

MINUTES OF CONVOCATION

Friday, 26th April, 1991
9:30 a.m.

PRESENT:

The Treasurer (James M. Spence, Q.C.), Arnup, Bastedo, Bellamy, Bragagnolo, Bynoe, Callwood, Campbell, Carey, Cass, Chapnik, Cooper, Copeland, Cullity, Farquharson, Ferguson, Ferrier, Furlong, Ground, Guthrie, Hall, Hickey, Howland, Kiteley, Krishna, Lamek, Lamont, Lawrence, McKinnon, Pepper, Peters, Rock, Shaffer, Somerville, Strosberg, Thom, Topp, Wardlaw, Weaver and Yachetti.

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"IN PUBLIC"

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The Treasurer addressed Convocation on the need to extend the time for the receiving of ballots for the election because of mailing problems. There was agreement that the time should be extended to May 10th, 1991.

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The Treasurer also paid tribute to Mr. Robert Anderson, the Society's Chief Auditor for 28 years who died on March 23rd, 1991.

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DRAFT MINUTES

It was moved by Mr. Yachetti, seconded by Mr. Farquharson that the Draft Minutes of February 15th and March 28th, 1991 be approved.

Carried

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WOMEN IN THE LEGAL PROFESSION COMMITTEE

Ms. Kiteley presented the report Transitions in the Ontario Legal Profession: A Survey of Lawyers from the Past Fifteen Years of Bar Admissions contained in the Report of the Women in the Legal Profession Committee of its meeting on March 18th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The WOMEN IN THE LEGAL PROFESSION COMMITTEE begs leave to report:

Your Committee met on Monday, the 18th of March, 1991, at 8:00 a.m., the following members being present: F.P. Kiteley (Chair), D.E. Bellamy, S.R. Birenbaum, C.L. Campbell, L.K. Ferrier, A-M Stewart.

Also present: M.J. Angevine, A.M. Brockett, D.A. Crosbie, L.M. Johnstone, F.M. Kay, R.F. Tinsley, A.D. Treleaven, G. Zecchini.

A.
POLICY

A. TRANSITIONS IN THE ONTARIO LEGAL PROFESSION

A copy of the report Transitions in the Ontario Legal Profession: A Survey of Lawyers from the Past Fifteen Years of Bar Admissions has been sent to members of Convocation under separate cover. The Report was commissioned by the Committee. It is presented to Convocation for adoption.

Subject to Convocation's approval of the necessary expenditure at the appropriate time, your Committee makes the recommendations which follow. The recommendations will also be found at pages 107-116 of the Report.

STATEMENT OF POLICY

In light of the findings of the Report, the Women in the Legal Profession Committee recommends that Convocation adopt the following statement of policy:

- i) The Law Society of Upper Canada is responsible for governing the legal profession in the public interest. Matters which relate to the professional careers of lawyers and their personal well-being inevitably affect the public interest: they are matters which have a direct impact upon the quality of legal services in Ontario. The Law Society has a responsibility to undertake research and to provide leadership in these areas.
- ii) In recent years, the legal profession has undergone significant change. Instances of such change are documented in the Report, in the 1989 Law Society Report Women in the Legal Profession, and in other studies. Changes include:
 - trends towards larger law firms
 - increase of governmental regulation in society
 - increased number of lawyers in the public service
 - impact of technology
 - growth in numbers of the profession
 - growth of female membership in the legal profession
 - varied range of career opportunities for lawyers and the consequent diversity of experience represented within the profession
 - increase in single-parent families
 - increase in dual-career families
 - increase in the number of women who have children and who are also full-time members of the workforce.These changes affect individual lawyers, their employers, partners and clients.
- iii) The Law Society accepts the challenge to respond creatively to the changed realities of the profession.
- iv) The Law Society welcomes wide discussion of the issues raised in the Transitions Report and encourages dialogue among members of the profession in the process of responding to change.

- v) Where there is evidence of significant dissatisfaction with the practice of law among members of the profession, the Law Society has a responsibility, both to the public and to its members, to study the issue and to propose solutions.
- vi) The Law Society has a responsibility to work towards the amelioration of conditions within the profession which lead to dissatisfaction with the practice of law.
- vii) It is in the public interest that a career in the law should be characterized by an appropriate balance between personal and professional life. Where the professional environment makes such balance difficult to achieve, appropriate measures are required to remedy the situation.
- viii) The Law Society recognizes that the traditional private practice of law is only one among a diversity of careers that are now possible within the legal profession.
- ix) The Law Society recognizes the importance of alternative work arrangements such as different types of partnership, part-time employment, job-sharing, flexible hours of work, secondments, sabbaticals and study leaves.
- x) The Law Society recognizes the importance of parental responsibility policies such as maternity leave, paternity leave, and provisions for childcare.
- xi) The Law Society endorses the principles of the Human Rights Code, 1981, and accordingly affirms that every member of the Society has a right to equal treatment with respect to conditions of employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, or disability.
- xii) The Law Society acknowledges that there are members of the profession, particularly women, who perceive themselves or their colleagues to be subject to discrimination. The findings of the Report lead the Law Society to conclude that discrimination (whether it be individual or systemic, intentional or unintentional) continues to exist within the profession.
- xiii) Lawyers have a responsibility to take a lead in eliminating discrimination. The Law Society will intensify its efforts to eradicate discrimination in the profession.
- xiv) The Law Society recognizes that sexual harassment is a demeaning practice that constitutes a profound affront to the dignity of persons forced to endure it.

LIFESTYLE AND ALTERNATIVE CAREER OPTIONS

The Women in the Legal Profession Committee notes the responses from women and men, expressing dissatisfaction and disappointment with the lifestyle that appears to be demanded of them if they are to practise law. In particular, the Committee notes the responses which comment on the impact upon personal and family life. Research has been conducted by other organizations which shows that, over the past twenty years, there has been a significant increase in the number of women who have young children and who are, at the same time, full-time in the workforce. The Committee sees these as issues which are not restricted to women. They are human issues which entail major changes for both sexes. The Committee recommends:

- i) That the Law Society take a lead in encouraging and providing for wider discussion of the findings of the Transitions Report.
- ii) That the Law Society study the matter of the long hours of work that are reported to be required of lawyers.
- iii) That steps be taken to encourage, both at the law schools and in the Bar Admission Course, study and discussion of the nature, structure and organization of the practice of law. In particular, that students be prepared for the economic and business aspects of practice and for the demands which practice may make upon personal lifestyle and responsibilities.
- iv) That the Law Society, in co-operation with other organizations, make information available concerning legal careers in fields other than the private practice of law, including careers as counsel with corporations and governments.
- v) That steps be taken to make it more widely known, at every stage of the educational process, that opportunities exist, both inside and outside the legal profession, for using a law degree in careers other than the traditional private practice of law.

ALTERNATIVE WORK ARRANGEMENTS

It is in the public interest that every lawyer be able to pursue a career which allows for an appropriate balance between professional and personal responsibilities. One means of achieving this objective is to provide alternative work arrangements. Such arrangements include, among other possibilities:

- part-time employment
- various types of partnership
- job-sharing
- flexible hours
- secondments
- sabbaticals
- study leaves.

Such policies can enhance the satisfaction which lawyers find in their work and strengthen their loyalties to their colleagues and employers. The Committee therefore recommends:

- i) That Convocation urge all organizations which employ lawyers to consider introducing policies that provide for alternative work arrangements.
- ii) That the Law Society seek information and advice from law firms and other organizations, in various jurisdictions, where alternative work arrangements have been introduced, with a view to making this information widely available within the profession.
- iii) That the Law Society distribute to the profession model policy statements, discussion papers and other materials dealing with alternative work arrangements. In the development of such policies, full account should be taken of the economic implications for the law firm or other employer.

- iv) That the Finance and Administration Committee be asked to reconsider the possibility of reduced membership fees for members who practise law part-time.
- v) That the Insurance Committee be asked to reconsider ways of reducing the insurance levy for members who practise law part-time.

PARENTAL RESPONSIBILITY POLICIES

It is in the public interest that lawyers with children who wish to continue a career be able to do so while at the same time fulfilling their responsibilities to their children. The achievement of this objective can be assisted by the adoption of parental responsibility policies. Such policies include, among other possibilities:

- paternity leave
- maternity leave
- provision of childcare facilities.

The Committee therefore recommends:

- i) That Convocation urge all organizations which employ lawyers to consider introducing parental responsibility policies.
- ii) That the Law Society seek information and advice from law firms and other organizations, in various jurisdictions, where parental responsibility policies have been introduced, with a view to making this information widely available within the profession.
- iii) That the Law Society distribute to the profession model policy statements, discussion papers and other materials dealing with parental responsibility policies. In the development of such policies, full account should be taken of the economic implications for the law firm or other employer.
- iv) That the Law Society study the possibility of encouraging and assisting law firms, governments and corporate employers to establish childcare facilities on site.

