

MINUTES OF CONVOCATION

Friday, 25th November 1988  
9:30 a.m.

PRESENT:

The Treasurer (Mr. Lee K. Ferrier) and Mr. Bastedo, Ms Bellamy, Mr. Bowlby, Ms Callwood, Messrs. Carey, Carter, Cooper, Cullity, Doran, Epstein, Farquharson, Ferguson, Furlong, Mrs. Graham, Messrs. Ground, Guthrie, Ms Harvey, Messrs. Hickey, Howie, Kemp-Welch, Ms Kiteley, Messrs. Lamek, Lamont, Mrs. Legge, Messrs. Lerner, Levy, Lyons, Mrs. MacLeod, Messrs. McKinnon, Manes, Murphy, O'Brien, O'Connor, Pepper, Ms Poulin, Messrs. Rock, Ruby, Scace, Shaffer, Somerville, Sosa, Spence, Strosberg, Thom, Topp, Wardlaw, Mrs. Weaver and Mr. Yachetti.

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APPOINTMENT TO PROVINCIAL COMMITTEE

It was moved by Mr. Strosberg, seconded by Mrs. Graham, that Mr. Clayton C. Ruby be appointed the Society's representative to the Provincial Judicial Appointment Committee.

Carried

AWARDING OF HONORARY DEGREE

It was moved by Mr. Lerner, seconded by Mr. Lamont, that the Society award an LL.D. degree, honoris causa, to Mr. J. J. Robinette, Q.C., at the Call to the Bar Ceremony in Toronto in 1989.

Carried

APPOINTMENT TO CANADIAN LAW INFORMATION COUNCIL

It was moved by Ms. Callwood, seconded by Mr. Lamont, that Mr. Samuel Lerner be appointed the Society's representative to the Canadian Law Information Council (CLIC), replacing The Honourable Mr. Justice Paul G. Philp.

Carried

APPOINTMENT TO STANDING COMMITTEES

It was moved by Mr. Wardlaw, seconded by Mrs. MacLeod, that Mr. Thomas Carey be appointed to the following Standing Committees:

Professional Conduct; County and District Liaison

Carried

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At 10:00 a.m. Convocation adjourned to Convocation Hall and carried on its proceedings in public.

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### CALL TO THE BAR

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

Alec Stephen Bildy	- Special, Transfer, Alberta
Frederick Paul Dobbs	- Special, Transfer, British Columbia
Timothy John Lemay	- Special, Transfer, Nova Scotia
Laurie Anne Stollery MacLachlan	- Special, Transfer, Alberta
Kathleen Ann Siobhan Monaghan	- Special, Transfer, Alberta
John Patrick Riley	- Special, Transfer, Manitoba
Samuel Slutsky	- Special, Transfer, Alberta
Gregory Kam Leung So	- Special, Transfer, Alberta
Hilary Anne Whitmey	- Special, Transfer, British Columbia
Kenneth Samuel Atlas	- Special, Transfer, Quebec

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### SPECIAL COMMITTEE REPORT ON PARALEGALS

Denise Bellamy did not participate in the discussion nor vote on this issue or any other matter relating to paralegals.

The majority report was presented by Jack Ground and its adoption seconded by Netty Graham.

Mr. Ruby presented the minority position.

As a preliminary point it was noted that both the majority and minority reports were of the opinion that the scope of work of paralegals should not be expanded. It was therefore moved and carried on a vote of 33 to 4 that the Law Society take the position that independent paralegal practice is not in the public interest beyond what is currently lawful.

There was then further discussion and it was agreed that the immigration portion of the minority report would be dealt with separately.

It was moved by Mr. Farquharson seconded by Mr. Bastedo that if the government sees fit to pass legislation in respect to the governance of paralegals that the Law Society not participate. This motion was not put.

It was moved by Mr. Manes seconded by Mr. Murphy that the reports be expanded and be brought back to Convocation. This motion was not put.

After lengthy discussion it was agreed that Messrs. Scace, Sosa, Ground and Ruby would draft a series of questions for Convocation to consider.

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CONVOCATION ADJOURNED FOR LUNCHEON AT 12:30 P.M.

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The Treasurer and Benchers had as their guests for luncheon in the Benchers' Dining Room The Honourable Mr. Justice George D. Finlayson, Court of Appeal, Supreme Court of Ontario and His Honour Judge Thomas M. Wood, Provincial Court, Family Division, Judicial District of Muskoka. Mr. Lloyd Brennan, past President of the County and District Law Associations, also attended.

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CONVOCATION RESUMED IN PUBLIC AT 2:30 P.M.

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PRESENT

The Treasurer and Mr. Bastedo, Ms. Bellamy, Mr. Bowlby, Ms. Callwood, Messrs. Carey, Carter, Doran, Epstein, Farquharson, Ferguson, Furlong, Mrs. Graham, Mr. Ground, Ms. Harvey, Messrs. Hickey, Howie, Ms. Kiteley, Messrs. Lamek, Levy, Mrs. Legge, Messrs. Lerner, Lyons, Mrs. MacLeod, Messrs. McKinnon, Manes, Murphy, O'Brien, Ms. Poulin, Messrs. Rock, Ruby, Scace, Shaffer, Somerville, Sosa, Spence, Strosberg, Thom, Topp, Wardlaw, Mrs. Weaver and Mr. Yachetti.

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SPECIAL COMMITTEE ON PARALEGALS (Continued)

As an opening matter the Treasurer read the complete series of questions prepared by Messrs. Scace, Sosa, Ground and Ruby:

QUESTION 1

The majority and minority reports both agreed that some regulation of paralegals is required. This position was adopted by Convocation.

QUESTION 2

The question was that should the Courts and tribunals in question regulate the right to appear including education training programs etc. It was the view of the majority in Convocation that the courts and tribunals should regulate the right to appear including those areas set out in the preamble to the question.

It was moved by Mr. Murphy seconded by Mr. Strosberg that paralegals be prohibited from appearing in Small Claims Court actions in any matter over \$3000 at this time.

It was moved by Mr. Lerner seconded by Mr. Yachetti that the Murphy, Strosberg motion be amended to provide that paralegals not be allowed to appear in appealable cases in Small Claims Court. His motion was not put.

QUESTION 3

The question was that if the government does not accept the position in regard to the scope of paralegal practice and the Society's position that the courts and tribunals should regulate paralegals should the Law Society put forward an alternate position at this time. On a vote it was the majority view that the Society should not put forward an alternate proposal at this time.

QUESTION 4

This question dealt with the issue of educational programs for paralegals and whether they should be independent or in house programs run by particular tribunals. The Treasurer ruled that question 4 was answered by the vote in question 2 and therefore question 4 was not put.

QUESTION 5

Question 5 was whether or not communications between paralegals and their clients be privileged. It was the majority view of Convocation that no privilege should attach to the communications between paralegals and their clients.

QUESTION 6

Question 6 was whether paralegals should be prohibited from appearing before the Immigration Appeal Board. It was the majority view of Convocation that paralegals should be prohibited from appearing before Immigration Appeal Boards.

After a lengthy debate Convocation declined to adopt either the majority or minority report. Instead a series of resolutions were passed and the Committee is to redraft the report in light of the resolutions and report back to Convocation in January. It was moved by Mr. Ground, seconded by Mrs. Graham, that the following resolutions be adopted by Convocation:

that the Law Society take the position that the expansion of independent paralegal practice beyond what is currently lawful is not in the public interest;

that the Law Society undertake a public information campaign to alert the public that independent paralegals are not entitled in law or qualified to perform the legal tasks undertaken by them in areas such as wills, family law, real estate and business law and that independent paralegals do not offer the public the protection that is available through a lawyer such as complaint and discipline procedures, errors and omissions insurance, a compensation fund and a procedure for an impartial assessment of accounts;

that if paralegals are to be allowed to practise independently, some form of regulation is required in the public interest;

that the courts and tribunals before which paralegals are permitted to appear be responsible for regulating the paralegals appearing before them including the setting of ethical standards, educational and training requirements and any auxiliary matters;

that the Society should not, in light of its position that the expansion of independent paralegal practice is not in the public interest and that paralegals appearing before courts and tribunals should be regulated by those courts and tribunals, put forward an alternate proposal for the governance of independent paralegals;

that communications between independent paralegals and their clients not be privileged;

that independent paralegals not be allowed to appear before the Immigration Appeal Board.

