has written to Douglas Patton of the Hamilton Bar indicating that the Hamilton request to offer the one month session of the Bar Admission Course in 1990 in Hamilton has been denied and will be re-considered in the future.

A copy of the Director's letter is attached.

(Pages 52 - 53)

2. SUB-COMMITTEE ON ARTICLING REFORM

(Members: P. Epstein (Chair), D. Bellamy, B. Doran, R. Ferguson, A. Rock, R. Yachetti, J. Burton, Director of Education)

The Sub-committee continues to meet. Mr. Epstein and the Director are beginning to draft a Report. The draft Report will be reviewed by members of the Sub-committee for their input. A final draft will be presented to the Committee at its November meeting.

3. MEETING WITH COUNTY AND DISTRICT LAW ASSOCIATION REPRESENTATIVES

On September 20th, 1989, seven representatives of the County and District Law Associations met with representatives of the Committee and the Department of Education staff to consider Bar Admission reform and Continuing Legal Education.

Discussions on Bar Admission reform focused on the impact of reforms on articling outside of London, Ottawa, and Toronto. There will be a further meeting on October 12th, 1989.

The larger portion of the meeting focused on Continuing Legal Education programs outside of London, Ottawa, and Toronto. Discussions will continue in October, examining in particular how to make more effective use of programs that have been recorded on video tape and to offer them in co-operation with members of the local Bars.



27 October 1989

4. CONTINUING LEGAL EDUCATION: MANAGEMENT CHANGE

Susan Langton will be leaving her post as Manager, Continuing Legal Education Administration, effective October 27th, 1989. Ms. Langton will be assuming the post of President with National Mail Surveys.

Ms. Langton joined the Law Society in her current position in April of 1987. She has kindly offered to assist in the transition of responsibility to her successor. (A search is presently underway for a successor.)

5. COMPUTER EDUCATION FACILITY - MONTHLY REPORT ON ACTIVITIES -  
FOR SEPTEMBER 1989

Acquisitions

Since June, 1989, the following new hardware and software has been donated to the Facility:

4 Macintosh IICX's, from Apple Canada Ltd. (approx. value: \$64,000); 1 used communications pad, 2 modems and a dedicated telephone line, from STM Systems Inc., (approx. value: \$13,000); and updated versions of all Microsoft software, including the French version of MS-Works (copyright), from Microsoft Canada Inc. (approx value: \$4,000).

The Ottawa facility has been sent one of the Macintosh SE's from the Toronto classroom.

Continuing Legal Education

The new 1989-90 Computer Education Catalogue details the year's curriculum composed of 20 different courses, including one totally in French.

September enrollment has been even higher than anticipated. It has been necessary to open three overflow classes in Toronto, and two in Ottawa, to handle the demand. As of September 20, 1989 the database reports that almost 200 registrants paid \$41,775 for computer programs.

Program evaluations have been excellent. Requests have begun to come in from other areas of Ontario for local stagings of the program.

Legal Word-processing Certificate Program

The "Legal Word-processing Certificate Program", initially a pilot project established in co-operation with the University of Toronto School of Continuing Studies, has been turned into a standard program for this year. The number of word-processing packages offered in the program has been decided. This is expected to be a very successful year.

Bar Admission Course

400 BAC students have selected computers as a multiple option, and the first group completed their 15 hours of instruction in September. Response has been positive. As expected, this year there are more students already computer-literate before they enter the BAC than last year. A special session to be held in December will accommodate these more advanced students.

Both Ottawa and London expect to put 80 students through the computer skills multiple option; their curriculum will be as close as possible to that provided in Toronto.

27 October 1989

Technology for Lawyers '90, Conference and Vendor Exhibition

Planning for this year's Conference and Vendor Exhibition, co-sponsored by the Canadian Society for the Advancement of Legal Technology, has already begun. It will take place April 20-21, 1990, at the Harbour Castle Westin Hotel. This year the conference will be national in scope, solidifying Ontario's role as Canada's leader in Law office technology. Several potential speakers have already requested permission to submit papers. There shall be over 40 exhibitors, and an attendance of approximately 500 registrants.

Administration

The major administration project this summer was the modification of the Bar Admission Course seminar scheduling program, to adapt it to this year's requirements.

The quality of the internal mail system has been upgraded and a new facility has been added for users to resort to when in difficulty.

Staff

Jim Mercer has joined the staff as a new Technical Facilitator. He has proven extremely efficient, and as a result there has been a marked improvement in service to the various users of the computers.

6. CONTINUING LEGAL EDUCATION - COMPLETED PROGRAM

Corporate Law for Support Staff: Beyond Basics

This full day program was presented at the Ontario Institute for Studies in Education, Toronto to 174 registrants on Wednesday, September 20, 1989. Total revenues generated were \$30,550.00

The program featured concurrent workshops on a number of topics which allowed registrants to tailor their day to take into account their special knowledge and needs.

Twenty-two evaluations were received with 78 percent of respondents rating the program as "very good" or "excellent". The majority of registrants found the program to be at the intermediate level and many of the speakers were highly rated.

The extensive materials (662 pages) were planned and organized by Paul H. Harricks (Smith, Lyons, Torrance, Stevenson & Mayer), and Stephen P. Sigurdson (Lang, Michener, Lawrence & Shaw) who also co-chaired the program. Registrants were appreciative of the well organized reference material and commented on the excellent resource now provided for daily use in their offices.

Many registrants suggested that the program should be expanded to two days for future presentations in order for registrants to be able to attend all of the seminars and allow time for in-depth discussion of some topics.

ALL OF WHICH is respectfully submitted

DATED this 12th day of October, 1989

"Allan Rock"  
Chair

Attached to original Report in Convocation File, copy of:

A-Item 1 - Supporting documentation considered by Convocation at its  
June 30, 1989 meeting with respect to the Co-operative  
Legal Education Program, Queen's University

(Pages 1 - 19)

27 October 1989

- A-Item 1 - Letter dated August 9, 1989 from John D. Whyte Dean, Faculty Law, Queen's University, Kingston, to Allan M. Rock, Q.C., Chair, Legal Education Committee, Re: Queen's Co-operative Legal Education  
(Pages 20 & 21)
- A-Item 2 - Report of the National Committee on Legal Education, Portability of Canadian Law Degrees, Roger Yachetti, Q.C., Chair, Prepared by the Sub-committee on Portability: David Cruickshank, Chair, Nancy Bateman, July 7, 1989  
(Pages 22 - 45)
- A-Item 3 - Proposed Policy Entitled Joint Committee Applicants: Entry Into The Bar Admission Course  
(Pages 46 & 47)
- B-Item 1 - Explanatory Memorandum as revised by the Legal Education Committee dated October 4, 1989 from Marilyn Bode/Alan Treleaven, To the Members of the Finance and Legal Education Committees, Re: Bar Admission Course Reform - Omnibus Application to The Law Foundation of Ontario  
(Pages 48 - 51)
- C-Item 1 - Letter dated September 26, 1989 from Alan Treleaven, Director of Education, to Mr. Douglas N. Patton, Luchak, Thoman, Lofchik, Soule, Gage, Re: Hamilton Bar Admission Course  
(Pages 52 & 53)

THE REPORT WAS ADOPTED

.....

CERTIFICATION BOARD

Mr. A. Rock, Chair, presented the Report of the Certification Board of its meetings on Wednesday, the 6th September, 1989 and Monday, the 23rd October, 1989.

Mr. Rock indicated that the Criminal Litigation list in B-Item 1 be amended by the addition of Mr. Casey Hill.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The CERTIFICATION BOARD begs leave to report:

Your new Board met on Wednesday, the 6th September, 1989, at four thirty in the afternoon, the following members being present: Mr. Rock (Chair), Messrs. Furlong, Sadvari, Shore, Ms. Callwood and Ms. Pilkington. Mr. Tinsley and Ms. Thomson from the Law Society were also present.

Your Board also met on Monday, the 23rd October, 1989 at three o'clock in the afternoon, the following members being present: Mr. Rock (Chair), Mr. Sadvari, and Ms. Callwood. Ms. Thomson and Ms. Shewan from the Law Society were also present.