TEMPORARY ABSENCES FROM PRACTICE

An important component of the Report was the sample of members who had been suspended for non-payment of fees. In light of the findings in relation to those who have left the practice of law but who wish to retain their links with the profession, the Committee recommends:

- i) That Convocation ask the Finance and Administration Committee, in co-operation with the Admissions Committee and the Women in the Legal Profession Committee, to review existing policies in respect of:
 - Resignations.
 - Publication requirements in respect of resignations.
 - Reinstatement fees payable by members who have been suspended for non-payment of fees.
 - Fees payable by members who have resigned and who apply for re-admission.
 - Examination requirements for members who apply for re-admission.

The object of this review would be to determine whether there are ways to reduce barriers to the resumption of active membership.

- ii) That a study be undertaken of the results of the policy under which members not gainfully employed are entitled to a reduced membership fee of 25%. The study would be conducted with a view to determining whether the fee reduction has enabled members who might otherwise have resigned to continue their membership in the Society.
- iii) That Convocation explore the possibility of creating a category of "Associate Member", such persons to be entitled, for a nominal fee, to continue their membership while not practising, and to receive the Ontario Reports and other information distributed to the membership.

DISCRIMINATION

The Committee notes that, despite the existence of Commentary 5 to Rule 13 (Non-Discrimination) in the Rules of Professional Conduct, the findings of the Report lead to the conclusion that discrimination is still to be found in the legal profession. The Committee recommends:

- i) That the Professional Conduct Committee be asked to consider whether there are specific aspects of discrimination that may require further attention in the Rules of Professional Conduct.
- ii) That the Law Society continue to encourage, throughout the profession, in the Bar Admission Course, and at law schools, the use of language and pictorial representation that are gender-neutral.
- iii) That the Law Society make available information and policies with respect to:
 - sexual discrimination
 - sexual harassment
 - all forms of discrimination prohibited under the Human Rights Code, 1981.

and that these be disseminated within the profession and among law students.

INCOME

The Committee recommends:

- i) That Convocation take steps to alert members of the profession, managers of law firms and other employers of lawyers, to the fact that income differentials still exist between men and women within the legal profession, and that such differentials infringe both the Human Rights Code, 1981 and the Rules of Professional Conduct.

LAW SOCIETY PROGRAMMES AND PERSONNEL POLICIES

The Committee notes that the Law Society already has personnel policies which address many of the issues raised in the Report. The Committee also notes that these issues have been addressed in the Law Society's Continuing Legal Education programmes. The Committee recommends:

- i) That the Law Society aim to set standards in terms of working conditions for its own staff which will make it a model for the profession and that the Society consider the development of its personnel policies in respect of:
- balance between professional and personal responsibilities
 - alternative work arrangements
 - parental responsibility policies
 - non-discrimination.
- ii) That the Practice Advisory Service be in a position to offer advice to members on personnel matters, particularly in respect of:
- alternative work arrangements
 - parental responsibility policies
 - non-discrimination.
- iii) That the Bar Admission Course and the Continuing Legal Education Department be asked to continue and develop programmes which address issues arising from the Report, including:
- balance between professional and personal responsibilities
 - pressure and stress in the legal profession
 - the economic, financial and management aspects of the practice of law
 - alternative career opportunities
 - discrimination and harassment
 - alternative work arrangements
 - parental responsibility policies
 - requalification for lawyers returning to practice
- and that particular attention be given to programmes for managers of law firms and other employers of lawyers.

FURTHER STUDY AND RESEARCH

Additional analysis is currently under way in respect of the data resulting from the Report. The Committee recommends:

- i) That further study be undertaken in respect of the following matters:
- Career opportunities that provide an alternative to the traditional private practice of law.
 - The career patterns of lawyers who have taken advantage of alternative work arrangements.
 - The career patterns of lawyers who have taken advantage of parental responsibility policies.
 - The effect upon the quality of legal services of the introduction of alternative work arrangements and parental responsibility policies.

- The cost implications, for law firms and other organizations which employ lawyers, of introducing alternative work arrangements and parental responsibility policies.
 - The implications of alternative work arrangements for compensation policies.
 - Ways in which the extent of discrimination within the profession can be measured.
 - Appropriate ways of dealing with sexual discrimination within the profession.
 - Means of studying the extent to which clients may contribute to instances of discrimination in the profession.
 - Ways in which gender earnings differentials in the profession can be measured and dealt with appropriately.
 - The time taken, within groups of firms of similar size, by women and men, respectively, to achieve partnership status.
- ii) That further research be undertaken on the subject of transitions within the profession. The intent of this research would be to analyze changes over time.

DISTRIBUTION AND DISSEMINATION OF THE REPORT

The Committee recommends:

- i) That a summary version of the Report, consisting of the Executive Summary, the Conclusions and Recommendations, be sent to every member of the Law Society and to every student member.
- ii) That a full copy of the Report be sent to every law school in Ontario with a recommendation from Convocation that the summary version be included in the orientation material provided to all first-year law students.
- iii) That a full copy of the Report be sent to every law school in Canada outside Ontario with a request from the Law Society of Upper Canada that each law school consider making the Conclusions and Recommendations known to all law students.
- iv) That a full copy of the Report be made available in the Great Library and in each County and District Law Library in Ontario.
- v) That a full copy of the Report, together with the Recommendations adopted by Convocation, be sent to every law society in Canada.
- vi) That the Federation of Law Societies of Canada be asked to arrange for discussion of the Report at its next meeting and to recommend similar studies in other jurisdictions.
- vii) That a full copy of the Report be sent to the Canadian Judicial Centre and to such other persons and bodies as Convocation deems appropriate.
- viii) That the Chair of every Standing Committee of Convocation be asked to consider whether there are matters arising from the Report that require consideration in committee.

- ix) That the Law Society send copies of the summary version (including Conclusions and Recommendations) to other professional bodies in Ontario.
- x) That the Law Society organize a conference to consider the findings of the Report.
- xi) That a summary version of the Report, consisting of the Executive Summary, the Conclusions and the Recommendations, be distributed widely among journalists and editors to encourage discussion in the media of the general professional employment issues raised by the Report.

B.
ADMINISTRATION

No matters to report.

C.
INFORMATION

No matters to report.

ALL OF WHICH is respectfully submitted

DATED this 26th day of April, 1991

"F. Kiteley"
Chair

("Transitions" Report in Convocation file)

THE REPORT WAS ADOPTED

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LEGAL EDUCATION COMMITTEE

Mr. Rock presented the Report of the Legal Education Committee of its meeting on April 11th, 1991.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGAL EDUCATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 11th of April, 1991. The following members were present: P. Peters (Acting Chair), M. Cullity (Vice-Chair), T. Bastedo, D. Bellamy, S. Chapnik, R. Ferguson, L. Legge, S. Thom. In attendance representing the law schools was: Dean R. Sharpe. Staff in attendance were: M. Bode, B. Duncan, H. Harris, C. Keech, A. Rookes, A. Treleven.

A.
POLICY

1. CONTINUING LEGAL EDUCATION REFORM SUBCOMMITTEE: PRELIMINARY REPORT
(April 26, 1991)

The Continuing Legal Education Reform Subcommittee met most recently on Monday, February 11. The following members were in attendance: Sandra Chapnik, Marc Bode, Loretta Merritt and Paul Perell. Staff in attendance were: Brenda Duncan, Cheryl Keech and Alan Treleaven.

The Subcommittee re-drafted the Continuing Legal Education Reform Subcommittee Report. The re-drafted version has been reviewed and amended by the Subcommittee Chair, Tom Bastedo. The Financial Impact Statement is incorporated into Recommendation Number 3.

The Legal Education Committee approved the Report, subject to changes which are included in the attached Continuing Legal Education Reform Subcommittee Preliminary Report (April 26, 1991). (pages 1 - 17)

It is recommended that the Continuing Legal Education Reform Subcommittee Preliminary Report (April 26, 1991) be approved.

Approved

2. REQUIREMENTS FOR STANDING, PHASE ONE 1991: 34TH BAR ADMISSION
COURSE

The Requirements for Standing for Phase One of the 1990 Bar Admission Course proved to be inadequate because they did not set sufficient criteria for successful performance in Phase One of the Bar Admission Course. The challenge in setting criteria is considerable because Phase One focuses substantially on lawyering skills which will be useful during articling but does not include prescribed examinations. Accordingly the Director has worked with the Bar Admission Course Faculty to develop detailed Requirements for Standing (pages 18 - 23).

It is recommended that the document entitled "Requirements for Standing, Phase One 1991: 34th Bar Admission Course" be approved.

Approved

3. ACADEMIC OFFENCES POLICY

The Director of Education and members of staff met with Stephen Traviss, Senior Counsel Professional Conduct, on April 4, 1991 to discuss the issue of academic integrity of Bar Admission Course students and a draft Academic Offences Policy.

The Academic Offences Policy (page 24) was approved and referred to the Professional Conduct Committee for consideration and eventual addition as a Commentary to Rule 1 of the Professional Conduct Handbook. Even though the Professional Conduct Committee has not yet dealt with this matter, it is desirable that the Academic Offences Policy be in place for the Bar Admission Course commencing on May 21, 1991. It is understood that the Policy will not be a part of the Professional Conduct Handbook until some future time, subject to the decision and possible re-wording by the Professional Conduct Committee.

It is recommended that the Academic Offences Policy be approved.