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CONVOCATION WENT INTO THE "IN CAMERA" SESSION

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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 November 10th, 1988, the following members being present: Messrs, Rock (Chairman), Lamont and Lamek, (Vice-Chairmen), Ms Bellamy, Cullity, Epstein, Kemp-Welch, Mrs. Legge, Mrs. King MacLeod, Spence, Thom, Wardlaw, Yachetti, Dean MacPherson, Christina Tari, Chairperson, Bar Admission Advisory Committee.

A.  
POLICY

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1. REPORT OF THE SUB-COMMITTEE ON PUBLICATIONS POLICY

The Committee received a report from the Sub-committee on Publications Policy, chaired by Mr. Epstein. The report recommended that the Department make use of its expanded desk-top publishing capacity to publish, in the future, all of the Bar Admission materials in-house. Special emphasis will be placed upon the development of core materials for the new Bar Admission Course for early 1990. These core materials would be produced in a manner that would make them useful for both students and practitioners and the materials would include the precedents and checklists that should be available to the profession. The report also proposed that the Publications Department produce other materials in-house, e.g. the recently published Research Manual, expanded versions of individual CLE programs etc. Finally, the report proposes that those who write materials for the Law Society be asked to assign their copyright to the Law Society. (pages 1 - 5)

The Legal Education Committee recommends that this report be adopted.

2. CBA-O - CLE LIAISON

The Committee proposes that a small sub-committee be struck to engage in ongoing discussions with representatives of the Canadian Bar Association - Ontario to consider whether a more formal structure should be established through which the continuing legal education activities of both organizations are delivered.

3. PART-TIME LL.B. PROGRAM - UNIVERSITY OF WINDSOR

In August of 1988, the Faculty of Law at the University of Windsor approved a report proposing the implementation of a part-time LL.B. program at that university. The six-year program is designed to meet the needs of applicants who are unable to attend law school on a full-time basis because of exceptional family obligations, significant financial hardship or dire health problems or physical disability.

The Committee approved the program in principle, suggesting that Mr. Yachetti, the Chairman of the National Legal Education Committee take the proposal to the next meeting of that Committee so that the question of acceptance of the degree by other Law Societies can be discussed, with a view to bringing the proposal back to the Legal Education Committee in January for final consideration.

C.  
INFORMATION

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1. FACULTY APPOINTMENTS - Toronto.

It is recommended by the Director that the following appointments be made for the teaching term which commenced on September 6th, 1988.

(a) Business Law - Taxation

Head of Section: Judith M. Woods.

Group Instructors: Monica Biringer, Patrick J. Boyle, Catherine A. Brayley, Kathryn M. Bush, John M. Campbell, Douglas Cannon, Peter

L. Clark, Richard G. Fitzsimmons, A. Lorne Greenspoon, Judith E. Harris, Ronald Himelfarb, David W. Howell, Elizabeth J. Johnson, Andrew H. Kingissepp, Robert A. Kopstein, Lucia Ten Kortenaar, Keith Laushway, Robin J. MacKnight, Leslie J. Morgan, Scott L. Scheuermann, Judy Sheppard, Jennifer J. Smith, Roger Taylor, Lyle Teichman, Michael D. Templeton, David T. Tetreault, David G. Weekes, Mark F. Wheeler, J. Scott Wilkie.

Stand-by Instructors: Firoz Ahmed, Dalton J. Albrecht, Jack Bernstein, Colin Campbell, Bill Cooper, Robert Jason, Stanley V. Maj, Mark Meredith, Evelyn R. Schusheim, Dagmar Tubner, Patricia M. Vakil, Howie C. Wong.

Business Law - Corporate

Head of Section: Stephen D.A. Clark.

Group Instructors: Charles E. Baker, Tony Baldanza, Shirley A. Brown, David B. Buchanan, Richard E. Clark, Lisa G. Davis, Robert E. Dickson, George P. Dzuro, Stanley W.L. Freedman, Robert G.S. Hull, Robert H. Karp, Brian C. Kelsall, Peter A. Love, Selma M. Lussenburg, Adelaide F. Macdonald, Joseph B. Maierovits, Wayne P.J. McArdle, Sheila Murray, William L. Northcote, Patrick J. Phelan, Mark J. Selick, Gary Schiff, Michael S. Slan, Susan Slattey, Earle Straus, Brahm M. Taveroff, F. Gordon Thompson, David E. Thring, Nadim Wakeam, David Woolford, Donald P. Wright.

Stand-by Instructors: Nathan Cheifetz, Frank L. Davis, John L. Ross, Michael Weizman.

(b) Real Estate & Landlord & Tenant

Head of Section: Philip H.G. Walker, Q.C.

Associate Heads of Section: Virginia W. Hamara, Donald V. Thomson, Sidney H. Troister.

Group and Stand-by Instructors: Gerry M.T. Beelen, Craig Carter, Stanley Cohen, Stephen S. Cohen, Abraham Costin, Lori M. Duffy, Larry W. Fedchun, J. Steven Follett, Ernest F. Gutstein, Virginia W. Hamara, Adrian P. Hartog, Harry Herskowitz, Kenneth Laimon, Rae Marcus, F. Max E. Marechaux, Leor Margulies, Mark A. McHughan, Duncan J. McRae, Paul Newbauer, Steven Pearlstein, Stephen P. Ponesse, Louis Radomsky, Richard M. Rotchtin, George Ruggiero, Jeffrey Schwartz, Robert K. Schwartz, Garry E. Shapiro, Andrew Skinner, Donald V. Thomson, Kathleen Waters, Robert C. Watt, David Woods, Frances B. Wright.

2. CONTINUING LEGAL EDUCATION

The Committee reviewed the summary of evaluations of past continuing legal education programs and received a schedule for future continuing legal education programs.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1988

"D. H. L. Lamont"  
Vice-Chairman

Attached to original Report in Convocation file, copy of:

A - Item 1 - Report of Sub-Committee on Publications Policy  
(Numbered 1 to 5)

THE REPORT WAS ADOPTED

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AWARDING OF HONORARY DEGREES

It was moved by Mr. Strosberg, seconded by Mr. Lamont, that the Society award an LL.D. degree, honorus causa, to Mr. L. Yves Fortier, Q.C., at the Call to the Bar Ceremony in Toronto in 1989.

Carried

It was moved by Mr. Strosberg, seconded by Mr. Lamont, that the Society award an LL.D. degree, honorus causa, to The Right Honourable R. G. Brian Dickson, P.C., at the Call to the Bar Ceremony in Ottawa in 1989.

Carried

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TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The FINANCE COMMITTEE begs leave to report:

Mr. J. D. Ground, Chairman, presented the Report of the Finance Committee of its meeting on Thursday, 10th November 1988.

A.  
POLICY

1. CLASSES OF MEMBERSHIP

The Committee's direction was sought in regard to the question of whether or not law clerks to judges of the Supreme Court and the District Court of Ontario are members who fall in category one or category two under the classes of membership scheme.

Two clerks have approached the Society for direction. They stated that they do not give legal advice or opinions to anyone and that they are restricted to doing research for the judges who give the necessary opinions based on that research. A copy of a memo from Ms. Louisseize to the Secretary is attached.