A.  
POLICY

1. FAMILY LAW STANDARDS

The Certification Board recommends to Convocation the approval of the proposed Family Law Standards, attached as Appendix "A". These Standards have been developed and refined by the Sub-committee (Family Law) of the Certification Board over a period of 16 months. The Board is satisfied that the Standards remain consistent with the level of competence required of the three existing areas of specialty.

2. AMENDMENT TO ALL STANDARDS

The Board has approved as mandatory the addition to all Standards, no matter what the area of specialty, of the following paragraphs:

"It is assumed that all applicants adhere to the highest standards of professional conduct. The Certification Board has adopted the following policy:

(a) any applicant who has ever been convicted of professional misconduct may be denied certification for that reason alone. In determining whether to exercise a discretion in favour of such an application, the Board will consider all the circumstances, and, in particular, will consider:

- (i) the nature of the offence;
- (ii) the date when the offence was committed; and
- (iii) the applicant's conduct since the date of the conviction.

(b) where a discipline investigation or complaint is pending at the date when the application is received, the Board will postpone consideration of the application until the discipline matter has been disposed of it in its entirety, whether by final order or otherwise."

Note: See amendment page 210 re: addition of words to Item 2(a).

B.  
ADMINISTRATION

1. CIVIL SPECIALTY COMMITTEE AND  
CRIMINAL SPECIALTY COMMITTEE MEMBERSHIP APPOINTMENTS

Attached as Appendix "B" is the Certification Board's Structure Committee Report, which was approved by Convocation on May 26th of this year. In accordance with that Report, the two-tiered Certification Program administrative structure, consisting of an umbrella Certification Board and various Specialty Committees, is now in place.

Three Specialty Committees (Civil Litigation, Criminal Litigation, and Civil and Criminal Litigation) have been in existence since July of this year.

The Certification Board recommends to Convocation the appointment of the following members to the Civil Litigation Specialty Committee and Criminal Litigation Specialty Committee respectively. As is indicated in the attached Structure Committee Report, each Committee should consist of five to nine members, "representing the various facets and interests of that particular specialty and shall be comprised of members from across the province insofar as that is practicable..."

Civil Litigation Specialty Committee

Kathryn Chalmers - of Toronto  
C. Scott Ritchie - of London  
Margaret Ross - of Ottawa  
Mary Anne Sanderson - of Toronto  
David Stockwood - of Toronto  
Peter Webb - of Toronto

Criminal Litigation Specialty Committee

Nola Garton - of Toronto  
Alan Gold - of Toronto  
P. Berk Keaney - of Sudbury  
Michael Neville - of Ottawa

27 October 1989

Membership of the combined Specialty Committee of Civil and Criminal Litigation, to be drawn from the two committees indicated above, will be reported to Convocation.

Note: See amendment page<sup>207</sup> re: addition of Mr. Casey Hill to Criminal Litigation Speciality Committee list

2. FAMILY LAW SPECIALTY COMMITTEE

The Certification Board recommends to Convocation the striking of a fourth Specialty Committee, being the Family Law Specialty Committee.

3. FAMILY LAW SPECIALTY COMMITTEE MEMBERSHIP APPOINTMENTS

Subject to Item 2 above, the Certification Board recommends to Convocation that the following lawyers be appointed to the Family Law Specialty Committee:

Thomas Bastedo (Chair) - of Toronto  
George Czutrin - of Hamilton  
Philip Epstein - of Toronto  
Ian Fisher - of Windsor  
William Inch - of Sudbury  
Evlyn McGivney - of Toronto  
Ruth Mesbur - of Toronto  
Nancy Mossip - of Mississauga  
H. Hunter Phillips - of Ottawa

C.  
INFORMATION

1. NEW AREAS OF SPECIALTY

The Certification Board is looking at the inclusion of the following areas of law in the Certification Program:

- Immigration Law
- Administrative Law
- Intellectual Property Law
- Bankruptcy and Insolvency Law
- Taxation Law
- Wills and Estates Law
- Estate Planning Law
- Workers' Compensation Law
- Labour Law
- Environmental Law
- Entertainment Law
- Real Estate Law
- Defamation and Libel Law

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 1989

"Allan Rock"  
Chair

Attached to original Report in Convocation File, copy of:

A-Item 1 - Proposed Standards for Certification of Family Law  
Specialists presented to Convocation on October 27, 1989.

(marked Appendix "A")

B-Item 1 - Report of the Structure Committee to the Certification  
Board, May 10, 1989

(marked Appendix "B")

27 October 1989

It was moved by Ms. Kiteley, seconded by Mr. Rock, That in regard to A-Item 2 Amendment to All Standards, that the subparagraph (a) of Item 2 be amended by the addition of the words "conduct unbecoming a barrister and solicitor" so that the Item will now read "any applicant who has ever been convicted of professional misconduct or conduct unbecoming a barrister or solicitor".

Carried

THE REPORT AS AMENDED WAS ADOPTED

.....

PROFESSIONAL STANDARDS COMMITTEE

Mr. R. G. Ferguson presented the Report of the Professional Standards Committee of its meeting on Thursday, the 12th October, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAATION ASSEMBLED

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on the 12th October, 1989 at eleven thirty in the morning the following members being present: Mr. Lyons (Chair), Mr. Ferguson, and Mr. Furlong. Also present were Ms. Angevine, Ms. Ashby, Ms. Poworoznyk, Ms. Rose and Messrs. Henderson, Kerr, Marshall and Stephany.

A.

POLICY

1. SUB-COMMITTEE ON THE COMPETENCY OF CRIMINAL LAWYERS - JURISDICTION OVER CROWN ATTORNEYS

The Chair advised the Committee of his meeting with the Treasurer regarding this matter. Further developments are anticipated and the Committee will be updated periodically.

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

The Chair advised the Committee of his recent meeting with the Treasurer, Under-Treasurer and Secretary regarding possible amendments to the Law Society Act, which would have the effect of making the participation of identified solicitors in the Practice Review Programme mandatory.

Staff was directed to prepare a draft background paper on this issue for the Committee's consideration at its November, 1989 meeting.

B.

ADMINISTRATION

1. PRACTICE ADVISORY SERVICE - MONTHLY REPORT

Mr. Marshall reported to the Committee on developments at the Practice Advisory Service over the past month.

2. PRACTICE REVIEW PROGRAMME - SOLICITOR NUMBER 24

Periodic updates of the solicitor's complaints, errors and omissions and audit records indicate that no further involvement with the Practice Review Programme is warranted. The Committee therefore recommended that the file be closed.

C.  
INFORMATION

1. STRESS AND ASSISTANCE PROGRAMME

Ms. Denise Ashby of the Law Society staff reported to the Committee on the status of the programme. Ms. Ashby indicated that the programme would be fully operational as of November, 1989. Ms. Ashby also advised that monthly financial reports and quarterly statistical reports would be submitted to the Committee for its consideration.

The Committee recommended that Ms. Ashby be present at the meetings where the Committee is asked to consider the quarterly reports.

2. SUB-COMMITTEE REAL ESTATE LAW

D. H. Lamont, Esq., Q.C. has agreed to Chair the Sub-committee. The staff is currently in the process of canvassing potential Sub-committee members.

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 1989

"R. G. Ferguson  
for" Chair

THE REPORT WAS ADOPTED

.....

DISCIPLINE COMMITTEE

Mr. P. Lamek presented the Reports of the Discipline Committee of its meetings on Thursday, the 11th May, 1989 and Thursday, the 8th June, 1989 and Thursday, the 12th October, 1989.

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

THE DISCIPLINE COMMITTEE begs leave to report:

Your Committee met Thursday, the 11th May, 1989 at one thirty in the afternoon, the following members being present: Mr. Lamek (Chair), The Honourable Allan Lawrence, Messrs. Carey, Cass, Cullity, Lerner, O'Connor, Mrs. Graham. Also in attendance was Stuart Thom, Q.C..

A.  
POLICY

1A. REPORT OF SUBCOMMITTEE ON CONFIDENTIALITY

The Sub-committee on Confidentiality was asked to review the Law Society's policy respecting disclosure of information about a member under investigation. The Report of the Sub-committee is attached and numbered as A-1 to A-4. It recommends continuation of the policy which permits disclosure in the discretion of the Chair or a Vice-Chair of the Discipline Committee. The following guidelines were presented for your Committee's consideration:

1. The Society may co-operate with requests for information and/or material, but only if it has a legitimate interest in the matter.