Approved

C.
INFORMATION

1. ARTICLING SUB-COMMITTEE

The Articling Sub-Committee had its third meeting on Thursday March 14. In attendance were the Chair, Marc Somerville, Denise Bellamy, Janne Burton, Sandra Chapnik and Barbara Dickie. Also in attendance from the Department of Education staff were Alan Treleven, Marilyn Bode, and Mimi Hart. Marilyn Bode is the new Articling Director.

J. Jay Rudolph has agreed to serve on the Committee. He has been appointed as the member of the Sub-Committee "called within the last ten years". He practises Civil litigation with the Toronto firm of Shibley, Righton. The Sub-Committee is now completely constituted.

Most of the meeting was devoted to the consideration of a draft application form to be a Principal. The Sub-Committee also considered and granted two requests for abridgment of articles.

2. REQUEST FOR PHASE-ONE EXEMPTION

A student has requested exemption from Phase One of the Bar Admission Course based on his having been called to the Bar of England and Wales, his 12 months of pupillage in England, and his six months of articling experience in Ontario.

The Legal Education Committee has already determined that all students enrolled in the Bar Admission Course must complete both Phases One and Three of the Bar Admission Course in their entirety, regardless of practice or articling experience. The Articling Subcommittee considered the issue, but not the specific case of the student, at its March meeting, and determined that for at least 1991 all Bar Admission Course students would be required to complete both Phases One and Three.

The Director of Education has informed the student that the student is required to complete both Phases One and Three of the Bar Admission Course.

3. DEPARTMENT OF EDUCATION FRENCH LANGUAGE PROGRAMMING

In order to satisfy the Law Society's adopted mandate to provide French Language Services in the Department of Education, the Department of Education has hired Nicholas Joly to join its Ottawa staff as a full-time translator and editor. Mr. Joly's outstanding credentials include recent employment as a senior legal translator with the federal government.

Mr. Joly joins the Law Society on a two year contract, payable out of a special grant from the Law Foundation.

Mr. Joly will initially devote his efforts to translation of the Teaching Materials and the Reference Materials for the Bar Admission Course.

The French language content of the 1991 Bar Admission Course will be significantly expanded from the 1990 content.

4. CONTINUING LEGAL EDUCATION REPORT ON COURSES

The Report is attached. (page 25 - 26)

5. COMPUTER EDUCATION FACILITY REPORT

The Report is attached. (page 27)

6. DEPARTMENTAL BUDGET REPORT

Pursuant to the direction of the Treasurer, the Director submitted his report on the Department of Education budgets to date.

ALL OF WHICH is respectfully submitted

DATED this 26th Day of April, 1991

"A. Rock"
Chair

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

- A-Item 1 - Preliminary Report of the Continuing Legal Education Reform Subcommittee (April 26, 1991). (Pages 1 - 17)
- A-Item 2 - Document entitled Requirements for Standing, Phase one 1991: 34th Bar Admission Course. (Pages 18 - 23)
- A-Item 3 - Academic Offences Policy. (Page 24)
- C-Item 4 - Continuing Legal Education: Report on Courses. (Pages 25 - 26)
- C-Item 5 - Monthly Report on Activities for March 1991 - Computer Education Facility. (Page 27)

Mr. Bastedo spoke to Item A-1 of the Report re: Subcommittee Report on Continuing Legal Education Reform.

The balance of the Report of the Legal Education Committee was deferred.

A-ITEM 1 OF THE REPORT WAS ADOPTED
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CALL TO THE BAR

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

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| John Roderick Cattanach | 32nd Bar Admission Course |
| Larry Norman Chartrand | 32nd Bar Admission Course |
| Ronald John Schlumpf | 32nd Bar Admission Course |
| Thomas William Ward | 32nd Bar Admission Course |
| Ian Bruce Lawson | Special, Transfer, British Columbia |
| Kimberly Prost | Special, Transfer, Manitoba |
| Carol Jean Rogerson | Professor, Faculty of Law,
University of Toronto |

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DISCIPLINE COMMITTEE

Re: JOHN DAVID MARSHALL, Toronto

Mr. Lamek placed the matter before Convocation.

The reporter was sworn.

Mr. Patrick Sheppard appeared for the Society and Mr. John Laskin appeared for the solicitor who was not present.

Mr. Sheppard requested an adjournment on consent to the next Discipline Convocation.

The adjournment was granted and the matter was put over to the June Discipline Convocation.

Counsel retired.

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Re: DANIEL GILAD COOPER, Toronto

Mr. Lamek placed the matter before Convocation.

Mr. Austin Cooper, Ms. Chapnik and Mr. Carey withdrew and did not participate.

The reporter was sworn.

Mr. Gavin MacKenzie appeared for the Society and Mr. John Laskin appeared for the solicitor who was not present.

Convocation had before it the Report of the Discipline Committee dated 22nd April, 1991 together with the Affidavit of Service sworn 24th April, 1991 by Louis Katholos that he had effected service on the solicitor by registered mail on 22nd April, 1991 (marked Exhibit 1) together with Acknowledgement, Declaration and Consent signed by the solicitor 26th April, 1991 (marked Exhibit 2). Copies of the Report having been forwarded to the Benchers prior to Convocation, the reading of it was waived.

The Report of the Discipline Committee is as follows:

THE LAW SOCIETY OF UPPER CANADA

The Discipline Committee

REPORT AND DECISION

Thomas J.P. Carey, (Chair)
Sandra Chapnik
Netty Graham

In the matter of
The Law Society Act

Gavin MacKenzie
for the Society

and in the matter of
DANIEL GILAD COOPER
of the City
of Toronto
a barrister and solicitor

John I. Laskin
for the solicitor

Heard: March 27, 1991

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The DISCIPLINE COMMITTEE begs leave to report:

REPORT

On January 22, 1991, Complaint D17/91 was issued against Daniel Gilad Cooper, alleging that he was guilty of professional misconduct.

The matter was heard IN PUBLIC (with the exception of the psychiatric report which was received in camera) on March 27, 1991, before this Committee composed of Thomas J.P. Carey, Chair, Sandra Chapnik and Netty Graham. Mr. Cooper was in attendance and was represented by Mr. John I. Laskin. Gavin MacKenzie appeared as counsel for the Law Society.

DECISION

The following particular of professional misconduct was admitted and found to have been established:

Complaint D17/91

- 2.(a) Between July 11, 1986, and October 30, 1990, the Solicitor misappropriated \$238,485, more or less, from McCarthy & McCarthy, its successor McCarthy Tetrault (of both of which firms the Solicitor was a partner), and clients of those firms.

Evidence

The entirety of the evidence before the Committee on the issue of professional misconduct was in the form of the following Agreed Statement of Facts:

"AGREED STATEMENT OF FACTS"

I. JURISDICTION AND SERVICE

1. The Solicitor admits service of Complaint D17/91 and is prepared to proceed with a hearing of this matter on March 22, 1991.

II. IN PUBLIC/IN CAMERA

2. The Solicitor intends to request that a psychiatric report on which he relies be received by the committee in camera. Subject to the committee's ruling on that request, the parties agree that the hearing of this complaint should be held in public.

III. BACKGROUND FACTS

3. The Solicitor was called to the Ontario bar in 1971. From the date of his call to the bar until November 8, 1990, he practised as an associate lawyer and ultimately as a partner in the firm McCarthy Tetrault (formerly McCarthy & McCarthy). He resigned as a member of McCarthy Tetrault on November 8, 1990, as a result of the disclosure of the misappropriations which are the subject of this complaint. On the same date, the matter was drawn to the Society's attention by Arthur Scace, Q.C., the managing partner of McCarthy Tetrault. The Solicitor has not practised law since November 8, 1990.

IV. FACTS RELEVANT TO COMPLAINT

4. As a result of Mr. Scace's disclosure, the Society conducted a complete investigation. James N. Yakimovich, C.A., the Society's Deputy Director - Audit and Investigations, conducted the investigation on the Society's behalf, and prepared a report of his investigation dated December 20, 1990. Mr. Yakimovich's report is attached as Exhibit "A" to this agreed statement of facts. The exhibits to Mr. Yakimovich's report are bound in a separate book of documents which will be introduced into evidence on consent at the hearing.

V. ADMISSIONS

5. The Solicitor acknowledges that the findings and conclusions in Mr. Yakimovich's report are accurate, and admits particular 2(a) of the complaint.

VI. FURTHER EVIDENCE

6. McCarthy Tetrault has ensured that any clients who were charged for services which were not in fact performed have obtained reimbursement. McCarthy Tetrault will apply the Solicitor's capital in the firm to the reimbursement of the firm for amounts misappropriated from it by the Solicitor, and restitution will be made in full in this sense. Apart from the misappropriated funds, McCarthy Tetrault and the Solicitor also consider him to be responsible for repaying certain expenses related to the matter to it including, for example, the fees of a firm of chartered accountants who were employed by McCarthy Tetrault to prepare a report in connection with the matter. When these related expenses are taken into consideration, it is expected that the amount payable by the Solicitor will exceed his capital and undistributed income by approximately \$25,000. Attached as Exhibit "B" to this agreed statement of facts is a copy of a letter dated January 24, 1991, from McCarthy Tetrault to the Solicitor's counsel, to which are attached three schedules reflecting the state of accounts between the Solicitor and McCarthy Tetrault.