Denied

2. SUB-COMMITTEE ON RELIEF FROM FEES AND LEVIES - EXPANSION OF GUIDELINES

The Chairman asked that the Committee consider expansion of the guidelines to cover members who are outside the current three years rule but still under financial hardship.

The Committee recommended the guidelines be extended to include members who are beyond three years of call to the bar but who demonstrate financial need for deferral of their annual fees.

B.  
ADMINISTRATION

1. FINANCIAL REPORT

The Director laid before the Committee the highlights memorandum for the three Law Society Funds together with supporting financial statements for the four months ended October 31st 1988.

Approved

2. SUB-COMMITTEE ON RELIEF FROM FEES AND LEVIES - APPOINTMENT OF MEMBERS TO THE COMMITTEE

The Chairman asked for names for members of the Sub-Committee on Relief from Fees and Levies. The following were appointed members of the Sub-Committee: Messrs. Lamont, Lamek, Noble and Topp.

3. SUSPENSION OF MEMBERS - LATE FILING FEE

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

In the 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 \$340.00 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 November 25th 1988 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

4. SUSPENSION OF MEMBERS - ERRORS AND OMISSIONS INSURANCE

There are many members who have neither paid their Errors and Omissions Insurance Levy nor filed a claim for exemption for the period July to December 1988. Three notices have been sent.

The Committee was asked to recommend that the rights and privileges of these members be suspended by Convocation on November 25th 1988.

Approved

5. CHANGES OF NAME

The following members and student members have requested that their names be changed on the Rolls of the Society and have submitted the required documentation:

(a) Members

<u>FROM</u>	<u>To</u>
Deborah Lynn Tripodi	Deborah Lynn <u>Hoult</u> (Married Name)
Susan Elizabeth Catalano	Susan Elizabeth <u>Slattery</u> (Married Name)
Catherine Olivia Rohmer Read	Catherine Olivia <u>Rohmer</u> (Maiden Name)
Juha Siimes	John <u>Simes</u> (Court Order)
Mary Ann Kastelic	Mary Ann <u>Teal</u> (Married Name)

(b) Student Members

<u>FROM</u>	
Marcy Anne Morein	Marcy Anne Morein- <u>Prussick</u> (Married Name)

The petitions submitted by the members and student members are in order and the Committee was asked to recommend that the changes be entered in the Rolls.

Approved

6. MEMBERSHIP UNDER RULE 50

(a) Retired Members

The following members who are sixty 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:

Richard Goodman Burt	Toronto
James Lawrence Cowan Jenner	Toronto
Henry Landis	Willowdale
Bertram Russell LeMesurier	Toronto
Alan Robertson MacDonald	Willowdale

Approved

(b) Incapacitated

The following member is incapacitated and unable to practise law and has requested permission to continue his membership in the Society without payment of annual fees:

Terrence Edmond Foy	Scarborough
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His application is in order and the Committee was asked to approve it.

Approved

7. Life Members

Pursuant to Rule 49, the following are eligible to become Life Members of the Society with an effective date of November 17, 1988:

John Richard David Brimage	Simcoe
Terrence Fleming Flahiff	Westmount
George Francis Denison Goldring	Ridgeville
Irving Himel	Toronto
Frederick John Parry	Waterloo
Osmond Jennings Rowe	Barrie
Stanley Smither	Toronto
Carl Roswold Watson	Ridgetown
Murray Yuffy	Windsor

Noted

C.  
INFORMATION

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1. ROLLS AND RECORDS

(a) Deaths

The following members have died:

Miles Roger Morrow, Q.C., St. Catharines	Called September 14th 1951 Died June 15th 1988
Paul Louis Spears Toronto	Called April 13th 1978 Died May 30th 1988

Charles Adams Bell, Q.C.,  
Windsor (Life Member)

Called June 21st 1928  
Died July 15th 1988

Ronald Charles Merriam, Q.C.,  
Ottawa

Called June 29th 1948  
Died October 20th 1987

Peter James Burns, Q.C.,  
Kirkland Lake (Life Member)

Called June 20th 1929  
Died July 7th 1988

George Graham Morrow  
Toronto (Life Member)

Called June 16th 1932  
Died March 17th 1987

Louis Maraskas, Q.C.  
Belleville

Called June 29th 1949  
Died August 19th 1988

William Errington, Q.C.  
Newmarket

Called June 24th 1954  
Died December 3rd 1986

Reuben Rodness Toronto (Life Member)	Called January 21st 1926 Died September 3rd 1988
Max Benson, Q.C. Willowdale	Called October 20th 1927 Died April 19th 1988
Neil Claude MacPhee, Q.C. Windsor (Life Member)	Called August 1st 1925 Died April 14th 1987
Thomas Robert Wilcox, Q.C. Kingston	Called September 19th 1940 Died June 22nd 1988
Harold Ernest Roberts Thornhill (Life Member)	Called September 20th 1928 Died March 17th 1988

Noted

(b) Permission to Resign

The following member was permitted to resign his membership in the Society and his name has been removed from the rolls and records of the Society:

Robert Allen Stewart Scarborough	Called March 29th 1977 Permitted to resign - Convocation September 22nd 1988
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Noted

(c) Membership in Abeyance

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

Thomas Melville Wood, Q.C., Bracebridge	Called March 23rd 1973 Appointed Provincial Court Judge, Family Division, Judicial District of Muskoka October 14th 1988
William Alexander Jenkins, Q.C. London	Called April 10th 1964 Appointed District Court Judge, County of Middlesex September 6th 1988

Noted

(d) Disbarments

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

Jeffrey Leon Stein Toronto	Called April 6th 1983 Disbarred - Convocation September 22nd 1988
Leslie Brian Gomes Toronto	Called April 6th 1982 Disbarred - Convocation September 22nd 1988

Noted

2. STAFF CHANGES

The Director reported the following staff changes.

Finance

Ms. Angela Krivinskas has commenced employment as a secretary effective August 22nd 1988.(R)

Ms. Genevieve Willi has commenced employment as a clerk-typist in the Records department effective September 7th 1988.(R)

Mr. Keith Miller has resigned as a clerk-typist in the Records department effective September 2nd 1988.

Ms. Mary Farrell has commenced employment as a Personnel Officer effective September 15th 1988.(R)

#### Legal Education

Ms. Judy But has commenced employment as a clerk-typist in the Continuing Legal Education department effective August 15th 1988.(R)

Ms. Roseanne Hrenczuk has resigned as a word processor in the Continuing Legal Education department effective August 8th 1988.

Ms. Dianne Menabney has resigned as a clerk-typist in the Continuing Legal Education department effective August 19th 1988.

Ms. Annette Noganosh has resigned as a bindery operator in the Printing department effective August 19th 1988.

Ms. Sabina Otterman has resigned as a Xerox operator in the Printing department effective August 31st 1988.

Ms. Michelle Mader has commenced employment as a receptionist in Bar Admission effective September 7th 1988.(R)

Ms. Sandra Smit has commenced employment as a programme co-ordinator in the Continuing Legal Education department effective September 6th 1988.(R)

Ms. Brenda Good has commenced employment as a Xerox operator in the Printing department effective September 12th 1988.(R)

Mr. Brad Davenport has resigned as a pressman in the Printing department effective September 15th 1988.

Ms. Suzanne Thompson has commenced employment as a bindery operator in the Printing department effective October 3rd 1988.(R)

Ms. Ellen Butchart has resigned as a faculty co-ordinator in Bar Admission effective September 30th 1988.

#### Errors and Omissions Department

Ms. Marika Freeman has commenced employment as a clerk-typist effective August 8th 1988.(R)

Mr. Terrence Hennessy has resigned as Assistant Director effective August 31st 1988.