27 October 1989

2. If the Society requires assistance in an investigation it may initiate contact with the law enforcement authorities.
3. If the Society has knowledge of a member's conduct which is serious enough to be of interest to law enforcement authorities, it may initiate the disclosure, but only when it is in the public interest to do so.
4. The limitations in the present policy regarding disclosure only to the Crown or police should be removed and the policy altered to permit disclosure to other law enforcement authorities in the discretion of the Chair or a Vice-Chair.
5. The member should be notified of the fact of the disclosure and that it was authorized by the Chair of the Committee.
6. Certain information should be exempted from disclosure:
  - a) privileged communication between a member and his client;
  - b) statements made by a member to the Society in the expectation that they would remain confidential.
7. The Society should no longer maintain the policy of objecting to a Court's request for production or disclosure.

Your Committee has also received comment from Clayton Ruby and Earl Levy attached and numbered as pages A-5 to A-39 and requested confirmation that Mr. Moldaver's opinion remains unchanged.

Your Committee recommends adoption of the guidelines contained in the Report.

ALL OF WHICH is respectfully submitted

DATED this 27th of October, 1989

"P.S.A. Lamek"  
Chair

A-Item 1A- Sub-committee Report (marked A-1 - A-4)

A-Item 1A- Letter dated April 3, 1989 from Clayton C. Ruby of Ruby and Edwardh to Mr. Timothy J. Leach, Secretary, Sub-committee on Confidentiality Re: Report of the Sub-committee on Confidentiality; Letter dated April 11th, 1989 from Earl J. Levy, Q.C. to Mr. Timothy J. Leach, Secretary, Sub-committee on Confidentiality Re: Report of the Sub-committee on Confidentiality; other applicable documentation

(marked A-5 - A-39)

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE DISCIPLINE COMMITTEE begs leave to report:

Your Committee met Thursday, the 8th June, 1989 at one thirty in the afternoon, the following members being present: Mr. Lamek (Chair), The Honourable Allan Lawrence, Messrs. Carey, Cass, Cullity, McKinnon, Strosberg and Ms. Peters. Also in attendance was Professor Marilyn Pilkington.



27 October 1989

A.  
POLICY

1A. DISCIPLINE COMMITTEE - CHARTER APPLICATIONS

At the Committee's meeting in April 1989, Professor Marilyn Pilkington presented an opinion on Charter issues before Discipline Committees. The discussion was adjourned in order to obtain answers to further questions. Professor Pilkington attended the meeting on June 8th and discussed her expanded opinion, attached and numbered as A-1 to A-14. Your Committee recommends adoption of the expanded opinion.

2A. PUBLICATION OF DISCIPLINE HEARINGS INFORMATION

In March, 1989 the Committee considered a memorandum prepared by Ellie Rosen, Discipline Hearings Co-ordinator. A revision of the memorandum was requested so that all outstanding issues related to publication of discipline records could be put before the Committee. Attached and numbered as A-15 to A-20 is a revised memorandum containing recommendations which the Committee was asked to consider in reviewing the Society's disclosure policy. Your Committee approved the formation of a Sub-committee to examine these and other issues related to disclosure. In the meantime your Committee recommends adoption of the following policy:

1. Where a member who is the subject of a complaint has refused to respond to the Society's communications, the Complaints Department may, upon notice to the member, contact a partner or senior associate of the member's firm.
2. Where the subject matter of a complaint is of a serious nature, the Chair or a Vice-Chair may authorize the Discipline Department to contact a partner or senior associate of the member's firm at the outset of the investigation.

3A. DEPOSIT OF UNCERTIFIED CHEQUES INTO TRUST ACCOUNTS

Attached at A-21 to A-22 is a copy of a letter received by Arthur R. A. Scace, Q.C. raising concern as to the liability of a firm which draws cheques on its trust account against a deposit of an uncertified and uncleared cheque.

The Discipline Committee last dealt with this issue in 1983 and 1984 when a Sub-committee presented its report. Attached at A-23 to A-31 is the 1984 Sub-committee report and related correspondence. After considering the report in May 1984, the Committee recommended that no further action be taken.

Your Committee considered the issues raised in the recent letter to Mr. Scace and recommends that the Treasurer appoint a Sub-committee which will investigate the following matters and report to Convocation by September:

- (a) the liability of members who rely on certified cheques or uncertified Trust Company cheques,
- (b) the use of Trust Companies and Caisse Populaires as depositories of trust funds,
- (c) Other related matters.

27 October 1989

B.  
ADMINISTRATION

---

1B. APPLICATION FOR COSTS

A member who was Invited to Attend before a Discipline Committee in October, 1987 has applied for costs pursuant to Section 41 of the Law Society Act, which reads as follows:

"Where it appears that disciplinary proceedings against a member or student member were unwarranted Convocation may order that such costs as it considers just be paid by the Society to the member or student member whose conduct was the subject of the proceedings."

The member was asked to attend pursuant to Section 10 of Regulation 573 of the Law Society Act which reads as follows:

"Where there comes to the notice of the Society, as a result of a preliminary investigation by the Secretary or otherwise, information that indicates that a member may have been guilty of a minor breach of discipline or that indicates there is a possibility that his conduct may result in a breach of discipline, the Committee or Chair or Vice-Chair may direct the Secretary, without any formal complaint being completed and filed, to invite the member to appear before the Committee to enable it to make an informal investigation of the matter, and the Committee, in addition to any of its other powers, may after such informal investigation advise the member with respect to the matter."

Your Committee considered the request and was of the opinion that any application for costs should be made at the time of the hearing or in writing to the Chair of the Discipline Committee which heard the matter originally.

ALL OF WHICH is respectfully submitted

DATED THIS 27th of October, 1989

"P.S.A. Lamek"  
Chair

Attached to original Report in Convocation File, copy of:

A-Item 1A - Letter dated June 5, 1989 from Marilyn L. Pilkington,  
Associate Professor of Law, York University to Paul Lamek,  
Esq., Q.C.

(Pages 1 - 14)

A-Item 2A - Memorandum, Publication of Information Respecting Discipline  
Hearings with attached Letter dated April 6, 1989 from  
Randall Denley, City Editor, The Ottawa Citizen to Mr.  
Stephen Sherriff, Law Society of Upper Canada

(Pages 15 - 20 plus attachment letter)

A-Item 3A - Letter dated March 30, 1989 from Donald J. Donahue to  
Messrs. McCarthy & McCarthy Attention: Arthur R. A. Scace,  
Esq. Re: Mortgage Advances/Uncertified Cheques

(Pages 21 & 22)

27 October 1989

A-Item 3A - 1984 Sub-committee Report and related correspondence

(Pages 23 - 31)

It was noted by Mr. Spence that the Sub-committee referred to in the Report should also look at whether the Law Society should be rating financial institutions.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAATION ASSEMBLED

THE DISCIPLINE COMMITTEE begs leave to report:

Your Committee met Thursday, October 12th, 1989 at one thirty in the afternoon, the following members being present: Mr. Lamak (Chair), Messrs. Carey, Cass, Cullity, Lerner, O'Connor, Somerville, Strosberg, Topp, Mesdames Graham and Peters.

A.

POLICY

1A. RECOVERY OF AUDIT COSTS

Your Committee was asked to consider the matter of charging audit costs to members as set out in the memorandum prepared by the Audit Department and attached as A-1 to A-3.

BACKGROUND

Approximately 95% of the problems encountered in spot audits are dealt with by the audit staff through correspondence requiring corrections of inadequacies. The remaining 5% of problems result in formal audit reports because the inadequacies are serious enough to warrant formal discipline. Many of these are settled without a hearing. Substantial audit resources are expended, nevertheless.

STATUTORY POWERS

In accordance with Section 62(1)(16) of the Law Society Act, the Society has the power to make rules,

"providing for the payment to the Society by any member of the cost of any investigation or audit of his books, records, accounts and transactions."

Section 50 of the Rules made pursuant to the above-noted section, makes provision for fees and levies as follows:

"The following fees and levies are payable to the Society in the circumstances, at the times, and in the amounts specified..."