7. As a result of the misappropriations which have given rise to this complaint, the Solicitor has been charged with one count of fraud over \$1,000 under section 380(1)(a) of the Criminal Code. The criminal charge has not yet been heard.

8. McCarthy Tetrault, the principal victim of the Solicitor's misappropriations, has authorized the Solicitor's counsel in the criminal proceedings to inform the court that insofar as it is concerned a sentence of incarceration is not considered necessary in light of the suffering that the Solicitor has endured already as a consequence of his actions. Attached as Exhibit "C" to this agreed statement of facts is a copy of a letter dated March 6, 1991, from McCarthy Tetrault to the Solicitor's counsel in the criminal proceedings to this effect.

9. The Solicitor has co-operated fully both with the Society in its investigation and with the police and the Crown in the criminal proceedings.

10. The Solicitor intends to introduce evidence at the hearing in mitigation of penalty.

VII. LEGAL ADVICE

11. The Solicitor acknowledges having obtained the advice of his counsel, John I. Laskin, before signing this agreed statement of facts.

DATED at Toronto this 22nd day of March, 1991."

RECOMMENDATION AS TO PENALTY

The Committee recommends that the said Daniel Gilad Cooper be disbarred.

REASONS FOR RECOMMENDATION

The general rule in misappropriation cases is that save unusual circumstances, disbarment is required. Not only does the Committee find an absence of circumstances that would mitigate against disbarment but we find the aggravating circumstances mandate that penalty.

The evidence discloses that the Solicitor was a successful, intelligent and highly respected computer law expert and a senior partner in one of the country's most prestigious law firms. He and his psychologist wife lived extremely well enjoying a comfortable home, expensive cars, furnishing and clothing. They entertained and dined out frequently. They spent \$50,000.00 on a Bat Mitzvah. They travelled

extensively and their children attended private schools. But despite a partnership income that in recent years was in the \$300,000 to \$400,000 range, the Solicitor was constantly in debt. He testified that he had been in debt as long as he could remember. He and his wife developed a pattern early on in his professional career of living beyond their means. By 1986 the pressure of creditors led to the setting up of a numbered company controlled by him through which over \$238,000 of unearned fees and fabricated disbursements were funnelled for the Solicitor's own use. While the Solicitor testified he always felt he would pay back the amounts, no such repayments were made. The Solicitor ceased his wrongful activity for a period of sixteen (16) months at a time that coincided with an increase in his partnership earnings and a fulfilling extramarital relationship. When he recommenced the misappropriation, he was building up an art collection. Fortunately, neither his firm nor his clients are presently out of pocket as his partnership share covered the amounts dishonestly billed.

While there has been full restitution (other than the assessment relating to costs of the investigation), the activity continued undiscovered for over a four and one half (4-1/2) year period and twenty eight (28) separate transactions, the last of which took place shortly before the discovery of the thefts.

Significantly, during the period of the Solicitor's misconduct, (explained as necessary to fend off creditors) his largest single asset, the family home, was according to him, worth between \$750,000 and \$900,000 (at the height of the market). Yet, the maximum amount of encumbrances on the home apparently did not exceed \$110,000. When the Solicitor recently declared bankruptcy, he listed approximately \$600,000 in debts. The matrimonial home was registered in his wife's name and was not available to his creditors.

In urging an eighteen (18) month suspension, Mr. Laskin stressed the fall from grace that Mr. Cooper has suffered, his contributions to the profession, the full restitution, his high regard in the community and the profession and the psychiatric diagnosis of depression.

The letters of character reference from impressive authors are unanimous in their praise of Mr. Cooper. They resonate with words like "integrity", "trustworthy", "compassionate", "kind", "intelligent", "polite", "personable" and "the best". Clearly, those who know Mr. Cooper had real difficulty accepting that he could be capable of this deception and dishonesty. As one wrote, "I am convinced he did not freely choose such a course. Rather, he has been taken there; perhaps by illness, or coercion or some other horrible tormenting thing".

There is no major mental disorder revealed by Dr. Bloom's psychiatric report. While there is the diagnosis of adjustment disorder with depressed mood, it is described as a disorder that is typically "reactive to a clear precipitant such as Mr. Cooper's current situation". With his family and professional life in shambles and still facing criminal charges and the likelihood of imprisonment, this diagnosis is understandable. While the fall of a member of the legal profession is always regrettable, Mr. Cooper's case is particularly tragic given his demonstrated leadership, humanity and professional excellence. While accepting the clinical findings that Mr. Cooper has suffered from chronic feelings of low self worth, rejection, helplessness and powerlessness, we must conclude that Mr. Cooper clearly chose freely the dishonest course that was his destruction and appreciated that his behaviour was wrong. He clearly personally benefitted financially from the thefts.

The high degree of trust enjoyed by Mr. Cooper no doubt facilitated the ease with which the Solicitor was able to make twenty eight (28) fraudulent billing entries undetected for nearly five (5) years. Those who are distrusted seldom are put in a position where they can breach a trust. Two of the Solicitor's clients underlined their trust in him by placing him on their corporate board of directors. These companies were both victims of Mr. Cooper's dishonesty. The breaking of faith would be particularly felt at McCarthy Tetrault where the Solicitor practised for two decades rising to its senior ranks.

Mr. Cooper is not the typical candidate for disbarment. His was not the predicted last chapter of a checkered and unethical career. Yet disbarment is clearly the only appropriate penalty, as much required for the lawyer who throws away a hard earned reputation for integrity as it is for the scoundrel who caps a disreputable career with more of the same.

The legal profession would see public confidence rapidly evaporate if it failed to pronounce its condemnation of Mr. Cooper's conduct in the strongest possible terms. While his rehabilitation must be encouraged, that will have to take place outside of the legal profession. Any penalty short of disbarment would be grossly inadequate in reflecting the gravity of Mr. Cooper's misconduct and the censure of his peers.

Daniel Gilad Cooper was called to the Bar and admitted as a Solicitor of the Supreme Court Ontario on the 26th day of March, 1971.

ALL OF WHICH is respectfully submitted

DATED this 22nd day of April, 1991

"T. Carey"
Thomas J. P. Carey, Chair

The Report was adopted.

It was moved by Mr. Lamek, seconded by Mr. Yachetti that the Recommendation as to Penalty contained in the Report that is, that the solicitor be disbarred be adopted.

Submissions were made by counsel. Mr. Laskin sought a three year suspension and counsel for the Society supported the recommendation.

Counsel, the solicitor, the reporter and the public withdrew to allow the Bench to read the Brief of letters submitted by Mr. Laskin on behalf of the solicitor.

The Recommendation as to Penalty was adopted.

Counsel, the solicitor, the reporter and the public were recalled and informed of Convocation's decision.

Counsel retired.

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RESUMPTION OF LEGAL EDUCATION COMMITTEE REPORT

The Chair accepted that Item 3 re: Academic Offences Policy be referred back to Committee.

A-ITEM-2 AND C-ITEMS 1-6 WERE ADOPTED

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RESUMPTION OF RESEARCH AND PLANNING COMMITTEE REPORT

It was moved by Mr. Yachetti, seconded by Mr. Ferguson that Item 2 under Policy re: Titles be debated on today.

Carried

This matter was put over until after lunch.

.....

INSURANCE COMMITTEE

Mr. Furlong presented the Report of the Insurance Committee of its meeting on December 27th, 1990.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The INSURANCE COMMITTEE begs leave to report:

Your Committee met on Friday, the 27th of December, 1990 at ten-thirty in the morning, the following members being present: Messrs. Furlong (Chair), Noble, Cass, Hickey, Epstein and Wardlaw.

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

ITEM

1. E & O AGGREGATE LIMIT OF LIABILITY

On October 25th, 1990, Convocation approved the Committee's recommendation that a \$2,000,000.00 per member, annual aggregate limit of liability be implemented with respect to The Law Society's Mandatory Errors and Omissions Program. Your Committee met to address several queries raised by Law Society members. Discussion of the queries ensued, and your Committee is of the view that its original recommendation and Convocation's agreement to implement the aggregate limit of liability is both sound and appropriate. The Committee recommended that the Director investigate the availability and cost of a form of catastrophe coverage as a possible alternative to the aggregate limit to protect the E & O self insurance fund.

ALL OF WHICH is respectfully submitted

DATED this 11th day of January, 1991

"P. Furlong"
Chair

THE REPORT WAS ADOPTED

.....

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

.....

The Treasurer and Benchers had as their guests for luncheon Mr. Ronald Gage, President, The Institute of Chartered Accountants of Ontario, The Honourable Mr. Justice Frank Iacobucci, Supreme Court of Canada and The Honourable John M. Godfrey, Q.C.

.....

CONVOCATION RECONVENED AT 2:15 P.M.

.....