Ms. Gloria McGinley has resigned as a file clerk effective August 26th 1988.

Ms. Ilda Sousa has commenced employment as a receptionist effective September 19th 1988.(R)

#### Secretariat

Ms. Audrey Cado has commenced employment as a complaints officer in the Discipline Department effective August 22nd 1988.(R)

Ms. Saveria Kontossoros has resigned as a secretary in the Practice Advisory Service effective September 23rd 1988.

Ms. Theresa Pigeau has resigned as a Dial-a-Law operator in the Public Information department effective September 23rd 1988.

Mr. Kyle Hoag has resigned as a carpenter in the Maintenance department effective October 5th 1988.



Great Library

Mr. Jeffrey Shulman has commenced employment as a library assistant effective September 12th 1988.(R)

Ms. Neila Nathaniel has commenced employment as a library assistant effective September 16th 1988.(R)

Mr. Mario Cutajar has resigned as a library assistant effective September 30th 1988.

Noted

3. LEGAL MEETINGS AND ENTERTAINMENT

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

November 2nd, 1988	CBAO - Constitutional Civil Liberties Section Convocation Hall
November 16th, 1988	Medico-Legal Society Barristers' Lounge/Convocation Hall
November 17th, 1988	Lawyers Club - Diane Francis - Journalist and Broadcaster Barristers' Lounge/Convocation Hall
December 6th, 1988	Association of Family Mediation - Marriage and Family Counselling Barristers' Lounge/Convocation Hall
December 8th, 1988	CBAO - Beef Night - The Honourable Ian Scott Barristers' Lounge/Convocation Hall
January 6th, 1989	Lawyers Club - Judges' Night Barristers' Lounge/Convocation Hall
February 22nd, 1989	The County of York Law Association - Dinner Meeting Barristers' Lounge/Convocation Hall

Noted

ALL OF WHICH is respectfully submitted

DATED this 25th day of November 1988

"J. D. Ground"  
Chairman

Attached to original Report in Convocation File, copies of:

- A - Item 1 - Memorandum from J. Louisseize to Secretary, Re: Annual Fees 1988-89.
- B - Item 1 - Memorandum from Director of Finance, Re: Financial Statements - Highlights as at October 31, 1988 with Balance Sheet and Income Statement for four months ended October 31, 1988.  
  
Errors and Omissions Balance Sheet and Income Statement as at October 31, 1988.  
  
Compensation Fund Income Statement for four months ended October 31, 1988.

THE REPORT WAS ADOPTED

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MOTIONS TO SUSPEND

It was moved by Mr. Ground, seconded by Mr. Lamont that the rights and privileges of the each member who has neither paid the Errors and Omissions Insurance levy which was due on 1st of July 1988 nor filed an approved application for exemption from coverage and whose name appears below, be suspended from the 25th of November 1988 for one year and from year to year thereafter or until an application for exemption has been approved or the necessary levy has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

(List of names in Convocation file)

It was moved by Mr. Ground, seconded by Mr. Lamont, that the rights and privileges of each member who has not paid the fee for the late filing of Form 2/3 within four months after the day on which payment was due and whose name appears on the attached list be suspended from the 25th of November 1988 for one year and from year to year thereafter or until that fee has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

LIST A

Galloway, Charles Arthur                      Niagara Falls

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DISCIPLINE

GENERAL

Mr. P. S. A. Lamek, Chairman, presented the Report of the Discipline Committee of its meeting on Thursday, 10th November, 1988.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

THE DISCIPLINE COMMITTEE begs leave to report:

Your Committee met Thursday, November 10th, 1988 at eight thirty in the forenoon, the following members being present: Messrs. Lamek (Chairman), O'Connor, Strosberg, Cullity, McKinnon, Madame Peters

A.

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POLICY

1A. ADMONITIONS AND CAUTIONS

Discipline Staff at the Law Society are often faced with a dilemma once the preliminary investigation of a complaint has been completed. Details emerging from the exchange of correspondence and telephone calls may not point to conduct serious enough to require formal discipline.

For a number of years, the practice has been to issue a Caution after consultation with the Chairman or Vice-Chairman of the Discipline Committee. This has taken the form of a letter in which the problem is set out and reference made to a specific Rule or Commentary. A record of these caution letters has been maintained and incorporated into the Society's Complaints and Discipline System in the event that further complaints of a similar nature are received about the member.

Discipline counsel have advised that Cautions are only used in subsequent disciplinary proceedings as proof that the lawyer was aware of the particular rule or ethical requirement. The fact that a Caution has been issued is not treated as a finding of professional misconduct and is not viewed as constituting a prior discipline record.

It was proposed that the practice of issuing cautions be standardized in accordance with guidelines that were set out.

At its meeting in September the Committee considered this matter and recommended to Convocation that the guidelines be approved. Convocation referred the matter back to the Committee for more detailed study.

Your Committee has considered the matter further and recommends that:

- (a) The use of Cautions and the maintenance of a Caution Book be discontinued.
- (b) Where a solicitor has acknowledged a minor matter of misconduct the matter can be concluded with a letter from the Chairman, Discipline Committee.
- (c) Where a solicitor disagrees with the Society's conclusion that there has been some minor misconduct, the Chairman, Discipline Committee will consider authorizing an Invitation to Attend as well as the most appropriate means of conducting it.

2A. SELECTION OF DISCIPLINE PANELS

Attached at page A-1 to A-2 is a memorandum from Ellie Rosen setting out the procedure used in selecting discipline panels.

Your Committee reviewed the procedure and noted that Ms. Rosen is now in the employ of the Secretariat and not the Discipline Department. Mrs. Rosen is to furnish further information to the Committee on certain administrative and record keeping matters.

C.  
INFORMATION

1C. APPOINTMENTS TO SUBCOMMITTEES

The Chairman announced the following Subcommittees.

1. Subcommittee to consider the steps that may be taken to promote similar dispositions in similar cases and the manner in which discipline matters are dealt with in Convocation.

Harvey Strosberg, Q.C., (Chairman)  
Austin Cooper, Q.C.

2. Subcommittee on confidentiality during Law Society investigations.

Dennis O'Connor, Q.C. (Chairman)  
Maurice Cullity, Q.C.

2C. AUDIT QUARTERLY REPORT

Attached and numbered as C-1 to C-4

3C. ANALYSIS OF REPEATED AUDITS 1980 - 1988

Attached and numbered C-5 to C-7

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1988

"P. S. A. Lamek"  
Chairman

Attached to original Report in Convocation file, copies of:

- A - Item 2A - Memorandum from E. Rosen regarding Selection of Discipline Panels (numbered A-1 and A-2).
- C - Item 2C - Audit Department Quarterly Report as at September 30, 1988 (numbered C-1 to C-4).
- Item 3C - Memorandum from W. Henderson regarding Analysis of Repeated Audits 1980 - 1988 (numbered C-5 and C-6).

THE REPORT WAS ADOPTED

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ORDERS

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

Re: GEORGE PATRICK KEALEY, Ottawa

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF George Patrick Kealey, of the City of Ottawa, a Barrister and Solicitor (hereinafter referred to as "the Solicitor").

O R D E R

CONVOCATION of The Law Society of Upper Canada, having considered the application made on behalf of the Solicitor pursuant to section 47 of the Law Society Act, in the presence of Counsel of the Society, the Solicitor and Counsel for the Solicitor;

CONVOCATION HEREBY ORDERS that the rights and privileges of the Solicitor be restored and that the Solicitor attend on the Practice Advisor immediately for an assessment of his need to take continuing legal education courses, and that the Solicitor attend such courses as the Practice Advisor deems necessary.

DATED this 28th day of October, 1988.

"Lee K. Ferrier"  
Treasurer

(SEAL -

The Law Society of Upper Canada)

"R. Tinsley"  
Secretary

Filed

.....