Several years ago the Society approved late filing levies against members who either failed to file annual reports or filed them late. The Rule now contains a subsection under the heading "Miscellaneous", which reads:

"Failure to file a Form 2 or Form 3 within the time prescribed by the Regulation...\$5/day for each day of default to a maximum of \$600.00"

Recoveries of late filing penalties set out above, generate enough money each year to cover all the Society's annual filing processing costs. This represents about 10% of the Audit Department's budget.

27 October 1989

PROPOSAL

The memorandum attached at A-1 to A-3 sets out the reasons for an amendment and provides examples of its proposed application.

Your Committee was asked to consider adopting the following amendment to the "Miscellaneous" section of Rule 50.

"Failure to maintain or to  
produce forthwith books,  
records and accounts to  
meet the requirements of  
the Regulation.....time and out-of-pocket  
costs as assessed by  
the Auditor to a  
maximum of \$2500 for  
each occurrence "

Your Committee supported the proposal in principle but has asked the Audit staff to provide a more detailed recommendation as to the procedure with respect to appeals.

C.  
INFORMATION

1C. AUTHORIZATION OF DISCIPLINE CHARGES

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

The following table shows the number of requests made by Complaints Staff in 1989.

	<u>Sought</u>	<u>Obtained</u>
February	6	4
March	6	6
April	11	8
June	9	7
July	10	9
August	14	10
September	12	11
Total	68	55

ALL OF WHICH is respectfully submitted

DATED THIS 27th of October, 1989

"P.S.A. Lamek"  
Chair

Attached to original Report in Convocation File, copy of:

A-Item 1A - Memorandum from the Audit Department of the Law Society, Re: Recovery of Audit Costs, Date: September 25th, 1989

(marked Pages A-1 - A-3)

It was noted by Mr. Spence that the Sub-committee referred to in the June 8, 1989 Report should also look at whether The Law Society should be rating financial institutions.

THE REPORTS WERE ADOPTED

.....

27 October 1989

COMPENSATION FUND COMMITTEE

Mr. S. Thom presented the Report of the Compensation Fund Committee of its Report on Thursday, the 12th October, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COMPENSATION FUND COMMITTEE begs leave to report:

Your Committee met on Thursday, October 12th, 1989 at 11:30 a.m. the following members being present: Messrs Yachetti (Chair), Ms. Callwood, Mrs. Graham, Mrs. Legge, Lerner, Noble, O'Connor, Strosberg, and Thom. P. Bell and Mrs. H.A. Werry also attended.

A.

POLICY

1. THE \$60,000 PER CLAIMANT LIMIT

The Chair asked that the Committee consider whether the \$60,000 per claimant limit approved by Convocation in January, 1988, should be removed or altered.

A discussion took place concerning a staff memorandum containing projections based upon three scenarios:

1. removal of the limit entirely;
2. raising of the limit to \$100,000.00, or
3. the putting in place of a two-tiered system.

The latter system would comprise a no limit treatment of claims arising from the normal solicitor/client relationship while imposing a limit of, say, \$100,000.00 on claims arising from syndications or brokering activities.

RECOMMENDATION - Your Committee recommends that an actuary be retained to review the past performance of the Fund and to provide opinions with respect to future exposures based upon each of the three scenarios.

B.

ADMINISTRATION

The Secretary reported that the Legislation and Rules Committee has referred back to the Committee amendments to The Law Society Act submitted to the Attorney General June 7th, 1977, but not enacted, concerning persons summoned to appear before a Referee.

RECOMMENDATION - Your Committee recommends that the Legislation and Rules Committee be advised that the amendments are still appropriate, and request that the Legislation and Rules Committee draft the wording for the amendments.

C.

INFORMATION

1. The following Reports of Referees and memos of an Assistant Secretary were approved by the Review Sub-committee and the amounts recommended are shown on Schedule "A" attached:

(Page 3)

- (a) B.W. Grossberg, Q.C., Referee's Report dated August 4th, 1989

-Milton H. Rusonik (Disbarred April 23/87), three claims

27 October 1989

- (b) B.W. Grossberg, Q.C., Referee's Report dated September 18, 1989  
-John Stuart Cochrane (Permitted to resign Nov. 24/88), one claim

- (c) and the following memos of an Assistant Secretary:-

Peter B. Bell re-

-Julie Amourgis (Disbarred April 23/87), five claims

-Ronald R. Laing (Disbarred February 24/89), one claim

-H. Gordon Mylks (Permitted to resign April 27/89), one claim

2. The total amount of accounts approved by Assistant Secretaries for the month of September 1989 was \$3,890.61.

3. The Financial Summary for the three months July 1st to September 30th, 1989 is attached together with Activity Reports for the months of July, August and September 1989.

(Pages 4 - 8)

ALL OF WHICH is respectfully submitted

DATED this 27th of October, 1989

"Stuart Thom" for  
Chair

Attached to original Report in Convocation File, copy of:

C-Item 1 - Compensation Fund Grants Approved by the Review Committee and by the Compensation Fund Committee, Thursday, October 12th, 1989

(Schedule "A", Page 3)

C-Item 3 - Financial Summary for the Period July 1st, 1989 - September 30th, 1989 and Compensation Fund Activity Reports for months of July, August and September, 1989

(Pages 4 - 8)

THE REPORT WAS ADOPTED

.....

PUBLIC INFORMATION COMMITTEE

Mr. S. Thom presented the Report of the Public Information Committee of its meeting on Thursday, 12th October, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PUBLIC INFORMATION COMMITTEE begs leave to report:

Your Committee met on Thursday the 12th October, 1989, the following members were present: Mr. Outerbridge (Chair), Ms. Callwood, Messrs. Lyons, Manes, Shaffer, Thom and Yachetti. Also in attendance were Ms. Angevine, Mr. Daniher and Ms. Starkes.

C.  
INFORMATION

---

1. INFORMATION BOOKLET

The Law Society Booklet has been sent for French translation.

2. MEDIA RELATIONS

The Committee discussed the need to co-ordinate the Society's dealings with the press especially in these critical times.

3. DIAL-A-LAW STATISTICS

Caller Usage Statistics for the Dial-A-Law program are attached (Appendix C-1 and C-2). This sheet provides a monthly breakdown of the number of incoming calls and the number of times a particular topic was selected.

4. LAWYER REFERRAL SERVICE STATISTICS

Updated Call Usage Statistics (Appendix C-3)

Calls by Area of Law (Appendix C-4)

Referrals by Geographic Zone (Appendix C-5)

ALL OF WHICH is respectfully submitted

DATED this 26th day of October, 1989

"Stuart Thom"  
Chair

Attached to original Report in Convocation File, copy of:

C-3 - Caller Usage Statistics for the Dial-A-Law Program

(Appendix C-1 & C-2)

C-4 - Updated Call Usage Statistics

(Appendix C-3)

C-4 - Calls by Area of Law

(Appendix C-4)

C-5 - Referrals by Geographic Zone

(Appendix C-5)

THE REPORT WAS ADOPTED

.....

RESEARCH AND PLANNING COMMITTEE

Mr. J. M. Spence, Chair, presented the Report of the Research and Planning Committee of its meeting on Thursday, the 12th October, 1989.

Mr. Spence amended the Report in regard to the Item dealing with the recommendation of the formation of a special committee in regard to Benchers' elections by amending the Item to read that the Committee considers it desirable that a special committee be struck.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The RESEARCH AND PLANNING COMMITTEE begs leave to report:

Your Committee met on the 12th day of October, 1989 with the following members being present: Mr. Spence (Chair), Ms. Birenbaum, Ms. Kiteley, Messrs. Furlong, Manes and Outerbridge. Also present were Mr. Tinsley, Ms. Angevine, Ms. Ashby and Ms. Lee.

1. SUB-COMMITTEE ON WOMEN IN THE LEGAL PROFESSION

Ms. Kiteley, the Chair of the Sub-committee, reported the Sub-committee had reviewed the final draft of the demographic analysis of women in the legal profession prepared by Ms. Fiona Kay and identified a number of areas of further research and priorities.

The Sub-committee will prepare a memorandum to accompany the report to help focus attention on certain issues for consideration by the Law Society. The Research and Planning Committee will review the memorandum and circulate it along with the full report to members of the Bench and Committee Chairs in November.