PRESENT:

The Treasurer, (James M. Spence, Q.C.), Bastedo, Bellamy, Bragagnolo, Callwood, Campbell, Carey, Cass, Copeland, Cullity, Farquharson, Ferguson, Ferrier, Furlong, Ground, Guthrie, Hall, Hickey, Howland, Kiteley, Krishna, Lamek, Lamont, Lawrence, McKinnon, Pepper, Peters, Rock, Scace, Shaffer, Somerville, Strosberg, Thom, Topp, Wardlaw, Weaver and Yachetti.
.....

RESUMPTION OF INSURANCE COMMITTEE REPORTS

Mr. Furlong presented the Report of the Insurance Committee of its meeting on April 11th, 1991.

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

THE INSURANCE COMMITTEE begs leave to report:

Your Committee met on Thursday, the 11th of April, 1991 at one-thirty in the afternoon, the following members being present: Messrs. Furlong (Chair), Howie, Bragagnolo, Scace, Cass, Hickey and Lawrence.

Also in attendance were Messrs. Whitman & O'Toole.

ITEM

1. DIRECTOR'S MONTHLY REPORT

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

2. E & O FINANCIAL REPORT

The Director's Monthly Errors and Omissions General Expense Budget Report is attached as Appendix "B".

3. EQUIVALENT LIABILITY INSURANCE IN OTHER JURISDICTIONS

At the 1992 membership renewal The Law Society of Alberta will require proof of insurance substantially equivalent to the Alberta program. Alberta does not consider coverage under the LSUC program to be substantially equivalent in light of the Annual Aggregate Limit of Liability. The LSUC has been asked to comment on implementing the Inter-Jurisdictional Practice Committee's recommendation "that a home governing body which requires less compulsory coverage than the host...accept responsibility...to pay claims...up to the higher level".

Members seeking authority to practice in other jurisdictions could fulfill their obligation to satisfy the proof of insurance requirement by producing Certificates of Insurance from LPIC and the member's excess Insurer. Your Committee therefore, is of the view that the response to Ms. Brickett's correspondence of February 19, 1991 should identify the manner by which members could meet their obligation, and that in the final outcome there has been no change with respect to the ability of LSUC members to demonstrate the existence of equivalent insurance coverage.

4. OUTSTANDING ITEMS

(a) E & O Loss Prevention Booklet - Due to time constraints, discussion of this subject has been postponed until the next regularly scheduled Committee Meeting.

(b) New Professional Liability Policy Wording - The Director provided a draft of the LPIC Professional Liability Insurance policy for deliberation. A special meeting of your Committee has been scheduled for April 25, 1991 for an in depth review and discussion of the new wording.

(c) E & O Levy Exemption/Pro Bono Work for Charitable Organizations - Previously, your Committee considered a request by a member exempted from the E & O levy that such members be permitted to provide pro bono services for non-profit organizations without affecting the member's exempt status. Your Committee concluded that a levy would be required, and this was accompanied with a request that the Society assist members providing pro bono services in a manner that would remove from the individual the obligation to pay the required levy. The Chair reported to your Committee on his discussion with Ms. Kiteley, Chair of the Sub-Committee addressing the subject of pro bono services including deliberation of the above noted subject. The Insurance Committee will keep abreast of developments in this regard to review and discuss recommendations by the Sub-Committee in a timely fashion.

(d) Catastrophe/Stop Loss Reinsurance - Your Committee had requested that the feasibility and cost effectiveness of obtaining such coverage be investigated. The Director has made inquiries respecting both items with the assistance of the Society's Brokers. The findings of the Director's inquiries will be presented at a Special Committee Meeting tentatively scheduled for April 25, 1991.

(e) Severing E & O Fiscal Year from Law Society Fiscal Year - Tracking of the E & O insurance and general expense costs by the Finance Department is based on the E & O Fund Year. As a consequence of the creation of LPIC, the E & O Fund Year has been changed to the calendar year, and no longer matches The Society's fiscal year. This difference has given rise to certain administrative difficulties. The Director recommends that the E & O administrative budget term should be consistent with the calendar Fund Year of the insurance company. Your Committee was advised that the Director of Finance is of the view that changing the E & O fiscal year would not present any administrative or financial difficulties, and should simplify the E & O budget process. Effective January 1, 1992, the commencement of the next E & O Fund Year, your Committee recommends severing the two fiscal years subject to the appropriate guidelines to be established after consultation with the Director of Finance.

ALL OF WHICH is respectfully submitted

DATED this 18th day of April, 1991

"P. Furlong"
Chair

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

- Item 1 - The Director's Monthly Report. (Appendix "A", pages 1 - 6)
- Item 2 - Errors and Omissions General Expense Budget, 9 month period ending March 31, 1991. (Appendix "B")

THE REPORT WAS ADOPTED

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RESUMPTION OF RESEARCH AND PLANNING COMMITTEE REPORT

It was moved by Mr. Somerville, seconded by Mr. Yachetti that the matter be referred back to Committee for consideration on whether the matter should be referred to the profession and a manner for so doing.

Lost

The motion to adopt Item 2 under Policy was lost.

THE REPORT WITH THE EXCEPTION OF A-ITEM 2 WAS ADOPTED
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FINANCE AND ADMINISTRATION COMMITTEE

Mr. Ground presented the Report of the Finance and Administration Committee of its meeting on April 11th, 1991.

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

The FINANCE AND ADMINISTRATION COMMITTEE begs leave to report:

Your Committee met on Thursday, the 11th of April 1991 at three o'clock in the afternoon, the following members being present: Messrs. Ground (Chair), Guthrie (Vice-Chair), Howie (Vice-Chair), Ferrier, Furlong, Pepper, Topp and Mrs. Weaver.

B..
ADMINISTRATION

1. 1991/92 BUDGET

(a) Budget Process

The Director presented a report on the progress of the budget process to date together with a projection of financial results for the current fiscal year.

(b) Errors and Omissions Insurance Budget

A copy of the administrative costs for the Errors and Omissions Insurance fund for the year ended June 30th 1992 was before the Committee. The Director of Insurance has suggested that, since the insurance program is now operating on a calendar year basis, the budget the prepared in the fall of each year starting this year.

It should be noted that Convocation in March approved the transfer of the funding of the Practice Advisory Service from the Errors and Omissions fund to the General Fund. This represents approximately \$500,000 or \$25.00 per member on an annualized basis.

Noted

(c) Lawyers' Fund for Client Compensation (Compensation Fund)

A copy of an interim Compensation Fund budget was before the Committee. It shows all revenue and expenditure including \$3,000,000 for grants and has assumed that the levy will remain at \$25 per member. The Compensation Fund Committee recommended a levy of \$25.00 per member at its meeting on March 7th 1991.

Noted

(d) Women in the Legal Profession - Funding Request

The Women in the Legal Profession Committee is seeking \$46,000 in its 1991/92 budget for the distribution of the report "Transitions in the Ontario Legal Profession".

A memorandum from Andrew Brockett dated March 26th 1991 was before the Committee and Fran Kiteley, Chair of the Committee attended the meeting to discuss the matter of funding required for the distribution of the report "Transitions in the Ontario Legal Profession".

The original request was for \$46,000 in the Committee's 1991/92 budget for this item. After some discussion it was agreed that because, in fact, there was a need to proceed immediately, that the Finance Committee would approve up to \$46,000 in the current year for this purpose, but requested that the Women in the Legal Profession Committee explore all alternatives to reduce the cost including a revision to the document to be sent to the profession.

2. BANKING ARRANGEMENTS

In March, Convocation approved a proposal from the Toronto Dominion Bank for the financing of the current building project. The arrangement is in the form of a "revolving line of credit" with options to choose long term financing at the discretion of the Society.

The Committee was asked to appoint the Toronto Dominion Bank as its banker for The Lawyers' Fund for Client Compensation.

Approved

3. RENTAL OF PREMISES - BAR ADMISSION COURSE LONDON

A proposal for relocation of the premises for the Bar Admission Course in London was before the Committee.

Briefly, the proposal suggests moving to the Talbot Centre which will allow for expanded space to accommodate the reformed Bar Admission Course format. The rental rate is competitive with that which we are currently paying and, in fact, provides a savings in the next fiscal year due to inducements offered by the landlord.

The Committee was asked to approve the request subject to review of the lease arrangement by counsel.

Approved

4. SUSPENSION OF MEMBERS - LATE FILING FEE

There are 15 members who have not complied with the requirements respecting annual filing and who have not paid the late filing fee.

In all 15 cases all or part of the late filing fee has been outstanding four months or more. The 15 members owe \$20,504.00 of which \$4,340.00 has been owing for more than four months.

The Committee was asked to recommend that the rights and privileges of the 15 members be suspended on April 26th 1991 if the late filing fee remains unpaid on that date and remain suspended until the late filing fee has been paid.

Approved

Note: see motion, page

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:

Peter Gerald Hopperton	Markham
John Franklin Reesor	Hamilton

(b) Incapacitated Members

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

Jack Julius Lesser	London
Ronald William Groszman Linden	Toronto
Philip James Vernon Stevens	Toronto
Norman Austin Endicott	Toronto

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

Approved

6. RESIGNATION - REGULATION 12

(a) Laima Monika Zaliauskas has applied for permission to resign her membership in the Society and has submitted a Declaration in support. She was called to the Bar on the 9th of April 1984 and practised law in Ontario only until May 1988. For this reason the member has requested that she be relieved of publication in the Ontario Reports.