25 November 1988

Re: ORLANDO DA SILVA SANTOS

THE LAW SOCIETY OF UPPER CANADA

IN THE MATTER OF the Law Society  
Act;

AND IN THE MATTER OF Orlando Da  
Silva Santos, of the City of  
Toronto, a Barrister and Solicitor  
(hereinafter referred to as "the  
Solicitor").

O R D E R

CONVOCATION of The Law Society of Upper Canada, having read the Report and Decision of the Discipline Committee dated the 16th day of August, 1988, in the presence of Counsel for the Society, the Solicitor and Counsel for the Solicitor, wherein the Solicitor was found guilty of professional misconduct and having heard counsel aforesaid;

CONVOCATION HEREBY ORDERS that the said Orlando Da Silva Santos be Reprimanded in Convocation.

DATED this 28th day of October,  
1988.

"Lee K. Ferrier"  
Treasurer

(SEAL -  
The Law Society of Upper Canada) "R. Tinsley"  
Secretary

Filed

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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, November 10, 1988, the following members being present: Thomas G. Bastedo, Esq., Q.C. (Chairman), Messrs. Birkness, Bond, Ms. Callwood, Mr. R.J. Carter, Ms. Curtis, Mr. Durno, Mrs. Fleming, Messrs. Gilchrist, Hartnett, Ms. Kiteley, Messrs. Lamb, Moldaver, Macdowell, Paisley, Ms. Poulin, Mr. Spence, Mrs. Smyth and Mr. Topp.

The following observer member was also present: Mr. Glen Carter, Esq. (Assistant Deputy Attorney General) representing the Ministry of the Attorney General.

A.

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POLICY

1. REPORT OF THE SUB-COMMITTEE RE: DISBURSEMENTS

The Legal Aid Committee reviewed the Report of the Sub-Committee re: Disbursements which is attached hereto and marked as SCHEDULE (A).

2. PART X APPLICATIONS

a. The Legal Aid Committee reviewed correspondence from Murray Meldrum, Staff Solicitor, dated October 28, 1988 where in he recommended payment of costs of \$300.00 out of the Fund.

b. The Legal Aid Committee reviewed correspondence from Murray Meldrum, Staff Solicitor, dated October 28, 1988 wherein he recommended payment of costs of \$1,000.00 out of the Fund.

c. The Legal Aid Committee reviewed correspondence from Murray Meldrum, Staff Solicitor, dated October 31, 1988 wherein he recommended payment of costs of \$1,500.00 out of the Fund.

d. The Legal Aid Committee reviewed correspondence from Murray Meldrum, Staff Solicitor, dated November 2, 1988 wherein he recommended payment of costs of \$1,411.25 out of the Fund.

e. Attached hereto and marked as SCHEDULE (B) is a copy of the Guidelines to the Payment of Costs out of the fund under Part X of the Regulation.

B.  
ADMINISTRATION

1. (A) REPORT OF THE PROVINCIAL AUDITOR  
AND PROVINCIAL DIRECTOR'S RESPONSE

The Legal Aid Committee reviewed the Report of the Provincial Auditor and the Provincial Director's response which are attached hereto and marked as SCHEDULE (C).

2. (B) REPORT OF THE DEPUTY DIRECTOR, FINANCE  
FOR THE PERIOD ENDED SEPTEMBER 30, 1988

a) Finance

The Director's Report pursuant to Section 88(2) of the Regulation for the six months ended September 30, 1988 takes the form of the following financial statement:

<u>Ontario Legal Aid Plan</u>				
<u>Statement of Income and Expenditure</u>				
<u>Six months Ended September 30, 1988</u>				
	6 Months	Revised	6 Months	Favourable
	Actual	6 Months	Actual	(Unfavourable)
	1987/88	1988/89	1988/89	Variance
				1988/ 1989
<u>Opening Balance</u>	80.1	190.9	190.9	
<u>Income:</u>				
Treasurer of Ontario	44,400.0	60,115.0	60,115.0	
Law Foundation	5,991.0	7,779.0	9,844.0	2,065.0
Client Contributions	2,959.7	3,601.4	3,825.6	224.2
Client Recoveries	726.2	743.2	844.5	101.3
Research Sales	46.6	80.6	75.7	(4.9)
The Law Society	32.4	64.6	64.6	-
Miscellaneous	119.7	154.7	190.0	35.3
	<u>54,355.7</u>	<u>72,729.4</u>	<u>75,150.3</u>	<u>2,420.9</u>
<u>Expenditures:</u>				
Certificate Accounts	35,470.7	49,016.2	47,626.1	1,390.1
Duty Counsel Fees				
& Disbursements	3,427.8	3,650.2	3,452.5	197.7
Salaried Duty Counsel	319.1	331.8	335.9	(4.1)
Community Clinics	8,409.4	9,645.5	9,561.9	83.6
Student Legal Aid				
Societies	722.8	801.6	785.3	16.3
Research Facility	603.7	657.3	690.9	(33.6)
Area Office Administration	3,920.1	4,196.3	4,117.6	78.7
Provincial Office				
Administration	2,511.6	2,742.5	2,804.4	(61.9)
	<u>55,385.3</u>	<u>71,041.4</u>	<u>69,374.6</u>	<u>1,666.8</u>
<u>Closing Balance</u>	<u>(1,029.6)</u>	<u>1,688.0</u>	<u>5,775.7</u>	<u>4,087.7</u>

b. Statistics

The Following table compares reported activity for the six months ended September 30, 1988 with activity for the previous fiscal year:

	<u>6 Months Ended September 30</u>		<u>% Change From Last Year</u>
	<u>1988</u>	<u>1987</u>	
Summary Legal Advice	27,468	26,737	2.7%
Referrals to Other Agencies	46,470	40,848	13.8%
Applications for Certificates	68,469	65,192	5.0%
Refusals	14,540	14,759	(2.5%)
As a Percentage of Applications	21.2%	22.6%	-
Certificates Issued	53,938	50,448	6.9%
Persons Assisted by Jury Counsel Fee for Service	108,156	107,734	0.4%
Salaried	37,775	N/A	

2. A) REPORT ON THE PAYMENT OF  
SOLICITORS ACCOUNTS FOR OCTOBER, 1988

The Report on the Payment of Solicitors' Accounts for the month of October 1988 is attached hereto and marked as SCHEDULE (D).

B) REPORT ON THE STATUS OF  
REVIEWS FOR OCTOBER, 1988

The Report on the Status of Reviews for the month of October, 1988 is attached hereto and marked as SCHEDULE (E).

3. AREA COMMITTEES - APPOINTMENTS & RESIGNATIONS

APPOINTMENTS: York Region Cheryl Teasdale  
RESIGNATIONS: District of Muskoka Thomas M. Wood

4. GREEN FORM PROJECT

The Legal Aid Committee Reviewed a Report on the Green Form Pilot Project which began in Waterloo on April 4, 1988. The Report is attached hereto and marked as SCHEDULE (F).

C.  
INFORMATION

1. PANEL OF IMMIGRATION LAWYERS

Attached hereto and marked as SCHEDULE (G) is a copy of a Notice forwarded to the profession advising that the Ontario Legal Aid Plan will establish a Panel of Immigration Lawyers and that a Training Seminar will be held with respect to the amended Immigration Act which is expected to be proclaimed on January 1, 1989.

ALL OF WHICH is respectfully submitted.

November 10, 1988 "T. G. Bastedo"  
Thomas G. Bastedo, Q.C.  
Chairman

Attached to original Report in Convocation file, copies of:

- A - Item 1 - Report of the Disbursements Sub-Committee (marked Schedule A).
- Item 2 - Guidelines to Payment of Costs out of Fund (marked Schedule B).