An executive summary of the report will be distributed in advance of the full report and corresponding memorandum to the Bench and Committee Chairs. Upon request the report is also, at present available.

2. STRESS AND ASSISTANCE PROGRAMME

It was reported that the programme is in the process of being incorporated. The programme will commence formally in early November at which time the incorporation will be completed. The issue of the liability of the Law Society in regard to treatment given to members under the programme has been resolved by ensuring that both the Law Society and the care providers will secure insurance coverage.

The final report on the programme will be presented to this Committee in November at which time responsibility for the programme shifts to the Professional Standards Committee.

3. OTHER BUSINESS

(i) Election of Benchers

Information generated about this issue dating back to 1955 was presented to the Committee. A wide range of issues relating to the election and terms of appointment of Benchers was discussed. The Committee recommends that the Treasurer strike a Special Committee to review various issues concerning the election of Benchers. It was suggested that this should be dealt with on an urgent basis if any legislative change is envisioned in the upcoming year.

Note: See amendment page <sup>219</sup>.

This Committee will provide to the Special Committee a summary of what has already been done with respect to this issue and what is occurring in other jurisdictions and will as well assist in identifying issues that it feels ought to be addressed.

Note: See amendment page 219

(ii) Open Convocation

The Treasurer was informed of the discussion at the last Committee meeting with respect to difficulties that had



27 October 1989

been experienced in connection with Open Convocation and also, the willingness of this Committee to consider these matters further if he so desires.

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 1989

"James Spence"  
Chair

THE REPORT AS AMENDED WAS ADOPTED

.....

ADMISSIONS COMMITTEE

Ms. P. Peters, Chair, presented the balance of the Admissions Committee Report of its meeting on Thursday, the 12th October, 1989.

Section A-Item 1 dealing with the Compensation Fund repayment was deferred to November.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th of October, 1989 at 9:30 a.m., the following members being present: Ms. Peters (Chair) and Messrs. Ground, Lamont, and Strosberg.

A.

POLICY

1. READMISSION - COMPENSATION FUND REQUIREMENT

The present readmission guidelines established by the Admissions Committee require that any monies paid out of the Compensation Fund on behalf of a former solicitor be repaid before that former member can apply for readmission.

A former solicitor has asked whether or not this policy can be modified to allow him to undertake to repay the Compensation Fund once he is readmitted and earning an income from the practice of law. He has indicated that his current financial situation is such that there is very little likelihood of his being able to repay the fund.

After reviewing this matter the Committee was of the view that it would be inappropriate to consider repayment of any money paid out of the Compensation Fund as being an absolute prerequisite to being readmitted. Such an absolute rule would unduly fetter the Committee's and Convocation's discretion in regard to readmitting former members. By adopting such a position the Committee does not want to leave the impression that such a factor is not important when considering a reapplication. The fact of whether or not there has been repayment of the Compensation Fund will still be an important factor for Convocation to consider.

Note: See amendment page <sup>221</sup> to defer Section A-1 to November Convocation

27 October 1989

B.

ADMINISTRATION

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

Kieran Finbarr Mulroy (B.A. 1981 and LL.B. 1984 both from the University of Ottawa) was called to the Bar of the Province of Alberta on the 27th day of August 1986 and practised in that province from the 27th August 1986 to the 30th August 1989. Mr. Mulroy presents a Certificate of Good Standing and seeks to proceed under Regulation 4(1). There is nothing unusual about his application.

Approved

DIRECT TRANSFERS - QUEBEC - REGULATION 4(2)

Andre Bluteau (B.A. 1966 from Laval University and B.C.L. 1969 from McGill University) was called to the Bar of the Province of Quebec on the 3rd day of July 1970 and has practised as a member of that Bar from July 1970 to the present. Following his call to the Quebec Bar in 1970 Mr. Bluteau worked for one year as a law clerk to the late Mr. Justice Pigeon and the next year joined the Federal Department of Justice and practised law there as a member of the Quebec Bar for approximately 16 years. For the last three years he has practised as a litigator in Quebec on private and public law matters. For the last two years he has been in private practice in Montreal. Mr. Bluteau presents a Certificate of Good Standing and seeks to proceed under Regulation 4(2). There is nothing unusual about his application.

Approved

Elizabeth Keating (LL.L. 1984 from the University of Ottawa) was called to the Bar of the Province of Quebec on the 5th day of February 1986 and has practised with the Federal Department of Justice in Ottawa from the 29th September 1986 to the present. Elizabeth Keating presents a Certificate of Good Standing and seeks to proceed under Regulation 4(2). There is nothing unusual about her application.

Approved

3. OTHER ITEMS

APPLICATION FOR READMISSION

An application for readmission was before the Committee from Brendan McGivern. Mr. McGivern was called to the Bar in the Province of Ontario on June 26, 1987 and resigned his membership at his own request on February 29, 1988.

Mr. McGivern states in his letter dated September 19, 1989 that his resignation was prompted by financial constraints and that he is now in a position to retain his membership permanently. He is not in any arrears of fees and has paid the readmission fee of \$300.00.

Approved

LEGISLATION

A memo from Mr. Peter Bell was before the Committee regarding various amendments to the Law Society Act and Regulations requested by the Admissions Committee.

The Committee was asked to review the requested amendments and confirm that the amendments are still required.

On reviewing the attached material it would appear that the amendments are required and there is no need to reconsider any of the items.

Noted

JOINT COMMITTEE ON ACCREDITATION AND ENTRY INTO THE BAR ADMISSION COURSE

From time to time the Secretary and the Director of Legal Education are requested to make decisions regarding candidates who are in the process of fulfilling the requirements to obtain a Certificate of Qualification and who are at the same time fulfilling the Bar Admission Course requirements.

Guidelines respecting these issues, which were prepared by the Director of Legal Education and reviewed by both the Secretary and the Committee, are before Convocation, as Appendix #1, for final approval. The Legal Education Committee has reviewed these guidelines as well and will be reporting to Convocation.

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 1989

"Patricia Peters"  
Chair

Attached to original Report in Convocation File, copy of:

B-Item 3 - Guidelines, Joint Committee Applicants, Entry Into the Bar  
Admission Course  
(marked Appendix "1")

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

.....

LEGAL AID COMMITTEE

Ms. F. Kiteley presented the Reports of the Legal Aid Committee of its meeting on Thursday, the 14th September, 1989 and Thursday, the 12th October, 1989.

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

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th September, 1989, the following members being present: Thomas G. Bastedo (Chair), Mr. Bond, Ms. Callwood, Mr. Carter, Ms. Curtis, Mr. Durno, Mrs. Fleming, Mr. Hartnett, Ms. Janczaruk, Messrs. McDowell, Paisley, Ms. Poulin, Mrs. Smyth, Messrs. Spence and Topp.

A.  
POLICY

1. (a) REPORT OF THE SUB-COMMITTEE RE: AMENDMENTS TO THE LEGAL AID ACT AND REGULATION

The Legal Aid Committee recommends adoption of the Report of the Sub-committee Re: Amendments to the Legal Aid Act and Regulation which is attached hereto as Schedule "A".

- (b) REPORT OF THE CRIMINAL TARIFF SUB-COMMITTEE

The Legal Aid Committee recommends the adoption of the Report of the Criminal Tariff Sub-committee which is attached hereto as Schedule "B".

Note: See note on page 227.

B.