(b) Alexander Joseph Stewart has applied for permission to resign his membership in the Society and has submitted a Declaration in support. He was called to the Bar on the 6th of April 1979 and engaged in private practice in Ontario for only five years in association with law firms. He has been a non-resident since 1987. For this reason the member has requested that he be relieved of publication in the Ontario Reports.

(c) Michael Joseph Solway has applied for permission to resign his membership in the Society and has submitted a Declaration in support. He was called to the Bar on the 30th of March 1990 and has never practised law. For this reason the member has requested that he be relieved of publication in the Ontario Reports.

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

Approved

C.
INFORMATION

1. CHANGES OF NAME

(a) Members

<u>From</u>	<u>To</u>
Motria Sophia Oksana Ilnyckyj	Motria Sophia Oksana <u>Ilnyckyj-Reive</u> (Married Name)
Megan Gwendolyn Hales	Megan Gwendolyn Hales <u>Davidson</u> (Married Name)

(b) Student Members

<u>From</u>	<u>To</u>	
Joanne Durant	Joanne Durant-Marcellus (Married Name)	
Krishna Reya Derva Ali	Krishna Reya Derva <u>Ali-Dabydeen</u> (Court Order)	<u>Noted</u>

2. ROLLS AND RECORDS

(a) Deaths

The following members have died:

Frederick Louis Dreger Willowdale	Called June 20th 1935 Died December 16th 1988	
Alexander Minden Toronto	Called June 27th 1957 Died May 29th 1990	
Ross Cameron Howell Hamilton	Called June 27th 1957 Died February 3rd 1991	
John Nickle Davis Smithville	Called June 18th 1925 Died February 15th 191	
William Duncan Jairus Moss Glenco	Called January 19th 1933 Died February 19th 1991	
Francis Timothy Parker Hamilton	Called March 22nd 1968 Died March 2nd 1991	
John Palmer MacBeth Islington	Called June 29th 1948 Died March 20th 1991	
Samuel Michael Benedetto Downsview	Called September 18th 1941 Died March 22nd 1991	
Joseph Nelson Mulholland Thornhill	Called August 11th 1917 Died March 24th 1991	<u>Noted</u>

(b) Membership in Abeyance

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

Mary Frances Dunbar Brampton	Called March 22nd 1974 Appointed to the Ontario Court, Provincial Division February 1st 1991
Marion Elizabeth Lane Brampton	Called April 8th 1976 Appointed to the Ontario Court, Provincial Division February 1st 1991
Harvey Michael Salem Scarborough	Called April 13th 192 Appointed to the Ontario Court, Provincial Division March 1st 1991

<p>Marietta Lola Doreen Roberts Brampton</p>	<p>Called March 26th 1971 Appointed to the Ontario Court, Provincial Division March 1st 1991</p>
<p>David Roger Timms Oshawa</p>	<p>Called March 24th 1972 Appointed to the Ontario Court, Provincial Division March 1st 1991</p>
<p>Ronald Bruce Lester Thunder Bay</p>	<p>Called March 20th 1975 Appointed to the Ontario Court, Provincial Division March 1st 1991</p>
<p>Douglas William Phillips Windsor</p>	<p>Called March 28th 197 Appointed to the Ontario Court, Provincial Division March 1st 1991</p>
<p>Eleanor Mary Schnall London</p>	<p>Called March 28th 1977 Appointed to the Ontario Court, Provincial Division March 1st 1991</p>
<p>Patricia Anne Hardman Cambridge</p>	<p>Called March 29th 1977 Appointed to the Ontario Court, Provincial Division March 1st 1991</p>
<p>Lynn Diane Ratushny Ottawa</p>	<p>Called April 9th 1979 Appointed to the Ontario Court, Provincial Division March 1st 1991</p>
<p>Diane Terry Vyse Cambridge</p>	<p>Called April 14th 1980 Appointed to the Ontario Court, Provincial Division March 1st 1991</p>

Noted

3. STAFF CHANGES

The Director reports that 10 employees have left the employ of the Law Society and 13 have joined. No new positions have been created and staff complement remains at 313 for the quarter ended March 31st 1991.

The Committee noted with regret the passing of Mr. Robert L. Anderson. Mr. Anderson was the Society's Director of Audit and Investigations and had been with the Society since April 1962. He was a dedicated and valued staff member and was primarily responsible for the establishment of the Society's highly successful and effective audit and investigative program.

ALL OF WHICH is respectfully submitted

DATED this 26th day of April 1991

"J. Ground"
Chair

THE REPORT WAS ADOPTED

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

It was moved by Mr. Ground, seconded by Mr. Topp THAT the rights and privileges of each member who has not paid the fee for the late filing of Form 2/3 within four months after the day on which payment was due and whose name appears on the attached list be suspended from the 26th of April 1991 for one year and from year to year thereafter or until that fee has been paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

(see list in Convocation file)

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LEGAL AID COMMITTEE

Mr. Bastedo presented the Reports of the Legal Aid Committee of its meetings on April 11th, 1991.

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 11th of April, 1991 at 3 p.m., the following members being present: Thomas G. Bastedo, Chair, Mr. Ally, Ms. Callwood, Ms. Campbell, Ms. Cohen, Mr. Durno, Ms. Kehoe, Messrs. Lalonde, Murphy, Petiquan and Ms. Weir.

A.
POLICY

B.
ADMINISTRATION

1. AREA COMMITTEES - APPOINTMENTS AND RESIGNATIONS

APPOINTMENTS

Haldimand County
Luanna M. McGowan, Solicitor

Niagara South County
Dianne Grenier, Solicitor

Wentworth County
Allan S. Greenleaf, Doctor of Education, Wentworth County
Paul S. Philp, Solicitor
Martha B. Zivolak, Solicitor

DECEASED

Lambton County
William F. Higgins, Solicitor

ALL OF WHICH is respectfully submitted

"T. Bastedo"
Chair

April 11, 1991

THE REPORT WAS ADOPTED

.....

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 11th of April, 1991 at 3 p.m., the following members being present: Thomas G. Bastedo, Chair, Mr. Ally, Ms. Callwood, Ms. Campbell, Ms. Cohen, Mr. Durno, Ms. Kehoe, Messrs. Lalande, Murphy, Petiquan and Ms. Weir.

A.
POLICY

1.(a) 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 and marked as SCHEDULE (A).

2.(b) AREA DIRECTORS' TERMS OF EMPLOYMENT AND RETIREMENT POLICY

The Legal Aid Committee recommends the adoption of the Area Directors' Terms of Employment and Retirement Policy for all part-time Area Directors which are attached hereto and marked as SCHEDULE (B).

B.
ADMINISTRATION

1.(a) REPORT OF THE DEPUTY DIRECTOR, FINANCE
FOR THE ELEVEN MONTHS ENDED FEBRUARY 28, 1991

(a) Finance

The Director's report pursuant to Section 88(2) of the Regulation for the eleven months ended February 28, 1991 takes the form of the following financial statement:

Ontario Legal Aid Plan
Statement of Income and Expenditures
Eleven Months Ended February 28, 1991 (\$000)

	Actual Feb.28 199 0	Estimate Feb.28 1991	Actual Feb.28 1991	Favourable (Unfavourable) Variance
<u>Opening Balance</u>	369.8	6,925.8	6,925.8	-
<u>Income</u>				
Treasurer of Ontario	115,168.7	126,071.7	126,285.1	213.4
Northern Legal Services	269.7			
Family Violence Grant	275.0	252.1	150.0	(102.1)
Refugee Claimant Grant	1,836.1	4,443.1	6,265.1	1,822.0
Law Foundation	27,198.6	24,000.0	27,066.6	3,066.6
Client Contributions	7,864.3	8,616.7	8,251.1	(365.6)
Client Recoveries	1,528.5	1,833.3	1,725.9	(107.4)
Research Sales	100.8	137.5	167.0	29.5
The Law Society	500.0	-	226.7	226.7
Miscellaneous	<u>2,177.2</u>	<u>2,291.7</u>	<u>2,953.5</u>	<u>661.8</u>
	<u>157,288.7</u>	<u>174,571.9</u>	<u>180,016.8</u>	<u>5,444.9</u>

Expenditure

Certificate Accounts	92,836.0	132,916.7	114,428.7	18,488.0
Refugee Accounts	2,689.9	3,850.0	4,579.1	(729.1)
Duty Counsel Fees & Disbursements	6,786.3	7,086.8	6,717.7	369.1
Salaried Duty Counsel	697.8	868.4	1,536.9	(668.5)
Northern Legal Services	200.3	825.0	975.0	(150.0)
Community Clinics	20,226.4	24,432.1	24,840.3	(408.2)
Student Legal Aid Societies	881.3	1,339.5	1,339.5	-
Research Facility	1,285.4	1,585.3	1,686.3	(101.0)
Area Office Administration	8,743.0	10,296.8	10,152.8	144.0
Provincial Office Admin.	5,710.6	7,118.0	7,183.8	(65.8)
Refugee Administration	200.4	275.0	230.6	44.4
	<u>140,257.4</u>	<u>190,593.6</u>	<u>173,670.7</u>	<u>16,922.9</u>
<u>Closing Balance</u>	<u>17,031.3</u>	<u>(16,021.7)</u>	<u>6,346.1</u>	<u>22,367.8</u>

Statistics

The following table compares reported activity for the eleven months ended February 28, 1991 with activity for the previous fiscal year:

	<u>Feb. 28</u> <u>1990</u>	<u>Feb. 28</u> <u>1991</u>	<u>% Change</u>
Summary Legal Advice	49,043	51,255	4.5%
Referrals to Other Agencies	98,082	118,134	18.5%
Applications for Certificates	147,150	179,297	21.8%
Refusals	29,202	30,248	3.6%
As a Percentage of Applications	19.8	16.9	-
Certificates Issued	117,948	149,049	26.4%
Persons Assisted by Duty Counsel:			
Fee for Service	209,398	213,448	1.9%
Salaried	67,643	88,310	30.6%
Telephone Advice	-	14,175	-

2.(a) REPORTS ON THE PAYMENT OF SOLICITORS ACCOUNTS
FOR THE MONTHS OF FEBRUARY AND MARCH, 1991

The Reports on the Payment of Solicitors Accounts for the Months of February and March, 1991 are attached hereto and marked as SCHEDULE (C).