THE REPORT WAS ADOPTED

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CLINIC FUNDING REPORT

Mrs. H. MacLeod, Vice Chairman of the Clinic Funding Committee, presented the Report of the Director of Legal Aid, dated 15th November 1988, with respect to Clinic Funding.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The Director of Legal Aid begs leave to report:

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

The report was presented by MacLeod seconded by Bastedo and adopted.

The Director recommends to Convocation that the report of the Clinic Funding Committee dated November 15, 1988 be adopted.

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

ALL OF WHICH is respectfully submitted

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

November 15, 1988

ATTACHMENT:

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

The Clinic Funding Committee met on November 10, 1988. Present were: Philip Epstein, Q.C., Chairman, Helen King MacLeod, Oliver Carroll, Thea Herman.

1. 1989/90 Estimates

The Clinic Funding Committee has approved a budget request for 1989/90 in a total amount of \$23,442,921. The request includes the \$583,000 annualization cost of the six new clinics approved in 1987/88, but not included in the Committee's 1988/89 budget. The Committee is requesting a 7.2% increase on its base, and sufficient funds to expand the clinic system next year by 30 additional staff positions, and up to four new community legal clinics.

Details of the Committee's budget request are attached as Schedules I, II, and III.

The Committee therefore recommends Convocation's approval of this budget request to the Ministry of the Attorney General for 1989/90.

2. Decisions

a. Supplementary Legal Disbursements

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

Hamilton Mountain Legal and Community Services - up to \$5,000

Rexdale Community Information & Legal Services - up to \$2,000

North Frontenac Community Services Corp. - up to \$500

b. Supplementary Funds

The Committee has approved supplementary funds to cover additional costs of moves to new premises. The Committee therefore recommends Convocation's approval of funding as follows: Community Legal Education Ontario - up to \$14,600, Simcoe Legal Services Clinic - up to \$7,000.

c. Training Funds

Pursuant to s.6(1)(k) of the Regulation on clinic funding, the Committee has reviewed and approved an application for training funds from the Interclinic Working Group on Immigration, in an amount up to \$3,500 to allow the Group to conduct a training session on the new Immigration Act.

3. Information

a. 1987/88 Audit Report

The Clinic Funding Committee reviewed the report of Hilborn Ellis Grant, Chartered Accountants, on the audit of community legal clinics for the fiscal year ending March 31, 1988. The auditor's report indicates general satisfaction with the level of bookkeeping and accounting in community legal clinics, and reports that funds provided by the Ontario Legal Aid Plan have been accounted for properly.

b. Provincial Auditor's Report

The Clinic Funding Committee notes that the Provincial Auditor's report on the Ontario Legal Aid Plan for the fiscal year ended March 31, 199 did not make any recommendations concerning the funding community legal clinics, nor the administration of the clinic funding program.

c. Regional Clinic Meetings

The Clinic Funding Committee met with representatives of the northern clinics in Kenora on November 2, and representatives of the Toronto clinics on November 10. The meeting provided an opportunity for the Committee also discussed with clinic representatives a number of particular issues, including the budget situation this year, the Canada Assistance Plan, and the development of regional clinic councils.

The Committee will complete its current round of regional meetings when it meets with clinic representatives from the eastern region in Kingston on November 22.

ALL OF WHICH is respectfully submitted

November 15, 1988

"Helen King MacLeod"  
for Philip Epstein, Q.C.,  
Chairman,  
Clinic Funding Committee.

Attached to original Report in Convocation file, copies of:

Item 1 - 1989/90 Estimates (marked Schedules 1, 11 and 111).

THE REPORT WAS ADOPTED

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PROFESSIONAL CONDUCT COMMITTEE

There was no report of the Professional Conduct but there was a memo from the Chairman in regard to the Rule 9 amendments governing disbursements. The matter was referred back to the Committee to consider the wording changes proposed by the County & District Liaison Committee.

Noted

Memorandum from the Chairman enclosing comparison between the present Rule 9 and the proposed Rule 9 is in the Convocation file.

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TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCAATION ASSEMBLED

The LIBRARIES AND REPORTING COMMITTEE begs leave to report:

Your Committee met on Thursday, November 10th, 1988 at 9:30 a.m., the following members being present: Messrs. Murphy (Chairman), Ms Bellamy, Cullity, Farquharson, Henderson, Lerner, O'Connor, Sosa and Topp. G. Howell and P. Bell also attended.

A.

POLICY

No items

B.

ADMINISTRATION

1. ONTARIO REPORTS - GUIDELINES FOR SELECTION OF CASES

The Chief Librarian, Glen Howell, and the Secretary of the Committee, met on August 31st, 1988 with Bruce Dunlop, Editor-in-Chief of the Ontario Reports, Ms G. Christmas, Executive Editor of Canada Law Book and the Honourable Mr. Justice H. Krever to discuss the case selection guidelines for the Ontario Reports.

After discussing the existing case selection guidelines, the Secretary was instructed to write to the Editor-in-Chief of the Ontario Reports and invite him to attend the January meeting of the Committee.

2. MANITOULIN - COURT HOUSE LIBRARY COLLECTION

At the request of the Sheriff of the Judicial District of Manitoulin and in co-operation with Mr. Robert Topp, one of the Benchers from Sudbury, along with members of the Society practicing on Manitoulin Island, the Chief Librarian paid a visit to the Court House at Gore Bay to review the book collections in the Sheriff's office and Judge's Chambers with the view of possible participation by the Law Society and by the local bar in a modest expansion and possible integration of the book collections in the Gore Bay Court House. Subscriptions to law reports and other material are funded by budgetary allocations from the Ministry of the Attorney General. After considering the Chief Librarian's report, your Committee recommends that the Law Society authorize an expenditure of \$5,900 to acquire missing volumes of law reports and new textbooks for the Manitoulin Court House, conditional upon the local bar's fulfillment of its agreement to raise \$1,000 by the collection of a \$150 levy from the resident lawyers, and on condition that the Law Society retain ownership of the reports, the texts and the \$1,000 worth of texts underwritten by the local bar.

C.  
INFORMATION

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1. BOOK LIST

The Great Library will be adding 41 new titles to its book collection for November 1988. The book list was approved.

2. FINANCIAL STATEMENT

The Financial Statement for the month of October 1988 was considered.

3. COUNTY AND DISTRICT PUBLICATIONS COMMITTEE

The Chief Librarian introduced to the Committee the members of the County and District Publications Committee:

Michael Neville	Ottawa
Donald MacKenzie	Brampton
Duncan Fraser, Q.C.	Brockville
Michael Hennessy	Sudbury
R. Lalande	Sudbury
Mark Shields	St. Thomas

The Chairman of the Committee, Mr. Murphy, thanked the members of the Publications Committee for their many hours of volunteer time that has been devoted over several years to the consideration of lists of books and other materials for the County and District Law Libraries.

ALL OF WHICH is respectfully submitted

DATED this 10th day of November, 1988

"D. Murphy"  
Chairman

THE REPORT WAS ADOPTED

.....

UNAUTHORIZED PRACTICE COMMITTEE

Mr. T. G. Sosa presented the Report of the Unauthorized Practice Committee of its meeting on Thursday, 10th November, 1988.

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

The UNAUTHORIZED PRACTICE COMMITTEE begs to leave to report:

Your Committee met on Thursday, November 10, 1988 at 10:30 a.m., the following members were present: Mr. Clayton Ruby (Chairman), Mr. McKinnon (Vice-Chairman), Ms. Callwood, Messrs. Carter, Cass, Farquharson, Schaffer, Sosa, Strauss and Ms. Weaver. Also in attendance were: Messrs. Ballantyne, Bell and Tinsley.

B.  
ADMINISTRATION

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1. Accounts

Accounts of counsel and investigators were approved in the total amount of \$13,733.46.