ADMINISTRATION

1. REPORT OF THE DEPUTY DIRECTOR, FINANCE, JULY 31, 1989

(a) Finance

The Director's report pursuant to Section 88(2) of the Regulation for the four months ended July 31, 1989 takes the form of the following financial statement:

Ontario Legal Aid Plan  
Statement of Income and Expenditure  
Four Months Ended July 31, 1988

	4 Mo. Actual 1988/89	4 Mo. Budget 1989/90	4 Mo. Actual 1989/90	Favourable (Unfavourable) Variance 1989/90
<u>Opening Balance</u>	190.9	369.8	369.8	-
<u>Income</u>				
Treasurer of Ontario	35,325.0	44,558.0	44,558.0	-
Northern Project		65.5(1)	65.5	-
Family Violence Grant		100.0	100.0	-
Refugee Claimant Grant		367.8(2)	367.8	
Law Foundation	4,669.0	5,250.0	8,548.6	3,298.6
Client Contributions	2,535.2	2,700.0	3,032.9	332.9
Client Recoveries	505.0	566.7	620.6	53.9
Research Sales	57.5	46.7	39.2	(7.5)
The Law Society	64.6	-	-	-
Miscellaneous	99.9	166.7	522.9	356.2
	<u>43,447.1</u>	<u>54,191.2</u>	<u>58,225.3</u>	<u>4,034.1</u>
<u>Expenditure</u>				
Certificate Accounts	32,254.1	37,223.3	33,643.1	3,580.2
Duty Counsel Fees				
& Disbursements	2,274.0	2,520.0	2,250.2	269.8
Salaried Duty Counsel	218.9	275.6	262.4	13.2
Community Clinics	6,320.0	7,071.0	6,748.6	322.4
Student Legal Aid				
Societies	392.1	889.8	880.2	9.6
Research Facility	498.4	501.7	446.9	54.8
Area Office				
Administration	2,813.3	3,075.9	3,085.0	(9.1)
Provincial Office				
Administration	1,939.4	2,173.3	1,987.9	185.4
Refugee Administration	-	60.2	86.5	(26.3)
	<u>46,710.2</u>	<u>53,790.8</u>	<u>49,390.8</u>	<u>4,400.0</u>
<u>Closing Balance</u>	<u>(3,263.1)</u>	<u>400.4</u>	<u>8,834.5</u>	<u>8,434.1</u>

Note (1) The budget has been adjusted by \$400,000 for the Northern project.

Note (2) The Refugee Claimant program has also been added to the budget.

27 October 1989

(b) Statistics

The following table compares reported activity for the four months ended July 31, 1989 with activity for the previous fiscal year:

	July 31 1989	July 31 1988	% Change from Last Year
Summary Legal Advice	17,253	19,092	(9.6%)
Referrals to Other Agencies	32,910	30,109	9.3%
Applications for Certificates	51,562	44,861	15.1%
Refusals	10,806	9,629	12.2%
As a Percentage of Applications	20.9%	21.5%	
Certificates Issued	40,850	35,242	15.9%
Persons Assisted by Duty Counsel:			
Fee for Service	68,678	70,512	(2.6%)
Salaried	25,246	24,480	3.1%

2. (a) REPORT ON THE PAYMENT OF SOLICITORS ACCOUNTS FOR THE MONTH OF AUGUST, 1989

A Report on the Payment of Solicitors Accounts for the month of August, 1989 is attached hereto as Schedule "C".

(b) REPORT ON THE STATUS OF REVIEWS IN THE LEGAL ACCOUNTS DEPARTMENT FOR AUGUST, 1989

A Report on the Status of Reviews in the Legal Accounts Department for the month of August, 1989 is attached hereto as Schedule "D".

C.  
INFORMATION

1. The Legal Aid Committee received for its information a copy of a letter from the Provincial Director and a copy of a Notice sent to all Women's Shelters in Ontario, which is attached hereto as Schedule "E".

ALL OF WHICH is respectfully submitted

DATED this 14th day of September, 1989

"Thomas G. Bastedo"  
Thomas G. Bastedo, Q.C.  
Chair

Attached to original Report in Convocation File, copy of:

- A-Item 1(a) - Report of the Regulations Sub-committee (Schedule "A")
- A-Item 1(b) - Report of the Criminal Tariff Review Sub-committee (Schedule "B")
- B-Item 2(a) - Report on Final Accounts Paid, Month of August, 1989 (Schedule "C")
- B-Item 2(b) - Legal Accounts Department, Monthly Report, August 31st, 1989 (Schedule "D")
- C-Item 1 - Letter dated August 2, 1989 from Robert L. Holden, Provincial Director and a copy of a Notice sent to all Women's Shelters in Ontario (Schedule "E")

27 October 1989

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL AID COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th October, 1989, the following members being present: Mr. Thomas G. Bastedo, Chair, Mr. Ally, Mr. Bond, Ms. Callwood, Ms. Campbell, Ms. Curtis, Messrs. Durno, Hartnett, Ms. Kehoe, Messrs. Keonig, McDowell, Petiquan and Spence.

B.

ADMINISTRATION

1. REPORT OF THE PROVINCIAL AUDITOR FOR THE YEAR ENDED MARCH 31, 1989

The Report of the Provincial Auditor for the year ended March 31, 1989 is attached as Schedule "A".

2. REPORT OF THE DEPUTY DIRECTOR, FINANCE AUGUST 31, 1989

(a) Finance

The Director's Report pursuant to Section 88(2) of the Regulation for the five months ended August 31, 1989 takes the form of the following financial statement:

Ontario Legal Aid Plan  
Statement of Income and Expenditure  
Five Months Ended August 31, 1988

	5 Mo. Actual 1988/89	Revised 5 Mo. Budget 1989/90	5 Mo. Actual 1989/90	Favourable (Unfavourable) Variance 1989/90
<u>Opening Balance</u>	190.9	369.8	369.8	-
<u>Income</u>				
Treasurer of Ontario	52,545.0	55,672.0	55,672.0	-
Northern Project		65.5(1)	65.5	-
Family Violence Grant		125.0	125.0	-
Refugee Claimant Grant		567.8(2)	589.0	21.2
Law Foundation	4,669.0	5,250.0	8,548.6	3,298.6
Client Contributions	3,212.0	3,375.0	3,711.3	336.3
Client Recoveries	677.7	708.3	793.9	85.6
Research Sales	68.3	58.3	48.2	(10.1)
The Law Society	64.6			
Miscellaneous	131.3	208.3	751.2	542.9
	<u>61,558.8</u>	<u>66,400.0</u>	<u>70,674.5</u>	<u>4,274.5</u>
<u>Expenditure</u>				
Certificate Accounts	41,485.3	46,529.2	40,179.4	6,349.8
Refugee Accounts		706.3	706.3	-
Duty Counsel Fees				
& Disbursements	2,876.7	3,150.0	2,802.0	348.0
Salaried Duty Counsel	283.5	337.8	318.3	19.5
Northern Legal Services		10.0	10.0	-
Community Clinics	7,907.3	8,879.6	8,944.8	(65.2)
Student Legal Aid				
Societies	785.3	889.8	880.2	9.6
Research Facility	602.9	618.6	559.5	59.1
Area Office				
Administration	3,492.2	3,787.9	3,785.4	2.5
Provincial Office				
Administration	2,416.4	2,683.5	2,526.2	157.3
Refugee Admin.		77.7	97.5	(19.8)
	<u>59,849.6</u>	<u>67,670.4</u>	<u>60,809.6</u>	<u>6,860.8</u>
<u>Closing Balance</u>	<u>1,709.2</u>	<u>(1,270.4)</u>	<u>9,864.9)</u>	<u>11,135.3</u>

27 October 1989

Note (1) The budget has been adjusted by \$400,000 for the Northern project.

Note (2) The Refugee Claimant program has also been added to the budget.

(b) Statistics

The following table compares reported activity for the five months ended August 31, 1989 with activity for the previous fiscal year:

	August 31 1989	August 31 1988	% Change from Last Year
Summary Legal Advice	21,286	26,914	(20.9)
Referrals to Other Agencies	40,868	38,085	7.3%
Applications for Certificates	64,336	56,524	13.8%
Refusals	13,349	12,004	11.2%
As a Percentage of Applications	20.7%	21.2%	
Certificates Issued	50,987	44,500	14.6%
Persons Assisted by Duty Counsel:			
Fee for Service	86,310	89,799	(3.9%)
Salaried	32,270	32,061	0.6%

3. (a) REPORT ON THE PAYMENT OF SOLICITORS ACCOUNTS FOR THE MONTH OF SEPTEMBER, 1989

A Report on the Payment of Solicitors Accounts for the month of September, 1989 is attached hereto as Schedule "B".

(b) REPORT ON THE STATUS OF REVIEWS IN THE LEGAL ACCOUNTS DEPARTMENT FOR SEPTEMBER, 1989

A Report on the Status of Reviews in the Legal Accounts Department for the month of September, 1989 is attached hereto as Schedule "C".