(b) REPORTS ON THE STATUS OF REVIEWS IN THE LEGAL ACCOUNTS
DEPARTMENT FOR THE MONTHS OF FEBRUARY AND MARCH, 1991

The Reports on the Status of Reviews in the Legal Accounts Department for the Months of February and March, 1991 are attached hereto and marked as SCHEDULE (D).

ALL OF WHICH is respectfully submitted

"T. Bastedo"
Thomas G. Bastedo
Chair

April 11, 1991

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

- A-Item 1(a) - Report of the Criminal Tariff Sub-Committee.
(Schedule (A), pages 1 - 5)
- A-Item 2(b) - Area Directors' Terms of Employment and Retirement Policy.
(Schedule (B))

B-Item 2(a) - Reports on the Payment of Solicitors Accounts for the months of February and March, 1991.
(Schedule (C), pages 1 - 4)

B-Item 2(b) - Reports on the status of reviews in the Legal Accounts Department for the months of February and March, 1991.
(Schedule (D), pages 1 - 2)

THE REPORTS WERE ADOPTED

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Recognition was given to Bruce Noble, David Cole and Nola Garton for their work and dedication to the Legal Aid Plan.

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MOTION

It was moved by Mr. Topp, seconded by Mr. Hickey, THAT the Treasurer and Dennis O'Connor be authorized to forward to the Minister of Justice three names for her consideration in regard to the appointment of a Law Society representative on the federal Judicial Appointments Committee.

Carried

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PROFESSIONAL CONDUCT COMMITTEE

Mr. Somerville presented the Report of the Professional Conduct Committee of its meeting on April 11th, 1991.

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 11th of April, 1991 at three o'clock in the afternoon, the following members being present: Messrs. Thoman (in the Chair), Carey, Cooper, Cullity and McKinnon and Ms Chapnik.

A.

POLICY

1. LAW FIRM PROPOSAL TO FINANCE COST OF LAND TRANSFER TAX

A law firm proposes to finance the cost of the Land Transfer Tax for those clients who will be receiving a refund under the Ontario Home Ownership Savings Plan in return for a direction from their clients that the refund be paid to the firm. These are two questions the firm wishes addressed:

- (1) Is there anything wrong with such an arrangement between a lawyer and a client? and
- (2) If there is nothing wrong with the arrangement, in what ways could it be advertised?

Set out is the law firm's proposal:

We request your opinion as to whether our proposal respecting real estate services conforms with the Law Society Rules and Code of Conduct.

26th April, 1991

We propose to advance to new home purchasers, who qualify for a refund of the Land Transfer Tax under the Ontario Home Ownership Savings Plan, the amount of their Land Transfer Tax as a disbursement to us upon closing. In exchange we will require from them an assignment to us of their Land Transfer Tax Refund. This service will be included in our fee for the transaction and we will not be charging any interest, discount, bonus or administrative charge in addition to our fee.

We propose to have qualified new home purchasers sign an agreement to the following effect:

1. The purchasers declare that they qualify under the Ontario Home Ownership Savings Plan and provide particulars of their Registered Plan;
2. The purchasers undertake to provide us with proof of their income to confirm their qualification under OHOSP, if required by us.
3. The purchasers assign the refund of their Land Transfer Tax to us, direct that the refund be sent to our office and agree to endorse the refund cheque over to us, if necessary.
4. We will reserve the right to refuse to advance the Land Transfer Tax if we are not satisfied that the purchasers qualify for the refund.

We propose to submit the usual report and account showing the Land Transfer Tax as an unpaid disbursement, to be satisfied upon receipt of the refund. Our investigations indicate that the refund is received from six to eight weeks after the application for refund is submitted.

We propose to make service known by advertisement and/or by informing local real estate agents and brokers. Assuming that we conform with the requirements of Rule 12, Rules of Professional Conduct, we require your opinion with respect to the following:

1. In advertisements can we describe and feature the particulars of this proposal?
2. Can we inform real estate agents and brokers of this proposal, provided that we are not soliciting any recommendations but merely making the availability of the service known?

We look forward to your response at the earliest opportunity.

The Committee reached the following conclusions:

- (1) There was nothing wrong with a lawyer entering into this type of an arrangement with a client.
- (2) To advertise such an arrangement would not be in conformity with either the spirit or letter of the Rules of Professional Conduct. Paragraph 3(c) of the Rules of Professional Conduct provides that in fee advertisements a lawyer cannot indicate that his fees are a discount.
3. Individual lawyers or firms may advertise fees charged for their services subject to the following conditions:

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

- (3) A lawyer could not tell a real estate agent or agents that this arrangement was available unless specifically asked for this information.
- (4) Although there was nothing wrong with the arrangement there was also the potential for a conflict down the road if it turned out that the client was not entitled to a refund of the Land Transfer Tax.

The Committee asks Convocation to adopt these recommendations.

Note: referred back to Committee, see page

2. DUTY OF THE LAWYER TO ADVISE THE CLIENT
ABOUT LOST INTEREST IF MONEY PUT INTO
REGULAR MIXED TRUST BANK ACCOUNT

In 1989 the Chairman of the Law Foundation of Ontario wrote to the then Treasurer.

The Trustees of the Foundation are experiencing an increasing number of applications by solicitors who have failed or neglected to place client's trust moneys in a separate trust account when requested to do so and who seek to recover from the Foundation the interest paid to it in respect of the funds incorrectly held in the solicitor's mixed trust account. Our discussions of these cases inevitably lead to a consideration of the larger question of the possible serious impact on the Foundation's revenues of separate trust accounting for clients and the duty, if any, which a solicitor may have to discuss with his client and seek specific instructions as to whether particular trust moneys are to be placed in his mixed trust account or in a separate account bearing interest for the benefit of the client.

As you will recall from our previous conversations, at least one chartered bank has offered to provide separate trust accounting services and with the increasing ease of creating separate trust accounts and the high and possibly higher rates of interest to be obtained, the Trustees feel that the time has arrived when it would be helpful, both to the Foundation and to the profession, to have some expression of opinion or direction from the Society as to if and when a solicitor is under a duty to advise a client and seek specific instructions regarding these matters.

Questions arise as to the administrative costs and expenses that may be experienced by the solicitor in administering a separate account; the probable duty to prepare and file a Trust Information Return in Form T4; whether the existence of a duty to discuss the options with the client depends on the amount involved and the time that the funds will be on trust deposit and if so, what are the threshold amounts and times; E. & O.E. insurance coverage for failure to disclose the availability of separate trust accounting and for failure to segregate when so instructed.

I have been instructed by the Trustees as a result of discussions at our meeting held on March 30 to raise these matters with you in a formal way and to request the advice of the Society. I look forward to your response in due course.

The Committee made the following recommendations to Convocation.

The Committee recommends to Convocation that lawyers be reminded that, in special circumstances, where they are to receive in trust substantial monies from a client which are to be held for a long period of time, they inform the client he will not be entitled to any interest on this money unless the money is deposited at the client's direction in a special interest bearing trust account.

26th April, 1991

Convocation sent the item back to the Committee for reconsideration "in light of comments in Convocation regarding whether or not there was a duty on solicitors to inform clients and the issue of the vagueness of the directive".

The Chairman of the Law Foundation has again written to the Treasurer. Set out is his letter.

I enclose a copy of my letter of March 31, 1989 addressed to your predecessor in office. I believe that the Society subsequently referred to one of its committees the matter of the solicitor's duty, if any, to advise a client as to the options of having trust moneys placed in the solicitor's mixed trust account or in a separate account bearing interest for the benefit of the client.

At a meeting of the Board of Trustees of the Law Foundation of Ontario held March 26, Mr. Blenus Wright brought to our attention the November 5, 1990 article in the Financial Times suggesting that it would be negligence on the part of a lawyer who deposits money in his trust account "when it could have been put into an interest-bearing account".