2. Mediators Drafting Separation Agreements

Stephen J. Lautens, Barrister and Solicitor, has written the Law Society on behalf of the Accreditation Committee of the Ontario Association of Family Mediation. In his correspondence, Mr. Lautens has enclosed a draft document prepared by him and another lawyer for his client entitled "Mediators' Guild to Legal Pitfalls in Drafting Memoranda" wherein mediators are advised on the practice of preparing separation agreements and documents resembling same. In this draft guide, mediators are instructed not to prepare separation agreements and to be wary of "assisting others" in preparing their own separation agreements as "the Law Society of Upper Canada is strongly of the opinion that drafting a separation agreement is practicing law". The guild points out the difficulty that non-lawyers may have in determining what is and what is not legal advice, especially in regards to parties' rights and obligations under relevant legislation. The guide suggests that if a document is prepared by a non-lawyer mediator on behalf of a client, it must be emphasized that it is not a legally binding document. The guide suggests ways in which to minimize the changes a document will be viewed as a legal document, for instance, avoiding the use of legal terminology, court file numbers or titles of proceedings. Further, it is suggested that phrases from precedent separation agreements be avoided. The guide advises that the document prepared by the mediator should emphasize that it is "a statement of intention" which is to be further reviewed by a lawyer and finally that the agreement is subject to any changes that result from the parties obtaining independent legal advice.

The guide goes on to give particulars as to how a mediator should approach the preparation of such a document. It emphasizes the necessity for full financial disclosure as well as independent legal advice, noting that the Family Law Act allows an agreement to be set aside by the courts where these elements are absent. It notes that the mediator's clients may thus have wasted both time and money on an unenforceable and worthless agreement. The guide also suggests that mediators may be professionally liable should he or she fail in this regard. The guide goes on to suggest that mediators be extremely wary of allowing a waiver of support by one party of the other as such a waiver has often been deemed in the past to be a permanent waiver of one's right to support.

The guide makes specific references to potential liability of mediators should they be deemed negligent in the preparation of these documents. The Unauthorized Practice Department has convicted one individual in Kitchener who, purporting to act as a mediator, prepared a separation agreement on behalf of clients. The department has also convicted independent paralegals for preparing separation agreements. Your Committee considered the draft guide prepared by the Ontario Association of Family Mediation and was of the opinion that it was a commendable and helpful document but it should advise its readers that any agreement/document prepared by family mediators should contain, on the face of the document, the information that the document is not intended to be a legally binding contract, but merely a statement of intention by the parties. The Secretary of your Committee will forward these comments to Mr. Lautens.

3. Application for Incorporation - Toronto  
Workers' Health & Safety Legal Clinic Incorporation

The Law Society has received a request for its views on the application for incorporation by the Toronto Workers' Health & Safety Legal Clinic Incorporation. The stated purposes of this incorporation are contained in the application. Your Committee referred this application for incorporation to the Legal Funding Committee where it is expected to be approved. The Ministry will be advised of this referral to the Legal Funding Committee.

The Committee also received a list of matters pending.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1988

"T. G. Sosa"  
for C. Ruby  
Chairman

Attached to original Report in Convocation File, copy of:

Matters Pending (marked 5 and 6).

THE REPORT WAS ADOPTED

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PUBLIC INFORMATION COMMITTEE

Ms. J. Callwood presented the Report of the Public Information Committee of its meeting on Thursday, 10th November, 1988.

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

THE PUBLIC INFORMATION COMMITTEE begs leave to report:

Your Committee met Thursday, November 10th, 1988 at 9:30 in the morning, the following members being present: Ms. Callwood, Messrs. Kemp-Welch, Lyons, McKinnon, Shaffer, Thom and Yachetti. Also in attendance were Ms. Angevine, Messrs. Beaufoy, Daniher and Jenkins.

C.  
INFORMATION

1. COMPUTERIZATION OF DIAL-A-LAW

Now that the Bell Canada strike is over, the computer supplier has made the necessary arrangements with Bell regarding installation of the test model of the equipment. Experimentation with the system should begin in the second full week of November. All Benchers will be provided with an opportunity to test the program from their own phones at their convenience.

The system should be in place and ready to go fully automatic by early 1989. A public announcement will be made at that time.

2. "MORT AND MILLIE" AN AWARD WINNER

The Law Society's "Mort and Millie" (Dial-A-Law) advertisement was honoured at the 1988 Annual Radio Awards in Toronto. The Gold award in the business category and Finalist recognition in the public service category were awarded. The ad, which played in the Metro Toronto market in early 1988, boosted calls to the Dial-A-Law and Lawyer Referral Service by the thousands. Attached are two letters concerning the awards.  
(Appendices C-1-2)

3. DIAL-A-LAW ADVERTISING CAMPAIGN

A new radio ad along the lines of the very successful "Mort and Millie" ad is being developed. This ad will be aired in the Ottawa and London radio markets starting in January of 1989. The "Mort and Millie" ad will be re-aired in the Metropolitan Toronto market. By waiting

until after the Christmas advertising season, it is hoped that the advertising campaign will have a greater impact. The campaign will be tied into the announcement of the new computerized Dial-A-Law system. In addition to the radio campaign, ads will be run in newspapers across the province; and Dial-A-Law brochures will be made available to the public in over 500 supermarkets.

#### 4. INFORMATIONAL BROCHURE ABOUT THE SOCIETY

The Committee discussed the possibility of reducing the scope and size of the brochure. In this way the production costs will be reduced and it will be possible to have more copies printed up and made available.

#### 5. STATISTICS

Attached are the updated statistics for the Lawyer Referral and Dial-A-Law programs. Both programs continue to achieve results considerably ahead of last year's figures. (Appendix C-3)

ALL OF WHICH is respectfully submitted

DATED this November 25th, 1988

"June Callwood"  
for Chairman

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

- C - Item 2 - Letters regarding 1988 Radio Awards Show (marked C1 and C2).
- Item 5 - Lawyer Referral and Dial-A-Law statistics (marked C3).

THE REPORT WAS ADOPTED

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#### PRACTICE AND INSURANCE COMMITTEE

Mr. J. J. Wardlaw presented the Report of the Practice and Insurance Committee of its meeting on Thursday, 10th November, 1988.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PRACTICE AND INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 10th day of November 1988, the following members being present: Messrs. Wardlaw, Lamont, Epstein, and Doran. Also present were: Messrs. Smith and Wissent and Ms. Duncan.

#### C. INFORMATION

##### 1. LOST CERTIFIED CHEQUES

Upon the request of the Chairman, Ms. Duncan has supplied the Committee with the updated method of dealing with the issue of lost certified cheques. Attached as Appendix A is an excerpt from the Bar Admission Course material "Business of the Practice of Law".



2. DIRECTOR'S MONTHLY REPORT

There were no figures available to the Director of Insurance at the time of the Committee's meeting.