ALL OF WHICH is respectfully submitted

DATED this 12th day of October, 1989

"F. Kiteley" for  
Thomas G. Bastedo  
Chair

Attached to original Report in Convocation File, copy of:

B-1 - Legal Aid Fund Financial Statement for the year ended March 31, 1989

(Schedule "A")

B-3(a) - Report on Final Accounts Paid for the month of September, 1989

(Schedule "B")

B-3(b) - Report on the Status of Reviews in the Legal Accounts Department for the Month of September, 1989

(Schedule "C")

THE REPORTS WERE ADOPTED

ITEM A-1(b) IN THE SEPTEMBER 14, 1989 REPORT WAS ADOPTED  
AT THE SEPTEMBER 29, 1989 CONVOCATION

.....

27 October 1989

CLINIC FUNDING COMMITTEE

Ms. F. Kiteley presented the Report of the Clinic Funding Committee of its meeting on Thursday, the 12th October, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Director of Legal Aid begs leave to report:

CLINIC FUNDING

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

The Director recommends to Convocation that the Report of the Clinic Funding Committee dated October 13, 1989 be adopted.

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

ALL OF WHICH is respectfully submitted

DATED this 13th day of October, 1989

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

Attachment:

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

The Clinic Funding Committee met on October 12, 1989. Present were: Philip Epstein, Q.C., Chair, Oliver Carroll, Thea Herman, and Jim Frumau.

1. DECISIONS

A. Contract Positions

(i) Advocacy Resource Centre for the Handicapped

The Committee reviewed an application from the Advocacy Resource Centre for the Handicapped to provide a mental health mentor position, on a one-year contract. After reviewing the information provided by the clinic, the Committee agreed to allocate funds, in an amount up to \$35,000, for this position.

(ii) Kenora Community Legal Clinic

The Committee reviewed an application from the Kenora Community Legal Clinic to provide a staff lawyer on a one-year contract. After reviewing the information provided by the clinic, the Committee agreed to allocate funds, in an amount up to \$35,000, for this position.

B. Capital purchases

The Committee has approved an allocation of funds for the purchase of 40 personal computers and printers in an amount up to \$265,000.



C. Applications to the Committee

(i) Supplementary legal disbursements

Pursuant to s.6(1)(m) of the Regulation on clinic funding, the Committee has reviewed and approved an application for supplementary legal disbursements from the Advocacy Resource Centre for the Handicapped in an amount up to \$5,000.

2. INFORMATION

Resignation of Clinic Funding Committee Member

Helen King MacLeod has resigned her position as Vice-Chair of the Clinic Funding Committee due to her appointment to the Bench.

ALL OF WHICH is respectfully submitted

DATED this 13th day of October, 1989

Philip Epstein, Q.C.  
Chair  
Clinic Funding Committee

THE REPORT WAS ADOPTED

.....

LEGISLATION AND RULES COMMITTEE

Mr. M. C. Cullity presented the Reports of the Legislation and Rules Committee of its meeting on Thursday, the 12th October, 1989 and one Report dated Friday, the 27th October, 1989.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

The following members of your Committee conferred with the Under-Treasurer by telephone in October, 1989: Messrs Noble (Chair), Cass and Cullity.

A.

POLICY

1. The Under-Treasurer, Donald Crosbie, Q.C. has received a letter from the Ministry of the Attorney General proposing different legislative amendments from those passed by Convocation on September 29th, 1989, to enable the exchange of Crown counsel between Ontario and Australia.

Instead of amending Section 63 of the Act and Regulation 573, section 6, permitting lawyers, qualified to practise outside Ontario, to be called to the Bar for a specific time, the Attorney General is suggesting that a new category of member - a temporary member, be created by adding a subsection to Section 28 of the Act which currently provides for members, honorary members, life members and student members. In addition, complimentary amendments to sections 1 (c) (definition of member) and 62 (1) 12, (the rule-making section) of the Act would be required.

RECOMMENDATION: It is recommended that Convocation approve in principle permitting lawyers from outside Ontario, including foreign states, to practise as crown attorneys or in civil matters under the administration of the Attorney General for specified periods on the request of the Attorney General and subject to the approval of Convocation and subject to such conditions and limitations as are prescribed by the regulations; and for that purpose the Act and Regulation 573 should be amended.

RECOMMENDATION: It is recommended that the following amendments be made to The Law Society Act and Regulation 573.

1. That Section 63 (1a) of the said Act approved by Convocation on September 29th, 1989, be repealed
2. Clause 1(c) of The Law Society Act, being chapter 232 of R.S.O. 1980, is amended by inserting after "member" where it occurs the first time in the third line, "temporary member" so that it will now read:

(c) "member" means a member of the Society and includes a life member but does not include an honorary member, temporary member or a student member;

AMENDMENT TO SECTION 28 OF THE ACT  
TO PERMIT TEMPORARY ADMISSION OF MEMBERS  
EMPLOYED BY THE ATTORNEY GENERAL

3. The said Act is amended by adding thereto the following subsection:-

28 a

- (1) On the request of the Attorney General and with the approval of Convocation, a person who is of good character, qualified to practise law outside of Ontario and employed by the Attorney General under a program for professional exchange or experience, may be temporarily admitted to membership by the certificate of the Secretary for such limited period and subject to such limitations and conditions as are prescribed by the regulations or approved by Convocation.
- (2) A person may be temporarily admitted to membership under subsection (1) notwithstanding that he or she is not a Canadian citizen or a permanent resident of Canada.
- (3) A person who is temporarily admitted to membership under subsection (1) shall be enrolled as a solicitor and is a member and is entitled to act as a barrister and solicitor for the period in such matters under the administration of the Attorney General subject to such limitations and conditions as are determined under subsection (1).
4. Paragraph 12 of Subsection 62 (1) of the said Act is amended by inserting after "members" where it occurs the first time in the first line "temporary members" so that it will now read;  
  
12. governing members,, temporary members, life members and student members, and prescribing their rights and privileges;
5. That Section 6 (1a) of Regulation 573 approved by Convocation on September 29th, 1989, be repealed.

27 October 1989

B.  
ADMINISTRATION

---

C.  
INFORMATION

---

ALL OF WHICH is respectfully submitted

DATED this 27th of October, 1989

"R. W. Cass  
for" Chair

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

THE LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 12th October, 1989 at 11:15 a.m. the following members being present: Messrs. Noble (Chair), Lerner (Vice-Chair), and Cass. P. Bell also attended.

A.  
POLICY

---

B.  
ADMINISTRATION

---

1. BAR ADMISSION COURSE REFORM AMENDMENT TO REGULATION 573

This matter was referred to counsel for drafting at the September meeting. Convocation approved on June 23rd, 1989, the Report of the Legal Education Committee on June 8th recommending changes to Regulation 573 to implement the Bar Admission Course reform proposals. A copy of Marilyn Bode's memos dated June 1st and September 6th, 1989 were considered by the Committee. The Legal Education Committee referred the matter to this Committee to be drafted.

At present Subsection 22(4) of Regulation 573 reads as follows:

22(4)

The Bar Admission Course shall consist of:

- (a) service under articles of clerkship for twelve consecutive months within the eighteen-month period preceding entry into the teaching part of the Course described in clause (b); and
- (b) a teaching part of the Course consisting of practical training, lectures and tutorial groups for a period of up to six months.

RECOMMENDATION - It is recommended that Subsection 22(4) of Regulation 573 be revoked and the following substituted therefor:-

22(4)

The Bar Admission Course shall consist of:

- (a) service under articles of clerkship for such period of time as is recommended by the Legal Education Committee of the Society and approved by Convocation.

27 October 1989

- (b) teaching term or terms to be taken at such time and places and for such periods as are required by the Legal Education Committee of the Society and approved by Convocation.

C.  
INFORMATION

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 1989

"R. W. Cass"  
Chair

THE REPORTS WERE ADOPTED

.....

LIBRARIES AND REPORTING COMMITTEE

Mr. M. C. Cullity presented the Report of the Libraries and Reporting Committee of its meeting on Thursday, the 12th October, 1989.

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

The LIBRARIES AND REPORTING COMMITTEE begs leave to report:

Your Committee met on Thursday, October 12th, 1989 at 9:30 a.m. the following members being present: Messrs Murphy (Chair), Bragagnolo (Vice-Chair), Cullity, O'Connor, and Topp. P. Bell and G. Howell also attended.