For obvious reasons, the Foundation is vitally interested in this question, and I would appreciate any report or advice you can provide on behalf of the Society at this time.

The article from the Financial Times is not attached to the Report.

The Committee discussed the issue at some length and recommends to Convocation that the following advice be published to the profession in the Proceedings of Convocation as they appear in the Ontario Reports:

Lawyers are reminded that, where they are to receive in trust monies from a client, they inform the client that the client will not be entitled to any interest on this money unless the money is deposited at the client's direction in a special interest bearing trust account. The lawyer will wish to discuss the economic feasibility of putting the money in a special interest bearing account in view of the amount of the money and the time frame over which it is to be held in trust.

The Committee asks Convocation to accept this recommendation.

3. REQUEST FOR ADVICE - SHOULD THE
LAWYER NOTIFY THE OFFICIAL GUARDIAN?

A lawyer has been consulted by a parent of a child injured in an automobile accident. He is disturbed at the comment made to him by the parent. He wonders if he is under a duty to notify the Official Guardian. The facts are set out in his letter.

I was originally consulted by a parent of a child who was injured in an auto accident. The parent had originally tried to settle the case with the insurance adjuster himself. When I became involved, I explained to the parent of the requirement that infants claims proceeds are to be administered by the Courts until the child turns 18 years of age.

After giving this advice, the client called me back to say that he proceeded handling the matter on his own because he did not like that provision.

26th April, 1991

I am quite alarmed about this and have a mind to write to the Official Guardian about it. The parent admitted that he had handled an earlier claim of another child and spent the money for the general family.

I would like to report this matter to the Official Guardian but I am wondering if I would not be in breach of my client's privilege. Your advice would be appreciated.

The Committee considered the matter at its March meeting. It was of the opinion that the lawyer would be in breach of the solicitor-client privilege were he to advise the Official Guardian. The Committee noted that there was very little likelihood of insurers making payments directly to parents of minors.

The matter was sent back to the Committee in order that the Official Guardian be given an opportunity to make a submission.

The Official Guardian has made the following comments:

1. There is a solicitor and client privilege between the parent and the lawyer.
2. The parent is a potential litigation guardian in any proceeding which may be launched to recover damages.
3. The lawyer owes a duty to the child even though the child does not have the capacity to retain the lawyer. The extent of this duty is a matter for the Professional Conduct Committee.
4. Many cases are "settled" between the parent and the insurance adjuster and payments are made directly to the parent with an indemnification being signed by the parent in favour of the insurer to protect against the child launching an action on majority against the insurer. This is the risk which is taken by the insurer, especially for small claims under \$5,000.
5. The insurer takes a risk by not having the settlement of the claim approved by a Judge upon application to the Court. Rule 7.08(1) says that no settlement of a claim made by or against a person under disability, whether or not a proceeding has been commenced in respect of the claim, is binding on the person without the approval of a Judge. By Rule 7.09(1) any money payable to a person under disability under an Order or settlement shall be paid into Court unless a Judge orders otherwise. A parent may be able to convince a Judge to have the monies made payable to the parent but this rarely happens.
6. Occasionally, insurers will think of themselves as trustees and pay the monies into Court under Section 36(6) of the Trustee Act which says that where a minor, mentally incompetent person or a person of unsound mind is entitled to any money, the person by whom the money is payable, (i.e., the insurer), upon delivering to the Official Guardian or the Accountant of the Ontario Court an affidavit setting out the facts, may pay the money into Court to the credit of the minor or other such person and it is a sufficient discharge to the insurer by statute.
7. Upon filing a similar affidavit under Section 197 of the Insurance Act, the insurer may admit liability for insurance money payable to a minor and may pay the money to the Accountant of the Ontario Court to be held to the credit of the minor, and the insurer receives a statutory discharge as well.

8. The insurer may also request the parent under the "guardianship" provisions commencing at Section 48 of the Children's Law Reform Act to be appointed guardian of the property of the child and the Court may make such an Order upon conditions such as the posting of a bond under Section 56 and the passing of accounts under Section 53. If the parent of the child becomes the guardian of the property, the posting of the bond may be dispensed with if the Court is of the opinion that it is not appropriate to require the parent to post the bond. Upon being appointed guardian, the insurer will pay the monies to the parent.

9. The above statutory provisions have been provided for at law to protect the minor from the financial abuse of a parent.

10. The duty owed by the lawyer to the child is to make sure that there will not be financial abuse of the child and the admission by the parent that he had handled an earlier claim for another child and spent the money received from the insurer for the sue of the general family, should be sufficient to require the lawyer to do something.

In my opinion, the lawyer is under a duty to advise the parent in writing of the above statutory provisions provided for at law so that the funds of the child are properly protected and held for the benefit of the child until the child reaches the age of majority, at which time the monies and earned interest will be paid to the child.

Whether or not, however, the Official Guardian should be notified of the contents of such a letter is a difficult question to answer. Part of the answer lies in the remedy to be exercised by the Official Guardian. I would send, upon notification, a letter to the insurer, the insurance adjuster and the parent reminding them of their duties at law. If I received sufficient facts which would alert me that the parent had misspent the funds, I would search for a litigation guardian for the child and if there was no one else willing and able to act, I would seriously consider launching an action against the parent on behalf of the child by seeking to be appointed litigation guardian by the Court on notice to the parent.

The extent of the lawyer's duty to the child boils down to a matter of trust. Can the parent be trusted? If the lawyer is of the opinion that the parent may very well breach the trust, then a duty is placed upon the lawyer to so advise the parent in writing. If there are facts about the misspending of actual funds or the intention to misspend funds inferred from similar facts, the Official Guardian should be given the opportunity to make sure, on behalf of the child, that the trust is adhered to in accordance with the law. However, the lawyer should not advise me of the facts but rather should send to me a copy of the letter so that I can take appropriate action. This will protect the solicitor-client privilege and the child's rights as well.

The Committee agreed with the Official Guardian that the lawyer should make every attempt to dissuade the parent from the parent's announced intention. If the lawyer is fully convinced that the parent intends to proceed and that the child will therefore be defrauded, the matter will probably not be covered by the solicitor-client privilege because it would be an ongoing crime. While the lawyer may choose to contact the Official Guardian, he is not under a positive duty to do so.

Paragraph 11 of the Commentary under Rule 4 is very much on point.

Disclosure of information necessary to prevent a crime will be justified if the lawyer has reasonable grounds for believing that a crime is likely to be committed.

The Committee asks Convocation to adopt its recommendation.

B.

ADMINISTRATION

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

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

Avi Wisebrod of Wisebrod and Associates has requested that he be allowed to show Leonard Stigler of the Quebec bar on his letterhead. Set out below are the relevant excerpts from his letter of request.

We have recently engaged Leonard Stigler as an employee, who is presently a member of the Quebec Bar only. Although he is a member of the Quebec Bar, he is not held out by us to be a Barrister and Solicitor, since that is dependent on him successfully completing his transfer exams shortly, and thereafter being called to the Ontario Bar.

However, in the interim, we would like to obtain your consent to place Leonard Stigler's name on our letterhead, stating that he is a "member of the Quebec Bar only" as shown in a copy of a draft letterhead of our firm attached hereto.

We are of the opinion that Leonard Stigler's knowledge of Quebec law and membership in the Quebec Bar can be beneficial to some of our clientele who have inter-provincial dealings in Ontario and Quebec, as well as the potential for our firm to develop a larger inter-provincial practice between the two provinces.

Therefore, we hereby request your consent to allow us to use Leonard Stigler's name on our letterhead as shown on the attached draft letterhead of our firm.

The draft letterhead is not attached. The words "member of the Quebec Bar only" are set in brackets beside Mr. Stigler's name on the draft letterhead.

The Committee recommends to Convocation that permission be given to the Wisebrod firm to show Mr. Stigler on the letterhead as long as the words "member of the Quebec bar only" are shown after his name.

C.
INFORMATION

1. ERROR BY OPPOSING PARTY'S COUNSEL
IN FAXED COMMUNICATIONS

The Committee reported on this matter to Convocation in March. It was recommended that this matter be reconsidered by the Committee. This will be done at the Committee's May meeting and a report brought forward to Convocation on May 24th.

ALL OF WHICH is respectfully submitted

DATED this 26th day of April 1991

"M. Somerville"
Chair

The Chair suggested that amendments be made to Item 2 under Policy (page 4) re: Duty of the lawyer to advise the client...., to delete the word "in" and insert the word "should" before the word "inform" so that the sentence would now read: "Lawyers are reminded that, where they are to receive trust monies from a client, they should inform the client that the client will not be entitled to any interest.....".

It was moved by Mr. Ferrier, seconded by Mr. Ground that Item 2 be deferred to the next Convocation.

Not Put

The Chair accepted that Item 2 re: Duty of the lawyer to advise the client..... be sent back to the Committee for review.

THE REPORT WITH THE EXCEPTION OF A-ITEM 2 WAS ADOPTED

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INVESTMENT COMMITTEE

The Report of the Investment Committee was deferred to May Convocation.

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CONVOCATION ADJOURNED AT 4:30 P.M.

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Confirmed in Convocation this *21st* day of *June*, 1991.

Jameson Ferrier
Treasurer