3. SUB-COMMITTEE ON UNDERTAKINGS IN MORTGAGE DISCHARGE PROVISIONS IN AGREEMENTS OF PURCHASE AND SALE

Following the creation of this sub-committee at the January 1988 meeting of the Practice and Insurance Committee, Mr. Wardlaw corresponded with the then Treasurer, Mr. Chilcott, By letter dated January 15th, 1988. (See Appendix B, pp. 1-3) With the change in Treasurers, the matter has received no response. Therefore, Mr. Wardlaw has recently corresponded with the present Treasurer regarding this issue. (Appendix B, pp. 4)

4. CHECK LISTS

The Director has met with the Director of Education and with Ms. Sue Langton, Manager of C.L.E., and arrangements have been made to develop check lists for seven core areas of law. The check lists will be available for the 1989-90 Bar Admission Course and will be available to the profession at large no later than May of 1990. (See Appendix C)

5. LOSS PREVENTION - AIG CONTRIBUTION

It has been suggested that American Home contribute monetarily to the Society's loss prevention program. The matter has been taken up on numerous occasions by the Chairman and Director with both AIG in New York and with Marsh & McLennan here in Toronto. Although AIG has been receptive, there has been no active response. Attached as Appendix D, pp. 1 - 3, is the Director's memo to the Chairman, as well as, his recent letter to the Senior Vice-President of National Union Fire Insurance Company of Pittsburgh. (AIG)

6. DEFENSE COSTS - LEGAL AID RESEARCH BRIEFS

The Committee approved the arrangement made between the Director of Insurance and the Legal Aid Director for the Legal Aid Research Department to provide the Errors and Omissions department with research briefs commencing November 1st, 1988. The salary and overhead of one research lawyer for a period of one year has been guaranteed at a total cost of the Errors and Omissions department of \$70,000. The Director anticipates a 50% reduction in total research costs. (See Appendix E)

7. ERRORS AND OMISSIONS LEGAL ADVISER

The Committee discussed the proposal of the Director of Insurance, as outlined in a memorandum from the Director to the Chairman (Appendix F) with respect to the advisability of hiring a senior, retired lawyer as in-house counsel to offer guidance through counsel retained on any individual file. The issue was brought up for discussion purposes and the Director feels that no decision need be made until the latter part of 1989.

8. EXCESS INSURANCE COVERAGE - CBIA

Mr. W. Graham Dutton, Q.C. of the Canadian Bar Insurance Association has requested that the Society send a letter to the President of the CBIA stating that the Society has no formal objection to it marketing excess insurance to Ontario lawyers.

(See Appendix G, pages 1 - 2)

The Committee considered the matter and recommended that the Society neither support nor reject the CBIA's marketing of excess insurance and that the requested letter not be sent.

ALL OF WHICH is respectfully submitted

DATED this 25th of November, 1988

"J. J. Wardlaw"  
Acting Chairman

Attached to original Report in Convocation file, copies of:

- C - Item 1 - Excerpt from the Bar Admission Course material "Business of the Practice of Law" regarding Lost Certified Cheques (marked Appendix A).
- Item 3 - Letters from the Chairman of the Sub-Committee on Undertakings in Mortgage Discharge Provision to past and present Treasurers (marked Appendix B).
- Item 4 - Check lists for seven core areas of law (marked Appendix C).
- Item 5 - Correspondence regarding Loss Prevention - AIG Contribution (marked Appendix D).
- Item 6 - Memorandum regarding Defense Costs - Legal Aid Research Briefs (marked Appendix E).
- Item 7 - Memorandum regarding Errors and Omissions Legal Adviser (marked Appendix F).
- Item 8 - Correspondence regarding Excess Insurance Coverage (marked Appendix G, pages 1 to 4).

THE REPORT WAS ADOPTED

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PROFESSIONAL STANDARDS COMMITTEE

Ms. D. Bellamy presented the Report of the Professional Standards Committee of its meeting on Thursday, 10th November 1988.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The PROFESSIONAL STANDARDS COMMITTEE begs leave to report:

Your Committee met on the 10th of November, 1988 at eleven thirty in the morning, the following members being present: Mr. Lyons (Chairman), Ms. Bellamy, Mr. Ferguson, Mr. Guthrie, and Ms. Poulin and Mrs. Weaver. Also present were Ms. Angevine, Ms. Poworoznyk, Ms. Duncan, Ms. Rolph and Messrs. Kerr, Traviss and Stephany.

B.

ADMINISTRATION

1. NEW SUB-COMMITTEES

The Committee approved the formation of two new sub-committees, one responsible for formulating standards for lawyers practicing Wills and Estates and The second to be responsible for formulating standards for lawyers practicing Family Law.

2. SUB-COMMITTEE ON COMPETENCY OF CRIMINAL LAWYERS

After considering the sub-committee's Final Report, the Committee made the following recommendations:

- a) that the report be placed before Convocation at its November 25th, 1988 meeting for discussion and debate;
- b) that the report be circulated to various individuals and organizations involved in the criminal justice system for comment.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1988

"R. G. Ferguson"  
for Chairman

B - Item 2 (Sub-Committee on Competency of Criminal Lawyers) was put over until January with the consent of the Acting Chairman.

THE BALANCE OF THE REPORT WAS ADOPTED

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SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST

Ms. J. Callwood presented the Report of the Special Committee on J. Shirley Denison Bequest of its meeting on Thursday, 10th November, 1988.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The SPECIAL COMMITTEE ON J. SHIRLEY DENISON BEQUEST begs leave to report:

Your Committee met on Thursday, the 10th of November, 1988 at 11:30 a.m., the following members being present: Mr. Cass (Chairman), Ms. Callwood (Vice-Chair) and Messrs. Henderson and Lerner (ad hoc).

B.  
ADMINISTRATION

1. REQUEST FOR FUNDS

A request for financial assistance was before the Committee from a member recently called to the Bar. His letters of explanation as to why he requests assistance together with both a Financial Statement and Statement of Property were before the Committee for consideration.

Your Committee recommends that the applicant receive a grant in the amount of \$1,500.00.

ALL OF WHICH is respectfully submitted

DATED this 23rd day of September, 1988

"June Callwood"  
Chair

THE REPORT AS AMENDED WAS ADOPTED

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RESEARCH AND PLANNING COMMITTEE

Mr. J. M. Spence, Chairman, presented the Report of the Research and Planning Committee of its meeting on Thursday, 10th November, 1988.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The RESEARCH AND PLANNING COMMITTEE begs leave to report:

Your Committee met on Thursday, the tenth day of November, 1988 at 8:00 a.m., the following members being present: Messrs. Spence (Chair), McKinnon, Ms. Kiteley and Ms. Bellamy. Also present were Mr. Tinsley and Ms. Ashby.

C.  
INFORMATION

1C. SUB-COMMITTEE ON STRESS & ASSISTANCE PROGRAMME

The submission of the report of the Sub-Committee on Stress and Assistance Programme was postponed to January, 1989. There was agreement that the initiative is important and worthwhile. The Committee supported discussing the possibility of collaboration with the CBA(O) but agreed that further action should be held in abeyance until the report is considered by Convocation.

2C. BENCHERS' RESPONSIBILITIES SUB-COMMITTEE

The Committee was advised that Mr. Spence has appointed Dr. D. Stager and Mr. Graeme Mew of Dutton, Brock to this sub-committee. It was thought that Dr. Stager's advice regarding research issues would benefit the Sub-Committee. Mr. Mew is known to have an interest in the area and brings with him his experience with the Bar in Great Britain.

3C. ACCESS TO JUSTICE QUESTIONNAIRE

The Committee of the County and District Presidents' Law Association met in October to reassess the focus of the proposed questionnaire. It is intended that a final proposal and a request for funding will be made to the Research and Planning Committee in January.

4C. ELECTION OF BENCHERS

At the suggestion of Convocation this matter was reconsidered. It was agreed that the election process is an important matter and therefore should be dealt with in committee of the whole. The Committee will dedicate its February meeting to the consideration of these issues and to the formulation of recommendations.

5C. RETREAT SUB-COMMITTEE

The Committee agreed to begin planning a Spring Retreat to which all Benchers will be invited.

ALL OF WHICH is respectfully submitted

DATED this 25th day of November, 1988

"J. M. Spence"  
Chairman

THE REPORT WAS ADOPTED

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SPECIAL COMMITTEE ON INVESTMENTS

Stand until January 1989.

COUNTY AND DISTRICT LIAISON COMMITTEE

Stand until January 1989.

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CONVOCATION ROSE AT 4:20 P.M.

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Confirmed in Convocation this       day of       , 1989.

Treasurer