B.  
ADMINISTRATION

1. APPLICATION TO THE LAW FOUNDATION OF ONTARIO

The Chief Librarian submitted his report on the recommended amount of the Law Society's application to the Law Foundation of Ontario on behalf of county libraries for 1990 in the amount of \$975,000.

RECOMMENDATION - After discussion, your Committee recommends that the amount of \$890,000 (made up of \$740,000 operating grant, an increase of \$65,000 over last year and a \$150,000 capital grant, an increase of \$50,000 over last year) be included in the Law Society's application to the Law Foundation of Ontario on behalf of county libraries for 1990.

2. APPLICATIONS FOR SPECIAL GRANTS  
FROM TWO COUNTY LAW ASSOCIATIONS

The Chief Librarian submitted requests from the Essex and Haldimand Law Associations for special library grants in the amount of \$21,000 and \$8,000 respectively.

The Chief Librarian reported that in a similar situation Convocation had made a special grant of \$4,500 to Algoma Law Association. The grant was in the amount of 50 per cent of the deficit that the Society was asked to pay. Convocation attached a condition to the special grant of \$4,500 that the local association must fund the other \$4,500 within two years.

27 October 1989

RECOMMENDATION - After discussion, your Committee recommends that special grants be made to the Essex Law Association in the amount of \$10,500 and to the Haldimand Law Association in the amount of \$4,000 both on condition that those law associations fund an equal amount to cover the deficits within two years.

C.  
INFORMATION

1. BOOK LISTS

The Great Library will be adding 195 new titles to its book collection for September and October, 1989.

2. FINANCIAL STATEMENT

The Financial Statement for the three months ending September 1989 was noted.

3. ONTARIO REPORTS - CASE SELECTION GUIDELINES

The Secretary reported that Volume 68, O.R., Part 12 September 15th, 1989, contained a case that was abridged by the Editors, with the consent of the Judge, by omitting 8 - 9 pages.

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 1989

"M. C. Cullity  
for" Chair

THE REPORT WAS ADOPTED

.....

FRENCH LANGUAGES SERVICES COMMITTEE

Ms. D. Bellamy presented the Report of the French Language Services Committee of its meeting on Wednesday, the 11th October, 1989.

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

The French Language Services Committee begs leave to report:

Your Committee met on Wednesday, the 11th of October, 1989 at four o'clock in the afternoon, the following members being present: Messrs. McKinnon (Chair), O'Connor and Topp, Messrs. Crosbie and Treleaven. Ms. Thomson, Committee Secretary, was also present.

A.  
POLICY

No items.

B.  
ADMINISTRATION

1. FRENCH LANGUAGE SERVICES CO-ORDINATOR

The Committee is actively pursuing the hiring of a French Language Services Co-ordinator and a bilingual secretary. It may be that the Co-ordinator will be hired on a two-year contract basis.

27 October 1989

C.  
INFORMATION

1. FRENCH LANGUAGE SERVICES FUNDING

Members of the French Language Services Committee met with representatives of the Secretary of State in Ottawa on October 4th. Two funding options were presented for consideration:

- A. The standard plan financed entirely by the Secretary of State will provide a total subsidy of \$135,000 over five years as follows:

Years 1 to 3:	\$30,000 each year
Year 4:	\$25,000
Year 5:	\$20,000

- B. A cooperative plan whereby the federal and provincial governments match contributions to French language service initiatives on a dollar-for-dollar basis. Such a program is not subject to any pre-determined limit but would require relevant ministries within the provincial government to designate the Law Society French Language Program as a priority program and to contribute 50% of the subsidy.

The Committee is gathering further information as to whether Option B would be obtainable and will report to Convocation in November as to which Option should be adopted by Convocation.

2. OMNIBUS APPLICATION TO THE LAW FOUNDATION OF ONTARIO

At its meeting of October 12th, the Finance Committee approved a request by the French Language Services Committee that a total of \$250,000 for the current fiscal year be included in the Law Society's omnibus application to the Law Foundation of Ontario. The funding is being requested for two specific purposes: \$200,000 will be used to improve and develop French language materials in the Bar Admission Course and \$50,000 will be used to provide French language texts and reports for certain county and district libraries in those districts which the provincial government has designated to be bilingual.

3. PROCEEDINGS OF CONVOCATION/ANNUAL REPORT

The Committee is looking into the costs of translating and publishing, at the earliest possible date, the Proceedings of Convocation and the Annual Report in both official languages (back-to-back is preferred over an English version followed by a French version).

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 1989

"D. Bellamy"

THE REPORT WAS ADOPTED

.....

COURT REFORM COMMITTEE

Ms. F. Kiteley presented the Report of the Court Reform Committee of its meetings on Monday, the 24th July, 1989, Thursday, the 24th August, 1989, Tuesday, the 5th September, 1989, Wednesday, the 27th September, 1989, Friday, the 13th October, 1989 and Friday, the 27th October, 1989.

27 October 1989

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The COURT REFORM COMMITTEE begs leave to report:

Your Committee met on July 24, 1989, August 24, 1989, September 5, 1989, September 27, 1989, October 13, 1989, and October 27, 1989.

---

This Committee was struck at Convocation on June 30, 1989 with the following mandate:

- a) to study
  - (i) implementation of Phase 1 of Bill 2; and
  - (ii) policy and implementation with respect to Phase 2; and
- b) to offer assistance as requested by the Attorney General.

The Members of the Committee are:

Ms. F. Kiteley (Chair)  
Ms. D. Bellamy\*  
Mr. K. Howie  
Mr. C. McKinnon  
Ms. H. MacLeod\*\*  
Mr. D. O'Connor  
Mr. M. Somerville

\*in an advisory, non-voting capacity

\*\*until her appointment to the District Court on October 5, 1989

The Committee met on the dates set out above and as a result of these meetings arrived at a number of recommendations. Ms. Kiteley communicated these recommendations to the Attorney General's Court Reform Implementation Advisory Committee, of which she is a Member. After the third meeting of your Committee, the Chair made an interim report to the Attorney General's Committee. The report is attached for your information as Appendix I. The Committee anticipates making a final report when all the items identified by it as requiring consideration have been completed. The Attorney General intends that the date for implementation of the new Court system will be January 1, 1990.

In the meantime, an issue has arisen which requires the decision of Convocation: A suggestion was made by the C.B.A.O. that it might be prudent for the Law Society to contact the Minister of Justice for Canada, the Honourable Douglas Lewis, about issues of concern to the Law Society which might arise as the Minister considers what legislation will be required at the Federal level to assist in the implementation of Bill 2 and Bill 3. Due to time constraints the Chair discussed with the Treasurer the possibility of such contact with the Minister of Justice, and the Treasurer referred the issue to this Committee.

Your Committee has identified the following issues which it believes would be appropriate for discussion if such contact were to be made. (Appendix II sets out the relevant sections of the Bill):

1. The Law Society would recommend that the appointment of the Regional Senior Judges should be time-limited; five, six, or seven year appointments being considered appropriate.
2. The Law Society would recommend that Associate Regional Senior Judges be appointed for each Region, and that these appointments should be time-limited also.

27 October 1989

THE COMMITTEE THEREFORE RECOMMENDS THAT the Treasurer immediately communicate the two concerns expresses above to the Minister of Justice.

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 1989

"F. Kiteley"  
Chair

Attached to original Report in Convocation File, copy of:

Item (b) - Interim Report to the Attorney General's Court Reform  
Implementation Advisory Committee from the Court Reform  
Committee of the Law Society of Upper Canada

(Appendix 1)

Item (b) - Relevant Sections of the Bill

(Appendix 2)

Ms. Bellamy did not vote.

It was accepted by Ms. Kiteley that in addition to communication with the Federal Minister of Justice that the concerns of the Committee and recommendations be communicated to the Attorney General as well.

THE REPORT WAS ADOPTED

.....

DRAFT MINUTES

The draft Minutes of Convocation held on the 29th of September, 1989 were approved.

.....

Convocation adjourned at            p.m.

.....

Confirmed in Convocation this            day of            , 1990

Treasurer